

tion of the traffic law, ordinance or rule violated; indicates the location and date of the offense; and describes the vehicle involved and its registration number.

Sec. 7. If 1989 Senate File No. 126 is enacted in the 1989 legislative session, Senate File No. 126, section 4, is amended to read:

Sec. 4. EFFECTIVE DATE.

Section 1 is effective January 1, 1990.

Sections ~~4 to~~ 2 and 3 are effective the day following final enactment.

Sec. 8. EFFECTIVE DATE.

Sections 1 to 3, 5, and 6 are effective January 1, 1990, and apply to petty misdemeanors committed on or after that date.

Section 4 is effective August 1, 1989, and applies to crimes for failure to appear committed on or after that date.

Section 7 is effective the day following final enactment.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:15 p.m.

CHAPTER 334—H.F.No. 66

An act relating to gambling; creating a department of gaming; authorizing a state lottery to be conducted by a division of state lottery; creating a division of gambling enforcement in the department of public safety and providing for its duties; prescribing penalties; appropriating money; amending Minnesota Statutes 1988, sections 10A.01, subdivision 18; 10A.09, subdivision 1; 15A.081, subdivision 1; 16B.54, subdivision 2; 240.01, by adding subdivisions; 240.02, subdivisions 1 and 2; 240.04, subdivisions 1 and 7; 240.06, subdivisions 3 and 8; 240.07, subdivision 2; 240.08, subdivision 3; 240.13, by adding a subdivision; 240.21; 240.28; 340A.410, subdivision 5; 349.11; 349.12, subdivisions 3, 11, 12, 13, 15, 16, 17, 20, and by adding subdivisions; 349.15; 349.151; 349.16, subdivisions 3 and 4; 349.161; 349.162; 349.163; 349.164; 349.17, subdivision 2a; 349.18, subdivision 1, and by adding a subdivision; 349.19, subdivisions 2, 3, 6, and by adding subdivisions; 349.20; 349.21; 349.2121, subdivisions 2, 3, and 10; 349.2122; 349.2125, subdivisions 1, 2, and 3; 349.2127, subdivision 2; 349.213, subdivisions 1 and 2; 349.214, subdivision 2; 349.22, subdivisions 1 and 3; 541.20; 541.21; 609.75, subdivision 3; 609.76, subdivision 1; 609.761; 626.05, subdivision 2; 626.13; and 626.84, subdivision 1; Laws 1989, chapter 184, sections 7, by adding a subdivision and 12, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapters 299K; 349A; and 349B; proposing coding for new law in Minnesota Statutes, chapters 240; 245; 349; and 609; repealing Minnesota Statutes 1988, sections 349.151, subdivisions 3 and 5; and 349.171.

New language is indicated by underline, deletions by ~~strikeout~~.

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

ARTICLE 1

PARI-MUTUEL HORSE RACING

Section 1. Minnesota Statutes 1988, section 240.01, is amended by adding a subdivision to read:

Subd. 14. DIRECTOR. "Director" is the director of pari-mutuel racing.

Sec. 2. Minnesota Statutes 1988, section 240.01, is amended by adding a subdivision to read:

Subd. 15. DIVISION. "Division" is the division of pari-mutuel racing in the department of gaming.

Sec. 3. [240.011] DIVISION OF PARI-MUTUEL RACING.

Subdivision 1. DIVISION CREATED. A division of pari-mutuel racing is created in the department of gaming. The division is under the supervision and control of the Minnesota racing commission.

Subd. 2. DIRECTOR OF PARI-MUTUEL RACING. The governor shall appoint the director of pari-mutuel racing, who serves in the unclassified service at the governor's pleasure. The director must be a person qualified by experience in the administration and regulation of pari-mutuel racing to discharge the duties of the director. The governor must select a director from a list of one or more names submitted by the commission.

Sec. 4. Minnesota Statutes 1988, section 240.02, subdivision 1, is amended to read:

Subdivision 1. **COMMISSION CREATED.** A Minnesota racing commission is established within the division of pari-mutuel racing with the powers and duties specified in ~~Laws 1983, chapter 214~~ this section. Until the effective date of the first vacancy on the commission that occurs after the effective date of this act, including a vacancy caused by the expiration of a term, the commission consists of nine members appointed by the governor with the advice and consent of the senate and the commissioner of gaming as a nonvoting member. After the date of the first vacancy, the commission consists of eight members appointed by the governor with the advice and consent of the senate, plus the commissioner as a voting member. Not more than five of the members may belong to the same political party. The governor shall designate the chair of the commission. ~~Of the members first appointed, three are for terms expiring June 30, 1985, three are for terms expiring June 30, 1987, and three are for terms expiring June 30, 1989. After the expiration of the initial term, Appointments~~

New language is indicated by underline, deletions by ~~strikeout~~.

by the governor are for terms of six years. An appointment to fill a vacancy in an unexpired term is for the remainder of the term and is with the advice and consent of the senate.

Sec. 5. Minnesota Statutes 1988, section 240.02, subdivision 2, is amended to read:

Subd. 2. **QUALIFICATIONS.** A member of the commission, other than the commissioner, must have been a resident of Minnesota for at least five years before appointment, and must have a background and experience as would qualify for membership on the commission. A member must, before taking a place on the commission, file a bond in the principal sum of \$100,000 payable to the state, conditioned upon the faithful performance of duties. No commissioner, nor any member of the commissioner's immediate family residing in the same household, may hold a license issued by the commission or have a direct or indirect financial interest in a corporation, partnership, or association which holds a license issued by the commission.

Sec. 6. Minnesota Statutes 1988, section 240.04, subdivision 1, is amended to read:

Subdivision 1. **EXECUTIVE DIRECTOR; DUTIES.** ~~The commission shall appoint an executive director, who is its chief administrative officer and who serves at its pleasure in the unclassified service.~~ The executive director shall perform the following duties:

(a) take and preserve records of all proceedings before the commission, maintain its books, documents, and records, and make them available for public inspection as the commission directs;

(b) if so designated by the commission, act as a hearing officer in hearings which need not be conducted under the administrative procedure act to conduct hearings, receive testimony and exhibits, and certify the record of proceedings to the commission;

(c) act as the commission's chief personnel officer and supervise the employment, conduct, duties, and discipline of commission employees; and

(d) perform other duties as directed by the commission.

Sec. 7. Minnesota Statutes 1988, section 240.04, subdivision 7, is amended to read:

Subd. 7. **ASSISTANCE.** The commission and director may request assistance from any department or agency of the state in fulfilling its duties, and shall make appropriate reimbursement for all such assistance.

Sec. 8. Minnesota Statutes 1988, section 240.06, subdivision 3, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **INVESTIGATION.** Before granting a class A license the commission shall conduct, or request the ~~bureau of criminal apprehension~~ division of gambling enforcement to conduct, a comprehensive background and financial investigation of the applicant and sources of financing. The commission may charge an applicant an investigation fee to cover the cost of the investigation, and shall from this fee reimburse the ~~bureau~~ division of gambling enforcement for its share of the cost of the investigation. The commission has access to all criminal history data compiled by the ~~bureau of criminal apprehension~~ division of gambling enforcement on class A licensees and applicants.

Sec. 9. Minnesota Statutes 1988, section 240.06, subdivision 8, is amended to read:

Subd. 8. **WORK AREAS.** A class A licensee must provide at no cost to the ~~commission~~ division suitable work areas for commission members, officers, employees, and agents, including agents of the division of gambling enforcement, who are directed or requested by the commission to supervise and control racing at the licensed racetrack.

Sec. 10. Minnesota Statutes 1988, section 240.07, subdivision 2, is amended to read:

Subd. 2. **HEARINGS; INVESTIGATIONS.** Before granting an initial class B license the commission shall hold at least one public hearing on the license. Comprehensive investigations must be conducted and their costs paid in the manner prescribed by section 240.06, subdivision 3. The commission has access to all criminal history data compiled by the ~~bureau of criminal apprehension~~ division of gambling enforcement on class B licensees and applicants.

Sec. 11. Minnesota Statutes 1988, section 240.08, subdivision 3, is amended to read:

Subd. 3. **INVESTIGATIONS.** The commission shall investigate each applicant for a class C license to the extent it deems necessary, and may request the assistance of and may reimburse the ~~bureau of criminal apprehension~~ division of gambling enforcement in investigating applicants. The commission may by rule require that an applicant be fingerprinted or furnish the applicant's fingerprints. Investigations must be conducted and their costs paid in the manner prescribed by section 240.06, subdivision 3. The commission may cooperate with national and international organizations and agencies in conducting investigations. The commission may by rule provide for examining the qualifications of an applicant for the license being applied for. The commission has access to all criminal history data compiled by the ~~bureau of criminal apprehension~~ division of gambling enforcement on class C applicants and licensees.

Sec. 12. Minnesota Statutes 1988, section 240.13, is amended by adding a subdivision to read:

Subd. 9. TRANSMISSION TO INDIAN LANDS; POOLING OF BETS. A licensed racetrack may, with the approval of the horsepersons' organization representing the majority of horsepersons racing the breed involved, transmit

New language is indicated by underline, deletions by ~~strikeout~~.

telecasts of races the licensee conducts to sites on Indian lands of tribes who are lawfully conducting pari-mutuel wagering authorized by a tribal-state compact entered into pursuant to the Indian Gaming Regulatory Act, Public Law Number 100-497, or through litigation, arbitration, or mediation relative to that act. Nothing in this subdivision shall be construed to indicate that state policy or law permits or encourages the transmission of telecasts to sites on Indian lands. With prior approval of the commission, a licensed racetrack transmitting telecasts of races it conducts, to sites on Indian lands within or outside of Minnesota or to other locations outside the state, may commingle the amounts bet at the receiving entity with the pools at the sending licensed racetrack.

Sec. 13. Minnesota Statutes 1988, section 240.21, is amended to read:

240.21 RIGHT OF INSPECTION.

The commission and its representatives, including representatives of the division of gambling enforcement, have the right to inspect the licensed premises of a licensee and to examine the licensee's books and other records at any time without a search warrant.

Sec. 14. Minnesota Statutes 1988, section 240.28, is amended to read:

240.28 CONFLICT OF INTEREST.

Subdivision 1. **FINANCIAL INTEREST.** No person may serve on the commission or be employed by ~~it~~ the division who has an interest in any corporation, association, or partnership which holds a license from the commission or which holds a contract to supply goods or services to a licensee or at a licensed racetrack, including concessions contracts. No member of the commission or employee of the ~~commission~~ division may own, wholly or in part, or have an interest in a horse which races at a licensed racetrack in Minnesota. No member of the commission or employee of the ~~commission~~ division may have a financial interest in or be employed in a profession or business which conflicts with the performance of duties as a member or employee.

Subd. 2. **BETTING.** No member of the commission or employee of the ~~commission~~ division may bet or cause a bet to be made on a race at a licensed racetrack while serving on the commission or being employed by the ~~commission~~ division. No person appointed or approved by the ~~commission~~ division director as a steward may bet or cause a bet to be made at a licensed racetrack during a racing meeting at which the person is serving as a steward. The commission shall by rule prescribe such restrictions on betting by its licensees as it deems necessary to protect the integrity of racing.

Subd. 3. **VIOLATION.** A violation of subdivisions 1 and 2 is grounds for removal from the commission or termination of employment. A bet made directly or indirectly by a licensee in violation of a rule made by the commission under subdivision 2 is grounds for suspension or revocation of the license.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 15. **EFFECTIVE DATE.**

Sections 1 to 14 are effective July 1, 1989.

ARTICLE 2**LAWFUL GAMBLING**

Section 1. Minnesota Statutes 1988, section 349.11, is amended to read:

349.11 PURPOSE.

The purpose of sections 349.11 to 349.22 is to regulate ~~legal forms of~~ lawful gambling to prevent ~~their~~ its commercialization, to insure integrity of operations, and to provide for the use of net profits only for lawful purposes.

Sec. 2. Minnesota Statutes 1988, section 349.12, subdivision 3, is amended to read:

Subd. 3. **ACTIVE MEMBER.** "Active member" means a member who has paid all dues to the organization, who is 18 years of age or older, who has equal voting rights with all other members, who has equal opportunity to be an elected officer, who has equal right and responsibilities of attendance at the regularly scheduled meetings of the organization, whose name and membership origination date appear with the member's knowledge and consent on a list of members of the organization, and who has been a member of the organization for at least six months.

Sec. 3. Minnesota Statutes 1988, section 349.12, subdivision 11, is amended to read:

Subd. 11. **LAWFUL PURPOSE.** "Lawful purpose" means one or more of the following: (a) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded; (b) initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; (c) lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; ~~or~~ (d) payment of taxes imposed under this chapter, and other taxes imposed by the state or the United States on receipts from lawful gambling; (e) any expenditure by, or any contribution to, a hospital or nursing home exempt from taxation under section 501(c)(3) of the Internal Revenue Code; or (f) payment of reasonable costs incurred in complying with the performing of annual audits required under section 349.19, subdivision 9.

New language is indicated by underline, deletions by ~~strikeout~~.

"Lawful purpose" does not include the erection, acquisition, improvement, expansion, repair, or maintenance of any real property or capital assets owned or leased by the organization, other than a hospital or nursing home exempt from taxation under section 501(c)(3) of the Internal Revenue Code, unless the board specifically authorizes the expenditures after finding that the property or capital assets will be used exclusively for one or more of the purposes specified in clauses (a) to (c). The board may by rule adopt procedures and standards to administer this subdivision.

Sec. 4. Minnesota Statutes 1988, section 349.12, subdivision 12, is amended to read:

Subd. 12. **ORGANIZATION.** "Organization" means any fraternal, religious, veterans, or other nonprofit organization which ~~has been in existence for at least three years and~~ has at least 15 active members, and either has been duly incorporated as a nonprofit organization for at least three years, or has been recognized by the Internal Revenue Service as exempt from income taxation for the most recent three years.

Sec. 5. Minnesota Statutes 1988, section 349.12, subdivision 13, is amended to read:

Subd. 13. **GROSS PROFIT.** "Gross profit" means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes.

Sec. 6. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

Subd. 13a. NET PROFIT. "Net profit" means gross profit less reasonable sums actually expended for allowable expenses.

Sec. 7. Minnesota Statutes 1988, section 349.12, subdivision 15, is amended to read:

Subd. 15. **GAMBLING EQUIPMENT.** "Gambling equipment" means: bingo cards ~~and~~ or sheets, devices for selecting bingo numbers, pull-tabs, jar tickets, paddlewheels, and tipboards.

Sec. 8. Minnesota Statutes 1988, section 349.12, subdivision 16, is amended to read:

Subd. 16. "Board" is the ~~charitable~~ gambling control board.

