

STATE OF MINNESOTA

SEVENTY-SEVENTH SESSION—1991

THIRTY-THIRD DAY

SAINT PAUL, MINNESOTA, MONDAY, APRIL 15, 1991

The House of Representatives convened at 2:30 p.m. and was called to order by Robert E. Vanasek, Speaker of the House.

Prayer was offered by the Reverend Robert Rolfes, Church of the Immaculate Conception, Rockville, Minnesota.

The members of the House gave the pledge of allegiance to the flag of the United States of America.

The roll was called and the following members were present:

Abrams	Frederick	Kelso	Ogren	Segal
Anderson, I.	Frerichs	Kinkel	Olsen, S.	Simoneau
Anderson, R.	Garcia	Knickerbocker	Olson, E.	Skoglund
Anderson, R. H.	Girard	Koppendrayner	Olson, K.	Smith
Battaglia	Goodno	Krinkie	Omann	Solberg
Bauerly	Greenfield	Krueger	Onnen	Sparby
Beard	Gruenes	Lasley	Orenstein	Stanisus
Begich	Gutknecht	Leppik	Orfield	Steensma
Bertram	Hanson	Lieder	Osthoﬀ	Sviggum
Bettermann	Hartle	Limmer	Ostrom	Swenson
Bishop	Hasskamp	Long	Ozment	Thompson
Blatz	Haukoos	Lourey	Pauly	Tompkins
Bodahl	Hausman	Lynch	Pellow	Trimble
Boo	Heir	Macklin	Pellowski	Tunheim
Brown	Henry	Mariani	Peterson	Uphus
Carlson	Hufnagle	Marsh	Pugh	Valento
Carruthers	Hugoson	McEachern	Reding	Vellenga
Clark	Jacobs	McGuire	Rest	Wagenius
Cooper	Janezich	McPherson	Rice	Waltman
Dauner	Jaros	Milbert	Rodosovich	Weaver
Davids	Jefferson	Morrison	Rukavina	Wejzman
Dawkins	Jennings	Munger	Runbeck	Welle
Dempsey	Johnson, A.	Murphy	Sarna	Wenzel
Dille	Johnson, R.	Nelson, K.	Schafer	Winter
Dorn	Johnson, V.	Nelson, S.	Scheid	Spk. Vanasek
Erhardt	Kahn	Newinski	Schreiber	
Farrell	Kalis	O'Connor	Seaberg	

A quorum was present.

Welker was excused.

The Chief Clerk proceeded to read the Journal of the preceding

day. Bertram moved that further reading of the Journal be dispensed with and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

REPORTS OF CHIEF CLERK

S. F. No. 391 and H. F. No. 408, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Bauerly moved that S. F. No. 391 be substituted for H. F. No. 408 and that the House File be indefinitely postponed. The motion prevailed.

REPORTS OF STANDING COMMITTEES

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 1, A bill for an act relating to waters; establishing a program for the enhancement, preservation, and protection of wetlands within the state; providing penalties; appropriating money; amending Minnesota Statutes 1990, sections 97A.145, subdivision 2; 103A.201; 103B.311, subdivision 6; 103E.701, by adding a subdivision; 103G.005, subdivisions 15 and 18, and by adding subdivisions; 103G.221, subdivision 1; and 103G.231, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 84; 103F; and 103G; repealing Minnesota Statutes 1990, section 103G.221, subdivisions 2 and 3.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Skoglund from the Committee on Financial Institutions and Insurance to which was referred:

H. F. No. 4, A bill for an act relating to health care; establishing the Minnesotans' health care plan to provide health coverage to uninsured and underinsured Minnesotans; requiring all Minnesotans to maintain health coverage; creating a department of health care access; requiring the new commissioner to set overall limits on health care spending and make recommendations regarding health care system reform; requiring an implementation plan and reports; creating a health care analysis unit; requiring data and research initiatives; establishing a rural health advisory committee; requir-

ing joint rural health initiatives; restricting underwriting and premium rating practices; appropriating money; amending Minnesota Statutes 1990, sections 15.06, subdivision 1; and 43A.08, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapters 16B; and 62J; repealing Minnesota Statutes 1990, sections 62E.51 to 62E.55.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 62E.02, subdivision 2, is amended to read:

Subd. 2. "Employer" means any person, partnership, association, trust, estate or corporation, including the state of Minnesota or any agency, instrumentality or governmental subdivision thereof, which employs ten or more individuals who are residents of this state. For purposes of sections 62E.10 to 62E.14, employer has the meaning given the term in this subdivision, except that the term covers employers which employ one or more individuals who are residents of this state.

Sec. 2. Minnesota Statutes 1990, section 62E.02, subdivision 8, is amended to read:

Subd. 8. "Employee" means any Minnesota resident who has entered into the employment of or works under contract or service or apprenticeship with any employer. "Employee" does not include a person who has been employed for less than 30 days by that person's present employer, nor one who is employed less than 30 hours per week by that person's present employer, nor an independent contractor. For purposes of sections 62E.10 to 62E.14, employee has the meaning given the term in this subdivision, except that the term does not include a person who is employed less than 17.5 hours per week by that person's present employer.

Sec. 3. Minnesota Statutes 1990, section 62E.02, subdivision 13, is amended to read:

Subd. 13. "Eligible person" means an individual who is currently and has been a resident of Minnesota for the six months immediately preceding the date of receipt by the association or its writing carrier of a completed certificate of eligibility and who meets the enrollment requirements of section 62E.11 or 62E.14. For purposes of section 62E.11 or 62E.14, the term includes an employee, an employee's spouse, or the employee's dependents.

Sec. 4. Minnesota Statutes 1990, section 62E.11, subdivision 2, is amended to read:

Subd. 2. Any employer which has in its employ one or more eligible persons enrolled in the comprehensive health insurance plan may make all or any portion of the state plan premium payment to the state plan directly to the writing carrier.

Notwithstanding any law to the contrary, an employer may, at the time of initial application, enroll an eligible person in the comprehensive health insurance plan if:

(1) the person has exceeded the lifetime maximum of the person's benefit coverage;

(2) the person has a presumptive condition as defined by the association; or

(3) the employer has received a letter of rejection for a group insurance policy, group subscriber contract, or health care plan due to the health status of that person.

The employer may make all or any portion of the state plan premium payment to the state plan directly to the writing carrier. For purposes of clause (2), alcohol dependency and chemical dependency are not presumptive conditions.

An employer has the enrollment right set forth in this subdivision under clause (2) or (3) only if:

(1) the employer has not provided group health coverage to its employees for the two-year period immediately preceding the initial application; or

(2) the employer did not discontinue group health coverage for its employees solely to become eligible to exercise the employer's right to enroll one or more employees under this subdivision.

Sec. 5. Minnesota Statutes 1990, section 62E.14, is amended by adding a subdivision to read:

Subd. 2a. [ELIGIBILITY FOR PERSONS WHO HAVE EXCEEDED THE MAXIMUM LIFETIME BENEFIT.] A person is eligible for immediate enrollment in the comprehensive health insurance plan without meeting the requirements of subdivision 1, paragraphs (c) and (d), and with a waiver of the preexisting condition as described in subdivision 3 if that person has exceeded the lifetime maximum benefit of existing coverage if the benefit meets or exceeds the requirements of section 62E.06. The association may, under section 62E.10, subdivision 9, develop policies and procedures to assure continued case management of persons enrolled under this subdivision.

Sec. 6. Minnesota Statutes 1990, section 62E.14, is amended by adding a subdivision to read:

Subd. 2b. [ELIGIBILITY BASED ON A PRESUMPTIVE CONDITION.] An employer under section 62E.11, subdivision 2, may enroll an eligible person in the state plan at the time of renewal of the health care coverage for the employer's group if, during the term of the previous coverage, the person has developed a presumptive condition as defined by the association. Alcohol dependency and chemical dependency are not presumptive conditions for the purposes of this subdivision.

Sec. 7. [62J.49] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to sections 7 to 24.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of health.

Subd. 3. [GROUP SPONSOR.] "Group sponsor" means an employer or other entity described in section 62A.10, subdivision 1, as an eligible purchaser of health coverage.

Subd. 4. [HEALTH COVERAGE.] "Health coverage" means a policy or contract providing health and accident protection under chapter 62A, 62C, 62D, or 64B. Health coverage does not include a policy or contract designed primarily to provide coverage on a per diem, fixed annuity, or non-expense-incurred basis, or that provides only accident coverage.

Subd. 5. [HEALTH PLAN COMPANY.] "Health plan company" means any entity operating under chapter 62A, 62C, 62D, or 64B that offers, sells, issues, or renews health coverage in this state. Health plan company does not include an entity that sells only policies designed primarily to provide coverage on a per diem, fixed annuity, or non-expense-incurred basis, or policies that provide only accident coverage.

Subd. 6. [INDIVIDUAL.] "Individual" means an individual or family that applies to a health plan company for coverage on an individual or family basis.

Subd. 7. [LARGE GROUP.] "Large group" means a group of 100 or more employees or members of a group sponsor that applies for or obtains health coverage from a health plan company. Owners of sole proprietorships, partnerships, and other unincorporated entities are employees for purposes of this definition. Dependents of employees or members do not count for purposes of this definition.

Subd. 8. [MEDIUM-SIZED GROUP.] "Medium-sized group" means a group of not fewer than 30 nor more than 99 employees or members of a group sponsor that applies for or obtains health coverage from a health plan company. Owners of sole proprietorships, partnerships, and other unincorporated entities are employees for purposes of this definition. Dependents of employees or members do not count for purposes of this definition.

Subd. 9. [OPTIONAL COVERAGE.] "Optional coverage" means health coverage that supplements the state benefit set.

Subd. 10. [SMALL GROUP.] "Small group" means a group of not fewer than two nor more than 29 employees or members of a group sponsor that applies for or obtains health coverage from a health plan company. Owners of sole proprietorships, partnerships, and other unincorporated entities are employees for purposes of this definition. Dependents of employees or members do not count for purposes of this definition.

Subd. 11. [STATE BENEFIT SET.] "State benefit set" means the benefits provided by the state plan. When the state plan provides the intermediate benefit set, the state benefit set means that set. When the state plan provides the universal basic benefit set, the state benefit set means that benefit set.

Subd. 12. [STATE PLAN.] "State plan" means the Minnesotans' health care plan.

Sec. 8. [62J.50] [GROUPS; DEFINITIONS.]

The definitions of group size and group sponsor in section 7 are subject to United States Code, title 26, sections 414(b), 414(c), and 414(m), and federal regulations related to those sections, where a group sponsor or sponsors alter, reform, or redefine a group or groups to avoid or to take advantage of community rating. The commissioners of commerce and health have authority to adopt rules supplemental to those federal statutes and regulations to prevent qualification as a large, medium-sized, or small group through the use of separate organizations, multiple organizations, employee leasing, or other arrangements.

Sec. 9. [62J.51] [PROVISION OF COVERAGE.]

No health plan company may deny an application for health coverage submitted to it by an individual, small group, or medium-sized group, if the health plan company offers, sells, issues, or renews health coverage to entities of the same category as the entity that submitted the application.

Sec. 10. [62J.52] [CANCELLATION.]

No health plan company may cancel or fail to renew health coverage that it provides to an individual, small group, or medium-sized group, except for nonpayment of a legally permitted premium or copayment, fraud or misrepresentation, noncompliance with plan provisions, or failure to maintain legally permitted participation requirements.

Sec. 11. [62J.53] [PREEXISTING CONDITIONS.]

