SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 385

(SENATE AUTHORS: NEWMAN, Latz, Hall, Torres Ray and Limmer)

DATE	D-PG	OFFICIAL STATUS
01/29/2015	165	Introduction and first reading Referred to Judiciary
03/23/2015	1067a	Comm report: To pass as amended and re-refer to Finance

A bill for an act

relating to public safety; modifying forfeiture laws on how proceeds from the sale of forfeited property are used, what reports are required, and how policies are adopted; amending Minnesota Statutes 2014, sections 6.74; 84.7741, subdivision 10; 169A.63, subdivision 10; 609.531, subdivision 8; 609.5315, subdivisions 1, 6.

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

Section 1. Minnesota Statutes 2014, section 6.74, is amended to read:

6.74 INFORMATION COLLECTED FROM LOCAL GOVERNMENTS.

Subdivision 1. **General reporting requirements.** The state auditor, or a designated agent, shall collect annually from all city, county, and other local units of government, information as to the assessment of property, collection of taxes, receipts from licenses and other sources including administrative fines assessed and collected pursuant to section 169.999, the expenditure of public funds for all purposes, borrowing, debts, principal and interest payments on debts, and such other information as may be needful.

Subd. 2. **Annual forfeiture expenditures reporting.** Each appropriate agency and prosecuting authority required to report to the state auditor under section 609.5315, subdivision 6, shall annually report the total dollar amount of expenditures in each of the following four categories that were made using forfeiture funds during the reporting period:

(1) substance abuse prevention programs, gang programs, informant fees, buy money, witness protection, and victim reparation;

(2) travel, meals, entertainment, training, and conferences;

(3) vehicles, canines, firearms, police equipment, furniture, computers, office equipment, and other capital equipment; and

(4) other uses.

Subd. 3. **Forms; state auditor examinations.** The data shall be supplied upon forms prescribed by the state auditor, and all public officials so called upon shall fill out properly and return promptly all forms so transmitted. The state auditor or assistants, may examine local records in order to complete or verify the information.

EFFECTIVE DATE. This section applies to reporting of financial information for years ending on or after December 31, 2016.

Sec. 2. Minnesota Statutes 2014, section 84.7741, subdivision 10, is amended to read:

Subd. 10. **Disposition of forfeited vehicle.** (a) If the vehicle is administratively forfeited under subdivision 8, or if the court finds under subdivision 9 that the vehicle is subject to forfeiture under subdivisions 6 and 7, the appropriate agency shall:

(1) sell the vehicle and distribute the proceeds under paragraph (b); or

(2) keep the vehicle for official use. If the agency keeps a forfeited off-highway vehicle for official use, the agency shall make reasonable efforts to ensure that the off-highway vehicle is available for use by the agency's officers who participate in off-highway vehicle enforcement or education programs.

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, towing, storage, forfeiture, and sale expenses and satisfaction of valid liens against the property, must be distributed as follows:

(1) 70 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the state or local agency's operating fund or similar fund for use in purchasing equipment for off-highway vehicle enforcement, training, and education; and

(2) 30 percent of the money or proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes.

(c) If a vehicle is sold under paragraph (a), the appropriate agency shall not sell the vehicle to: (1) an officer or employee of the agency that seized the property or to a person related to the officer or employee by blood or marriage; or (2) the prosecuting authority or any individual working in the same office or a person related to the authority or individual by blood or marriage.

(d) Sales of forfeited vehicles under this section must be conducted in a commercially reasonable manner.

(e) If a vehicle is forfeited administratively under this section and no demand for judicial determination is made, the appropriate agency shall provide the prosecuting authority with a copy of the forfeiture or evidence receipt, the notice of seizure and intent to forfeit, a statement of probable cause for forfeiture of the property, and a description of

the property and its estimated value. Upon review and certification by the prosecuting authority that (1) the appropriate agency provided a receipt in accordance with subdivision 2, paragraph (c), (2) the appropriate agency served notice in accordance with subdivision 8, and (3) probable cause for forfeiture exists based on the officer's statement, the appropriate agency may dispose of the property in any of the ways listed in this subdivision.