Sec. 9. Minnesota Statutes 1988, section 349.12, subdivision 17, is amended to read:

Subd. 17. **DISTRIBUTOR.** "Distributor" is a person who sells gambling equipment ~~the distributor manufactures or purchases for resale~~ within the state to licensed organizations, to organizations conducting exempt activities under section 349.214, or to other distributors.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 10. Minnesota Statutes 1988, section 349.12, subdivision 20, is amended to read:

Subd. 20. **IDEAL NET.** "Ideal net" means the pull-tab or tipboard deal's ideal gross, as defined under subdivision 19, less the total predetermined prize amounts available to be paid out. When the prize is not entirely a monetary one, the ideal net is 50 percent of the ideal gross.

Sec. 11. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

Subd. 21. CAPITAL ASSETS. "Capital assets" means property, real or personal, except gambling equipment, with an expected useful life of at least one year.

Sec. 12. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

Subd. 22. DIRECTOR. "Director" is the director of the division of gambling control.

Sec. 13. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

Subd. 23. MANUFACTURER. "Manufacturer" means a person or entity who assembles from raw materials or subparts a completed piece of gambling equipment, and who sells or furnishes the equipment for resale or for use in the state. The term includes a person who converts, modifies, adds to, or removes parts or a portion from an item, device, or assembly to further its promotion, sale, or use as gambling equipment in this state. A person only adding or modifying promotional flares to advise the public of the prizes available, the rules of play, and the consideration required is not a manufacturer.

Sec. 14. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

Subd. 24. PROMOTIONAL TICKET. A pull-tab or tipboard ticket with the words "no purchase necessary" and "for promotional use only" and for which no consideration is given is a promotional ticket.

Sec. 15. Minnesota Statutes 1988, section 349.12, is amended by adding a subdivision to read:

Subd. 25. DIVISION. "Division" is the division of gambling control in the department of gaming.

Sec. 16. Minnesota Statutes 1988, section 349.15, is amended to read:

349.15 **USE OF GROSS PROFITS.**

(a) Gross profits from lawful gambling may be expended only for lawful

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purposes or allowable expenses as authorized at a regular meeting of the conducting organization. Provided that no more than 55 percent of gross profits from bingo, and no more than 45 percent for other forms of lawful gambling, may be expended for ~~necessary~~ allowable expenses related to lawful gambling.

(b) The board shall provide by rule for the administration of this section, including specifying allowable expenses. The rules must specify that no more than one-third of the annual premium on a policy of liability insurance procured by the organization may be taken as an allowable expense ~~from the gross receipts from lawful gambling~~. This expense shall be allowed by the board only to the extent that it relates directly to the conduct of lawful gambling and is verified in the manner the board prescribes by rule. The rules may provide a maximum percentage of gross ~~receipts~~ profits which may be expended for certain expenses.

(c) Allowable expenses also include reasonable costs of bank account service charges, and the reasonable costs of an audit required by the board, except an audit required under section 349.19, subdivision 9.

Sec. 17. Minnesota Statutes 1988, section 349.151, is amended to read:

349.151 **CHARITABLE GAMBLING CONTROL BOARD.**

Subdivision 1. **BOARD CREATED.** The charitable gambling control board is created with the powers and duties established by subdivision 4.

Subd. 2. **MEMBERSHIP.** The board consists of ~~43~~ six members appointed as follows:

(1) ~~eleven persons appointed by the governor with the advice and consent of the senate, at least four of whom must reside outside of the seven-county metropolitan area;~~

(2) ~~the commissioner of public safety or a designee; and~~

(3) ~~the attorney general or a designee.~~

~~A member serving on the board by appointment must have been a resident of Minnesota for at least five years. Of the appointees of the governor not more than six may belong to the same political party. A member appointed to the board may be removed at any time by the appointing authority. Vacancies on the board are filled in the same manner as the original appointment. Of the members appointed by the governor, three are for terms expiring June 30, 1985, four are for terms expiring June 30, 1986, and four are for terms expiring June 30, 1987. After the expiration of the initial terms, appointments are for three years. The governor shall appoint the chair from among the governor's appointees and the commissioner of gaming as a voting member. Of the members first appointed, one is for a term expiring June 30, 1990, two are for a term expiring June 30, 1991, two are for a term expiring June 30, 1992, and one is for a term expiring June 30, 1993. After expiration of the initial terms, appointments are for four years. The board shall select one of its members, other than the~~

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commissioner, to serve as chair. No more than three members appointed by the governor under this subdivision may belong to the same political party.

Subd. 3. **COMPENSATION.** The compensation, and removal of board members ~~is~~ and filling of membership vacancies are as provided in section 15.0575; ~~subdivision 3~~ except for the commissioner of gaming.

Subd. 4. **POWERS AND DUTIES.** (a) The board has the following powers and duties:

(1) to issue, revoke, and suspend licenses to organizations, distributors, bingo halls, and manufacturers under sections 349.16, 349.161, ~~and~~ 349.163, and 349.164;

(2) to collect and deposit license fees ~~and taxes~~ due under this chapter;

(3) to receive reports required by this chapter and inspect the records, books, and other documents of organizations and suppliers to insure compliance with all applicable laws and rules;

(4) to make rules, ~~including emergency rules,~~ required by this chapter;

(5) to register gambling equipment and issue registration stamps under section 349.162;

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

(7) to report annually to the governor and legislature on its activities and on recommended changes in the laws governing ~~charitable~~ gambling; ~~and~~

(8) impose civil penalties of not more than \$500 per violation on organizations, distributors, and manufacturers for failure to comply with any provision of sections 349.12 to 349.23 or any rule of the board;

(9) to notify city councils, county boards, and town boards before issuing or renewing licenses to organizations and bingo halls as specified under section 349.213; and

(10) delegate to the director the authority to issue licenses under criteria established by the board.

(b) Any organization, distributor, bingo hall operator, or manufacturer assessed a civil penalty may request a hearing before the board. Hearings conducted on appeals of imposition of penalties are not subject to the provisions of the administrative procedure act.

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

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4a. **ADDITIONAL POWERS.** Whenever it appears to the ~~board~~ director that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule:

(a) The ~~board~~ director has the power to issue and cause to be served upon the person an order requiring the person to cease and desist from violations of this chapter. The order must give reasonable notice of the rights of the person to request a hearing and must state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the board after which and within 20 days of the date of the hearing the board shall issue a ~~further~~ an order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be conducted in accordance with the provisions of chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true.

(b) The board may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter or any rule and may refer the matter to the attorney general. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted. The court may not require the board to post a bond.

Subd. 5. **EMPLOYEES.** ~~The board shall employ an executive secretary in the unclassified service and such other employees in the classified service as are required to enable it to carry out its functions. One or more of the employees must be bingo inspectors.~~

Subd. 6. **ATTORNEY GENERAL.** The attorney general is the attorney for the board.

Sec. 18. [349.152] **DIRECTOR.**

Subdivision 1. APPOINTED. The governor shall appoint, with the advice and consent of the senate, a director from a list of one or more persons submitted by the board. The director serves in the unclassified service at the pleasure of the governor.

Subd. 2. DUTIES OF THE DIRECTOR. The director has the following duties:

- (1) to carry out gambling policy established by the board;
- (2) to employ and supervise personnel of the board;
- (3) to advise and make recommendations to the board on rules;
- (4) to issue licenses as authorized by the board;

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(5) to issue cease and desist orders;

(6) to make recommendations to the board on license issuance, denial, suspension and revocation, and civil penalties the board imposes; and

(7) to ensure that board rules, policy, and decisions are adequately and accurately conveyed to the board's licensees.

Sec. 19. **[349.153] CONFLICT OF INTEREST.**

(a) A person may not serve on the board, be the director, or be an employee of the division who has an interest in any corporation, association, or partnership that is licensed by the board as a distributor, manufacturer, or a bingo hall under section 349.164.

(b) A member of the board, the director, or an employee of the division may not participate in the conducting of lawful gambling.

Sec. 20. Minnesota Statutes 1988, section 349.16, subdivision 3, is amended to read:

Subd. 3. **FEES.** ~~The board shall by rule establish a schedule of fees for licenses under this section. The schedule must establish~~ may issue four classes of license, licenses: a class A license authorizing all forms of lawful gambling; a class B license authorizing all forms of lawful gambling except bingo, raffles; a class C license authorizing bingo only; and bingo a class D license authorizing raffles only. The annual license fee for each class of license is:

(1) \$200 for a class A license;

(2) \$125 for a class B license;

(3) \$100 for a class C license; and

(4) \$75 for a class D license.

Sec. 21. Minnesota Statutes 1988, section 349.16, subdivision 4, is amended to read:

Subd. 4. **LOCAL INVESTIGATION FEE.** A statutory or home rule charter city or county notified under section 349.213, subdivision 2, may assess an investigation fee on organizations or bingo halls applying for or renewing a license to conduct lawful gambling or operate a bingo hall. An investigation fee may not exceed the following limits:

(1) for cities of the first class, \$500;

(2) for cities of the second class, \$250; ~~and~~

(3) for all other cities ~~and counties~~, \$100; and

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(4) for counties, \$375.

Sec. 22. Minnesota Statutes 1988, section 349.161, is amended to read:

349.161 DISTRIBUTOR LICENSES.

Subdivision 1. **PROHIBITED ACTS; LICENSES REQUIRED.** No person may:

(1) sell, offer for sale, or furnish gambling equipment for use within the state for gambling purposes, other than for lawful gambling exempt from licensing under section 349.214, except to an organization licensed for lawful gambling; or

(2) sell, offer for sale, or furnish gambling equipment to an organization licensed for lawful gambling without having obtained a distributor license under this section.

No licensed organization may purchase gambling equipment from any person not licensed as a distributor under this section.

Subd. 2. **LICENSE APPLICATION.** The board may issue licenses for the sale of gambling equipment to persons who meet the qualifications of this section if the board determines that a license is consistent with the purpose of sections 349.11 to 349.22. Applications must be on a form the board prescribes.

Subd. 3. **QUALIFICATIONS.** A license may not be issued under this section to a person, or to a corporation, firm, or partnership which has as an officer, director, other person in a supervisory or management position, or employee eligible to make sales on behalf of the distributor a person, who:

(1) has been convicted of a felony ~~in a state or federal court~~ within the past five years ~~or who has a felony charge pending;~~

(2) has ever been convicted ~~in a state or federal court~~ of a gambling-related offense within ten years of the date of license application felony involving fraud or misrepresentation or a crime involving gambling; ~~or~~

(3) is or has ever been engaged in an illegal business;

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

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

(6) after demand, has not filed tax returns required by the commissioner of revenue.

Subd. 4. **FEES.** The annual fee for a ~~supplier's~~ distributor's license is ~~\$1,500~~ \$2,500.

Subd. 5. **PROHIBITION.** (a) No distributor, or employee ~~eligible to make~~

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~~sales on behalf~~ of a distributor, may also be a wholesale distributor of ~~liquor or~~ alcoholic beverages or an employee of a wholesale distributor of alcoholic beverages.

(b) No distributor, distributor's representative, or employee ~~authorized to make sales on behalf~~ of a distributor, may be involved directly in the operation of lawful gambling conducted by an organization.

(c) No manufacturer or distributor or person acting as a representative, agent, or employee of a manufacturer or distributor may provide a lessor of gambling premises any compensation, gift, gratuity, premium, or other thing of value.

(d) No distributor, distributor's representative, or employee of a distributor may participate in any gambling activity at any gambling site or premises where gambling equipment purchased from that distributor is being used in the conduct of lawful gambling.

(e) No distributor, distributor's representative, or employee of a distributor may alter or modify any gambling equipment, except to add a "last ticket sold" prize sticker.

Subd. 6. **REVOCATION AND SUSPENSION.** A license under this section may be suspended by the board for a violation of law or board rule or for failure to meet the qualifications in subdivision 3 at any time or revoked for what the board determines to be a pattern of willful violations of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.

Subd. 7. **CRIMINAL HISTORY.** The board may request the assistance of the ~~bureau of criminal apprehension~~ division of gambling enforcement in investigating the background of an applicant for a distributor's license and may reimburse the ~~bureau~~ division of gambling enforcement for the costs thereof. The board has access to all criminal history data compiled by the ~~bureau~~ division of gambling enforcement on licensees and applicants.

Subd. 8. **EMPLOYEES OF DISTRIBUTORS.** Licensed distributors shall provide the board upon request with the names and business home addresses of all employees. Each ~~person eligible to conduct sales on behalf of a distributor,~~ employee of a distributor, or a person making sales of gambling equipment on behalf of a distributor must have in their possession a picture identification card approved by the board.

Sec. 23. Minnesota Statutes 1988, section 349.162, is amended to read:

349.162 EQUIPMENT REGISTERED.

Subdivision 1. **STAMP REQUIRED.** A distributor may not sell ~~to an organization and an organization may not purchase,~~ transfer, furnish, or otherwise provide to a person, organization, or distributor, and no person, organiza-

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tion, or distributor may purchase, borrow, accept, or acquire from a distributor gambling equipment unless the equipment has been registered with the board and has a registration stamp affixed. The board shall charge a fee of five cents for each stamp. Each stamp must bear a registration number assigned by the board. A distributor is entitled to a refund for unused stamps and replacement for stamps which are defective or canceled by the distributor.

Subd. 2. **RECORDS REQUIRED.** A distributor must maintain a record of all gambling equipment which it sells to organizations. The record must include:

- (1) the identity of the person or firm from whom the equipment was purchased;
- (2) the registration number of the equipment;
- (3) the name and address of the organization to which the sale was made;
and
- (4) the date of the sale;
- (5) the name of the person who ordered the equipment; and
- (6) the name of the person who received the equipment.

The invoice for each sale must be retained for at least ~~one year~~ two years after the sale is completed and a copy of ~~the~~ each invoice is to be delivered to the board in the manner and time prescribed by the board. For purposes of this section, a sale is completed when the gambling equipment is physically delivered to the purchaser.

Each distributor must report monthly to the board, in a form the board prescribes, its sales of each type of gambling equipment. Employees of the ~~board~~ division and the division of gambling enforcement may inspect the books, records, and other documents of a distributor at any reasonable time without notice and without a search warrant.

Subd. 3. **EXEMPTION.** For purposes of this section, bingo cards ~~intended to be used for more than one game or sheets~~ need not be ~~registered stamped.~~

Subd. 4. **PROHIBITION.** (a) No person other than a licensed ~~organization or a licensed~~ distributor may possess unaffixed registration stamps issued by the board.