No health plan company may deny an application or limit the coverage provided to an individual, small group, or medium-sized group on the basis of the past or present health status of any person. Limitations on coverage include, but are not limited to, waiting periods, excluded or restricted conditions or types of coverage, and similar restrictions. For optional coverage, a health plan company may require a waiting period of up to 12 months for coverage of preexisting conditions. This waiting period may not be used for optional coverage purchased at the time of the applicant's initial enrollment in the state benefit set or when the person's optional coverage is substantially similar to coverage that person had with another health plan company if the coverage was continuously in force.

Sec. 12. [62J.54] [LEVEL COMMISSIONS.]

No health plan company may pay commissions or other compensation to an agent or broker, with respect to the sale of health coverage, unless payment of the commissions is spread evenly over a period of at least five years from the date of purchase of the coverage.

Sec. 13. [62J.55] [COMMUNITY RATING REQUIRED.]

Subdivision 1. [COMMUNITY RATING.] No health plan company may offer, sell, issue, or renew health coverage to any individual or small group, unless the premium charged for the coverage is community rated. If the health plan company participates in the state plan, the community rate charged in the private market for a plan with the same set of benefits must equal the rate charged in the state plan. Health plan companies must use the following rate cells only: (1) one person; (2) a two-person family; and (3) a family of three or more persons, and health plan companies may charge a different rate for each cell.

Subd. 2. [LIMITATIONS.] The community rating may not take into account the age, sex, health status, disability, occupation, geographical location, or any other factors except the following:

(1) actuarially valid differences in benefit levels, assuming average utilization rates. However, the assumed impact of those benefit

levels on utilization may not be considered a valid rate modification factor;

(2) differences in family size, except that family members in excess of three must be disregarded;

(3) actual differences in acquisition and administration costs between individuals as a whole and small groups as a whole; and

(4) premium reductions of no more than four percent for individuals or small groups that engage in activities or practices intended to promote the health of the covered persons.

Subd. 3. [LEGISLATIVE PURPOSE AND INTENT; TRIGGER FOR COMMUNITY RATING FOR INDIVIDUALS.] With respect to individuals, the legislature recognizes that community rating will increase the premiums charged to some individuals. For that reason, community rating shall not be required for individuals unless and until state subsidies sufficient to ameliorate financial hardship are available. As state funding becomes available, the extent of premium variations shall be increasingly restricted and shall evolve over time to community rating.

Sec. 14. [62J.56] [COMPENSATION OF AGENTS.]

Subdivision 1. [COMPENSATION; PRIVATE MARKET.] No health plan company shall, with respect to health coverage provided in the private market:

(1) make the amount of its compensation of an agent, broker, or employee depend in any way, directly or indirectly, upon the loss ratio or any other underwriting performance of health coverage written through the agent, broker, or employee; or

(2) cancel, terminate, or fail to renew an agency, brokerage, or employment contract or arrangement, or reduce or restrict underwriting authority on the basis of the loss ratio, or any other underwriting performance of health coverage written through an agent, broker, or employee.

Subd. 2. [COMPENSATION; STATE PLAN.] No health plan company shall, with respect to health coverage provided through the state plan, pay agent commissions. The commissioner may contract with insurance agents and brokers for outreach and enrollment services to the new state plan for set fees.

Sec. 15. [62J.57] [COMMUNITY RATING; OPEN ENROLLMENT; MEDICARE SUPPLEMENTAL.]

Health plan companies that sell Medicare supplemental coverage

must establish a separate community rate, as described in section 13, for that coverage. The community rate must be the same in the private market as in the state plan, for health plan companies that sell that coverage through the state plan. Health plan companies offering Medicare supplement coverage through either the private market or the state plan, or both, must offer such coverage on an open enrollment basis without requiring health screening or other measures of insurability, to any individual applying for coverage within six months of initial eligibility for Medicare, and to the community for a period of at least one month each year.

Sec. 16. [62J.58] [BIASED SELECTION ADJUSTMENT.]

Subdivision 1. [REPORT.] Each health plan company must annually provide the commissioner of health with a report of the number of males and females that it insured in the individual and small group market for the past calendar year, together with data showing the age distribution of the insureds, separately for males and females. A person insured by that company for only a portion of the year counts on a pro rata basis, based upon the closest whole number of months during which that person was covered. For each age-sex combination, the total cost incurred must be shown. Data must be shown separately for Medicare supplemental coverage and for coverage provided through the state plan and through the private market.

Subd. 2. [ASSESSMENTS AND PAYMENTS.] Each company must pay an assessment or receive a reimbursement, based upon the extent to which that company's age-sex distribution of insureds differs from the statewide average for the entire individual and small group market. The commissioner of health shall adopt rules specifying a procedure including the creation of a formula for determining the amount of the reimbursement or assessment with respect to individual companies. The rules for determining the amounts of reimbursements to and assessments on individual health plan companies must take into account differences in coverage levels, reinsurance pool premiums, and managed care activities that affect costs. Health plan companies whose inefficient managed care activities result in higher costs must not be compensated for those higher costs by this biased selection adjustment. The commissioner shall implement the formula by rule before any health plans are liable for payments under this biased selection adjustment provision.

Subd. 3. [IMPACT ON SMALL EMPLOYERS.] The commissioner shall design the formula in such a way that it does not become a cost burden to small employers who purchase coverage in the private market.

Subd. 4. [TRUST FUND.] Payment of assessments must be made to the commissioner of health care access and maintained in a

separate trust fund, out of which the reimbursements required by this section will be paid. Reimbursements will be made only out of this trust fund and only to the extent of assessments received. Any shortfall in assessment payments received result in pro rata adjustments in reimbursements made to health plan companies, to be compensated for in subsequent years from subsequent assessments.

Sec. 17. [62J.59] [MEDIUM-SIZED GROUPS.]

Each health plan company that offers, sells, issues, or renews health coverage for medium-sized groups in this state must determine a single base community rate for medium-sized groups. The base community rate may be adjusted to reflect differences in benefit levels or other product differences. Each health plan company participating in the medium-sized group market may offer premium rates to particular medium-sized groups that are no more than 30 percent above and no more than 30 percent below that base community rate. These premium differences may be based upon any underwriting criteria permitted by law. No health plan company may increase the premium it charges to a medium-sized group for which it provides coverage if the increase would exceed the increase in that health plan company's base community rate plus 15 percent per year. Each health plan company must provide the commissioner of commerce with a detailed description of its rating methodology, including actuarial justifications for its base community rate and for premiums that deviate from it, except that health plan companies operating under chapter 62D must provide the descriptions and justifications to the commissioner of health.

Sec. 18. [62J.60] [MINIMUM LOSS RATIOS.]

All health coverage sold by health plan companies in this state must have loss ratios no lower than those specified by rule by the commissioner of health for health plan companies operating under chapter 62D and by the commissioner of commerce for all other health plan companies. The minimum loss ratios may differ between the individual, small group, medium-sized group, and large group market.

Sec. 19. [62J.61] [ENFORCEMENT AUTHORITY.]

The commissioner of commerce and commissioner of health have the responsibility and authority to enforce sections 7 to 15, 17, 18, and 24, with respect to the health plan companies that they respectively regulate, and have all of the powers otherwise granted to them by statute for use in carrying out their respective responsibilities under this chapter.

Sec. 20. [62J.62] [REINSURANCE POOL.]

(a) All health plan companies selling health coverage to individuals, small groups, or medium-sized groups in this state, including coverage provided through the state plan, must participate in the Minnesota health reinsurance pool, unless such companies agree to meet the state requirements of community rating and guaranteed issue of coverage at their own financial risk and formally elect not to participate in the reinsurance pool. This election shall be in force for two years after a company elects not to participate. A company electing not to participate in the reinsurance pool must notify the commissioner six months prior to its effective date of nonparticipation. The commissioner of health shall administer this reinsurance pool, which must provide reinsurance to participating health plan companies for:

(1) 85 percent of costs incurred for any case, to the extent that the costs of care exceed \$30,000;

(2) 85 percent of the cost of cases assigned to the reinsurance pool pursuant to section 21; and

(3) 100 percent of that portion of the costs incurred for any case that exceeds \$100,000.

(b) For the purposes of sections 20 to 23, a "case" qualifies for reinsurance coverage if a specific patient receives \$30,000 or more in covered services for a specific cause or spell of illness in a period of 12 or fewer consecutive months. The reinsurance benefit period continues until the end of 12 consecutive months in which the patient receives less than \$10,000 in covered services for that cause or spell of illness.

Sec. 21. [62J.63] [AUTOMATIC ASSIGNMENT.]

For all health plan companies selling health plan coverage to individuals, small groups, or medium-sized groups in this state, including those companies who voluntarily elect not to participate in the overall reinsurance pool described in section 20, all cases that involve a high probability of incurring costs that exceed \$30,000 for a specific cause or spell of illness during a 12-month period shall be called "presumptive conditions." The commissioner of health shall adopt rules specifying a list of presumptive conditions. Persons having presumptive conditions at the time of initial enrollment must be assigned to the reinsurance pool by the commissioner of health upon receipt of a request from the health plan company insuring that person, together with any documentation reasonably required by the commissioner.

Sec. 22. [62J.64] [CASE MANAGEMENT.]

The commissioner of health shall contract for case management

services designed to provide cost-effective treatment of cases assigned to the reinsurance pool.

Sec. 23. [62J.65] [REINSURANCE POOL PREMIUMS.]

Each health plan company participating in the Minnesota health reinsurance pool must pay premiums for the reinsurance coverage in the amounts and at the times specified by the commissioner of health. The reinsurance premiums must be determined on a community-rated basis, except that adjustments must be made to reflect differences in managed care systems. Health plan companies providing only dental care or other limited coverage must be charged reinsurance premiums that reflect the expected cost to the reinsurance pool attributable to that category of limited coverage. Health plan companies which participate only in the automatic assignment reinsurance pool shall have their premiums adjusted accordingly.

Sec. 24. [62J.66] [MINIMUM BENEFIT LEVELS.]

Subdivision 1. [INTERMEDIATE BENEFIT SET; REQUIREMENT.] After the state plan makes its intermediate benefit set available, no health coverage may be sold in the private market to any group having more than five members unless the coverage meets the requirements of a number two qualified plan, as defined in section 62E.06, subdivision 2. During that period, each health plan company that participates in the state plan may sell the intermediate benefit set in the private market to individuals and groups of five or fewer members. Health plan companies that sell the intermediate benefit set must offer optional additional coverage that strengthens the benefits offered under the intermediate benefit set. For benefits that exceed those offered under the intermediate benefit set, health plan companies may apply preexisting condition limitations which extend for no more than two years from the date that a buyer upgrades coverage beyond the intermediate benefit set. Each health plan company must also make available to its current customers on an annual basis the option of upgrading their coverage to a benefit plan which is at least the actuarial equivalent of the intermediate benefit set. The rate offered for such upgrade coverage shall be based on the community rate offered by the health plan company adjusted only to reflect the actuarial value of the benefits.

Subd. 2. [UNIVERSAL BASIC BENEFIT SET; REQUIREMENT.] After the state plan makes its universal basic benefit set available, no health coverage may be sold in the private market to any Minnesota resident unless the coverage provides benefits equal to or greater than the universal basic benefit set.

Subd. 3. [DENTAL AND OTHER LIMITED COVERAGE.] Health plan companies providing dental coverage only may sell the dental care component of the intermediate benefit set and of the universal

basic benefit set without being required to offer the nondental components of the benefit sets.