(f) The appropriate agency or prosecuting authority may not use the proceeds from the sale of forfeited vehicles to pay base salaries, benefits, overtime, or bonuses to personnel, or to pay a private attorney for services related to forfeiture litigation.

Sec. 3. Minnesota Statutes 2014, section 169A.63, subdivision 10, is amended to read:

Subd. 10. **Disposition of forfeited vehicle.** (a) If the vehicle is administratively forfeited under subdivision 8, or if the court finds under subdivision 9 that the vehicle is subject to forfeiture under subdivisions 6 and 7, the appropriate agency shall:

(1) sell the vehicle and distribute the proceeds under paragraph (b); or

(2) keep the vehicle for official use. If the agency keeps a forfeited motor vehicle for official use, it shall make reasonable efforts to ensure that the motor vehicle is available for use by the agency's officers who participate in the drug abuse resistance education program.

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, towing, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be distributed as follows:

(1) 70 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the state or local agency's operating fund or similar fund for use in DWI-related enforcement, training, and education; and

(2) 30 percent of the money or proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes.

(c) If a vehicle is sold under paragraph (a), the appropriate agency shall not sell the vehicle to: (1) an officer or employee of the agency that seized the property or to a person related to the officer or employee by blood or marriage; or (2) the prosecuting authority or any individual working in the same office or a person related to the authority or individual by blood or marriage.

(d) Sales of forfeited vehicles under this section must be conducted in a commercially reasonable manner.

(e) If a vehicle is forfeited administratively under this section and no demand for judicial determination is made, the appropriate agency shall provide the prosecuting authority with a copy of the forfeiture or evidence receipt, the notice of seizure and intent

to forfeit, a statement of probable cause for forfeiture of the property, and a description of the property and its estimated value. Upon review and certification by the prosecuting authority that (1) the appropriate agency provided a receipt in accordance with subdivision 2, paragraph (c), (2) the appropriate agency served notice in accordance with subdivision 8, and (3) probable cause for forfeiture exists based on the officer's statement, the appropriate agency may dispose of the property in any of the ways listed in this subdivision.

(f) The appropriate agency or prosecuting authority may not use the proceeds from the sale of forfeited vehicles to pay base salaries, benefits, overtime, or bonuses to personnel, or to pay a private attorney for services related to forfeiture litigation.

Sec. 4. Minnesota Statutes 2014, section 609.531, subdivision 8, is amended to read:

Subd. 8. **Forfeiture policies; ~~statewide model policy~~ required.** ~~(a) By December 1, 2010, the Peace Officer Standards and Training Board, after consulting with the Minnesota County Attorneys Association, the Minnesota Sheriffs' Association, the Minnesota Chiefs of Police Association, and the Minnesota Police and Peace Officers Association, shall develop a model policy that articulates best practices for forfeiture and is designed to encourage the uniform application of forfeiture laws statewide. At a minimum, the policy shall address the following:~~

~~(1) best practices in pursuing, seizing, and tracking forfeitures;~~

~~(2) type and frequency of training for law enforcement on forfeiture laws; and~~

~~(3) situations in which forfeitures should not be pursued.~~

~~(b) By December 1, 2010, the Minnesota County Attorneys Association, after consulting with the attorney general, the Peace Officer Standards and Training Board, the Minnesota Sheriffs' Association, the Minnesota Chiefs of Police Association, and the Minnesota Police and Peace Officers Association, shall develop a model policy that articulates best practices for forfeiture and is designed to encourage the uniform application of forfeiture laws statewide. At a minimum, the policy shall address the following:~~

~~(1) statutory role of prosecuting authorities in forfeiture procedures;~~

~~(2) best practices for timely and fair resolution of forfeiture cases;~~

~~(3) type and frequency of training for prosecuting authorities on forfeiture laws; and~~

~~(4) situations in which forfeitures should not be pursued.~~

~~(c) By December 1, 2010, the Minnesota County Attorneys Association and the Peace Officer Standards and Training Board shall forward an electronic copy of its respective model policy to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over criminal justice and civil law policy.~~

~~(d) By March 1, 2011,~~ The chief law enforcement officer of every state and local law enforcement agency and every prosecution office in the state shall ~~adopt and implement~~ maintain a written policy on forfeiture that is ~~identical or substantially similar to the~~ consistent with the model policies developed under ~~paragraphs (a) and (b)~~ Laws 2010, chapter 391, section 11. The written policy shall be made available to the public upon request.