(b) Unless otherwise provided in this chapter, no person may possess gambling equipment that has not been registered with the board.

Subd. 5. **SALES FROM FACILITIES.** (a) All gambling equipment purchased or possessed by a licensed distributor for resale in Minnesota must, prior to ~~its~~ the equipment's resale, be unloaded into a sales or storage facility located in Minnesota which the distributor owns or leases; and which has been regis-

New language is indicated by underline, deletions by ~~strikeout~~.

tered, in advance and in writing, with the division of gambling enforcement as a sales or storage facility of the distributor's. All unregistered gambling equipment and all unaffixed registration stamps owned by, or in the possession of, a licensed distributor in the state of Minnesota shall be stored at a sales or storage facility which has been registered with the division of gambling enforcement. No gambling equipment may be moved from the facility unless the gambling equipment has been first registered with the board.

(b) All sales and storage facilities owned, leased, used, or operated by a licensed distributor may be entered upon and inspected by the employees of the division of gambling enforcement or the director's authorized representatives during reasonable and regular business hours. Obstruction of, or failure to permit, entry and inspection is cause for revocation or suspension of a distributor's licenses and permits issued under this chapter.

(c) Unregistered gambling equipment and unaffixed registration stamps found at any location in Minnesota other than a registered sales or storage facility are contraband under section 349.2125.

Sec. 24. Minnesota Statutes 1988, section 349.163, is amended to read:

349.163 **REGISTRATION LICENSING OF MANUFACTURERS.**

Subdivision 1. **REGISTRATION LICENSE.** No manufacturer of gambling equipment may sell any gambling equipment to any person unless the manufacturer ~~has registered with the board and has been issued a certificate of registration license by the board under objective criteria prescribed by the board by rule.~~

Subd. 2. **CERTIFICATE LICENSE; FEE.** A ~~certificate license~~ under this section is valid for one year. The annual fee for registration the license is \$500 \$2,500.

Subd. 3. **PROHIBITED SALES.** A manufacturer may not sell gambling equipment to any person not licensed as a distributor unless the manufacturer is also a licensed distributor.

Subd. 4. INSPECTION OF MANUFACTURERS. Employees of the division and the division of gambling enforcement may inspect the books, records, inventory, and manufacturing operations of a licensed manufacturer without notice during the normal business hours of the manufacturer.

Sec. 25. Minnesota Statutes 1988, section 349.164, is amended to read:

349.164 **BINGO HALL LICENSES.**

Subdivision 1. **LICENSE REQUIRED.** No person may lease a facility to more than one ~~licensed individual, corporation, partnership, or organization~~ to conduct bingo without having obtained a bingo hall license under this section, unless the ~~person~~ lessor is a licensed organization.

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Subd. 2. **LICENSE APPLICATION.** The board may issue a bingo hall license to persons who meet the qualifications of this section if the board determines that a license is consistent with the purpose of sections 349.11 to 349.22. Applications must be on a form the board prescribes. The board may not issue or renew a bingo hall license unless the conditions of section 349.213, subdivision 2, have been satisfied.

Subd. 3. **QUALIFICATIONS.** A license may not be issued under this section to a person, or to a corporation, firm, or partnership which has as an officer, director, or other person in a supervisory or management position, who:

(1) has been convicted of a felony ~~in a state or federal court~~ within the past five years ~~or who has a felony charge pending; or~~

(2) has ever been convicted ~~in a state or federal court~~ of a ~~gambling-related offense within ten years of the date of license application~~ felony involving fraud or misrepresentation or a crime involving gambling; or

(3) owes delinquent taxes in excess of \$500 as defined in section 270.72.

Subd. 4. **FEES.** The annual fee for a bingo hall license is ~~\$250~~ \$2,500.

Subd. 5. **CRIMINAL HISTORY.** The board may request the assistance of the ~~bureau of criminal apprehension~~ division of gambling enforcement in investigating the background of an applicant for a bingo hall license and may reimburse the ~~bureau~~ division of gambling enforcement for the costs. The board has access to all criminal history data compiled by the ~~bureau of criminal apprehension and the division of gambling enforcement~~ on licensees and applicants.

Subd. 6. **PROHIBITION.** No bingo hall licensee may also be a licensed distributor or ~~registered~~ licensed manufacturer or affiliate of the distributor or manufacturer under section 349.161 or 349.163 ~~or a~~ wholesale distributor of alcoholic beverages.

Subd. 7. **RESTRICTIONS.** A bingo hall licensee or affiliate of the licensee may not:

(1) provide any staff to conduct bingo or any other form of lawful gambling during the bingo occasion;

(2) acquire, provide storage or inventory control, or report the use of any gambling equipment used by an organization that conducts bingo on the premises;

(3) provide accounting services to an organization conducting bingo on the premises;

(4) make any expenditures of gross receipts of an organization from lawful gambling; or

New language is indicated by underline, deletions by ~~strikeout~~.

(5) charge any fee to a person at a bingo occasion, without which the person could not play a bingo game.

Subd. 8. **LEASES.** All of the remuneration to be received from the organization for the conduct of lawful gambling must be stated in the lease. No amount may be paid by the organization or received by the operator of the bingo hall based on the number of participants attending the bingo occasion or on the gross receipts or profit received by the organization.

Subd. 9. **REVOCATION AND SUSPENSION.** A license under this section may be suspended by the board for a violation of law or board rule or for failure to meet the qualifications in subdivision 3 at any time or revoked for what the board determines to be a pattern of willful violations of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the Administrative Procedure Act.

Sec. 26. Minnesota Statutes 1988, section 349.17, subdivision 2a, is amended to read:

Subd. 2a. **DISTRIBUTOR LICENSE EXEMPTION FOR LESSOR.** As part of a lease agreement on a leased bingo premises, the lessor may furnish bingo equipment without being a licensed distributor. For purposes of this section, "furnish" does not include the right to sell or offer for sale.

Sec. 27. Minnesota Statutes 1988, section 349.18, subdivision 1, is amended to read:

Subdivision 1. **LEASE OR OWNERSHIP REQUIRED.** An organization may conduct lawful gambling only on premises it owns or leases. Leases must be for a period of at least one year and must be in writing. Copies of all leases must be made available to employees of the ~~board~~ division and the division of gambling enforcement on request. A lease may not provide for ~~rental~~ payments based on a percentage of determined directly or indirectly by the receipts or profits from lawful gambling. The board may prescribe by rule limits on the amount of rent which an organization may pay to a lessor for premises leased for lawful gambling. Any rule adopted by the board limiting the amount of rent to be paid may only be effective for leases entered into, or renewed, after the effective date of the rule.

No person, distributor, manufacturer, lessor, or organization other than the licensed organization leasing the space may conduct any activity in a leased space during times when lawful gambling is being conducted in the space.

Sec. 28. Minnesota Statutes 1988, section 349.18, is amended by adding a subdivision to read:

Subd. 1a. **STORAGE OF GAMBLING EQUIPMENT.** (a) Gambling equipment owned by or in the possession of a licensed organization must be kept at a licensed gambling premises owned or operated by the organization, or at other storage sites within the state that the organization has notified the board are

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being used as gambling equipment storage sites. At each storage site or licensed premises, the organization must have the invoices or true and correct copies of the invoices for the purchase of all gambling equipment at the site or premises.

(b) Gambling equipment, other than devices for selecting bingo numbers, owned by a licensed organization must be kept separate from gambling equipment owned by other persons, organizations, distributors, or manufacturers consistent with the organization's internal controls filed with the board.

(c) Gambling equipment kept in violation of this subdivision is contraband under section 349.2125.

(d) A licensed organization may transport gambling equipment it owns or possesses between approved gambling equipment storage sites and to and from licensed distributors.

Sec. 29. Minnesota Statutes 1988, section 349.19, subdivision 2, is amended to read:

Subd. 2. **ACCOUNTS.** Gross receipts from lawful gambling by each organization at each licensed premises must be segregated from all other revenues of the conducting organization and placed in a separate account. The name and address of the bank and the account number for that separate account for that licensed premises, and the names of organization members authorized as signatories on the separate account must be provided to the board when the application is submitted. Changes in the information must be submitted to the board at least ten days before the change is made. Gambling receipts must be deposited into the gambling bank account within one business day of completion of the bingo occasion, deal, or game from which they are received, and deposit records must be sufficient to allow determination of deposits made from each bingo occasion, deal, or game. The person who accounts for gambling gross receipts and profits may not be the same person who accounts for other revenues of the organization.

Sec. 30. Minnesota Statutes 1988, section 349.19, subdivision 3, is amended to read:

Subd. 3. **EXPENDITURES.** All expenditures of gross profits from lawful gambling must be itemized as to payee, purpose, amount, and date of payment. Authorization of the expenditures must be recorded in the regular meeting minutes of the licensed organization.

Sec. 31. Minnesota Statutes 1988, section 349.19, subdivision 6, is amended to read:

Subd. 6. **PRESERVATION OF RECORDS.** The board may require that records required to be kept by this section must be preserved by a licensed organization for at least two years and may be inspected by employees of the board division and the division of gambling enforcement at any reasonable time without notice or a search warrant.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 32. Minnesota Statutes 1988, section 349.19, is amended by adding a subdivision to read:

Subd. 8. TERMINATION PLAN. Upon termination of a license for any reason, a licensed organization must notify the board in writing within 15 calendar days of the license termination date of its plan for disposal of registered gambling equipment and distribution of remaining gambling proceeds. Before implementation, a plan must be approved by the board. The board may accept or reject a plan and order submission of a new plan or amend a proposed plan. The board may specify a time for submission of new or amended plans or for completion of an accepted plan.

Sec. 33. Minnesota Statutes 1988, section 349.19, is amended by adding a subdivision to read:

Subd. 9. ANNUAL AUDIT; FILING REQUIREMENT. An organization licensed under this chapter must have an annual financial audit of its lawful gambling activities and funds performed by an independent auditor licensed by the state of Minnesota or performed by an independent accountant who has had prior approval of the board. A complete, true, and correct copy of the audit report must be filed with the board upon completion of the audit.

Sec. 34. Minnesota Statutes 1988, section 349.20, is amended to read:

349.20 MANAGERS.

(a) All lawful gambling conducted by a licensed organization must be under the supervision of one or more gambling managers. A gambling manager designated by an organization to supervise a gambling occasion is responsible for the gross receipts from the occasion and for its conduct in compliance with all laws and rules. An organization may designate a different person to act as manager for each type of lawful gambling conducted. Each person designated as a gambling manager must give a fidelity bond in the sum of \$10,000 in favor of the organization conditioned on the faithful performance of the manager's duties, and the terms of the bond must provide that notice be given to the board in writing not less than 30 days before its cancellation.

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

(c) An organization may not conduct lawful gambling without having a gambling manager. The board must be notified in writing of a change in gambling managers. Notification must be made within ten days of the date the gambling manager assumes the manager's duties.

Sec. 35. Minnesota Statutes 1988, section 349.21, is amended to read:

349.21 COMPENSATION.

Subdivision 1. TO WHOM PAID. Compensation to persons who partici-

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pate in the conduct of lawful gambling may be paid only to active members of the conducting organization or its auxiliary, or the spouse or surviving spouse of an active member, except that nonmanagement assistants who are not active members or spouses may be hired to assist in the conduct of lawful gambling in nonmanagement positions if approved by a majority of the organization's members.

Subd. 2. AMOUNTS PAID. The amounts of compensation which may be paid under this section may be provided for in a schedule of compensation adopted by the board by rule. In adopting a schedule the board must consider the nature of the participation and the types of lawful gambling participated in.

Subd. 3. COMPENSATION RECORDS. An organization paying compensation to persons for the conduct of lawful gambling must maintain a compensation record. The record must be retained for at least two years after the month in which the compensation is paid. The record must be an itemization of each payment made to each recipient of compensation, and must include the amount of compensation paid and the full name, home address, and membership status of each recipient.

Subd. 4. COMPENSATION PAID BY CHECK. Compensation paid by an organization in connection with lawful gambling must be in the form of a check drawn on the organization's gambling account, as specified in section 349.19.

Subd. 5. PENALTY. (a) An organization that makes payment of compensation, or causes compensation to be made, which violates the provisions of subdivision 4 shall be assessed a civil penalty not to exceed \$1,000 for each violation of subdivision 4. A second violation within 12 months of notification by the board to the organization of the first violation shall result in suspension of the organization's gambling license for a period of three months, in addition to any civil penalty assessed. A third violation within 12 months of the board's notification to the organization of the second violation shall result in revocation of the organization's gambling license in addition to any civil penalty assessed.

(b) Upon each violation the director shall notify the organization in writing of its violation and of the penalties under this subdivision for future violations. Notification is effective upon mailing.

(c) For purposes of this subdivision, a violation consists of a payroll period or compensation date that includes payments made in violation of subdivision 4.

Subd. 6. PERCENTAGE OF GROSS PROFIT PAID. A licensed organization may pay a percentage of the gross receipts profit from raffle ticket sales to a nonprofit organization which sells tickets for the licensed organization.

Subd. 7. DIRECT PAYMENT. All compensation must be paid directly from the organization to the employees of the organization.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 36. Minnesota Statutes 1988, section 349.2121, subdivision 2, is amended to read:

Subd. 2. **RECORDS.** A distributor shall keep at each licensed place of business complete and accurate records for that place of business, including itemized invoices of pull-tabs and tipboards held, purchased, manufactured, or brought in or caused to be brought in from without this state, and of all sales of pull-tabs and tipboards. The records must show the names and addresses of purchasers, the inventory at the close of each period for which a return is required of all pull-tab and tipboard deals on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of pull-tab and tipboard deals. Books, records, and other papers and documents required by this section must be kept for a period of at least 3-1/2 years after the date of the documents, or the date of the entries appearing in the records, unless the commissioner of revenue authorizes in writing their destruction or disposal at an earlier date. At any time during usual business hours, the commissioner of revenue, ~~executive secretary of the charitable gambling control board~~ director of gambling enforcement, or any of their duly authorized agents or employees, may enter a place of business of a distributor, ~~charitable or~~ organization, ~~or~~ any site from which pull-tabs or tipboards ~~or other gambling equipment~~ are being sold, ~~or any site at which lawful gambling is being conducted~~, and inspect the premises and the records required to be kept under this section to determine whether or not all the provisions of this section are being fully complied with. If the commissioner of revenue, ~~executive secretary~~ director of gambling enforcement, or their duly authorized agents or employees are denied free access to or are hindered or interfered with in making an inspection of the distributor's place of business, the permit of the distributor may be revoked by the commissioner, and the license of the distributor may be revoked by the ~~charitable~~ gambling control board.