Sec. 25. Minnesota Statutes 1990, section 363.02, subdivision 1, is amended to read:

Subdivision 1. **[EMPLOYMENT.]** The provisions of section 363.03, subdivision 1, shall not apply to:

(1) The employment of any individual

(a) by the individual's parent, grandparent, spouse, child, or grandchild, or

(b) in the domestic service of any person;

(2) A religious or fraternal corporation, association, or society, with respect to qualifications based on religion, when religion shall be a bona fide occupational qualification for employment;

(3) The employment of one person in place of another, standing by itself, shall not be evidence of an unfair discriminatory practice;

(4) The operation of a bona fide seniority system which mandates differences in such things as wages, hiring priorities, layoff priorities, vacation credit, and job assignments based on seniority, so long as the operation of the system is not a subterfuge to evade the provisions of this chapter;

(5) With respect to age discrimination, a practice by which a labor organization or employer offers or supplies varying insurance benefits or other fringe benefits to members or employees of differing ages, so long as the cost to the labor organization or employer for the benefits is reasonably equivalent for all members or employees;

(6) A restriction imposed by state statute, home rule charter, ordinance, or civil service rule, and applied uniformly and without exception to all individuals, which establishes a maximum age for entry into employment as a peace officer or firefighter.

(7) Nothing in this chapter concerning age discrimination shall be construed to validate or permit age requirements which have a disproportionate impact on persons of any class otherwise protected by section 363.03, subdivision 1 or 5.

(8) It is not an unfair employment practice for an employer, employment agency, or labor organization:

(i) to require or request a person to undergo physical examination,

which may include a medical history, for the purpose of determining the person's capability to perform available employment, provided

(a) that an offer of employment has been made on condition that the person meets the physical or mental requirements of the job, except that a law enforcement agency filling a peace officer position or part-time peace officer position may require or request an applicant to undergo psychological evaluation before a job offer is made provided that the psychological evaluation is for those job-related abilities set forth by the board of peace officer standards and training for psychological evaluations and is otherwise lawful;

(b) that the examination tests only for essential job-related abilities; and

(c) that the examination except for examinations authorized under chapter 176 is required of all persons conditionally offered employment for the same position regardless of disability; or

(ii) with the consent of the employee, after employment has commenced, to obtain additional medical information for the purposes of assessing continuing ability to perform the job or employee health insurance eligibility; for purposes mandated by local, state, or federal law; for purposes of assessing the need to reasonably accommodate an employee or obtaining information to determine eligibility for the second injury fund under chapter 176; or pursuant to sections 181.950 to 181.957; or other legitimate business reason not otherwise prohibited by law;

(iii) to administer preemployment tests, provided that the tests (a) measure only essential job-related abilities, (b) are required of all applicants for the same position regardless of disability except for tests authorized under chapter 176, and (c) accurately measure the applicant's aptitude, achievement level, or whatever factors they purport to measure rather than reflecting the applicant's impaired sensory, manual, or speaking skills except when those skills are the factors that the tests purport to measure; or

(iv) to limit receipt of benefits payable under a fringe benefit plan for disabilities to that period of time which a licensed physician reasonably determines a person is unable to work; or

(v) to provide special safety considerations for pregnant women involved in tasks which are potentially hazardous to the health of the unborn child, as determined by medical criteria; or

(vi) to enroll an eligible person in the comprehensive health insurance plan if:

(a) in the opinion of the commissioner of commerce, the coverage is similar to health coverage offered to other employees;

(b) due to the person's health status, the employer would otherwise be unable to obtain affordable coverage for other employees; and

(c) the employer: (i) pays the difference between the deductible paid by other employees for the group coverage and the deductible paid by the eligible person for the comprehensive health insurance plan; (ii) pays the difference between the coinsurance paid by other employees under the group health plan and the eligible person under the comprehensive insurance plan; and (iii) the eligible person does not pay more in premium contribution and out-of-pocket maximums for coverage under the state plan than the largest contribution toward premium and out-of-pocket maximums paid by any other employee receiving health care coverage through the same employers.

Sec. 26. [EFFECTIVE DATE.]

Sections 7 to 24 are effective July 1, 1992, except that all rulemaking authority granted in sections 7 to 24 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to health care; regulating access to the Minnesota comprehensive health insurance plan; restricting underwriting and premium rating practices; amending Minnesota Statutes 1990, sections 62E.02, subdivisions 2, 8, and 13; 62E.11, subdivision 2; 62E.14, by adding subdivisions; and 363.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 62J."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 6, A bill for an act relating to health care; establishing mechanisms to assure access to health care throughout the state; providing initiatives to improve access to health care in rural areas; establishing a rural health advisory committee; providing changes

to the emergency medical services fund; including volunteer rescue squad workers as employees under workers' compensation; requiring studies; appropriating money; amending Minnesota Statutes 1990, sections 16A.124, subdivisions 1 and 4; 43A.17, subdivision 9; 43A.23, by adding a subdivision; 144.147, subdivision 4; 144.581, subdivision 1; 144.8093; 176.011, subdivision 9; 256.969, subdivision 6a; and 447.31, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Page 1, line 28, strike "The commissioner may award" and delete the new language

Page 1, lines 28 and 29, strike "two grants for each fiscal year."

Page 5, line 5, after "health" insert "in conjunction with the University of Minnesota medical schools and other organizations in the state which are addressing rural health care problems"

Page 6, delete lines 33 to 35

Renumber remaining clauses in sequence

Page 7, after line 32, insert:

"Sec. 7. Minnesota Statutes 1990, section 144.698, subdivision 1, is amended to read:

Subdivision 1. [YEARLY REPORTS.] Each hospital and each outpatient surgical center, which has not filed the financial information required by this section with a voluntary, nonprofit reporting organization pursuant to section 144.702, shall file annually with the commissioner of health after the close of the fiscal year:

(1) a balance sheet detailing the assets, liabilities, and net worth of the hospital;

(2) a detailed statement of income and expenses;

(3) a copy of its most recent cost report, if any, filed pursuant to requirements of Title XVIII of the United States Social Security Act;

(4) a copy of all changes to articles of incorporation or bylaws;

(5) information on services provided to benefit the community, including services provided at no cost or for a reduced fee to patients unable to pay, teaching and research activities, or other community or charitable activities;

(6) information required on the revenue and expense report form set in effect on July 1, 1989, or as amended by the commissioner in rule; and

(7) other information required by the commissioner in rule.

Sec. 8. [SPECIAL STUDIES.]

The commissioner of health, through the office of rural health, shall conduct the following investigations:

(1) investigate, develop recommendations, and prepare a report to the legislature by January 15, 1993, regarding the use of advanced telecommunications technologies to improve rural health education and health care delivery;

(2) investigate the adequacy of access to perinatal services in rural Minnesota and report findings and recommendations to the legislature by February 1, 1993; and

(3) study the impact of current reimbursement provisions for midlevel practitioners on the use of midlevel practitioners in rural practice settings, examining reimbursement provisions in state programs, federal programs, and private sector health plans, and report findings and recommendations to the legislature by February 1, 1992."

Page 8, line 6, delete "7" and insert "9"

Page 8, line 9, delete "1" and insert "15"

Renumber sections in sequence

Correct internal cross-reference

Amend the title as follows:

Page 1, line 13, after the semicolon insert "144.698, subdivision 1,"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Skoglund from the Committee on Financial Institutions and Insurance to which was referred:

H. F. No. 20, A bill for an act relating to insurance; requiring insurers to permit their insureds to inspect medical records obtained in connection with a claim; requiring health care providers to permit access to medical records by persons examined for certain medical review purposes; amending Minnesota Statutes 1990, sections 72A.491, subdivision 19; 144.335, subdivision 1; and 145.64.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [72A.285] [CLAIM FOR INSURANCE BENEFITS; RELEASE OF SUMMARY INFORMATION.]

Notwithstanding section 145.64, when a review organization, as defined in section 145.61, has conducted a review of health services given or proposed to be given to an insured or claimant in connection with or in anticipation of a claim for insurance benefits, a complete summary of the review findings must be furnished by the insurer to the provider who requested the review or to the insured or claimant, upon that person's request.

The summary must list the qualifications of the reviewer, including any license, certification, or specialty designation. The summary must also describe the relationship between the insured's or claimant's diagnosis and the review criteria used as a basis for the claim decision, including the specific rationale for the reviewer's decision.

Nothing in this section requires the disclosure of the identity of the person conducting the review."

Delete the title and insert:

"A bill for an act relating to insurance; requiring insurers to furnish a summary of claims review findings; proposing coding for new law in Minnesota Statutes, chapter 72A."

With the recommendation that when so amended the bill pass.

The report was adopted.

Osthoff from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 49, A bill for an act relating to stepparents; designating Stepparents Day; proposing coding for new law in Minnesota Statutes, chapter 10.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 67, A bill for an act relating to peace officers; guaranteeing peace officers certain rights when under investigation and in disciplinary proceedings; proposing coding for new law in Minnesota Statutes, chapter 626.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. [626.89] [PEACE OFFICER DISCIPLINE PROCEDURES ACT.]

Subdivision 1. [DEFINITIONS.] For purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) “Administrative hearing” means a nonjudicial hearing or arbitration authorized to recommend, approve, or order discipline.

(b) “Formal statement” means the questioning of an officer for the purpose of obtaining a recorded, stenographic, or signed statement to be used as evidence in a disciplinary proceeding against that officer.

(c) “Officer” means a licensed peace officer, as defined in section 626.84, subdivision 1, paragraph (c), who is employed by a unit of government. Officer does not include part-time peace officers.

Subd. 2. [APPLICABILITY.] The procedures and provisions of this section do not apply to investigations of criminal charges against an officer.

Subd. 3. [PROCEDURES GOVERNING FORMAL STATE-

MENTS.] The formal statement of an officer must be taken in accordance with subdivisions 3 to 9.

Subd. 4. [PLACE OF FORMAL STATEMENT.] The formal statement must be taken at a facility of the employing or investigating agency or at a place agreed to by the investigating individual and the investigated officer.

Subd. 5. [COMPLAINT.] An officer's formal statement may not be taken unless there is filed with the agency or unit a written complaint signed by the complainant stating the complainant's knowledge, and the officer has been given a summary of the allegations. Complaints also may be filed by members of the law enforcement agency. Before an administrative hearing is begun, the officer must be given a copy of the signed complaint, witness statements, and the investigating agency's investigative reports.

Subd. 6. [SESSIONS.] Sessions at which a formal statement is taken must be of reasonable duration and must give the officer reasonable periods for rest and personal necessities. When practicable, sessions shall be held during the officer's regularly scheduled work shift. If the session is not held during the officer's regularly scheduled work shift, the officer shall be paid by the employing agency at the officer's current compensation rate for time spent attending the session.

Subd. 7. [RECORD.] A complete record of sessions at which a formal statement is taken must be made by electronic recording or otherwise, and a complete copy or transcript must be made available to the officer whose statement is taken without charge and without undue delay. The session may be tape recorded by the investigating officer and by the officer under investigation.

Subd. 8. [PRESENCE OF ATTORNEY OR UNION REPRESENTATIVE.] The officer whose formal statement is taken has the right to have an attorney or union representative of the officer's choosing present during the session. The officer may request the presence of an attorney or union representative at any time before or during the session. When a request under this subdivision is made, no formal statement may be taken until a reasonable opportunity is provided for the officer to obtain the presence of the attorney or union representative.

Subd. 9. [ADMISSIONS.] Before an officer's formal statement is taken, the officer shall be advised in writing or on the record that admissions made in the course of the formal statement may be used as evidence of misconduct or as a basis for discipline.