Sec. 5. Minnesota Statutes 2014, section 609.5315, subdivision 1, is amended to read:

Subdivision 1. **Disposition.** (a) Subject to paragraph (b), if the court finds under section 609.5313, 609.5314, or 609.5318 that the property is subject to forfeiture, it shall order the appropriate agency to do one of the following:

(1) unless a different disposition is provided under clause (3) or (4), either destroy firearms, ammunition, and firearm accessories that the agency decides not to use for law enforcement purposes under clause (8), or sell them to federally licensed firearms dealers, as defined in section 624.7161, subdivision 1, and distribute the proceeds under subdivision 5 or 5b;

(2) sell property that is not required to be destroyed by law and is not harmful to the public and distribute the proceeds under subdivision 5 or 5b;

(3) sell antique firearms, as defined in section 624.712, subdivision 3, to the public and distribute the proceeds under subdivision 5 or 5b;

(4) destroy or use for law enforcement purposes semiautomatic military-style assault weapons, as defined in section 624.712, subdivision 7;

(5) take custody of the property and remove it for disposition in accordance with law;

(6) forward the property to the federal drug enforcement administration;

(7) disburse money as provided under subdivision 5, 5b, or 5c; or

(8) keep property other than money for official use by the agency and the prosecuting agency.

(b) Notwithstanding paragraph (a), the Hennepin or Ramsey County sheriff may not sell firearms, ammunition, or firearms accessories if the policy is disapproved by the applicable county board.

(c) If property is sold under paragraph (a), the appropriate agency shall not sell property to: (1) an officer or employee of the agency that seized the property or to a person related to the officer or employee by blood or marriage; or (2) the prosecuting authority or any individual working in the same office or a person related to the authority or individual by blood or marriage.

(d) Sales of forfeited property under this section must be conducted in a commercially reasonable manner.

(e) The appropriate agency or prosecuting authority may not use the proceeds from the sale of forfeited property to pay base salaries, benefits, overtime, or bonuses to personnel, or to pay a private attorney for services related to forfeiture litigation.

Sec. 6. Minnesota Statutes 2014, section 609.5315, subdivision 6, is amended to read:

Subd. 6. **Reporting requirement.** (a) For each forfeiture occurring in the state regardless of the authority for it, the appropriate agency and the prosecuting authority shall provide a written record of the forfeiture incident to the state auditor. The record shall include the amount forfeited, the statutory authority for the forfeiture, its date, a brief description of the circumstances involved, and whether the forfeiture was contested. For controlled substance and driving while impaired forfeitures, the record shall indicate whether the forfeiture was initiated as an administrative or a judicial forfeiture. The record shall also list the number of firearms forfeited and the make, model, and serial number of each firearm forfeited. The record shall indicate how the property was or is to be disposed of.

(b) An appropriate agency or the prosecuting authority shall report to the state auditor all instances in which property seized for forfeiture is returned to its owner either because forfeiture is not pursued or for any other reason.

(c) Reports shall be made on a monthly basis in a manner prescribed by the state auditor. The state auditor shall report annually to the legislature on the nature and extent of forfeitures.

(d) For forfeitures resulting from the activities of multijurisdictional law enforcement entities, the entity on its own behalf shall report the information required in this subdivision.

(e) The prosecuting authority is not required to report information required by this subdivision unless the prosecuting authority has been notified by the state auditor that the appropriate agency has not reported it.

(f) Annually, an appropriate agency or the prosecuting authority shall report forfeiture expenditures as required by section 6.74.

EFFECTIVE DATE. This section applies to reporting of financial information for years ending on or after December 31, 2016.