

(d) A properly executed ballot shall be accepted by the board and counted as the vote of the absent member at the meeting.

**Sec. 16. REPEALER.**

Minnesota Statutes 1990, section 204B.13, subdivision 3, is repealed.

Presented to the governor May 30, 1991

Became law without the governor's signature June 4, 1991

[Revisor's Note: While the governor attempted to veto this chapter, the Ramsey County District Court found the attempted veto to be invalid.]

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**CHAPTER 321—H.F.No. 1142**

*An act relating to civil actions; permitting preliminary screening tests to be admitted as evidence in certain civil actions; providing that evidence of an alcohol or controlled substance violation may be sufficient to impose punitive damages; raising the dollar amount on no-fault claims that must be arbitrated; directing the supreme court to establish an alternative dispute resolution program and adopt rules; modifying community dispute resolution guidelines; providing for interest on arbitration awards and modifying prejudgment interest; requiring arbitrators to disclose conflicts of interest; modifying circumstances under which an arbitrator may change an award; amending Minnesota Statutes 1990, sections 65B.525, subdivision 1; 169.121, subdivision 6, and by adding a subdivision; 494.015; 494.03; 549.09; 572.10; 572.15; and 572.16; proposing coding for new law in Minnesota Statutes, chapter 484; repealing Minnesota Statutes 1990, section 494.01, subdivisions 3 and 5.*

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

Section 1. Minnesota Statutes 1990, section 65B.525, subdivision 1, is amended to read:

Subdivision 1. Except as otherwise provided in section 72A.327, the supreme court and the several courts of general trial jurisdiction of this state shall by rules of court or other constitutionally allowable device, provide for the mandatory submission to binding arbitration of all cases at issue where the claim at the commencement of arbitration is in an amount of ~~\$5,000~~ \$10,000 or less against any insured's reparation obligor for no-fault benefits or comprehensive or collision damage coverage.

Sec. 2. Minnesota Statutes 1990, section 169.121, subdivision 6, is amended to read:

Subd. 6. **PRELIMINARY SCREENING TEST.** When a peace officer has reason to believe from the manner in which a person is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, that the driver may be violating or has violated subdivision 1, the officer may require the driver to provide a sample of the driver's breath for a preliminary screening test using a device approved by the com-

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

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

Sec. 3. Minnesota Statutes 1990, section 169.121, is amended by adding a subdivision to read:

Subd. 10a. CIVIL ACTION; PUNITIVE DAMAGES. In a civil action involving a motor vehicle accident, evidence that the accident was caused by a driver (1) with a blood alcohol concentration of .10 or more, (2) who was under the influence of a controlled substance, or (3) who was under the influence of alcohol and refused to take a test required under section 169.123, subdivision 2, is sufficient for the trier of fact to consider an award of punitive damages. A criminal charge or conviction is not a prerequisite to consideration of punitive damages under this subdivision. At the trial in an action where the trier of fact will consider an award of punitive damages, evidence that the driver has been convicted of violating section 169.121, 169.129, or 609.21 is admissible into evidence.

Sec. 4. [484.76] **ALTERNATIVE DISPUTE RESOLUTION PROGRAM.**

Subdivision 1. GENERAL. The supreme court shall establish a statewide alternative dispute resolution program for the resolution of civil cases filed with the courts. The supreme court shall adopt rules governing practice, procedure, and jurisdiction for alternative dispute resolution programs established under this section. The rules must provide an equitable means for the payment of fees and expenses for the use of alternative dispute resolution processes.

Subd. 2. SCOPE. Alternative dispute resolution methods provided for under the rules must include arbitration, private trials, neutral expert fact-finding, mediation, minitrials, consensual special magistrates including retired judges and qualified attorneys to serve as special magistrates for binding proceedings with a right of appeal, and any other methods developed by the supreme court. The methods provided must be nonbinding unless otherwise agreed to in a valid agreement between the parties. Alternative dispute resolution may not be required in guardianship, conservatorship, or civil commitment matters; proceedings in the juvenile court under chapter 260; or in matters arising under section 144.651, 144.652, 518B.01, or 626.557.