Subd. 10. [DISCLOSURE OF FINANCIAL RECORDS.] No employer may require an officer to produce or disclose the officer's

personal financial records except pursuant to a valid search warrant or subpoena.

Subd. 11. [RELEASE OF PHOTOGRAPHS.] No law enforcement agency or governmental unit may publicly release photographs of an officer without the written permission of the officer; except that the agency or unit may display a photograph of an officer to a prospective witness as part of an agency or unit investigation.

Subd. 12. [DISCIPLINARY LETTER.] No disciplinary letter or reprimand may be included in an officer's personnel record unless the officer has been given a copy of the letter or reprimand.

Subd. 13. [RETALIATORY ACTION PROHIBITED.] No officer may be discharged, disciplined, or threatened with either of these actions as retaliation for or solely by reason of the officer's exercise of the rights provided by this section.

Subd. 14. [RIGHTS NOT REDUCED.] The rights of officers provided by this section are in addition to and do not diminish the rights and privileges of officers that are provided under an applicable collective bargaining agreement or any other applicable law.

Subd. 15. [ACTION FOR DAMAGES.] Notwithstanding section 3.736 or 466.03, a political subdivision or state agency which violates a provision of this section is liable to an officer who suffers actual damage as a result of the violation, and the officer may bring an action against the political subdivision or state agency to cover compensatory damages sustained, plus costs and reasonable attorney fees. The political subdivision or state is deemed to have waived any immunity to a cause of action brought under this subdivision.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective August 1, 1991, and applies to formal statements taken on or after that date."

Amend the title as follows:

Page 1, line 3, delete everything after "when" and insert "a formal statement is taken for disciplinary purposes"

Page 1, line 4, delete everything before the semicolon

With the recommendation that when so amended the bill pass.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

H. F. No. 121, A bill for an act relating to education; encouraging a Minnesota volunteer corps to the USSR and East Central Europe; appropriating money.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

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

Subd. 6. [MINNESOTA INTERNATIONAL VOLUNTEER CORPS.] The office shall disseminate information about and encourage participation in the Minnesota international volunteer corps. The office shall convene representatives from public and private sector organizations to develop the framework for the corps. The Minnesota international volunteer corps is an informal group made up of those who donate their time and expertise to teach American business entrepreneurship, English language instruction, or business and economics instruction, or to help people start businesses. The activity must be performed by a resident of the state in the Soviet Union or in East Central Europe.

If the donated effort is of at least two-months duration and is documented in writing by someone from the host country with a firsthand knowledge of the effort, the office shall designate the person donating the effort a member of the "Minnesota international volunteer corps" and may issue a certificate to the person attesting to the designation.

Delete the title and insert:

"A bill for an act relating to education; encouraging a Minnesota international volunteer corps; amending Minnesota Statutes 1990, section 16B.88, by adding a subdivision."

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 124, A bill for an act relating to education; providing for the arbitration of disputes concerning the proposed termination, discharge, or demotion of teachers following the probationary period; amending Minnesota Statutes 1990, sections 125.12, by adding a subdivision; 125.17, by adding a subdivision; and 179A.20, subdivision 4.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1990, section 125.12, subdivision 4, is amended to read:

Subd. 4. [TERMINATION OF CONTRACT AFTER PROBATIONARY PERIOD.] A teacher who has completed a probationary period in any school district, and who has not been discharged or advised of a refusal to renew the teacher's contract pursuant to subdivision 3, shall have a continuing contract with such district. Thereafter, the teacher's contract shall remain in full force and effect, except as modified by mutual consent of the board and the teacher, until terminated by a majority roll call vote of the full membership of the board prior to April 1 upon one of the grounds specified in subdivision 6 or prior to June 1 upon one of the grounds specified in subdivision 6a or 6b, or until the teacher is discharged pursuant to subdivision 8, or by the written resignation of the teacher submitted prior to April 1; provided, however, that if an agreement as to the terms and conditions of employment for the succeeding school year has not been adopted pursuant to the provisions of sections 179A.01 to 179A.25 prior to March 1, the teacher's right of resignation shall be extended to the 30th calendar day following the adoption of said contract in compliance with section 179A.20, subdivision 5. Such written resignation by the teacher shall be effective as of June 30 if submitted prior to that date and the teachers' right of resignation for the school year then beginning shall cease on July 15. Before a teacher's contract is terminated by the board, the board shall notify the teacher in writing and state its ground for the proposed termination in reasonable detail together with a statement that the teacher may make a written request for a hearing before the board within 14 days after receipt of such notification. If the grounds are those specified in subdivision 6 or 8, the notice must also state a teacher may request arbitration under subdivision 9a. Within 14 days after receipt of this notification the teacher may make a written request for a hearing before the board or an arbitrator and it shall be granted upon reasonable notice to the teacher of the date set for hearing, before final action is taken. If no hearing is requested within such period, it shall be deemed acquiescence by the teacher to

the board's action. Such termination shall take effect at the close of the school year in which the contract is terminated in the manner aforesaid. Such contract may be terminated at any time by mutual consent of the board and the teacher and this section shall not affect the powers of a board to suspend, discharge, or demote a teacher under and pursuant to other provisions of law.

Sec. 2. Minnesota Statutes 1990, section 125.12, is amended by adding a subdivision to read:

Subd. 9a. [HEARING AND DETERMINATION BY ARBITRATOR.] A teacher whose termination is proposed under subdivision 4 on grounds specified in subdivision 6, or whose discharge is proposed under subdivision 8 may elect a hearing before an arbitrator instead of the school board. The hearing is governed by this subdivision.

(a) The teacher must make a written request for a hearing before an arbitrator within 14 days after receiving notification of proposed termination on grounds specified in subdivision 6 or within ten days of receiving notification of proposed discharge under subdivision 8. If a request for a hearing does not specify that the hearing be before an arbitrator, it shall be considered to be a request for a hearing before the school board.

(b) The arbitrator must be selected according to the procedure in section 179A.21, subdivision 2, except that the grievance procedure adopted by the commissioner of the bureau of mediation services, under section 179A.04, subdivision 3, clause (h), applies to a teacher not included in an appropriate unit defined in section 179A.03.

(c) The arbitrator shall determine whether just cause exists to support the proposed termination or discharge or, if not, to determine whether a lesser penalty, if any, should be imposed. In making the determination, the arbitration proceeding is governed by sections 572.11 to 572.17 and by the collective bargaining agreement applicable to the teacher.

(d) The hearing may be public or private, at the discretion of the teacher.

(e) The arbitrator's award is final and binding on the parties, subject to sections 572.18 to 572.26.

Sec. 3. Minnesota Statutes 1990, section 125.17, subdivision 5, is amended to read:

Subd. 5. [HEARING OF CHARGES AGAINST TEACHER.] The charges against a teacher shall be in writing and signed by the person making the same and then filed with the secretary or clerk of the school board having charge of the school in which the teacher is

employed. Such school board before discharging or demoting a teacher shall then accord the teacher against whom such charges have been filed a full hearing and give to the teacher at least ten days' notice in writing of the time and place of such hearing; such notice may be served personally or sent by certified mail addressed to such teacher at the teacher's last known post office address; provided, that if the charge be made by any person not in connection with the school system the charge may be disregarded by such school board. If the grounds are those specified in subdivision 4, clause (1), (2), (3), or (4), the notice must also state a teacher may request arbitration under subdivision 10a. Upon such hearing being held such school board or an arbitrator shall hear all evidence that may be adduced in support of the charges and for the teacher's defense thereto. Either party shall have the right to have a written record of the hearing at the expense of the board and to have witnesses subpoenaed and all witnesses so subpoenaed shall be examined under oath. Any member of the school board conducting such a hearing shall have authority to issue subpoenas and to administer oaths to witnesses.

Sec. 4. Minnesota Statutes 1990, section 125.17, is amended by adding a subdivision to read:

Subd. 10a. [HEARING AND DETERMINATION BY ARBITRATOR.] A teacher against whom charges have been filed alleging any cause for discharge or demotion specified in subdivision 4, clause (1), (2), (3), or (4) may elect a hearing before an arbitrator instead of the school board. The hearing is governed by this subdivision.

(a) The teacher must make a written request for a hearing before an arbitrator within ten days after receiving a written notice of the filing of charges required by subdivision 5. Failure to request a hearing before an arbitrator during this period is considered acquiescence to a hearing before the board.

(b) The arbitrator must be selected according to the procedure in section 179A.21, subdivision 2, except that the grievance procedure adopted by the commissioner of the bureau of mediation services, under section 179A.04, subdivision 3, clause (h), applies to a teacher not included in an appropriate unit defined in section 179A.03.

(c) The arbitrator shall determine whether the charges against the teacher are based upon just cause and, if so, whether the cause justifies the teacher's discharge, demotion, or a lesser penalty, if any. The arbitration proceeding is governed by sections 572.11 to 572.17 and by the collective bargaining agreement applicable to the teacher.

(d) The hearing may be public or private, at the decision of the teacher.

(e) The arbitrator's decision is final and binding on the parties, subject to sections 572.18 to 572.26.

Sec. 5. Minnesota Statutes 1990, section 179A.20, subdivision 4, is amended to read:

Subd. 4. [GRIEVANCE PROCEDURE.] (a) All contracts must include a grievance procedure providing for compulsory binding arbitration of grievances including all written disciplinary actions. If the parties cannot agree on the grievance procedure, they are subject to the grievance procedure promulgated by the commissioner under section 179A.04, subdivision 3, clause (h).

(b) Notwithstanding any home rule charter to the contrary, after the probationary period of employment, any disciplinary action, ~~other than the termination of a teacher contract or the discharge of a teacher under section 125.12 or 125.17~~, is subject to the grievance procedure and compulsory binding arbitration.

(c) Employees covered by civil service systems created under chapter 43A, 44, 375, 387, 419, or 420, by a home rule charter under chapter 410, or by Laws 1941, chapter 423, may pursue a grievance through the procedure established under this section. When the grievance is also within the jurisdiction of appeals boards or appeals procedures created by chapter 43A, 44, 375, 387, 419, or 420, by a home rule charter under chapter 410, or by Laws 1941, chapter 423, the employee may proceed through the grievance procedure or the civil service appeals procedure, but once a written grievance or appeal has been properly filed or submitted by the employee or on the employee's behalf with the employee's consent the employee may not proceed in the alternative manner.

(d) A teacher who elects a hearing before an arbitrator under section 1, 2, 3, or 4, or who elects or acquiesces to a hearing before the school board may not later proceed in the alternative manner.

(e) This section does not require employers or employee organizations to negotiate on matters other than terms and conditions of employment.

Sec. 6. [APPLICABILITY AND TIMING.]

Sections 1 to 5 are applicable to any teacher who has received notice of:

(1) proposed termination under Minnesota Statutes, section 125.12, subdivision 6, within 14 days before the effective date of sections 1 to 5;

(2) proposed discharge under Minnesota Statutes, section 125.12,

subdivision 8, within ten days before the effective date of sections 1 to 5; or

(3) charges under section 125.17, subdivision 4, clause (1), (2), (3), or (4), within ten days before the effective date of sections 1 to 5.

Notwithstanding sections 1, paragraph (a), and 2, paragraph (a), a teacher described in this section may make a written request for a hearing before an arbitrator within five days after the effective date of sections 1 to 5, regardless of whether the teacher previously requested a hearing before the school board.

Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 6 are effective the day following final enactment."

Amend the title as follows:

Page 1, line 6, after the first comma insert "subdivision 4, and" and after the second comma insert "subdivision 5, and"

With the recommendation that when so amended the bill pass.

The report was adopted.