Sec. 37. Minnesota Statutes 1988, section 349.2121, subdivision 3, is amended to read:

Subd. 3. **SUSPENSION, REVOCATION.** (a) The commissioner of revenue, after giving notice ~~and hearing~~, may for reasonable cause revoke or suspend a permit held by a distributor. A notice must be sent to the distributor at least ~~30~~ 15 days before the ~~hearing and give notice of the time and place of the hearing~~, ~~proposed suspension or revocation is to take effect~~. The notice must give the reason for the proposed suspension or revocation, and must require the distributor to show cause why the proposed action should not be taken. The notice may be served personally or by mail ~~in the manner prescribed for service of notice of a deficiency~~.

(b) The notice must inform the distributor of the right to a contested case hearing. If a request in writing is made to the commissioner of revenue within 14 days of the date of the notice, the commissioner shall defer action on the suspension or revocation and shall refer the case to the office of administrative hearings for the scheduling of a contested case hearing. The distributor must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the distributor.

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(c) The commissioner of revenue shall issue a final order following receipt of the recommendation of the administrative law judge.

(d) Under section 271.06, subdivision 1, an appeal to the tax court may be taken from the commissioner's order of revocation or suspension. The commissioner of revenue may not issue a new permit after revocation except upon application accompanied by reasonable evidence of the intention of the applicant to comply with all applicable laws and rules.

Sec. 38. Minnesota Statutes 1988, section 349.2121, subdivision 10, is amended to read:

Subd. 10. **UNTAXED ~~PULL-TABS OR TIPBOARDS~~ GAMBLING EQUIPMENT.** It is a gross misdemeanor for any person to possess ~~pull-tabs or tipboards~~ gambling equipment for resale in this state that ~~have~~ has not been registered with the board, for which a registration stamp has not been affixed to the flare, and upon which the taxes imposed by section 349.212, subdivision 4, or chapter 297A have not been paid. ~~The executive secretary of the charitable gambling control board~~ director of gambling enforcement or the commissioner of revenue or their designated inspectors and employees may seize in the name of the state of Minnesota any unregistered or untaxed ~~pull-tabs or tipboards~~ gambling equipment.

Sec. 39. Minnesota Statutes 1988, section 349.2122, is amended to read:

349.2122 MANUFACTURERS; REPORTS TO THE COMMISSIONER OF REVENUE; PENALTY.

A manufacturer ~~registered~~ licensed with the board who sells pull-tabs and tipboards to a distributor licensed by the board must file with the commissioner of revenue, on a form prescribed by the commissioner, a report of pull-tabs and tipboards sold to licensed distributors. The report must be filed monthly on or before the 25th day of the month succeeding the month in which the sale was made. The commissioner of revenue may inspect the books, records, and inventory of a licensed manufacturer without notice during the normal business hours of the manufacturer. Any person violating this section shall be guilty of a misdemeanor.

Sec. 40. Minnesota Statutes 1988, section 349.2125, subdivision 1, is amended to read:

Subdivision 1. **CONTRABAND DEFINED.** The following are contraband:

(1) all pull-tab or tipboard deals that do not have stamps affixed to them as provided in section 349.162;

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

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

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

(5) any device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes, and boats used, with the knowledge of the owner or of a person operating with the consent of the owner, for the storage or transportation of more than five pull-tab or tipboard deals that are contraband under this subdivision. When pull-tabs and tipboards are being transported in the course of interstate commerce, or from one distributor to another, the pull-tab and tipboard deals are not contraband, notwithstanding the provisions of clause (1);

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

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

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

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

(10) any gambling equipment kept in violation of section 349.18.

Sec. 41. Minnesota Statutes 1988, section 349.2125, subdivision 2, is amended to read:

Subd. 2. **SEIZURE.** ~~Pull tabs or tipboards or other~~ Property made contraband by subdivision 1 may be seized by the commissioner of revenue or the ~~executive secretary of the charitable gambling control board~~ director of gambling enforcement or their authorized agents or by any sheriff or other police officer, hereinafter referred to as the seizing authority, with or without process, and shall be subject to forfeiture as provided in subdivisions 3 and 4.

Sec. 42. Minnesota Statutes 1988, section 349.2125, subdivision 3, is amended to read:

Subd. 3. **INVENTORY; JUDICIAL DETERMINATION; APPEAL; DISPOSITION OF SEIZED PROPERTY.** Within two days after the seizure of any alleged contraband, the person making the seizure shall deliver an inventory of the property seized to the person from whom the property was seized, if known, and file a copy with the commissioner of revenue or the ~~executive secretary of the charitable gambling control board~~ director of gambling enforcement. Within ten days after the date of service of the inventory, the person from whom the property was seized or any person claiming an interest in the property may file with the seizing authority a demand for judicial determination of whether the property was lawfully subject to seizure and forfeiture. Within 30 days after the date of filing of the demand, the seizing authority must bring an action in the

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district court of the county where seizure was made to determine the issue of forfeiture. The action must be brought in the name of the state and be prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and determine the issues of fact and laws involved. When a judgment of forfeiture is entered, the seizing authority may, unless the judgment is stayed pending an appeal, either (1) cause the forfeited property to be destroyed; or (2) cause it to be sold at a public auction as provided by law.

If demand for judicial determination is made and no action is commenced as provided in this subdivision, the property must be released by the seizing authority and delivered to the person entitled to it. If no demand is made, the property seized is considered forfeited to the state by operation of law and may be disposed of by the seizing authority as provided where there has been a judgment of forfeiture. When the seizing authority is satisfied that a person from whom property is seized was acting in good faith and without intent to evade the tax imposed by section 349.2121, subdivision 4, the seizing authority shall release the property seized without further legal proceedings.

Sec. 43. Minnesota Statutes 1988, section 349.2127, subdivision 2, is amended to read:

Subd. 2. **PROHIBITION AGAINST POSSESSION.** (a) No person, other than a licensed distributor, shall sell, offer for sale, or have in possession with intent to sell or offer for sale, a pull-tab or tipboard deal not stamped in accordance with the provisions of this chapter.

(b) No person other than a licensed distributor or licensed or exempt organization under section 349.214 may possess with the intent to sell or offer to sell gambling equipment, except (1) equipment exempt from taxation, or (2) equipment put into play by a licensed or exempt organization.

(c) No person, firm, or organization may possess altered, modified, or counterfeit pull-tabs or tipboard tickets with intent to sell, redeem, or exchange them.

Sec. 44. Minnesota Statutes 1988, section 349.213, subdivision 1, is amended to read:

Subdivision 1. **LOCAL REGULATION.** A statutory or home rule city or county has the authority to adopt more stringent regulation of any form of lawful gambling within its jurisdiction, including the prohibition of any form of lawful gambling, and may require a permit for the conduct of gambling exempt from licensing under section 349.214. The fee for a permit issued under this subdivision may not exceed \$100. The authority granted by this subdivision does not include the authority to require a license or permit to conduct gambling by organizations or sales by distributors licensed by the board. The authority granted by this subdivision does not include the authority to require an organization to make specific expenditures of more than ten percent from its net profits derived from lawful gambling. For the purposes of this subdivision, net profits are profits less amounts expended for allowable expenses. A statutory or

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home rule charter city or a county may not require an organization conducting lawful gambling within its jurisdiction to make an expenditure to the city or county as a condition to operate within that city or county, except as authorized under section 349.16, subdivision 4, or section 349.212.

A statutory or home rule city or county may by ordinance require that a licensed organization conducting lawful gambling within its jurisdiction expend all or a portion of its expenditures for lawful purposes on lawful purposes conducted or located within the city's or county's trade area. Such an ordinance must define the city's or county's trade area and must specify the percentage of lawful purpose expenditures which must be expended within the trade area.

Sec. 45. Minnesota Statutes 1988, section 349.213, subdivision 2, is amended to read:

Subd. 2. **LOCAL APPROVAL.** Before issuing or renewing an organization license or bingo hall license, the board must notify the city council of the statutory or home rule city in which the organization's premises ~~are~~ or the bingo hall is located or, if the premises ~~are~~ or hall is located outside a city, by the county board of the county and the town board of the town where the premises ~~are~~ or hall is located. The board may require organizations to notify the appropriate local government at the time of application. This required notification is sufficient to constitute the notice required by this subdivision. If the city council or county board adopts a resolution disapproving the license and so informs the board within 60 days of receiving notice of the ~~license~~ application, the license may not be issued or renewed.

Sec. 46. Minnesota Statutes 1988, section 349.214, subdivision 2, is amended to read:

Subd. 2. **LAWFUL GAMBLING.** (a) Raffles may be conducted by an organization as defined in section 349.12, subdivision 12, without complying with sections 349.11 to 349.14 and 349.151 to 349.213 if the value of all raffle prizes awarded by the organization in a calendar year does not exceed \$750.

(b) Lawful gambling may be conducted by an organization as defined in section 349.12, subdivision 12, without complying with sections ~~349.11 to 349.14 and 349.151 to 349.16; 349.171 to 349.21; and 349.212~~ if:

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

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

(3) the organization pays a fee of \$25 to the board, notifies the board in writing not less than 30 days before each lawful gambling occasion of the date and location of the occasion, or 60 days for an occasion held in the case of a city of the first class, the types of lawful gambling to be conducted, the prizes to be awarded, and receives an exemption identification number;

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

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

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

(c) If the organization fails to file a timely report as required by paragraph (b), clause (3) or (6), a \$250 penalty is imposed on the organization. Failure to file a timely report does not disqualify the organization as exempt under this paragraph if a report is subsequently filed and the penalty paid.

(d) Merchandise prizes must be valued at their fair market value.

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

Sec. 47. Minnesota Statutes 1988, section 349.22, subdivision 1, is amended to read:

Subdivision 1. **GROSS MISDEMEANOR.** A person who in any manner violates sections 349.11 to ~~349.214~~ 349.23 to evade ~~the~~ a tax imposed by a provision of this chapter, or who aids and abets evasion of ~~the~~ a tax, or hinders or interferes with a seizing authority when a seizure is made as provided by section 349.2125, is guilty of a gross misdemeanor.

Sec. 48. Minnesota Statutes 1988, section 349.22, subdivision 3, is amended to read:

Subd. 3. **FELONY.** (a) A person violating section 349.2127, subdivision 1 or 3, is guilty of a felony.

(b) A person violating section 349.2127, ~~subdivisions 2 and subdivision 2 or~~ 4, by possessing, receiving, or transporting more than ten pull-tab or tipboard deals ~~not stamped in accordance with this chapter, or a combination of more than ten deals of pull-tabs or tipboards,~~ is guilty of a felony.

Sec. 49. Laws 1989, chapter 184, section 7, is amended by adding a subdivision to read:

Subd. 4. DISCLOSURE TO GAMBLING CONTROL BOARD. The commissioner may disclose return information for the purpose of and to the extent necessary to administer sections 349.161, subdivision 3, and 349.164, subdivision 3.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 50. GAMBLING CONTROL BOARD.

The terms of all members serving on the gambling control board on June 30, 1989, expire on that date.

Sec. 51. INSTRUCTION TO REVISOR.

In the next edition of Minnesota Statutes, the revisor of statutes shall alphabetize the definitions in Minnesota Statutes, section 349.12, and make all appropriate cross-reference changes in Minnesota Statutes and Minnesota Rules.

Sec. 52. REPEALER.

Minnesota Statutes 1988, sections 349.151, subdivisions 3 and 5; and 349.171, are repealed. Minnesota Rules, part 7860.0030, is repealed.

Sec. 53. EFFECTIVE DATE.

Sections 1 to 26 and 28 to 52 are effective July 1, 1989. Section 27 is effective July 1, 1989, except that the provisions in section 27 relating to rules adopted by the gambling control board apply retroactively to November 1, 1988.

ARTICLE 3**STATE LOTTERY****Section 1. [349A.01] DEFINITIONS.**

Subdivision 1. TERMS DEFINED. For the purposes of this chapter the terms defined in this section have the meanings given them.

Subd. 2. BOARD. "Board" is the state lottery board.

Subd. 3. COMMISSIONER. "Commissioner" is the commissioner of gaming.

Subd. 4. DEPARTMENT. "Department" is the department of gaming.

Subd. 5. DIRECTOR. "Director" is the director of the state lottery division.

Subd. 6. DIVISION. "Division" is the division of the state lottery in the department of gaming.

Subd. 7. GROSS RECEIPTS. "Gross receipts" means all money received from the sale of lottery tickets less amounts transmitted to the commissioner of revenue under section 297A.259.

Subd. 8. GROSS REVENUE. "Gross revenue" means gross receipts from the sale of lottery tickets, fees, or other money received by the director, and interest earned on money in the lottery fund.

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Subd. 9. LOTTERY. “Lottery” is the state lottery operated by the state lottery division of the department.

Subd. 10. LOTTERY PROCUREMENT CONTRACT. “Lottery procurement contract” means a contract to provide lottery products, computer hardware and software used to monitor sales of lottery tickets, and lottery tickets. “Lottery procurement contract” does not include a contract to provide an annuity or prize payment agreement or materials, supplies, equipment, or services common to the ordinary operation of a state agency.

Subd. 11. LOTTERY RETAILER. “Lottery retailer” means a person with whom the director has contracted to sell lottery tickets to the public.

Subd. 12. LOTTERY TICKET OR TICKET. “Lottery ticket” or “ticket” means any tangible evidence issued by the lottery to prove participation in a lottery game.

Subd. 13. LOTTERY VENDOR OR VENDOR. “Lottery vendor” or “vendor” means a person who has entered into a contract to provide equipment, supplies, or services for the division. A lottery vendor does not include a lottery retailer.

Sec. 2. [349A.02] STATE LOTTERY DIVISION.

Subdivision 1. DIRECTOR. A state lottery division is established in the department of gaming, under the supervision and control of the director of the state lottery appointed by the governor with the advice and consent of the senate. The governor shall appoint the first director from a list of at least three persons recommended to the governor by the governor's commission on the lottery which was appointed by the governor on December 8, 1988. The director must be qualified by experience and training to supervise the lottery. The director serves in the unclassified service.

Subd. 2. REMOVAL. (a) The director may be removed from that position only by the governor after notice and a hearing if requested, only for:

(1) violating section 11;

(2) malfeasance, nonfeasance, or misfeasance as defined in section 351.14, subdivisions 2, 3, and 4; or

(3) failure to perform adequately the duties of the director.

(b) For the purposes of this subdivision, adequate performance of the director may be determined by:

(1) gross revenue from the sale of lottery tickets;

(2) efficiency of the administration of lottery operations;

(3) public confidence in the integrity of the lottery; and

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(4) compliance with advertising requirements in section 9.