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Sec. 5. Minnesota Statutes 1990, section 494.015, is amended to read:

**494.015 TRAINING AND PROGRAM CERTIFICATION AND TRAINING GUIDELINES; CERTIFICATION.**

Subdivision 1. **GUIDELINES.** The state court administrator shall adopt guidelines for use by community dispute resolution programs and training programs for mediators and arbitrators for the community dispute resolution programs. The guidelines must include provisions to ensure that participation in dispute resolution is voluntary, procedures for case processing, and program certification criteria that must be met to receive court referrals. The guidelines must include:

(1) standards for training mediators and arbitrators to recognize matters involving violence against a person; and

(2) training in family law matters that must be completed by mediators before acceptance of postdissolution property distribution matters and postdissolution visitation matters.

Subd. 2. **CERTIFICATION.** The state court administrator shall certify programs that meet the requirements for certification set under subdivision 1.

Sec. 6. Minnesota Statutes 1990, section 494.03, is amended to read:

**494.03 EXCLUSIONS.**

The guidelines shall exclude:

(1) any dispute involving violence against persons, including incidents arising out of situations that would support charges under sections 609.342 to 609.345, or 609.365;

(2) any matter involving a person who has been adjudicated incompetent or relating to guardianship, conservatorship, or civil commitment;

(3) any matter involving neglect or dependency, or involving termination of parental rights arising under sections 260.221 to 260.245; and

(4) any matter arising under section 626.557 or sections 144.651 to 144.652, or any dispute subject to chapters 518, 518A, 518B, and 518C, whether or not an action is pending, except for postdissolution property distribution matters and postdissolution visitation matters. This shall not restrict the present authority of the court or departments of the court from accepting for resolution a dispute arising under chapters 518, 518A, and 518C, or from referring disputes arising under chapters 518, and 518A to for-profit mediation.

Sec. 7. Minnesota Statutes 1990, section 549.09, is amended to read:

**549.09 INTEREST ON VERDICTS, AWARDS, AND JUDGMENTS.**

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Subdivision 1. **WHEN OWED; RATE.** (a) When ~~the a~~ judgment or award is for the recovery of money, including a judgment for the recovery of taxes, interest from the time of the verdict, award, or report until judgment is finally entered shall be computed by the court administrator or arbitrator as provided in clause (c) and added to the judgment or award.

(b) Except as otherwise provided by contract or allowed by law, preverdict, preaward, or prereport interest on pecuniary damages shall be computed as provided in clause (c) from the time of the commencement of the action or a demand for arbitration, or the time of a written ~~settlement demand~~ notice of claim, whichever occurs first, except as provided herein. The action must be commenced within ~~60 days~~ two years of a written ~~settlement demand~~ notice of claim for interest to begin to accrue from the time of the ~~demand~~ notice of claim. If either party serves a written offer of settlement, the other party may serve a written acceptance or a written counteroffer within ~~60~~ 30 days. After that time, interest on the judgment or award shall be calculated by the judge or arbitrator in the following manner. The prevailing party shall receive interest on any judgment or award from the time of commencement of the action ~~was commenced~~ or a demand for arbitration, or the time of a written settlement demand was made notice of claim, or as to special damages from the time when special damages were incurred, if later, until the time of verdict, award, or report only if the amount of its offer is closer to the judgment or award than the amount of the opposing party's offer. If the amount of the losing party's offer was closer to the judgment or award than the prevailing party's offer, the prevailing party shall receive interest only on the amount of the settlement offer or the judgment or award, whichever is less, and only from the time of commencement of the action ~~was commenced~~ or a demand for arbitration, or the time of a written settlement demand was made notice of claim, or as to special damages from when the special damages were incurred, if later, until the time the settlement offer was made. Subsequent offers and counteroffers supersede the legal effect of earlier offers and counteroffers. For the purposes of clause (3), the amount of settlement offer must be allocated between past and future damages in the same proportion as determined by the trier of fact. Except as otherwise provided by contract or allowed by law, preverdict, preaward, or prereport interest shall not be awarded on the following:

(1) judgments, awards, or benefits in workers' compensation cases, but not including third-party actions;

(2) judgments, awards, decrees, or orders in dissolution, annulment, or legal separation actions;

(3) judgments or awards for future damages;

(4) punitive damages, fines, or other damages that are noncompensatory in nature;

(5) judgments or awards not in excess of the amount specified in section 487.30; and

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(6) that portion of any verdict, award, or report which is founded upon interest, or costs, disbursements, attorney fees, or other similar items added by the court or arbitrator.