Simoneau from the Committee on Appropriations to which was referred:

H. F. No. 143, A bill for an act relating to appropriations; removing certain directions, limits, and provisos on the use of money for certain projects; amending Laws 1990, chapter 610, article 1, section 9, subdivision 1.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 165, A bill for an act relating to judicial procedures; changing provisions relating to public defense; amending Minnesota Statutes 1990, sections 383B.32, subdivision 2; 383B.63, subdivision 6; 611.215; 611.23; 611.24; 611.26; 611.263; repealing Minnesota Statutes 1990, sections 383B.63, subdivision 1; 611.215, subdivision 4; 611.261; and Laws 1989, chapter 335, article 3, section 38.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 15A.083, subdivision 4, is amended to read:

Subd. 4. [RANGES FOR OTHER JUDICIAL POSITIONS.] Salaries or salary ranges are provided for the following positions in the judicial branch of government. The appointing authority of any position for which a salary range has been provided shall fix the individual salary within the prescribed range, considering the qualifications and overall performance of the employee. The supreme court shall set the salary of the state court administrator and the salaries of district court administrators. The salary of the state court administrator or a district court administrator may not exceed the salary of a district court judge. If district court administrators die, the amounts of their unpaid salaries for the months in which their deaths occur must be paid to their estates. The salaries of the district administrators of the second, fourth, and sixth judicial districts may be supplemented by the appropriate county board in an amount not to exceed \$10,000 per year. The salary supplement may be made effective only until January 1, 1988. ~~The salary of the state public defender shall be 95 percent of the salary of the attorney general.~~

Salary or Range
Effective
July 1,
1987

Board on judicial standards
executive director

\$34,000-\$48,000

Sec. 2. Minnesota Statutes 1990, section 611.215, subdivision 1, is amended to read:

611.215 [STATE BOARD OF PUBLIC DEFENSE CREATED.]

Subdivision 1. [STRUCTURE; MEMBERSHIP.] (a) The state board of public defense is a part of, but is not subject to the administrative control of, the judicial branch of government. The state board of public defense shall consist of seven members including:

(1) a district court judge appointed by the supreme court;

(2) four attorneys admitted to the practice of law, well acquainted with the defense of persons accused of crime, but not employed as prosecutors, appointed by the supreme court; and

(3) two public members appointed by the governor.

(b) All members shall demonstrate an interest in maintaining a high quality, independent defense system for those who are unable to obtain adequate representation. The terms, compensation, and removal of members shall be as provided in section 15.0575. The chair shall be elected by the members from among the membership for a term of two years.

(c) In addition, the state board of public defense shall consist of ~~an 11-member~~ a nine-member ad hoc board when considering the ~~appointment of nominations~~ for chief district public defenders under section 611.26, subdivision 2. The terms of chief district public defenders currently serving shall terminate in accordance with the staggered term schedule set forth in section 611.26, subdivision 2.

Sec. 3. Minnesota Statutes 1990, section 611.215, subdivision 1a, is amended to read:

Subd. 1a. [CHIEF ADMINISTRATOR.] The ~~chair of the state board of public defense~~ may defender shall, subject to the approval of the board, appoint a chief administrator who must be chosen solely on the basis of training, experience, and other qualifications, and who will serve at the pleasure of the board and the state public defender. The chief administrator need not be licensed to practice law. The chief administrator shall attend all meetings of the board, but may not vote, and shall:

(1) enforce all resolutions, rules, regulations, or orders of the board;

(2) ~~appoint and remove all subordinate officers and regular employees of the board upon the basis of merit and fitness, subject to the provisions of a personnel code adopted by the board;~~

(3) present to the board and the state public defender plans, studies, and reports prepared for the board's and the state public defender's purposes and recommend to the board and the state public defender for adoption measures necessary to enforce or carry out the powers and duties of the board and the state public defender, or to efficiently administer the affairs of the board and the state public defender;

(4) (3) keep the board fully advised as to its financial condition, and prepare and submit to the board its annual budget and other financial information as it may request;

~~(5)~~ (4) recommend to the board the adoption of rules and regulations necessary for the efficient operation of the board and its functions; and

~~(6)~~ (5) perform other duties prescribed by the board or the state public defender.

Sec. 4. Minnesota Statutes 1990, section 611.215, subdivision 2, is amended to read:

Subd. 2. [DUTIES AND RESPONSIBILITIES.] ~~(a)~~ The state board of public defense shall appoint the state public defender, who serves full time for a term of four years. ~~The board shall prepare an annual report to the governor, the legislature, and the supreme court on the operation of the state public defender's office, district defender systems, and public defense corporations. The board shall approve and recommend to the legislature a budget for the board, the office of state public defender, the judicial district public defenders, and the public defense corporations. The board shall review the budget prepared by the state public defender and, upon the board's approval of the budget, the board shall recommend the budget to the legislature. The board shall establish procedures for distribution of state funding under this chapter to the state and district public defenders, including Hennepin and Ramsey county public defenders, and to the public defense corporations.~~

~~(b)~~ The board shall establish standards for the offices of the state and district public defenders and for the conduct of all appointed counsel systems. The standards must include, but are not limited to:

(1) standards needed to maintain and operate an office of public defender including requirements regarding the qualifications, training, and size of the legal and supporting staff for a public defender or appointed counsel system;

(2) standards for public defender caseloads;

(3) standards and procedures for the eligibility for appointment, assessment, and collection of the costs for legal representation provided by public defenders or appointed counsel;

(4) standards for contracts between a board of county commissioners and a county public defender system for the legal representation of indigent persons;

(5) standards prescribing minimum qualifications of counsel appointed under the board's authority or by the courts; and

(6) standards ensuring the economical and efficient delivery of

legal services, including alternatives to the present geographic boundaries of the public defender districts.

The board may require the reporting of statistical data, budget information, and other cost factors by the state and district public defenders and appointed counsel systems.

The state board of public defense shall design and conduct programs for the training of all state and district public defenders, appointed counsel, and attorneys for public defense corporations funded in section 611.26.

Sec. 5. Minnesota Statutes 1990, section 611.23, is amended to read:

611.23 [OFFICE OF STATE PUBLIC DEFENDER; APPOINTMENT; SALARY TERM.]

The office of state public defender is under the supervision of the state board of public defense. The state public defender shall be appointed by the state board of public defense for a term of four years, except as otherwise provided in this section, and until a successor is appointed and qualified. The state public defender shall be a full-time qualified attorney, licensed to practice law in this state, serve in the unclassified service of the state, and be removed only for cause by the appointing authority. Vacancies in the office shall be filled by the appointing authority for the unexpired term. ~~The salary of the state public defender shall be fixed by the state board of public defense but must not exceed the salary of the chief deputy attorney general.~~ Terms of the state public defender shall commence on January July 1. The state public defender shall devote full time to the performance of duties and shall not engage in the general practice of law.

Sec. 6. Minnesota Statutes 1990, section 611.24, is amended to read:

611.24 [ORGANIZATION OF OFFICE; ASSISTANTS.]

The state public defender shall supervise the operation, activities, policies, and procedures of the state public defender system. ~~The state public defender, subject to the limitations imposed by, and the supervision of, the state board of public defense, may shall~~ employ or retain assistant state public defenders and other personnel as may be necessary to discharge the ~~function~~ functions of the office. An assistant state public defender shall be a qualified attorney, licensed to practice law in this state, serve in the unclassified service of the state if employed, and serve at the pleasure of the appointing authority at a salary or retainer fee not to exceed reasonable compensation for comparable services performed for other govern-

mental agencies or departments. Retained or part-time employed assistant state public defenders may engage in the general practice of law.

Sec. 7. Minnesota Statutes 1990, section 611.25, is amended by adding a subdivision to read:

Subd. 3. [DUTIES.] (a) The state public defender shall prepare an annual report to the board, the governor, the legislature, and the supreme court on the operation of the state public defender's office, district public defender systems, and public defense corporations.

(b) The state public defender shall prepare and submit to the board for the board's approval a budget for the board, the office of state public defender, the judicial district public defenders, and the public defense corporations.

(c) The state public defender shall design and conduct programs for the training of all state and district public defenders, appointed counsel, and attorneys for public defense corporations funded under section 611.26.

(d) The state public defender shall establish standards for the offices of the state and district public defenders and for the conduct of all appointed counsel systems. The standards must include, but are not limited to:

(1) standards needed to maintain and operate an office of public defender including requirements regarding the qualifications, training, and size of the legal and supporting staff for a public defender or appointed counsel system;

(2) standards for public defender caseloads;

(3) standards and procedures for the eligibility for appointment, assessment, and collection of the costs for legal representation provided by public defenders or appointed counsel;

(4) standards for contracts between a board of county commissioners and a county public defender system for the legal representation of indigent persons; and

(5) standards ensuring the economical and efficient delivery of legal services, including alternatives to the present geographic boundaries of the public defender districts.

(e) The state public defender may require the reporting of statistical data, budget information, and other cost factors by the chief district public defenders and appointed counsel systems.

Sec. 8. Minnesota Statutes 1990, section 611.26, subdivision 2, is amended to read:

Subd. 2. The state board of public defense shall ~~appoint a nominate~~ nominate three candidates from whom the state public defender may appoint the chief district public defender. When appointing a nominating candidates for chief district public defender, the state board of public defense membership shall be increased to include two judges of the district and two county commissioners of the counties within the district additional members appointed by the chief judge of the judicial district, at least one of whom shall be a lawyer. The additional members shall serve only in the capacity of selecting the chief district public defender. The judges within the district shall elect their two ad hoc members. The two county commissioners within the district shall be selected by the county boards of the counties within the district. The ad hoc state board of public defense shall appoint a nominate candidates for chief district public defender only after requesting and giving reasonable time to receive any recommendations from the public, the local bar association, the judges of the district, and the county commissioners within the district. Each chief district public defender shall be a qualified attorney, licensed to practice law in this state. The state public defender may reject all three candidates, in which case the ad hoc board shall nominate three new candidates. The chief district public defender shall be appointed for a term of four years, beginning November August 1, pursuant to the following staggered term schedule: (1) in 1987, the third and eighth districts; (2) in 1988, the first and tenth districts; (3) in 1989, the fifth and ninth districts; (4) in 1990, the sixth and seventh districts; (5) in 1991, the second, third, fourth, sixth, and eighth districts; and (6) (2) in 1992 1993, the first, third, fifth, seventh, ninth, and tenth districts. Except as otherwise provided in this section, a chief district public defender whose term has expired may continue in office until a successor is appointed. The chief district public defenders shall serve for staggered four-year terms and may be removed for cause upon the order of the state board of public defense defender. Vacancies in the office shall be filled by the appointing authority for the unexpired term.

Sec. 9. Minnesota Statutes 1990, section 611.26, subdivision 3, is amended to read:

Subd. 3. The compensation of the chief district public defender shall be set by the board of state public defense defender. The compensation of each assistant district public defender shall be set by the chief district public defender with the approval of the board of public defense. The compensation for district public defenders may not exceed the prevailing compensation for county attorneys within the district, and the compensation for assistant district public defenders may not exceed the prevailing compensation for assistant county attorneys within the district. To assist the board of public defense in determining prevailing compensation under this subdi-

vision, counties shall provide to the board information on the compensation of county attorneys, including salaries and benefits, rent, secretarial staff, and other pertinent budget data. For purposes of this subdivision, compensation means salaries, cash payments, and employee benefits including paid time off and group insurance benefits, and other direct and indirect items of compensation including the value of office space provided by the employer. This subdivision does not limit the rights of public defenders to collectively bargain with their employers.