A hearing under this subdivision must be conducted by the governor.

Subd. 3. POWERS AND DUTIES. In operating the lottery the director shall exercise the following powers and duties:

(1) adopt rules and game procedures;

(2) issue lottery retailer contracts and rule on appeals of decisions relating to those contracts;

(3) enter into lottery procurement contracts for the provision of goods and services to the lottery;

(4) employ personnel as are required to operate the lottery;

(5) enter into written agreements with one or more states for the operation, marketing, and promotion of a joint lottery;

(6) adopt and publish advertising and promotional materials consistent with section 9; and

(7) take all necessary steps to ensure the integrity of, and public confidence in, the state lottery.

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

Subd. 5. COMPENSATION. The compensation of employees in the division is as provided in chapter 43A. The commissioner of employee relations may, at the request of the director, develop and implement a plan for making incentive payments to employees of the division whose primary responsibilities are in marketing.

Subd. 6. EMPLOYEES; BACKGROUND CHECKS. The director shall conduct background checks, or request the director of gambling enforcement to conduct background checks, on all prospective employees who are finalists, and shall require that all employees of the division be fingerprinted. No person may be employed by the division who has been convicted of a felony or a crime involving fraud or misrepresentation within five years of starting employment with the division, or has ever been convicted of a gambling-related offense. The director has access to all criminal history data compiled by the the division of gambling enforcement on employees and prospective employees of the lottery.

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The director may employ necessary persons pending the completion of a background check.

Subd. 7. ASSISTANCE. (a) The director may request any other department or agency of the state, including the division of gambling enforcement, to provide reasonable assistance to the director in carrying out the director's duties. All provision of services to the director from another state agency, must be by agreement made between the director and the agency. An agreement must include provisions specifying the duration of the services, the assignment of personnel of other agencies to provide the services, the determination of the cost of the services, and the transfer, from the lottery operations account to the agency, of funds sufficient to pay the costs of the services.

(b) The director may enter into agreements with the commissioner of finance for the purpose of making payroll and other financial transactions.

Subd. 8. ATTORNEY GENERAL. The attorney general is the attorney for the division.

Sec. 3. [349A.03] STATE LOTTERY BOARD.

Subdivision 1. BOARD CREATED. There is created within the division a state lottery board. The board consists of six members appointed by the governor plus the commissioner as a voting member. Not more than three of the members appointed by the governor under this subdivision may belong to the same political party and at least three members must reside outside the seven-county metropolitan area. The terms of office, removal from office, and compensation of members of the board, other than the commissioner, are as provided in section 15.059 except the board does not expire as provided under section 15.059, subdivision 5. The members of the board shall select the chair of the board, who shall not be the commissioner.

Subd. 2. BOARD DUTIES. The board has the following duties:

- (1) to advise the director on all aspects of the lottery;
- (2) to review and comment on rules and game procedures adopted by the director;
- (3) review and comment on lottery procurement contracts;
- (4) review and comment on agreements between the director and one or more other lotteries relating to a joint lottery;
- (5) to review and comment on advertising promulgated by the director at least quarterly to ensure that all advertising is consistent with the dignity of the state and with section 9; and
- (6) to approve additional compensation for the director under subdivision 3.

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Subd. 3. DIRECTOR; ADDITIONAL COMPENSATION. The board shall adopt objective criteria for evaluating the performance of the director. The criteria must include, but is not limited to, the performance factors in section 2, subdivision 2, paragraph (b), clauses (1) to (4). The board may approve, by majority vote of all members, compensation for the director in addition to the compensation provided under section 15A.081, subdivision 1, based on the director's performance in office as evaluated according to the board's criteria. The additional compensation shall be paid from the lottery operations account. The board may not approve additional compensation under this subdivision more often than once in a 12-month period.

Sec. 4. [349A.04] LOTTERY GAME PROCEDURES.

The director may adopt game procedures governing the following elements of the lottery:

- (1) lottery games;
- (2) ticket prices;
- (3) number and size of prizes;
- (4) methods of selecting winning tickets; and
- (5) frequency and method of drawings.

The adoption of lottery game procedures is not subject to chapter 14. Before adopting a lottery game procedure, the director shall submit the procedure to the board for its review and comment.

Sec. 5. [349A.05] RULES.

The director may adopt rules, including emergency rules, under chapter 14 governing the following elements of the lottery:

- (1) the number and types of lottery retailers' locations;
- (2) qualifications of lottery retailers and application procedures for lottery retailer contracts;
- (3) investigation of lottery retailer applicants;
- (4) appeal procedures for denial, suspension, or cancellation of lottery retailer contracts;
- (5) compensation of lottery retailers;
- (6) accounting for and deposit of lottery revenues by lottery retailers;
- (7) procedures for issuing lottery procurement contracts and for the investigation of bidders on those contracts;

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(8) payment of prizes;

(9) procedures needed to ensure the integrity and security of the lottery; and

(10) other rules the director considers necessary for the efficient operation and administration of the lottery.

Before adopting a rule the director shall submit the rule to the board for its review and comment.

Sec. 6. [349A.06] LOTTERY RETAILERS.

Subdivision 1. CONTRACTS. The director shall sell tickets for the lottery through lottery retailers with whom the director contracts. Contracts under this section are not subject to the provisions of sections 16B.06 to 16B.102, and 16B.17, and are valid for a period of one year.

Subd. 2. QUALIFICATIONS. (a) The director may not contract with a retailer who:

(1) is under the age of 18;

(2) is in business solely as a seller of lottery tickets;

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

(4) has been convicted within the previous five years of a felony or gross misdemeanor, any crime involving fraud or misrepresentation, or a gambling-related offense;

(5) is a member of the immediate family, residing in the same household, as the director, board member, or any employee of the division; or

(6) in the director's judgment does not have the financial stability or responsibility to act as a lottery retailer, or whose contracting as a lottery retailer would adversely affect the public health, welfare, and safety, or endanger the security and integrity of the lottery.

(b) An organization, firm, partnership, or corporation that has a stockholder who owns more than five percent of the business or the stock of the corporation, an officer, or director, that does not meet the requirements of paragraph (a), clause (4), is not eligible to be a lottery retailer under this section.

(c) The restrictions under paragraph (a), clause (4), do not apply to an organization, partnership, or corporation if the director determines that the organization, partnership, or firm has terminated its relationship with the individual whose actions directly contributed to the disqualification under this subdivision.

Subd. 3. BOND. The director shall require that each lottery retailer post a bond, in an amount as the director deems necessary, to protect the financial interests of the state.

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Subd. 4. CRIMINAL HISTORY. The director may request the director of gambling enforcement to investigate all applicants for lottery retailer contracts to determine their compliance with the requirements of subdivision 2. The director may issue a temporary contract, valid for not more than 90 days, to an applicant pending the completion of the investigation or a final determination of qualifications under this section.

Subd. 5. RESTRICTIONS ON LOTTERY RETAILERS. (a) A lottery retailer may sell lottery tickets only on the premises described in the contract.

(b) A lottery retailer must prominently display a certificate issued by the director on the premises where lottery tickets will be sold.

(c) A lottery retailer must keep a complete set of books of account, correspondence, and all other records necessary to show fully the retailer's lottery transactions, and make them available for inspection by employees of the division at all times during business hours. The director may require a lottery retailer to furnish information as the director deems necessary to carry out the purposes of this chapter, and may require an audit to be made of the books of account and records. The director may select an auditor to perform the audit and may require the retailer to pay the cost of the audit. The auditor has the same right of access to the books of account, correspondence, and other records as is given to employees of the division.

(d) A contract issued under this section may not be transferred or assigned.

(e) The director shall require that lottery tickets may be sold by retailers only for cash.

Subd. 6. RETENTION BY RETAILERS. The director may by rule provide for:

(1) amounts which a lottery retailer may retain from gross receipts from the sale of lottery tickets in order to pay prizes to holders of winning tickets; and

(2) amounts which a lottery retailer may retain from gross receipts from the sale of lottery tickets as a commission.

Subd. 7. RETAILER RENTAL PAYMENTS. If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales, and the computation of retail sales is not explicitly defined to include the sale of lottery tickets, the compensation retained by the sales agent for the sale of lottery tickets shall be considered the amount of the retail sale for purposes of computing the rental payments.

Subd. 8. PROCEEDS OF SALES. All proceeds from the sale of lottery tickets received by a lottery retailer constitute a trust fund until paid to the director. The lottery retailer is personally liable for all proceeds.

Subd. 9. FEE. The director may charge a nonrefundable application fee to

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a person applying for a lottery retailer contract, in an amount sufficient to cover the costs of making the investigation required under subdivision 4. The fee collected under this subdivision must be deposited in the lottery fund.

Subd. 10. LOCAL LICENSES. No political subdivision may require a local license to operate as a lottery retailer or impose a tax or fee on the business of operating as a lottery retailer.

Subd. 11. REVOCATION, SUSPENSION, AND REFUSAL TO RENEW LICENSES. (a) The director shall cancel the contract of any lottery retailer who:

- (1) has been convicted of a felony or gross misdemeanor;
- (2) has committed fraud, misrepresentation, or deceit;
- (3) has provided false or misleading information to the division; or

(4) has acted in a manner prejudicial to public confidence in the integrity of the lottery.

(b) The director may cancel, suspend, or refuse to renew the contract of any lottery retailer who:

(1) changes business location;

(2) fails to account for lottery tickets received or the proceeds from tickets sold;

(3) fails to remit funds to the director in accordance with the director's rules;

(4) violates a law or a rule or order of the director;

(5) fails to comply with any of the terms in the lottery retailer's contract;

(6) fails to comply with bond requirements under this section;

(7) in the opinion of the director fails to maintain a sufficient sales volume to justify continuation as a lottery retailer; or

(8) has violated section 340A.503, subdivision 2, clause (1), two or more times within a two-year period.

(c) The director may also cancel, suspend, or refuse to renew a lottery retailer's contract if there is a material change in any of the factors considered by the director under subdivision 2.

(d) A contract cancellation, suspension, or refusal to renew under this subdivision is a contested case under sections 14.57 to 14.69 and is in addition to any criminal penalties provided for a violation of law or rule.

(e) The director may temporarily suspend a contract without notice for any

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of the reasons specified in this subdivision provided that a hearing is conducted within seven days after a request for a hearing is made by a lottery retailer. Within 20 days after receiving the administrative law judge's report, the director shall issue an order vacating the temporary suspension or making any other appropriate order. If no hearing is requested within 30 days of the temporary suspension taking effect, the director may issue an order making the suspension permanent.

Sec. 7. [349A.07] VENDOR CONTRACTS.

Subdivision 1. CONTRACTS AUTHORIZED. The director may enter into lottery procurement contracts for the purchase, lease, or lease-purchase of the goods or services. In entering into a lottery procurement contract, the director shall utilize an open bid process and shall take into account the particularly sensitive nature of the state lottery and shall consider the competence, quality of product, experience, and timely performance of each potential vendor in order to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery. The director shall also consider the extent to which a bidder for a contract for printing preprinted lottery tickets would utilize employees and facilities within Minnesota in fulfilling the contract.

Subd. 2. INVESTIGATION OF POTENTIAL VENDORS. The director shall request the director of the division of gambling enforcement to investigate the background, financial responsibility, security, and integrity of any person who submits a bid, proposal, or offer as part of a lottery procurement contract issuance by the director. The director may require the person making the bid, proposal, or offer to pay for the cost of the investigation. Any fee collected under this subdivision must be deposited into the lottery fund. At the time of submitting any bid, proposal, or offer, the bidder shall disclose to the director the information the director considers necessary to carry out the purposes of this section. The director has access to all criminal history data compiled by the division of gambling enforcement on all vendors and potential vendors who have submitted a bid to the division.

Subd. 3. PERSONS INELIGIBLE FOR CONTRACT. (a) The director may not enter into a lottery procurement contract with an applicant that has been convicted of a felony within the last ten years, has been convicted of a gross misdemeanor or gambling-related misdemeanor within the last five years, or has been found guilty of any crime involving fraud or misrepresentation within the last five years.

(b) The director may not enter into a lottery procurement contract with an applicant that has (1) a person who owns more than five percent of the stock in the applicant that does not meet the requirements of this subdivision, or (2) a partner, officer, or director that does not meet the requirements of this subdivision.

(c) The restrictions under this subdivision do not apply to an applicant for a lottery procurement contract if the director determines that the applicant has

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terminated its relationship with the individuals whose actions directly contributed to the disqualification of the applicant under this subdivision.

Subd. 4. CONFLICT OF INTEREST. The director may not enter into a lottery procurement contract with a person to supply goods or services if that person has an ownership interest in an entity that had supplied consultation services under a contract to the lottery regarding the request for proposal pertaining to those particular goods or services.

Subd. 5. BOND. (a) The director shall require securities to be deposited, or a performance bond or a letter of credit to be executed by the person or corporation that is awarded a lottery procurement contract in an amount as determined by the director.

(b) Any securities deposited with the director under this subdivision must be interest-bearing and limited to:

(1) certificates of deposit issued by a solvent bank or savings association organized and existing under the laws of this state or under the laws of the United States and having its principal place of business in this state;

(2) United States bonds, notes, and bills, for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest; and

(3) general obligation bonds of any political subdivision of this state, or corporate bonds of a corporation that is not an affiliate or subsidiary of the vendor, if the general obligation bonds or corporate bonds are rated in one of the four highest classifications by an established nationally recognized investment rating service.

(c) Any letter of credit executed under this subdivision must provide that:

(1) nothing more than a demand for payment is necessary for payment and is not conditional on the delivery of any other documents or materials;

(2) the letter of credit is irrevocable and cannot be modified or revoked without the consent of the director;

(3) the letter of credit cannot expire without notice from the issuer and the notice must occur at least 60 days before the expiration date of the letter of credit;

(4) the letter of credit is issued by a bank which is a member of the federal reserve system which has a long-term debt rating by a recognized national rating agency of investment grade or better, if no long-term debt rating is available, the financial institution must have investment grade financial characteristics;

(5) the letter of credit is unconditional, is not conditional upon reimbursement to the bank or the bank's ability to perfect any lien or security interest, and does not contain references to any other agreement, document, or entity; and

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(6) the letter of credit designates the director as beneficiary.

Subd. 6. EXEMPTIONS. Lottery procurement contracts entered into by the director are not subject to the provisions of sections 16B.06 to 16B.102 or 16B.17, provided that the director must utilize an open and competitive bid process, and as nearly as practicable follow the procedures of chapter 16B governing contracts, consistent with the provisions of this section.

Subd. 7. ASSIGNMENT. A lottery procurement contract entered into under this section may not be assigned without the specific written approval of the director.