(c) The interest shall be computed as simple interest per annum. The rate of interest shall be based on the secondary market yield of one year United States treasury bills, calculated on a bank discount basis as provided in this section.

On or before the 20th day of December of each year the state court administrator shall determine the rate from the secondary market yield on one year United States treasury bills for the most recent calendar month, reported on a monthly basis in the latest statistical release of the board of governors of the federal reserve system. This yield, rounded to the nearest one percent, shall be the annual interest rate during the succeeding calendar year. The state court administrator shall communicate the interest rates to the court administrators and sheriffs for use in computing the interest on verdicts and shall make the interest rates available to arbitrators.

When a judgment creditor, or the judgment creditor's attorney or agent, has received a payment after entry of judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process other than execution levy where a proper return has been filed with the court administrator, the judgment creditor, or the judgment creditor's attorney, before applying to the court administrator for an execution shall file with the court administrator an affidavit of partial satisfaction. The affidavit must state the dates and amounts of payments made upon the judgment after the most recent affidavit of partial satisfaction filed, if any; the part of each payment that is applied to taxable disbursements and to accrued interest and to the unpaid principal balance of the judgment; and the accrued, but the unpaid interest owing, if any, after application of each payment.

(d) This section does not apply to arbitrations between employers and employees under chapter 179 or 179A. An arbitrator is neither required to nor prohibited from awarding interest under chapter 179 or under section 179A.16 for essential employees.

Subd. 2. **ACCRUAL OF INTEREST.** During each calendar year, interest shall accrue on the unpaid balance of the judgment or award from the time that it is entered or made until it is paid, at the annual rate provided in subdivision 1. The court administrator shall compute and add the accrued interest to the total amount to be collected when the execution is issued and compute the amount of daily interest accruing during the calendar year. The person authorized by statute to make the levy shall compute and add interest from the date that the writ of execution was issued to the date of service of the writ of execution and shall direct the daily interest to be computed and added from the date of service until any money is collected as a result of the levy.

Subd. 3. **DEDUCTIONS.** If an affidavit is filed pursuant to subdivision 4, a judgment creditor, or the judgment creditor's attorney or agent, is entitled to

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deduct from any payment made upon a judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process, all disbursements that are made taxable by statute or by rule of court, that have been paid or incurred by the judgment creditor or the judgment creditor's attorney, after the entry of judgment. Any remaining portion of the payment must be applied to the interest that has accrued upon the unpaid principal balance of the judgment before any remaining part is applied to reduce the unpaid principal balance of the judgment.

Subd. 4. **AFFIDAVIT.** A judgment creditor, or the judgment creditor's attorney, may file an affidavit specifying the nature and amount of taxable disbursements paid or incurred by the judgment creditor, or the judgment creditor's attorney, after the entry of judgment. An execution issued by the court administrator must include increased disbursements as are included in the affidavit filed with the court administrator.

Sec. 8. Minnesota Statutes 1990, section 572.10, is amended to read:

**572.10 APPOINTMENT OF ARBITRATORS ~~BY COURT~~; DISCLOSURE REQUIRED.**

**Subdivision 1. APPOINTMENT BY THE COURT.** If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails or is unable to act and a successor has not been duly appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

**Subd. 2. DISCLOSURE BY A NEUTRAL ARBITRATOR.** (a) A "neutral arbitrator" is the only arbitrator in a case or is one appointed by the court, by the other arbitrators, or by all parties together in agreement. A neutral arbitrator does not include one selected by fewer than all parties even though no other party objects.

(b) Except for arbitrations under the American Arbitration Association, prior to selection, a neutral arbitrator shall disclose any relationships the person has with any of the parties, their counsel, insurers, or representatives and any conflict of interest, or potential conflict of interest, the person may have.