Sec. 10. Minnesota Statutes 1990, section 611.26, subdivision 4, is amended to read:

Subd. 4. A chief district public defender shall appoint assistants who are qualified attorneys licensed to practice law in this state and other staff as the chief district public defender finds prudent and necessary subject to the standards adopted by the state board of public defense defender. Assistant district public defenders must be appointed to ensure broad geographic representation and caseload distribution within the district. Each assistant district public defender serves at the pleasure of the chief district public defender, subject to existing provisions of collective bargaining agreements or civil service rules.

Sec. 11. Minnesota Statutes 1990, section 611.26, subdivision 6, is amended to read:

Subd. 6. The chief district public defender shall represent, without charge, a defendant charged with a felony or a gross misdemeanor when so directed by the district court.

Sec. 12. Minnesota Statutes 1990, section 611.26, subdivision 7, is amended to read:

Subd. 7. Chief district public defenders and assistant district public defenders may engage in the general practice of law where not employed on a full time basis.

Sec. 13. [TRANSITION.]

The positions and incumbents currently under the state board of public defense are transferred to the office of the state public defender, except the chief administrator which is as provided in section 3. The term of the current state public defender shall run until June 30, 1995.

Sec. 14. [TERMINATION OF TERMS.]

Notwithstanding section 15.0575, the terms of the current board members shall terminate on June 30, 1991, except that the current

board members may continue to serve until the new board members are appointed.

Sec. 15. [REPEALER.]

Minnesota Statutes 1990, sections 383B.63, subdivision 1; 611.215, subdivision 4; 611.26, subdivision 1; 611.261; and Laws 1989, chapter 335, article 3, section 38, are repealed."

Delete the title and insert:

"A bill for an act relating to judicial procedures; changing provisions relating to public defense; amending Minnesota Statutes 1990, sections 15A.083, subdivision 4; 611.215, subdivisions 1, 1a, and 2; 611.23; 611.24; 611.25, by adding a subdivision; 611.26, subdivision 2, 3, 4, 6, and 7; repealing Minnesota Statutes 1990, sections 383B.63, subdivision 1; 611.215, subdivision 4; 611.26, subdivision 1; and 611.261; Laws 1989, chapter 335, article 3, section 38."

With the recommendation that when so amended the bill pass.

The report was adopted.

Skoglund from the Committee on Financial Institutions and Insurance to which was referred:

H. F. No. 181, A bill for an act relating to the environment; adding reimbursement requirements from the petroleum tank release cleanup account; amending Minnesota Statutes 1990, section 115C.09, subdivision 3.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 115C.04, subdivision 3, is amended to read:

Subd. 3. [AGENCY COST RECOVERY.] Reasonable and necessary expenses incurred by the agency in taking a corrective action, including costs of investigating a release, administrative and legal expenses, and reimbursement costs described in subdivision 1, paragraph (b), may be recovered in a civil action in district court brought by the attorney general against a responsible person. The agency's certification of expenses is prima facie evidence that the expenses are reasonable and necessary. If the responsible person has

insurance coverage that insures against the liability provided in this section, the agency is subrogated to the rights of the responsible person with respect to that insurance coverage, to the extent of the expenses incurred by the agency and described in this subdivision. The agency may maintain an action against the insurer to enforce this subrogation right. Expenses that are recovered under this section must be deposited in the account.

Sec. 2. Minnesota Statutes 1990, section 115C.09, subdivision 3, is amended to read:

Subd. 3. [REIMBURSEMENT.] (a) The board shall reimburse a responsible person who is eligible under subdivision 2 from the account for 90 percent of the portion of the total reimbursable costs or \$1,000,000, whichever is less. Not more than \$1,000,000 may be reimbursed for costs associated with a single release, regardless of the number of persons eligible for reimbursement, and not more than \$2,000,000 may be reimbursed for costs associated with a single tank facility.

(b) A reimbursement may not be made from the account under this subdivision until the board has determined that the costs for which reimbursement is requested were actually incurred and were reasonable.

(c) A reimbursement may not be made from the account under this subdivision in response to either an initial or supplemental application for costs incurred after June 4, 1987, that are payable under an applicable insurance policy.

(d) If the board reimburses a responsible person for costs for which the responsible person has insurance coverage, the board is subrogated to the rights of the responsible person with respect to that insurance coverage, to the extent of the reimbursement by the board. The board may maintain an action against the insurer to enforce the board's subrogation rights. Acceptance by a responsible person of reimbursement constitutes an assignment by the responsible person to the board of any rights of the responsible person with respect to any insurance coverage applicable to the costs that are reimbursed. Notwithstanding this paragraph, the board may instead request a return of the reimbursement under subdivision 5 and may employ against the responsible party the remedies provided there.

(e) Money in the account is appropriated to the board to make reimbursements under this section. A reimbursement to a state agency must be credited to the appropriation account or accounts from which the reimbursed costs were paid.

Sec. 3. Minnesota Statutes 1990, section 115C.10, subdivision 1, is amended to read:

Subdivision 1. [PAYMENT FROM THE ACCOUNT.] (a) If the cost of authorized actions under section 115C.03 exceeds the amount appropriated to the agency for the actions and amounts awarded to the agency from the federal government, the agency may apply to the board for money to pay for the actions from the account. The board shall pay the agency the cost of the proposed actions under section 115C.03 if the board finds that the conditions for the agency to be paid from the account have been met, and that an adequate amount exists in the account to pay for the corrective action. If the board pays the agency for the cost of authorized actions for which a responsible person has insurance coverage, the board is subrogated to the agency's rights with respect to the responsible person and the responsible person's insurer, to the extent of the board's payment of costs for which the responsible person has insurance coverage. The board may maintain an action against the responsible person or that person's insurer to enforce the board's subrogation rights. Acceptance of a payment from the board by the agency constitutes an assignment to the board of the subrogation rights specified in this subdivision.

(b) Money in the account is appropriated to the board for the purpose of this subdivision.

Sec. 4. [EFFECTIVE DATE.]

Sections 1, 2, and 3 are effective the day following final enactment and apply to applications pending on or filed after that date."

Amend the title accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 228, A bill for an act relating to public waters; requiring filter strips along wooded areas; proposing coding for new law in Minnesota Statutes, chapter 103G.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [103F.216] [FORESTRY BEST MANAGEMENT PRACTICES IN SHORELAND.]

Subdivision 1. [ESTABLISHMENT.] The commissioner must establish a program to educate owners of forest lands within the state on the implementation of best management practices for water quality in forest management.

Subd. 2. [PILOT PROJECT.] The commissioner shall develop a pilot project to educate owners of forest lands in Crow Wing county to implement subdivision 1 within shoreland, as defined in section 103F.205, subdivision 4, and report to the legislature by January 1, 1993, the results of the pilot project along with a plan to educate owners of forest lands within Minnesota."

Delete the title and insert:

"A bill for an act relating to natural resources; establishing an educational program on best management practices; proposing coding for new law in Minnesota Statutes, chapter 103F."

With the recommendation that when so amended the bill pass.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 313, A bill for an act relating to health; clarifying requirements for licensing consulting psychologists and psychological associates; describing duties of the board of psychology; establishing requirements for the independent practice of psychology; amending Minnesota Statutes 1990, sections 62A.152, subdivisions 2 and 3; 148.88; 148.89; 148.90; 148.91; 148.93; 148.95; 148.96; 148.97; 148.975, subdivisions 1 and 5; 148.976, subdivision 1; 148.98; and 253B.02, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 148; repealing Minnesota Statutes 1990, sections 148.92; and 148.97, subdivision 4.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 62A.152, subdivision 2, is amended to read:

Subd. 2. [MINIMUM BENEFITS.] (a) All group policies and all group subscriber contracts providing benefits for mental or nervous disorder treatments in a hospital shall also provide coverage on the same basis as coverage for other benefits for at least 80 percent of the cost of the usual and customary charges of the first ten hours of treatment incurred over a 12-month benefit period, for mental or nervous disorder consultation, diagnosis and treatment services delivered while the insured person is not a bed patient in a hospital, and at least 75 percent of the cost of the usual and customary charges for any additional hours of treatment during the same 12-month benefit period for serious or persistent mental or nervous disorders, if the services are furnished by (1) a licensed or accredited hospital, (2) a community mental health center or mental health clinic approved or licensed by the commissioner of human services or other authorized state agency, (3) a licensed psychologist psychological practitioner licensed under the provisions of sections 148.88 to 148.98, (4) a licensed consulting psychologist licensed under the provisions of sections 148.88 to 148.98, or (5) a psychiatrist licensed under chapter 147. Prior authorization from an accident and health insurance company, or a nonprofit health service corporation, shall be required for an extension of coverage beyond ten hours of treatment. This prior authorization must be based upon the severity of the disorder, the patient's risk of deterioration without ongoing treatment and maintenance, degree of functional impairment, and a concise treatment plan. Authorization for extended treatment may be limited to a maximum of 30 visit hours during any 12-month benefit period.

(b) For purposes of this section, covered treatment for a minor includes treatment for the family if family therapy is recommended by a provider listed in paragraph (a). For purposes of determining benefits under this section, "hours of treatment" means treatment rendered on an individual or single-family basis. If treatment is rendered on a group basis, the hours of covered group treatment must be provided at a ratio of no less than two group treatment sessions to one individual treatment hour.

Sec. 2. Minnesota Statutes 1990, section 62A.152, subdivision 3, is amended to read:

Subd. 3. [PROVIDER DISCRIMINATION PROHIBITED.] All group policies and group subscriber contracts that provide benefits for mental or nervous disorder treatments in a hospital must provide direct reimbursement for those services if performed by a licensed psychologist psychological practitioner or a licensed consulting psychologist to the extent that the services and treatment are within the scope of licensed psychologist psychological practitioner or licensed consulting psychologist licensure. ~~The order of the physician requesting the services of the licensed psychologist or licensed consulting psychologist may be required to be submitted with the claim for payment.~~

This subdivision is intended to provide payment of benefits for mental or nervous disorder treatments performed by a ~~licensed psychologist psychological practitioner~~ or a licensed ~~consulting~~ psychologist in a hospital and is not intended to change or add benefits for those services provided in policies or contracts to which this subdivision applies.

Sec. 3. Minnesota Statutes 1990, section 148.88, is amended to read:

148.88 [CITATION.]

Sections 148.88 to 148.98 ~~may~~ shall be cited as the Minnesota licensing law for psychologists.

Sec. 4. [148.881] [DECLARATION OF POLICY.]

The practice of psychology in Minnesota affects the public health, safety, and welfare. The regulations in sections 148.88 to 148.98 protect the public from the practice of psychology by unqualified persons and from unprofessional conduct by persons licensed to practice psychology.

Sec. 5. Minnesota Statutes 1990, section 148.89, is amended to read:

148.89 [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] For the ~~purpose~~ purposes of Laws 1973, chapter 685 sections 148.88 to 148.98, the term "~~private practice of psychology~~" means the application for a fee, monetary or otherwise, to the public of psychological principles in the description, prediction and modification of human behavior and emotional adjustment, including but not restricted to such practices as:

(1) Psychological assessment, including such functions as intelligence, personality, aptitude, and attitude appraisal;

(2) Psychological treatment of persons who have adjustment problems;

(3) Psychological counseling and guidance;

(4) Conducting behavioral research; and

(5) Teaching of psychology following terms have the meanings given them.

Subd. 2. [BOARD OF PSYCHOLOGY OR BOARD.] For the purpose of Laws 1973, chapter 685 the term "~~collaboration~~" means

consultation between a licensed psychologist and a licensed consultant psychologist on at least an annual basis but shall not necessarily require consultation on each case referred to a licensed psychologist. "Board of psychology" or "board" means the board established under section 148.90.