Sec. 8. [349A.08] LOTTERY PRIZES.

Subdivision 1. AGREEMENT BY PLAYERS. A person who buys a lottery ticket agrees to be bound by the rules applicable to the particular lottery game for which the ticket is purchased. The player acknowledges that the determination of whether a ticket is a valid winning ticket is subject to the rules of the director, claims procedures established by the director for that game, and any confidential or public validation tests established by the director for that game.

Subd. 2. PRIZES NOT ASSIGNABLE. A prize in the state lottery is not assignable except as provided in subdivision 3 and except that:

(1) if a prize winner dies before the prize is paid, the director shall pay the prize to the prize winner's estate; and

(2) the director may pay a prize to a person other than the winner of that prize under an appropriate court order.

Subd. 3. PRIZES WON BY PERSONS UNDER AGE 18. The following provisions govern the payment of a lottery prize to a person under age 18:

(1) if the prize is less than \$5,000, the director may give a draft, payable to the order of the person under age 18, to the person's parents, custodial parent if one parent has custody, guardian, or other adult member of the person's family; and

(2) if the prize is \$5,000 or more, the director shall deposit the prize with the district court and section 540.08 applies to the investment and distribution of the money.

Subd. 4. DISCHARGE OF LIABILITY. The payment of a prize by the director discharges the director and the state of all liability for the prize.

Subd. 5. PAYMENT; UNCLAIMED PRIZES. A prize in the state lottery must be claimed by the winner within one year of the date of the drawing at which the prize was awarded or the last day sales were authorized for a game where a prize was determined in a manner other than by means of a drawing. If

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a valid claim is not made for a prize payable directly by the lottery by the end of this period, the unclaimed prize money must be added by the director to prize pools of subsequent lottery games and the winner of the prize shall have no further claim to the prize. A prize won by a person who purchased the winning ticket in violation of section 12, subdivision 1, or won by a person ineligible to be awarded a prize under subdivision 7 must be treated as an unclaimed prize under this section.

Subd. 6. INSTALLMENT PAYMENTS. If the director decides to pay all or part of a prize in the form of installments over a period of years, the director shall provide for the payment of all installments by:

(1) entering into a contract with a financially responsible person or firm or by purchasing an annuity to provide for the payment of the installments; or

(2) establishing and maintaining as a separate and independent fund outside the state treasury a reserve account with sufficient funds for the payment of the installments as they become due.

Subd. 7. PAYMENTS PROHIBITED. (a) No prize may be paid to a member of the board, the director or an employee of the division, or a member of their families residing in the same household of the member, director, or employee. No prize may be paid to an officer or employee of a vendor which at the time the game or drawing was being conducted was involved with providing goods or services to the lottery under a lottery procurement contract.

(b) No prize may be paid for a stolen, altered, or fraudulent ticket.

Subd. 8. WITHHOLDING OF DELINQUENT STATE TAXES OR OTHER DEBTS. The director shall report the name, address, and social security number of each winner of a lottery prize of \$1,000 or more to the department of revenue to determine whether the person who has won the prize is delinquent in payment of state taxes or owes a debt as defined in section 270A.03, subdivision 5. If the person is delinquent in payment of state taxes or owes a debt as defined in section 270A.03, subdivision 5, the director shall withhold the delinquent amount from the person's prize for remittance to the department of revenue for payment of the delinquent taxes or distribution to a claimant agency in accordance with chapter 270A. Section 270A.10 applies to the priority of claims.

Sec. 9. [349A.09] LOTTERY ADVERTISING.

Subdivision 1. ODDS; REQUIRED INFORMATION. The director shall include on each brochure, pamphlet, booklet, or other similar material the director publishes to promote or explain any lottery game, a prominent and clear statement of the approximate odds of winning each prize offered in that lottery game. Each lottery retailer must post prominently at or near the point of ticket sale a notice or notices printed and provided by the director of the approximate odds of winning each prize in each game for which the lottery retailer sells tickets.

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Subd. 2. CONTENT OF ADVERTISING. (a) Advertising and promotional materials for the lottery adopted or published by the director must be consistent with the dignity of the state and may only:

(1) present information on how lottery games are played, prizes offered, where and how tickets may be purchased, when drawings are held, and odds on the games advertised;

(2) identify state programs supported by lottery net revenues;

(3) present the lottery as a form of entertainment; or

(4) state the winning numbers or identity of winners of lottery prizes.

(b) The director may not adopt or publish any advertising for the lottery which:

(1) presents directly or indirectly any lottery game as a potential means of relieving any person's financial difficulties;

(2) is specifically targeted with the intent to exploit a person, a specific group or an economic class of people;

(3) presents the purchase of a lottery ticket as a financial investment or a way to achieve financial security;

(4) uses the name or picture of a current elected state official to promote a lottery game;

(5) exhorts the public to bet by directly or indirectly misrepresenting a person's chance of winning a prize; or

(6) denigrates a person who does not buy a lottery ticket or unduly praises a person who does buy a ticket.

Subd. 3. PRIZES; REQUIRED INFORMATION. The director must include, in any publication or print advertising which refers to a prize which is or may be paid in installments, a statement to the effect that the prize will be or may be paid in installments.

Sec. 10. [349A.10] LOTTERY FUNDS.

Subdivision 1. STATE LOTTERY FUND. The director shall establish a lottery fund outside the state treasury, consisting of the gross revenues of the lottery and all other money credited or transferred to it by law, except for money set aside and deposited in the lottery prize fund under subdivision 2.

Subd. 2. DEPOSIT IN PRIZE FUND. (a) The director shall establish a lottery prize fund outside the state treasury. The fund consists of all money deposited in it under this subdivision and all interest earned thereon.

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(b) The director shall deposit in the lottery prize fund, from gross receipts from the sale of lottery tickets, an amount sufficient to pay lottery prizes from the lottery prize fund according to the following provisions:

(1) for games which require on-line terminal connections, the prizes paid in any fiscal year must be at least 45 percent of gross receipts from those games in that fiscal year;

(2) for games which do not require on-line terminal connections, the prizes paid in any fiscal year must be at least the following percentages of gross receipts from those games:

(i) 50 percent through fiscal year 1991;

(ii) 55 percent from July 1, 1991, to June 30, 1992; and

(iii) 60 percent thereafter.

Subd. 3. LOTTERY OPERATIONS. (a) The director shall establish a lottery operations account in the lottery fund. The director shall pay all costs of operating the lottery, including payroll costs or amounts transferred to the state treasury for payroll costs, but not including lottery prizes, from the lottery operating account. The director shall credit to the lottery operations account amounts sufficient to pay the operating costs of the lottery.

(b) The director may not credit in any fiscal year amounts to the lottery operations account which when totaled exceed 15 percent of gross revenue to the lottery fund in that fiscal year. In computing total amounts credited to the lottery operations account under this paragraph the director shall disregard amounts transferred to or retained by lottery retailers as sales commissions or other compensation.

(c) The director of the lottery may not expend after July 1, 1992, more than 2-3/4 percent of gross revenues in a fiscal year for contracts for the preparation, publication, and placement of advertising.

(d) Except as the director determines, the division is not subject to chapter 16A relating to budgeting, payroll, and the purchase of goods and services.

Subd. 4. DEPOSIT OF RECEIPTS. (a) The director may require lottery retailers to:

(1) deposit in a separate account to the credit of the lottery fund, in banks designated by the director, all money received by the lottery retailer from the sale of lottery tickets, less money retained as the lottery retailer's commission and for payment of prizes;

(2) file with the director reports of the lottery retailer's receipts and transactions in ticket sales in a form that the director prescribes; and

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(3) allow money deposited by the lottery retailer from the sale of lottery tickets to be transferred to the division through electronic fund transfer.

(b) The director may make arrangements for any person, including a financial institution, to perform functions, activities, or services in connection with the receipt and distribution of lottery revenues.

(c) A lottery retailer who fails to pay any money due to the director within the time prescribed by the director shall pay interest on the amount owed at the rate determined by rule.

Subd. 5. DEPOSIT OF NET PROCEEDS. Within 30 days after the end of each month, the director shall pay to the state treasurer the balance in the lottery fund after transfers to the lottery prize fund and credits to the lottery operations account.

Sec. 11. [349A.11] CONFLICT OF INTEREST.

(a) The director, a board member, an employee of the division, a member of the immediate family of the director, board member, or employee residing in the same household may not:

(1) purchase a lottery ticket;

(2) have any personal pecuniary interest in any vendor holding a lottery procurement contract, or in any lottery retailer; or

(3) receive any gift, gratuity, or other thing of value, excluding food or beverage, from any lottery vendor or lottery retailer, or person applying to be a retailer or vendor, in excess of \$100 in any calendar year.

(b) A violation of paragraph (a), clause (1), is a misdemeanor. A violation of paragraph (a), clause (2), is a gross misdemeanor. A violation of paragraph (a), clause (3), is a misdemeanor unless the gift, gratuity, or other item of value received has a value in excess of \$500, in which case a violation is a gross misdemeanor.

(c) The director or an unclassified employee of the division may not, within one year of terminating employment with the division, accept employment with, act as an agent or attorney for, or otherwise represent any person, corporation, or entity that had any lottery procurement contract or bid for a lottery procurement contract with the division within a period of two years prior to the termination of their employment. A violation of this paragraph is a misdemeanor.

Sec. 12. [349A.12] PROHIBITED ACTS.

Subdivision 1. PURCHASE BY MINORS. A person under the age of 18 years may not buy a ticket in the state lottery.

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Subd. 2. SALE TO MINORS. A lottery retailer may not sell a ticket in the state lottery to any person under the age of 18 years. It is an affirmative defense to a charge under this subdivision for the lottery retailer to prove by a preponderance of the evidence that the lottery retailer reasonably and in good faith relied upon representation of proof of age described in section 340A.503, subdivision 6, in making the sale.

Subd. 3. PROHIBITED SALES. (a) A person other than a lottery retailer may not sell a ticket in the state lottery.

(b) A lottery retailer may not sell a ticket for a price other than the price set by the director.

Subd. 4. LOTTERY RETAILERS AND VENDORS. A person who is a lottery retailer, or is applying to be a lottery retailer, a person applying for a contract with the director, or a person under contract with the director to supply good or services to division may not pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food or beverage, having an aggregate value of over \$100 in any calendar year to the director, board member, employee of the lottery division, or to a member of the immediate family residing in the same household as that person.

Subd. 5. EXCEPTIONS. Nothing in this chapter prohibits giving a state lottery ticket as a gift, or buying a state lottery ticket as a gift for a person under the age of 18.

Subd. 6. VIOLATIONS. A violation of subdivision 1 is a petty misdemeanor. A violation of subdivision 2 or a rule adopted by the director is a misdemeanor. A violation of subdivision 3 or 4 is a gross misdemeanor.

Sec. 13. [349A.13] RESTRICTIONS.

Nothing in this chapter:

(1) authorizes the director to conduct a lottery game or contest the winner or winners of which are determined by the result of a sporting event other than a horse race conducted under chapter 240;

(2) authorizes the director to install or operate a lottery device operated by coin or currency which when operated determines the winner of a game; and

(3) authorizes the director to sell pull-tabs as defined under section 349.12, subdivision 10.

Sec. 14. [349A.14] AUDIT.

The director shall contract for an annual certified audit of all accounts and transactions of the lottery. The audit must be conducted by a certified public accountant in accordance with generally accepted accounting standards. The director shall file a copy of each audit report of the lottery with the governor and the legislature.

New language is indicated by underline, deletions by strikeout.

Sec. 15. [349A.15] REPORT.

The director shall file an annual report with the governor and legislature which must include a complete statement of lottery revenues, administrative and operating costs, net proceeds transferred, and other financial transactions for the period the report covers.

Sec. 16. [609.651] STATE LOTTERY FRAUD.

Subdivision 1. FELONY. A person is guilty of a felony and may be sentenced under subdivision 4 if the person does any of the following with intent to defraud the state lottery:

- (1) alters or counterfeits a state lottery ticket;
- (2) knowingly presents an altered or counterfeited state lottery ticket for payment;
- (3) knowingly transfers an altered or counterfeited state lottery ticket to another person; or
- (4) otherwise claims a lottery prize by means of fraud, deceit, or misrepresentation.

Subd. 2. COMPUTER ACCESS. A person is guilty of a felony and may be sentenced under subdivision 4 if the person:

- (1) obtains access to a computer data base maintained by the director without the specific authorization of the director;
- (2) obtains access to a computer data base maintained by a person under contract with the director to maintain the data base without the specific authorization of the director and the person maintaining the data base.

Subd. 3. FALSE STATEMENTS. A person is guilty of a felony and may be sentenced under subdivision 4 if the person:

- (1) makes a materially false or misleading statement, or a material omission, in a record required to be submitted under chapter 349A; or
- (2) makes a materially false or misleading statement, or a material omission, in information submitted to the commissioner of the state lottery in a lottery retailer's application or a document related to a bid.

Subd. 4. PENALTY. (a) A person who violates subdivision 1 or 2 may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$50,000, or both.

(b) A person who violates subdivision 1 or 2 and defrauds the state lottery of \$35,000 or more may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) A person who violates subdivision 3 may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$25,000, or both.

Sec. 17. Laws 1989, chapter 184, section 12, is amended by adding a subdivision to read:

Subd. 7. LOTTERY DIVISION. (a) The commissioner of revenue may disclose to the lottery the amount of delinquent state taxes, or debt as defined in section 270.03, subdivision 5, of a winner of a lottery prize of \$1,000 or more, to the extent necessary to administer section 349A.08, subdivision 8.

(b) The commissioner of revenue may disclose to the lottery division that a retailer owes \$500 or more in delinquent taxes as defined in section 270.72, to the extent necessary to administer section 349A.06, subdivision 2.

Sec. 18. **EFFECTIVE DATE.**

Sections 1 to 17 are effective the day following final enactment.

ARTICLE 4

DEPARTMENT OF GAMING

Section 1. [349B.01] **DEPARTMENT OF GAMING CREATED; COMMISSIONER.**

Subdivision 1. DEPARTMENT CREATED. A department of gaming is created containing a commissioner of gaming, which office is established. The commissioner of gaming is appointed by the governor with the advice and consent of the senate.

Subd. 2. DUTIES OF COMMISSIONER. The duties of the commissioner are:

(1) to sit as a voting member of the Minnesota racing commission subject to section 240.02, subdivision 1, the gambling control board, and the lottery board;

(2) to study the extent and status of legal and illegal gambling in Minnesota, and social, economic, and legal problems which may result from legal and illegal gambling; and

(3) to report annually to the governor and legislature on the activities of the commissioner, including studies under clause (2), and recommended changes in laws dealing with legal and illegal gambling.