(c) In all arbitrations:

(1) after a neutral arbitrator has been selected, any relationship, conflict of interest, or potential conflict of interest that arises must be immediately disclosed by the arbitrator in writing to all parties, and a party may move the district court or the arbitration tribunal for removal of the neutral arbitrator;

(2) the disclosure required under this section is in addition to that which may be required by applicable rules of law, ethics, or procedure; and

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(3) if the neutral arbitrator fails to disclose a conflict of interest or material relationship, it is grounds for vacating an award for fraud as provided in section 572.19.

Sec. 9. Minnesota Statutes 1990, section 572.15, is amended to read:

**572.15 AWARD.**

(a) The award shall be in writing and signed by the arbitrators joining in the award. The award must include interest, except this does not apply to arbitrations between employers and employees under chapter 179 or 179A. An arbitrator is neither required to nor prohibited from awarding interest under chapter 179 or under section 179A.16 for essential employees. The arbitrators shall deliver a copy to each party personally or by certified mail, or as provided in the agreement.

(b) An award shall be made within the time fixed therefor by the agreement or, if not so fixed, within such time as the court orders on application of a party. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of an objection prior to the delivery of the award to the party.

Sec. 10. Minnesota Statutes 1990, section 572.16, is amended to read:

**572.16 CHANGE OF AWARD BY ARBITRATORS.**

Subdivision 1. APPLICATION OF PARTY. On application of a party, the arbitrator may modify or correct the award:

- (1) upon the grounds stated in section 572.20, subdivision 1;
- (2) for the purpose of clarifying the award; or
- (3) where the award is based on an error of law.

Subd. 2. SUBMISSION BY COURT. On application of a party or, If an application to the court is pending under section 572.18, 572.19, or 572.20, on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in ~~clauses (1) and (3) of subdivision 1,~~ section 572.20, subdivision 1, or for the purpose of clarifying the award.

Subd. 3. PROCEDURE. For purposes of subdivision 1 or 2, the application shall be made within 20 days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating that the opposing party must serve objections thereto, if any, within ten days from the notice. The award so modified or corrected is subject to the provisions of sections 572.18, 572.19 and 572.20.

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Sec. 11. **REPEALER.**

Minnesota Statutes 1990, section 494.01, subdivisions 3 and 5, are repealed.

Sec. 12. **EFFECTIVE DATE.**

Sections 2 and 3 are effective August 1, 1991, and apply to convictions entered and civil actions commenced on or after that date. Sections 4 to 6 and 11 are effective the day following final enactment. Sections 7 and 9 are effective July 1, 1991, and apply to proceedings pending on or commenced on or after that date, except that the reduction in the time when a party may serve a written acceptance or written counteroffer under section 7, paragraph (b), from 60 to 30 days only applies if the written offer of settlement is made on or after July 1, 1991.

Presented to the governor May 30, 1991

Signed by the governor June 3, 1991, 2:58 p.m.

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**CHAPTER 322—H.F.No. 930**

*An act relating to economic development; changing the name of the Greater Minnesota Corporation; adding duties; providing for a new structure for the board of directors; amending Minnesota Statutes 1990, sections 116O.03, subdivision 2; 116O.04, subdivision 2; 116O.05, subdivision 2; and 116O.09, subdivision 3, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 116O; repealing Minnesota Statutes 1990, sections 116J.970; 116J.971; and 116O.03, subdivision 2a.*

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

Section 1. **[116O.011] NAME CHANGE.**

The Greater Minnesota Corporation is renamed Minnesota Technology, Inc.

Sec. 2. Minnesota Statutes 1990, section 116O.03, subdivision 2, is amended to read:

Subd. 2. **BOARD OF DIRECTORS.** The corporation is governed by a board of ~~11~~ 14 directors. ~~The term of a director is six years. Vacancies on the board are filled by appointment of the board, subject to the advice and consent of the senate. Board members may receive reasonable compensation and be reimbursed for reasonable expenses, which must be reviewed each year by the commissioner of finance. The membership terms, compensation, removal, and filling of vacancies of public members of the board are as provided in section 15.0575. Membership of the board consists of the following:~~

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