Subd. 3. [INDEPENDENT PRACTICE.] "Independent practice" means the practice of psychology without supervision.

Subd. 4. [LICENSEE.] "Licensee" means a person who is licensed by the board as a licensed psychologist or as a psychological practitioner.

Subd. 5. [PRACTICE OF PSYCHOLOGY.] "Practice of psychology" means the observation, description, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures, to prevent or eliminate symptomatic, maladaptive, or undesired behavior and to enhance interpersonal relationships, work and life adjustment, personal and organizational effectiveness, behavioral health, and mental health. The practice of psychology includes, but is not limited to, the following services, regardless of whether the provider receives payment for the services:

(1) psychological research, psychological testing, and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning;

(2) counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, diagnosis and treatment of: (i) mental and emotional disorder or disability; (ii) alcoholism and substance abuse; (iii) disorders of habit or conduct; and (iv) the psychological aspects of physical illness, accident, injury, or disability; and

(3) psychoeducational evaluation, therapy, remediation, and consultation. Recipients of psychological services include individuals, families, groups, organizations, and the public.

Subd. 6. [PSYCHOLOGIST.] "Psychologist" means a person who represents himself or herself to be a psychologist by: (1) using any title or description of services incorporating the words "psychology," "psychological," or "psychologist"; (2) representing that the person has expert qualification in any area of psychology; or (3) offering or rendering to the public, to individuals, or to groups of individuals services defined as the practice of psychology.

Subd. 7. [SUPERVISED PSYCHOLOGICAL EMPLOYMENT.] "Supervised psychological employment" means paid or volunteer work experience and postdegree training of a person seeking to be

licensed as a licensed psychologist that involves the direct professional oversight of a licensed psychologist and satisfies the supervision requirements in section 11.

Subd. 8. [SUPERVISION.] "Supervision" means:

(1) face-to-face documented consultation between a supervising licensed psychologist and a psychological practitioner under the conditions specified in section 11; or

(2) documented consultation between an applicant for licensure as a licensed psychologist and either a supervising licensed psychologist or a person designated by the supervising licensed psychologist, under the conditions specified in section 11.

Sec. 6. Minnesota Statutes 1990, section 148.90, is amended to read:

148.90 [BOARD OF PSYCHOLOGY.]

Subdivision 1. [BOARD OF PSYCHOLOGY.] (a) The board of psychology is hereby created with the powers and duties as herein-after prescribed described in this section. The board shall consist of has 11 members. In its initial composition, membership shall who consist of (1) three psychologists whose qualifications shall be not less than those specified in section 148.91, subdivision 4, (2) two psychologists whose qualifications shall be those specified in section 148.91, subdivision 5, (3) two doctoral level psychologists, not necessarily licensed under Laws 1973, chapter 685, whose specialties broadly represent the fields of interest in psychology, and (4) four public members. After the initial appointments, members specified in clause (1) shall be licensed consulting psychologists and members specified in clause (2) shall be licensed psychologists.

(1) three persons licensed as licensed psychologists who have a doctoral degree in psychology;

(2) two persons licensed as licensed psychologists who have a masters degree in psychology;

(3) two psychologists not necessarily licensed, one with a doctoral degree in psychology who represents a doctoral training program in psychology, and one who represents a masters training program in psychology;

(4) one person licensed or qualified to be licensed as a psychological practitioner; and

(5) three public members.

(b) After the date on which fewer than 30 percent of the persons licensed by the board as licensed psychologists qualify for licensure under section 148.921, subdivision 2, the first vacancy filled under clause (2) of paragraph (a) must be filled by a person licensed or qualified to be licensed as a psychological practitioner. From this date on, this position when vacant must be filled by a person licensed or qualified to be licensed as a psychological practitioner.

(c) After the date on which fewer than 15 percent of the persons licensed by the board as licensed psychologists qualify for licensure under section 148.921, subdivision 2, the first vacancy under clause (2) of paragraph (a) for a person licensed as a licensed psychologist with a masters degree in psychology must be filled by a person licensed as a licensed psychologist who has a doctoral degree in psychology. From this date on, this position when vacant must be filled by a person licensed as a licensed psychologist who has a doctoral degree in psychology.

(d) Following the filling of the first vacancy under paragraph (c), no further appointments shall be made pursuant to clause (2) of paragraph (a).

Subd. 2. [MEMBERS.] (a) The members of the board shall:

- (1) be appointed by the governor;
- (2) be residents of the state;
- (3) serve for not more than two consecutive terms;
- (4) designate the officers of the board, and pursuant to chapter 14, prescribe rules as may be necessary to enable it to carry into effect the provisions of Laws 1973, chapter 686; and
- (5) administer oaths pertaining to the business of the board.

Public members of the board shall broadly represent the public interest and shall not: (a) be members of health professions licensed by the state of Minnesota; (b) be a spouse, parent, child, or employee of a practicing psychologist or of a health professional licensed by the state of Minnesota; or (c) be persons who are or were before their retirement persons who were engaged on a full or part-time basis in the practice of psychology.

(b) A public member of the board shall broadly represent the public interest and shall not:

- (1) be a psychologist or engage in the practice of psychology before retirement;

- (2) be an applicant or former applicant for licensure;
- (3) be a member of another health profession;
- (4) be a member of a household that includes a psychologist; or
- (5) have conflicts of interest or the appearance of conflicts with duties as a board member.

Subd. 3. [TERMS; COMPENSATION; REMOVAL OF MEMBERS.] Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in ~~sections 214.07 to 214.09~~ chapter 214. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other ~~provisions~~ activities relating to board operations shall be as provided in conducted according to chapter 214 and Laws 1976, chapter 222, sections 2 to 7.

Sec. 7. [148.905] [DUTIES OF THE BOARD.]

Subdivision 1. [GENERAL.] The board shall:

(1) adopt and enforce rules for licensing psychologists and for regulating their professional conduct. The rules must include, but are not limited to, standards for training, supervision, the practice of psychology, and any other areas covered by sections 148.88 to 148.98;

(2) adopt rules that provide for examinations and establish a code of professional ethics and requirements for continuing education;

(3) hold examinations at least once a year to assess applicants' knowledge and skills. The examinations may be written or oral or both, and may be administered by the board or by institutions or individuals designated by the board;

(4) issue licenses to individuals qualified under section 148.91, according to the procedures for licensing in Minnesota Rules;

(5) issue copies of the rules for licensing to all applicants;

(6) establish and maintain annually a register of current licenses;

(7) establish reasonable fees for the issuance and renewal of licenses and other services by the board. Fees must be set to defray the cost of administering the provisions of sections 148.88 to 148.98 including applications, examinations, enforcement, and the cost of maintaining the operations of the board;

(8) educate the public about the requirements for licensing of psychologists and about the code of professional ethics to allow consumers to file complaints against licensees who may have violated licensing requirements or professional ethics;

(9) establish or approve programs that qualify for professional psychology continuing educational credit. The board may hire consultants, agencies, or professional psychological associations to establish and approve continuing education courses; and

(10) establish and implement, by January 1, 1992, a process for certifying psychologists' competencies in specialty areas, including but not limited to the area of supervision. The process shall include steps to verify that a psychologist has had adequate education and experience in a specialty area to be considered competent to practice in that area. Recertification of competencies declared prior to the effective date of this act shall not be required.

Subd. 2. [ADDITIONAL POWERS.] The board may adopt rules necessary to define standards or to carry out the provisions of sections 148.88 to 148.98. Rules shall be adopted according to chapter 14.

Sec. 8. Minnesota Statutes 1990, section 148.91, is amended to read:

148.91 [REQUIREMENTS OF LICENSES.]

Subdivision 1. [LEVELS OF PRACTICE.] ~~The board may grant licenses for two levels of psychological practice. The persons so licensed are to be known and are hereafter referred to as (a) (1) licensed consulting psychologist and (b) licensed psychologist, or if both levels are referred to, as licensee (2) psychological practitioner.~~

Subd. 2. [TESTING REQUIRED.] ~~Before granting any such a license, the board shall require every an applicant therefor to pass a skills assessment and an examination in psychology. This examination~~ A different skills assessment and examination may be required of applicants for each of the levels of practice enumerated in subdivision 1. The examinations shall be given at least once each a year, at such a time and place and under such supervision as the board prescribes may prescribe.

Subd. 3. [FEE; TERM OF LICENSE.] ~~Each~~ An applicant shall pay a nonrefundable application fee set by the board. The licenses granted hereunder by the board shall be valid for a period as set by the board of three years and shall be renewed on a three-year basis. The fee for a license and for renewal shall be set by the board.

Subd. 4. [AGE AND ETHICAL REQUIREMENTS.] To become a

licensed consulting psychologist a person must fulfill and comply with the requirements of subdivision 2 and satisfy the board that the person:

- (1) Has, an applicant must have attained the age of majority;
- (2) Is be of good moral character, and is not found to be engaging have engaged in unethical practices as defined within in the code of ethics adopted pursuant to section 148.98;
- (3) Has received a doctorate degree with a major in psychology, which may include educational and child psychology, from an educational institution meeting standards which may be prescribed by rule of the board; and
- (4) Has had at least two full years or their equivalent of post doctoral employment as a psychologist the board adopts.

Subd. 5. [EDUCATIONAL REQUIREMENTS FOR LICENSED CONSULTING PSYCHOLOGIST.] To become a licensed psychologist, a person must comply with the requirements of subdivisions 2 to 4 and must have:

- (1) received a doctorate or master's degree or has received the equivalent of a master's degree in a doctoral program with a major in psychology, which may include educational and child psychology, from an educational institution meeting the standards which may be prescribed by rule of the board has established by rule; and
- (2) completed at least two full years of experience or its their equivalent of employment as a psychologist after receiving the training upon which application for this license is made;
- (3) Otherwise fulfilled and complied with subdivision 2 and subdivision 4, clauses (1) and (2) postdoctoral supervised psychological employment.

Subd. 6. [EDUCATIONAL REQUIREMENTS FOR PSYCHOLOGICAL PRACTITIONER.] To become licensed as a psychological practitioner, a person must comply with the provisions of subdivisions 2 to 4 and must have received a doctorate or master's degree or the equivalent of a master's degree in a doctoral program with a major in psychology from an educational institution meeting the standards the board has established by rule.

Sec. 9. [148.911] [CONTINUING EDUCATION.]

When the licensee renews the license, the licensee must provide the board with satisfactory evidence that the licensee has completed continuing education requirements established by the board. Con-

tinuing education programs must be approved under section 148.905, subdivision 1, clause (8). The board shall establish by rule the number of continuing education training hours required each year and may specify subject or skills areas that the licensee must address. In specifying subject or skills areas, the board shall consider the need for continuing education requirements in the areas of ethics, forensic practice, and supervision.

Sec. 10. [148.921] [WAIVERS.]

Subdivision 1. [PERSONS PREVIOUSLY LICENSED.] A person licensed in this state as a licensed consulting psychologist or a licensed psychologist on the effective date of this act qualifies for licensure as a licensed psychologist, as defined in section 148.91, at the time of license renewal.

Subd. 2. [PERSONS PREVIOUSLY QUALIFIED.] The board shall grant a license for a licensed psychologist without examination to a person who:

(1) before November 1, 1991, entered a program granting a master's degree with a major in psychology at an educational institution meeting the standards the board has established by rule;

(2) before November 1, 1991, filed with the board a written declaration of intent to seek licensure under this subdivision;

(3) complied with all requirements of section 148.91, subdivisions 2 to 4, before December 31, 1997; and

(4) completed at least two full years or their equivalent of postmaster's supervised psychological employment before December 31, 1997.