Subd. 3. EMPLOYEES. The commissioner shall appoint and assign duties to employees as the commissioner deems necessary to carry out the duties specified in subdivision 2. The employees are in the unclassified service.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective July 1, 1989.

ARTICLE 5**GAMBLING ENFORCEMENT****Section 1. [299L.01] DIVISION OF GAMBLING ENFORCEMENT.**

Subdivision 1. DEFINITIONS. (a) For the purposes of this chapter, the terms defined in this subdivision have the meanings given them.

(b) "Division" means the division of gambling enforcement.

(c) "Commissioner" means the commissioner of public safety.

(d) "Director" means the director of gambling enforcement.

Subd. 2. ESTABLISHED. The division of gambling enforcement is a division in the department of public safety under the control and supervision of a director, appointed by the commissioner and serving at the commissioner's pleasure in the unclassified service. The director must be a person who is licensed or eligible to be licensed as a peace officer under sections 626.84 to 626.863.

Subd. 3. EMPLOYEES. The director shall employ in the division of gambling enforcement personnel, in the classified service, necessary to carry out the duties under this chapter. The director shall request the bureau of criminal apprehension to perform background checks on persons who are finalists for employment with the division, but may employ personnel pending completion of the background check.

Sec. 2. [299L.02] DUTIES OF DIVISION OF GAMBLING ENFORCEMENT.

Subdivision 1. LOTTERY. (a) The director shall when required under chapter 349A or when requested by the director of the lottery conduct background checks on employees of the state lottery, lottery retailers, and bidders of lottery procurement contracts.

(b) The director shall, when so requested by the director of the state lottery or when the director believes it to be reasonable and necessary, conduct investigations of lottery retailers, applicants for lottery retailer contracts, suppliers of goods or services to the state lottery, and persons bidding on contracts for goods or services with the state lottery.

(c) The director shall conduct an annual security audit of the state lottery.

New language is indicated by underline, deletions by ~~strikeout~~.

or arrange for such an audit by an outside agency or person, firm, or corporation. The director shall report to the state lottery board and the director of the lottery on the results of the audit.

Subd. 2. GAMBLING. The director shall:

(1) conduct background investigations of applicants for licensing as a manufacturer or distributor of gambling equipment or as a bingo hall under chapter 349; and

(2) when requested by the director of gambling control, or when the director believes it to be reasonable and necessary, inspect the premises of a licensee under chapter 349 to determine compliance with law and with the rules of the board, or to conduct an audit of the accounts, books, records, or other documents required to be kept by the licensee.

Subd. 3. HORSE RACING INVESTIGATIONS. (a) The director shall conduct background investigations as provided by law on all applicants for licenses issued by the Minnesota racing commission.

(b) The director shall, upon request of the director of pari-mutuel racing, or when the director believes it to be reasonable and necessary, investigate the activities of a licensee of the Minnesota racing commission to determine the licensee's compliance with law and with rules of the commission.

Subd. 4. OTHER GAMBLING. The director of gambling enforcement shall cooperate with all state and local agencies in the detection and apprehension of unlawful gambling.

Subd. 5. BACKGROUND CHECKS. In any background check required to be conducted by the division of gambling enforcement under chapter 240, 349, or 349A, the director may, or shall when required by law, require that fingerprints be taken and the director may forward the fingerprints to the Federal Bureau of Investigation for the conducting of a national criminal history check.

Sec. 3. [299L.03] POWERS OF DIRECTOR.

Subdivision 1. INSPECTIONS; ACCESS. In conducting any inspection authorized under chapter 240, 349, or 349A, the employees of the division of gambling enforcement have free and open access to all parts of the regulated business premises, and may conduct the inspection at any reasonable time without notice and without a search warrant. For purposes of this subdivision, "regulated business premises" means premises where:

(1) lawful gambling is conducted by an organization licensed under chapter 349 or by an organization exempt from licensing under section 349.214;

(2) gambling equipment is manufactured, sold, distributed, or serviced by a manufacturer or distributor licensed under chapter 349;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) records required to be maintained under chapter 240, 349, or 349A are prepared or retained;

(4) lottery tickets are sold by a lottery retailer under chapter 340A; or

(5) races are conducted by a person licensed under chapter 240.

Subd. 2. ITEMS REQUIRED TO BE PRODUCED. In conducting an audit or inspection authorized under chapter 240, 349 or 349A the director may inspect any book, record, or other document the licensee, retailer, or vendor is required to keep.

Subd. 3. SUBPOENA POWER. The director may issue subpoenas to compel the attendance of witnesses and the production of documents, books, records, and other evidence relating to any investigation or audit the director is authorized to conduct.

Subd. 4. ACCESS TO CRIMINAL HISTORY. The director has access to all criminal history data compiled by the bureau of criminal apprehension on any person licensed or under contract with the state lottery, racing commission, or the gambling control board, or any applicant for licensing or a person who has submitted a bid on a lottery contractor or any employee and finalist for employment with the division of state lottery.

Subd. 5. ARREST POWERS. The director may designate certain employees within the division of gambling enforcement who are authorized to arrest or investigate any person who is suspected of violating any provision of chapter 240, 349, or 349A, or is suspected of committing any crime involving gambling, and to conduct searches and seizures to enforce any of those laws. Any employee authorized by this subdivision to make an arrest must be licensed under sections 626.84 to 626.863.

Subd. 6. UNLICENSED SELLERS. (a) If anyone not licensed under chapter 349 sells gambling equipment at a business establishment, the director may, in addition to any other provisions of chapter 349:

(1) assess a civil penalty of not more than \$300 against each person participating in the sales and assess a civil penalty of not more than \$1,000 against the owner or owners of the business establishment; or

(2) if the subject violation is the second or subsequent violation of this subdivision at the same business establishment within any 24-month period, assess a civil penalty of not more than \$300 against each person participating in such sales, and assess a civil penalty of not more than \$5,000 against the owner or owners of the business establishment.

(b) The assessment of a civil penalty under this section does not preclude a recommendation by the director at any time deemed appropriate to a licensing authority for revocation, suspension, or denial of a license controlled by the licensing authority.

New language is indicated by underline, deletions by ~~strikeout~~.

(c) Within ten days of an assessment under this subdivision, the person assessed the penalty must pay the assessment or request that a hearing be held under chapter 14. If a hearing is requested, the hearing must be scheduled within 20 days of the request, and the recommendations of the administrative law judge must be issued within five working days of the close of the hearing. The director's final determination must be issued within five working days of the issuance of the recommendations of the administrative law judge.

Subd. 7. OTHER POWERS. Nothing in this chapter limits the authority of the division of gambling enforcement to exercise any other power specified under chapter 240, 349, or 349A.

Subd. 8. RULEMAKING. The commissioner may adopt rules, including emergency rules, under chapter 14 to carry out the commissioner's duties under this chapter.

Sec. 4. [299L.04] CONFLICT OF INTEREST.

Subdivision 1. INTEREST. The director and any person employed by the division may not have a direct or indirect financial interest in:

- (1) a class A or B licensee of the racing commission;
- (2) a lottery retailer under contract with the state lottery;
- (3) a person who is under a lottery procurement contract with the state lottery; or
- (4) a bingo hall, manufacturer, or distributor licensed under chapter 349.

Subd. 2. GAMBLING. The director or an employee of the division of gambling enforcement may not participate in the conducting of lawful gambling under chapter 349.

Sec. 5. [299L.05] GAMBLING VIOLATIONS; RESTRICTIONS ON FURTHER ACTIVITY.

An owner of an establishment is prohibited from having lawful gambling under chapter 349 conducted on the premises, selling any lottery tickets under chapter 349A, or having a video game of chance as defined under section 349.50 located on the premises, if a person was convicted of violating section 609.76, subdivision 1, clause (7), or 609.76, subdivision (2), for an activity occurring on the owner's premises.

Sec. 6. EFFECTIVE DATE.

Sections 1 to 5 are effective July 1, 1989.

New language is indicated by underline, deletions by ~~strikeout~~.

ARTICLE 6

MISCELLANEOUS

Section 1. Minnesota Statutes 1988, section 10A.01, subdivision 18, is amended to read:

Subd. 18. "Public official" means any:

- (a) member of the legislature;
- (b) constitutional officer in the executive branch and the officer's chief administrative deputy;
- (c) member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;
- (d) commissioner, deputy commissioner or assistant commissioner of any state department as designated pursuant to section 15.01;
- (e) individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;
- (f) executive director of the state board of investment;
- (g) executive director of the Indian affairs intertribal board;
- (h) commissioner of the iron range resources and rehabilitation board;
- (i) director of mediation services;
- (j) deputy of any official listed in clauses (e) to (i);
- (k) judge of the workers' compensation court of appeals;
- (l) administrative law judge or compensation judge in the state office of administrative hearings or hearing examiner in the department of jobs and training;
- (m) solicitor general or deputy, assistant or special assistant attorney general;
- (n) individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house, revisor of statutes, or researcher or attorney in the office of senate research, senate counsel, or house research; ~~or~~
- (o) member or chief administrative officer of the metropolitan council, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan parks and open spaces commission, metropolitan airports commission or metropolitan sports facilities commission;

New language is indicated by underline, deletions by ~~strikeout~~.

(p) the commissioner of gaming and director of each division in the department of gaming and the deputy director of the division of state lottery; or

(q) director of the division of gambling enforcement in the department of public safety.

Sec. 2. Minnesota Statutes 1988, section 10A.09, subdivision 1, is amended to read:

Subdivision 1. **TIME FOR FILING.** Except for a candidate for elective office in the judicial branch, an individual shall file a statement of economic interest with the board:

(a) Within 60 days of accepting employment as a public official;

(b) Within 14 days after filing an affidavit of candidacy or petition to appear on the ballot for an elective public office;

(c) In the case of a public official requiring the advice and consent of the senate, within 14 days after undertaking the duties of office; or

(d) In the case of members of the Minnesota racing commission, ~~and its executive secretary~~, the director of the division of pari-mutuel racing, chief of security, medical officer, inspector of pari-mutuels and stewards employed or approved by the commission or persons who fulfill those duties under contract, within 60 days of accepting or assuming duties.

Sec. 3. Minnesota Statutes 1988, section 15A.081, subdivision 1, is amended to read:

Subdivision 1. **SALARY RANGES.** The governor shall set the salary rate within the ranges listed below for positions specified in this subdivision, upon approval of the legislative commission on employee relations and the legislature as provided by section 43A.18, subdivisions 2 and 5:

Salary Range

Effective

July 1, 1987

\$57,500-\$78,500

Commissioner of finance;

Commissioner of education;

Commissioner of transportation;

Commissioner of human services;

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Commissioner of revenue;

Commissioner of public safety;

Executive director, state board of
investment;

Commissioner of gaming;

Director of the state lottery;

\$50,000-\$67,500

Commissioner of administration;

Commissioner of agriculture;

Commissioner of commerce;

Commissioner of corrections;

Commissioner of jobs and training;

Commissioner of employee relations;

Commissioner of health;

Commissioner of labor and industry;

Commissioner of natural resources;

~~Commissioner of public safety;~~

Commissioner of trade and economic development;

Chair, waste management board;

Chief administrative law judge; office of
administrative hearings;

Commissioner, pollution control agency;

Commissioner, state planning agency;

Executive director, housing finance
agency;

Executive director, public employees
retirement association;

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Executive director, teacher's
retirement association;

Executive director, state retirement
system;

Chair, metropolitan council;

Chair, regional transit board;

\$42,500-\$60,000

Commissioner of human rights;

Commissioner, department of public service;

Commissioner of veterans' affairs;

Commissioner, bureau of mediation services;

Commissioner, public utilities commission;

Member, transportation regulation board;

Ombudsman for corrections;

Ombudsman for mental health and retardation.

Sec. 4. Minnesota Statutes 1988, section 16B.54, subdivision 2, is amended to read:

Subd. 2. VEHICLES. (a) **ACQUISITION FROM AGENCY; APPROPRIATION.** The commissioner may direct an agency to make a transfer of a passenger motor vehicle or truck presently assigned to it. The transfer must be made to the commissioner for use in the central motor pool. The commissioner shall reimburse an agency whose motor vehicles have been paid for with funds dedicated by the constitution for a special purpose and which are assigned to the central motor pool. The amount of reimbursement for a motor vehicle is its average wholesale price as determined from the midwest edition of the national automobile dealers association official used car guide.

(b) **PURCHASE.** To the extent that funds are available for the purpose, the commissioner may purchase or otherwise acquire additional passenger motor vehicles and trucks necessary for the central motor pool. The title to all motor vehicles assigned to or purchased or acquired for the central motor pool is in the name of the department of administration.

(c) **TRANSFER AT AGENCY REQUEST.** On the request of an agency, the commissioner may transfer to the central motor pool any passenger motor vehicle or truck for the purpose of disposing of it. The department or agency

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transferring the vehicle or truck shall be paid for it from the motor pool revolving account established by this section in an amount equal to two-thirds of the average wholesale price of the vehicle or truck as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(d) **VEHICLES; MARKING.** The commissioner shall provide for the uniform marking of all motor vehicles. Motor vehicle colors must be selected from the regular color chart provided by the manufacturer each year. The commissioner may further provide by rule for the use of motor vehicles without uniform coloring or marking by the governor, the lieutenant governor, the division of criminal apprehension, division of gambling enforcement, arson investigators of the division of fire marshal in the department of public safety, financial institutions division of the department of commerce, division of state lottery in the department of gaming, and the office of the attorney general.

Sec. 5. Minnesota Statutes 1988, section 340A.410, subdivision 5, is amended to read:

Subd. 5. **GAMBLING PROHIBITED.** (a) No retail establishment licensed to sell alcoholic beverages may keep, possess, or operate, or permit the keeping, possession, or operation on the licensed premises of dice or any gambling device as defined in section 349.30, or permit gambling therein except as provided in this subdivision.

(b) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized under chapter 349.

(c) Lottery tickets may be purchased and sold within the licensed premises as authorized by the director of the lottery under chapter 349A.

Sec. 6. Minnesota Statutes 1988, section 541.20, is amended to read:

541.20 RECOVERY OF MONEY LOST.

Every person who, by playing at cards, dice, or other game, or by betting on the hands or sides of such as are gambling, shall lose to any person so playing or betting any sum of money or any goods, and pays or delivers the same, or any part thereof, to the winner, may sue for and recover such money by a civil action, before any court of competent jurisdiction. For purposes of this section, gambling shall not include pari-mutuel wagering conducted under a license issued pursuant to chapter 240, purchase or sale of tickets in the state lottery, or gambling authorized under ~~chapter~~ chapters 349 and 349A.

Sec. 7. Minnesota Statutes 1988, section 541.21, is amended to read:

541.21 COMMITMENTS FOR GAMBLING DEBT VOID.

Every note, bill, bond, mortgage, or other security or conveyance in which the whole or any part of the consideration shall be for any money or goods won

New language is indicated by underline, deletions by ~~strikeout~~.

by gambling or playing at cards, dice, or any other game whatever, or by betting on the sides or hands of any person gambling, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of such gambling or betting, or lent and advanced for any gambling or betting to any persons so gambling or betting, shall be void and of no effect as between the parties to the same, and as to all persons except such as hold or claim under them in good faith, without notice of the illegality of the consideration of such contract or conveyance. The provisions of this section shall not apply to pari-mutuel wagering conducted under a license issued pursuant to ~~chapter~~ chapters 240 and 349 or purchase of tickets in the state lottery under chapter 349A.

Sec. 8. Minnesota Statutes 1988, section 609.75, subdivision 3, is amended to read:

Subd. 3. **WHAT ARE NOT BETS.** The following are not bets:

(1) A contract to insure, indemnify, guarantee or otherwise compensate another for a harm or loss sustained, even though the loss depends upon chance.

(2) A contract for the purchase or sale at a future date of securities or other commodities.

(3) Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, endurance, or quality or to the bona fide owners of animals or other property entered in such a contest.

(4) The game of bingo when conducted in compliance with sections 349.11 to 349.23.

(5) A private social bet not part of or incidental to organized, commercialized, or systematic gambling.

(6) The operation of equipment or the conduct of a raffle under sections 349.11 to 349.22, by an organization licensed by the ~~charitable~~ gambling control board or an organization exempt from licensing under section 349.214.

(7) Pari-mutuel betting on horse racing when the betting is conducted under chapter 240.

(8) The purchase and sale of state lottery tickets under chapter 349A.

Sec. 9. Minnesota Statutes 1988, section 609.76, subdivision 1, is amended to read:

Subdivision 1. **GROSS MISDEMEANORS.** Whoever does any of the following may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both:

(1) maintains or operates a gambling place or operates a bucket shop;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) intentionally participates in the income of a gambling place or bucket shop;

(3) conducts a lottery, or, with intent to conduct a lottery, possesses facilities for doing so;

(4) sets up for use for the purpose of gambling, or collects the proceeds of, any gambling device or bucket shop;

(5) with intent that it shall be so used, manufactures, sells or offers for sale, in whole or any part thereof, any gambling device including those defined in section 349.30, subdivision 2, and any facility for conducting a lottery, except as provided by section 349.40; ~~or~~

(6) receives, records, or forwards bets or offers to bet or, with intent to receive, record, or forward bets or offers to bet, possesses facilities to do so; or

(7) pays any compensation for game credits earned on or otherwise rewards players of video games of chance as defined under section 349.50, subdivision 8.

Sec. 10. Minnesota Statutes 1988, section 609.761, is amended to read:

609.761 OPERATIONS PERMITTED.

Subdivision 1. LAWFUL GAMBLING. Notwithstanding sections 609.755 and 609.76, an organization may conduct lawful gambling as defined in section 349.12, if authorized under chapter 349, and a person may manufacture, sell, or offer for sale a gambling device to an organization authorized under chapter 349 to conduct lawful gambling, and pari-mutuel betting on horse racing may be conducted under chapter 240.

Subd. 2. STATE LOTTERY. Sections 609.755 and 609.76 do not prohibit the operation of the state lottery or the sale, possession, or purchase of tickets for the state lottery under chapter 349A.

Sec. 11. Minnesota Statutes 1988, section 626.05, subdivision 2, is amended to read:

Subd. 2. The term "peace officer" as used in sections 626.04 to 626.17 means a sheriff, deputy sheriff, police officer, constable, agent of the bureau of criminal apprehension, agent of the division of gambling enforcement, or University of Minnesota peace officer.

Sec. 12. Minnesota Statutes 1988, section 626.13, is amended to read:

626.13 SERVICE, PERSONS MAKING.

A search warrant may in all cases be served by any of the officers mentioned in its directions, but by no other person, except in aid of the officer on the officer's requiring it, the officer being present and acting in its execution. If the warrant is to be served by an agent of the bureau of criminal apprehension or an

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agent of the division of gambling enforcement, the agent shall notify the chief of police of an organized full-time police department of the municipality or, if there is no such local chief of police, the sheriff or a deputy sheriff of the county in which service is to be made prior to execution.

Sec. 13. Minnesota Statutes 1988, section 626.84, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of sections 626.84 to 626.863, the following terms have the meanings given them:

(a) "Board" means the board of peace officer standards and training.

(b) "Director" means the executive director of the board.

(c) "Peace officer" means an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota state patrol, agents of the division of gambling enforcement, and state conservation officers.

(d) "Constable" has the meaning assigned to it in section 367.40.

(e) "Deputy constable" has the meaning assigned to it in section 367.40.

(f) "Part-time peace officer" means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency. The limitation on the average number of hours in which the services of a part-time peace officer may be utilized shall not apply to a part-time peace officer who has formally notified the board pursuant to rules adopted by the board of the part-time peace officer's intention to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to sections 626.843, subdivision 1, clause (g) and 626.845, subdivision 1, clause (g).

(g) "Reserve officer" means an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer's duties do not include enforcement of the general criminal laws of the state, and the officer does not have full powers of arrest or authorization to carry a firearm on duty.

(h) "Law enforcement agency" means a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person

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with the duties of preventing and detecting crime and enforcing the general criminal laws of the state.

Sec. 14. INDIAN COMPACTS.

Section 9 may not be construed as prohibiting the state from entering into a tribal-state compact under the provisions of the Federal Gaming Regulatory Act, Public Law No. 100-497, as it relates to video poker or video blackjack games of chance currently operated by Indian tribes in this state.

Sec. 15. EFFECTIVE DATE.

Sections 1 to 14 are effective July 1, 1989, except that the provisions of section 3 relating to the director of the division of state lottery are effective the day following final enactment.

ARTICLE 7 COMPULSIVE GAMBLING

Section 1. [245.98] COMPULSIVE GAMBLING TREATMENT PROGRAM.

Subdivision 1. DEFINITION. For the purposes of this section, "compulsive gambler" means a person who is chronically and progressively preoccupied with gambling and with the urge to gamble to the extent that the gambling behavior compromises, disrupts, or damages personal, family, or vocational pursuits.

Subd. 2. PROGRAM. The commissioner of human services shall establish a program for the treatment of compulsive gamblers. The commissioner may contract with a nonprofit entity with expertise regarding the treatment of compulsive gambling to operate the program. The program may include the establishment of a statewide toll-free number, resource library, public education programs; regional in-service training programs and conferences for health care professionals, educators, treatment providers, employee assistance programs, and criminal justice representatives; and the establishment of certification standards for programs and service providers. The commissioner may enter into agreements with other governmental or nonprofit entities and may employ or contract with consultants to facilitate the provision of these services or the training of individuals to qualify them to provide these services. The program may also include inpatient and outpatient treatment and rehabilitation services and research studies. The research studies must include baseline and prevalence studies for adolescents and adults to identify those at the highest risk. The program must be approved by the commissioner before it is established.

Subd. 3. REPORT. The commissioner must report annually to the legislature by January 15 of each year of the manner in which the program to treat and prevent compulsive gamblers is being implemented.

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Sec. 2. APPROPRIATION.

\$300,000 in fiscal year 1990 and \$300,000 in fiscal year 1991 is appropriated from the general fund to the commissioner of human services to implement the compulsive gambling treatment program under this section.

The director of the division of state lottery must transfer \$100,000 in fiscal year 1990 and \$100,000 in fiscal year 1991 from the amount that would otherwise be credited to the lottery operations account to the general fund for the costs incurred for the compulsive gambling program under section 1.

Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective July 1, 1989.

ARTICLE 8**APPROPRIATIONS****Section 1. DEPARTMENT OF GAMING.**

(a) \$370,000 is appropriated from the general fund to the commissioner of gaming for the purposes of carrying out article 4. Of this amount, \$182,000 is from the general fund for the fiscal year ending June 30, 1990, and \$188,000 is from the general fund for the fiscal year ending June 30, 1991. The director of the state lottery shall by June 30, 1990, transfer from the lottery operations account to the general fund in addition to any other transfers required by law \$125,000 to reimburse the general fund for the appropriation to the commissioner of gaming for fiscal year 1991. If the appropriation in either year of the 1990-1991 biennium is insufficient the appropriation for the other year is available.

(b) The approved complement of the department, in addition to the complements established by law for each of its divisions, is three positions.

Sec. 2. LOTTERY DIVISION.

\$8,500,000 is appropriated from the general fund to the director of the division of state lottery for the purposes of article 3. This appropriation must be repaid from the lottery fund, with interest at the average monthly rate on invested treasurer's cash, not later than June 30, 1990.

The governor or the governor's designee may expend any part of this appropriation prior to the effective date of the appointment of the first director of the division of state lottery for carrying out any of the duties assigned under article 3 to the director or the governor.

Sec. 3. GAMBLING CONTROL.

New language is indicated by underline, deletions by ~~strikeout~~.

(a) The 13 positions relating to the responsibility for processing license applications under Minnesota Statutes, chapter 349, are transferred from the commissioner of revenue to the division of gambling control under Minnesota Statutes, section 15.039.

(b) The commissioner of administration shall, under Minnesota Statutes, section 15.039, transfer to the director of gambling control, from the appropriations made by law to the commissioner of revenue for the 1990-1991 biennium for lawful gambling activities, amounts necessary for the division to carry out the responsibilities of Minnesota Statutes, sections 349.11 to 349.23.

(c) Reorganization order No. 152 of the commissioner of administration is void.

Sec. 4. PARI-MUTUEL RACING.

(a) The commissioner of administration shall transfer, under Minnesota Statutes, section 15.039, the amounts appropriated by law to the Minnesota racing commission for the fiscal years 1990 and 1991 to the director of pari-mutuel racing for the purposes of carrying out the duties assigned to the division of pari-mutuel racing in article 1.

(b) The commissioner of administration shall, under Minnesota Statutes, section 15.039, transfer the authorized complement of the Minnesota racing commission to the division of pari-mutuel racing.

Sec. 5. DEPARTMENT OF PUBLIC SAFETY.

Subdivision 1. TRANSFER FROM REVENUE. The two positions relating to the responsibility for auditing and investigation of gambling under Minnesota Statutes, chapter 349, except for the responsibility for auditing tax returns are transferred from the commissioner of revenue to the commissioner of public safety for the division of gambling enforcement under Minnesota Statutes, section 15.039.

Subd. 2. PUBLIC SAFETY. \$750,000 is appropriated from the general fund to the commissioner of public safety to implement articles 1, 2, 3, and 5. \$375,000 is for the fiscal year ending June 30, 1990, and \$375,000 is for the fiscal year ending June 30, 1991. The approved complement of the department of public safety is increased by ten positions. At least six of the additional positions authorized by this subdivision must be used to employ persons that are licensed under Minnesota Statutes, sections 626.84 to 626.863.

Sec. 6. ATTORNEY GENERAL.

(a) \$136,000 is appropriated from the general fund to the attorney general to administer articles 1 to 3 and 5. \$68,000 is for the fiscal year ending June 30, 1990, and \$68,000 is for the fiscal year ending June 30, 1991. If the appropriation in either year of the 1990-1991 biennium is insufficient, the appropriation for the other year is available. The approved complement of the attorney general's office is increased by one and one-half positions.

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(b) The director of the state lottery shall by June 30, 1990, transfer from the lottery operations account to the general fund, in addition to any other transfers required by law, \$46,000 to reimburse the general fund for the appropriation to the attorney general under this section.

Sec. 7. COMMISSIONER OF REVENUE.

\$388,000 is appropriated from the general fund to the commissioner of revenue to provide for computer modifications necessary to administer Minnesota Statutes, chapter 349. \$194,000 is for the fiscal year ending June 30, 1990, and \$194,000 is for the fiscal year ending June 30, 1991.

Sec. 8. EFFECTIVE DATE.

Section 2 is effective the day following final enactment. Sections 1 and 3 to 7 are effective July 1, 1989.

Presented to the governor May 30, 1989

Signed by the governor June 2, 1989, 10:55 p.m.

CHAPTER 335—H.F.No. 372

An act relating to the organization and operation of state government; appropriating money for the general legislative, judicial, and administrative expenses of state government; providing for the transfer of certain money in the state treasury; fixing and limiting the amount of fees, penalties, and other costs to be collected in certain cases; creating, abolishing, modifying, and transferring agencies and functions; defining and amending terms; providing for settlement of claims; imposing certain duties, responsibilities, authority, and limitations on agencies and political subdivisions; consolidating certain funds and accounts and making conforming changes; changing the organization, operation, financing, and management of certain courts and related offices; amending Minnesota Statutes 1988, sections 3.732, subdivision 1; 3C.035, subdivision 2; 6.48; 6.56; 6.58; 8.15; 8.31, subdivisions 2c and 3; 15.50, subdivision 2; 15A.081, subdivision 1; 16A.10, subdivision 1; 16A.123, by adding a subdivision; 16A.125, subdivision 5; 16A.133, subdivision 1; 16B.24, subdivision 6; 16B.41, subdivision 2; 16B.42, subdivision 4; 16B.48, subdivision 2; 16B.61, subdivision 5; 16B.70; 41A.02, subdivision 4; 41A.05, subdivision 1; 43A.02, subdivision 25; 43A.24, subdivision 2; 44A.0311; 84.025, by adding a subdivision; 84.0272; 84.0274, by adding a subdivision; 84.83, subdivision 1; 84.922, subdivision 3; 84.927, subdivision 1; 84A.51, subdivision 2; 84A.55, subdivision 14; 85.055, subdivision 2; 85.22, subdivisions 1 and 2a; 85A.01, subdivision 1; 85A.02, subdivisions 5, 5a, 5b, 16, 17, and 18; 85A.04, subdivisions 1 and 4; 89.035; 89.036; 89.21; 92.19; 93.335, subdivision 4; 94.09, subdivision 2; 94.342, subdivision 3; 94.343, subdivision 3; 94.344, subdivision 3; 97A.055, by adding a subdivision; 97A.165; 97A.475, subdivisions 2, 3, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 29a, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42; 97A.485, subdivision 7; 97B.301, by adding a subdivision; 105.41, subdivision 1b; 106A.661, subdivision 2; 112.73; 115.03, subdi-

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