Subd. 3. [RECIPROCITY.] The board may grant a license without an examination to a diplomate of the American Board of Professional Psychology or to any person who at the time of application is licensed or certified by a similar board of another state whose standards, in the judgment of the board, are not lower than those required by section 148.91.

Sec. 11. [148.925] [SUPERVISION.]

Subdivision 1. [PERSONS QUALIFIED TO PROVIDE SUPERVISION.] (a) The following persons are qualified to provide supervision for master's level applicants for licensure as a licensed psychologist:

(1) a licensed psychologist with a competency in supervision in

professional psychology and in the area of practice being supervised; and

(2) a person eligible for licensure by reciprocity who, in the judgment of the board, is competent or experienced in professional psychology and in the area of practice being supervised.

(b) Professional supervision of a doctoral level applicant for licensure as a licensed psychologist must be provided by a person:

(1) who meets the requirements of paragraph (a), clause (1) or (2); and

(2)(i) who has a doctorate degree with a major in psychology; or

(ii) who was licensed by the board as a psychologist before August 1, 1991, and is certified by the board as competent in supervision of applicants for licensure in accord with section 7, subdivision 1, clause (10) by August 1, 1993.

Subd. 2. [SUPERVISORY CONSULTATION.] (a) Supervisory consultation between a supervising licensed psychologist and a supervised psychological practitioner must occur on a one-to-one basis at a ratio of at least one hour of supervision for the initial 20 or fewer hours of psychological services delivered per month and no less than one hour a month. The consultation must be at least one hour in duration. For each additional 20 hours of psychological services delivered per month, an additional hour of supervision must occur. However, if more than 20 hours of psychological services are provided in a week, no time period of supervision beyond one hour per week is required, but supervision must be adequate to assure the quality and competence of the services. Supervisory consultation must include discussions on the nature and content of the practice of the psychological practitioner, including but not limited to a review of a representative sample of psychological services in the supervisee's practice.

(b) Supervision of an applicant for licensure as a licensed psychologist must include at least two hours of regularly scheduled face-to-face consultations a week, one hour of which must be with the supervisor on a one-to-one basis. The remaining hour may be with other mental health professionals designated by the supervisor.

Sec. 12. Minnesota Statutes 1990, section 148.93, is amended to read:

148.93 [LIMITATION.]

Subdivision 1. [FEE SPLITTING PROHIBITED.] A licensed psychologist may engage in private practice only in collaboration with

at least one licensed consulting psychologist in the licensed psychologist field of practice. In addition, a licensed psychologist so collaborating may form any other working relationships with psychologists or other professionals insofar as these do not violate other sections of this or other Minnesota Statutes. It shall be unlawful for any licensed psychologist or licensed consulting psychologist a licensee to divide fees with, or to pay a commission to, or to pay a referral fee to any other person who calls for consultation or sends clients for psychological services as defined in Laws 1973, chapter 685, provided that unless the licensee receives a payment of a fee for collaborative services performed is not prohibited by this section in proportion to the services provided and the responsibility assumed by each professional and the licensee has disclosed the terms of the division.

Subd. 2. [REQUIREMENTS FOR INDEPENDENT PRACTICE.] After the effective date of this section, no person shall engage in the independent practice of psychology unless that person is licensed as a licensed psychologist.

Subd. 3. [REQUIREMENTS FOR PSYCHOLOGICAL PRACTITIONERS.] A psychological practitioner shall practice only under supervision that satisfies the requirements of section 11 and while employed by either a licensed psychologist or a health care or social service agency which employs or contracts with a supervising licensed psychologist who shares clinical responsibility for the care provided by the psychological practitioner.

Subd. 4. [WAIVER.] The board may grant a waiver from the supervision requirements of section 11 to a psychological practitioner who presents evidence of:

(1) completion of two full years or their equivalent of supervised post-master's degree employment, meeting the requirements of section 11;

(2) endorsement for specific areas of competency by the licensed psychologist who provided the two years of supervision;

(3) employment by a hospital or by a community mental health center or nonprofit mental health clinic or social service agency providing services as a part of the mental health service plan required by the comprehensive mental health act;

(4) the employer's acceptance of clinical responsibility for the care provided by the psychological practitioner; and

(5) a plan for supervising the work of the psychological practitioner which is satisfactory to the board.

The waiver permitted by this section may be time-limited and shall expire at the termination of the psychological practitioner's employment.

Sec. 13. Minnesota Statutes 1990, section 148.95, is amended to read:

148.95 [SUSPENSION AND REVOCATION.]

The board may suspend or revoke the license of any consulting psychologist or psychologist may be suspended or revoked by the board licensee upon proof of guilt that the licensee has been guilty of unprofessional conduct as defined by the rules established by the board or violation of has violated the code of ethics adopted by the board.

For reasons it deems considers sufficient and upon a an affirmative vote of six of its members, the board may restore a license which that has been revoked, reduce a period of suspension, or withdraw a reprimand.

Sec. 14. Minnesota Statutes 1990, section 148.96, is amended to read:

148.96 [PRESENTATION TO PUBLIC.]

Subdivision 1. [REQUIREMENTS FOR ADVERTISING.] No individual shall present or permit presentation of that individual to the public by any title incorporating the word "psychological," "psychologist," or "psychology" other than those so licensed by Laws 1973, chapter 685; except that: All psychologists and psychological practitioners, when representing themselves to the public through written materials or advertising, must use their academic degree as well as their license status in the advertising or written materials.

Subd. 2. [DISCLOSURE OF EDUCATION.] At the initial meeting, a psychologist shall display or make available to each new client accurate information about the qualifications and competencies of the psychologist, in accordance with regulations of the board.

Subd. 3. [REQUIREMENTS FOR REPRESENTATIONS TO THE PUBLIC.] Individuals shall not present themselves or permit themselves to be presented to the public as psychologists unless they are licensed under sections 148.88 to 148.98, except as provided in paragraphs (a) to (c).

(1) Any (a) Psychologically trained individual individuals who are employed by an educational institutions institution recognized by a regional accrediting organization, by a federal, state, county, or local governmental institutions government institution, agencies, or re-

search facilities, or agencies providing services on a contracting basis may be ~~represented~~ represent themselves by the academic or research title designated by that organization;

(2) ~~Any~~ (b) A psychologically trained individual from such recognized institutions, as given an institution described in clause (1) paragraph (a), may offer lecture services and be exempt from the provisions of this section; and.

(3) ~~Persons~~ (c) A person preparing for the profession of psychologist under qualified supervision in recognized training institutions or facilities may be designated by such titles as a "psychological intern," "psychological trainee," or others by other terms clearly indicating such describing the person's training status.

(d) ~~Nothing in this section shall be construed to prohibit the practice of school psychology by a person licensed in accordance with chapter 125.~~

Sec. 15. Minnesota Statutes 1990, section 148.98, is amended to read:

148.98 [CODE OF ETHICS.]

The board shall adopt a code of ethics to govern appropriate practices or behavior, as referred to in section 148.89. The board shall publish the code in the State Register and file such the code with the secretary of state at least 30 days prior to the effective date of such the code. ~~This~~ The code of ethics shall include, but is not be limited to, the following principles: in paragraphs (a) to (c).

(4) (a) The psychologist ~~recognizes personal~~ shall recognize the boundaries of the psychologist's competence and the limitation of the psychologist's techniques and ~~does shall~~ not offer services or use techniques that fail to meet usual and customary professional standards established in particular fields.

(2) (b) The psychologist who engages in practice ~~assists the client~~ shall assist clients in obtaining professional help for all important aspects of ~~the client's problem~~ their problems that fall outside the boundaries of the psychologist's competence.

(3) (c) A psychologist ~~does shall~~ not claim either directly or by implication professional qualifications that differ from the psychologist's actual qualifications, nor ~~does shall~~ the psychologist misrepresent the psychologist's affiliation with any institution, organization, or individual, nor lead others to assume the psychologist ~~has false affiliations~~ an affiliation that does not exist.

Sec. 16. Minnesota Statutes 1990, section 253B.02, subdivision 7, is amended to read:

Subd. 7. [EXAMINER.] “Examiner” means a person who is knowledgeable, trained, and practicing in the diagnosis and treatment of the alleged impairment and who is:

(1) a licensed physician; or

(2) a licensed consulting psychologist, ~~knowledgeable, trained and practicing in the diagnosis and treatment of the alleged impairment~~ who has a doctoral degree in psychology or who became licensed as a licensed psychologist before July 2, 1975.

Sec. 17. [INSTRUCTION TO REVISOR.]

In the next edition of Minnesota Statutes and Minnesota Rules, the revisor of statutes shall: (1) substitute the term “psychological practitioner” for the term “licensed psychologist” wherever the latter term appears and (2) substitute the term “licensed psychologist” for the term “licensed consulting psychologist” wherever the latter term appears. This instruction does not apply to the language in this act.

Sec. 18. [REPEALER.]

Minnesota Statutes 1990, sections 148.92 and 148.97, subdivision 4, are repealed.”

Delete the title and insert:

“A bill for an act relating to health; clarifying requirements for licensing psychologists and psychological practitioners; describing duties of the board of psychology; establishing requirements for the independent practice of psychology; amending Minnesota Statutes 1990, sections 62A.152, subdivisions 2 and 3; 148.88; 148.89; 148.90; 148.91; 148.93; 148.95; 148.96; 148.98; and 253B.02, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 148; repealing Minnesota Statutes 1990, sections 148.92; and 148.97, subdivision 4.”

With the recommendation that when so amended the bill pass.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 317, A bill for an act relating to marriage dissolution; clarifying procedure for modification of certain custody orders; providing for additional child support payments; providing an alternative form of satisfaction of child support obligation; imposing a fiduciary duty and providing for compensation in cases of breach of that duty; clarifying certain mediation procedures; providing for attorneys' fees in certain cases; clarifying language concerning certain motions; imposing penalties; amending Minnesota Statutes 1990, sections 518.18; 518.551, subdivision 5; 518.57, by adding a subdivision; 518.58, subdivision 1, and by adding a subdivision; 518.619, subdivision 6; and 518.64, subdivision 2.

Reported the same back with the following amendments:

Page 1, after line 16, insert:

"Section 1. [518.122] [DISCLOSURE OF ASSETS AND LIABILITIES.]

Subdivision 1. [FILING.] When serving the respondent with copies of the summons and petition, the petitioner shall include an assets and liabilities disclosure form, completed to the best of the petitioner's knowledge, and a blank form to be completed by the respondent. The petitioner need not include a completed disclosure form if service is by publication. If a petition requests an expedited hearing for any reason, including allegations of domestic abuse, the petitioner need not submit a completed disclosure form but may instead submit a form within 30 days after serving the petition. When serving the petitioner with an answer, the respondent shall include an assets and liabilities disclosure form, completed to the best of the respondent's knowledge. The respondent shall return a completed disclosure form to the petitioner within the time required for serving an answer, even if the respondent does not serve an answer. The court shall award attorney fees for a motion to compel compliance with this subdivision. Notwithstanding any contrary provision in the rules of civil procedure, return of the completed disclosure form does not constitute making an appearance in the case. The disclosure shall be in the form of an affidavit and may be obtained from the court administrator. The assets and liabilities disclosed by each party shall be those in existence at the time of service of the petition. The completion of a disclosure form pursuant to this section does not preclude further discovery by either party.

Subd. 2. [SANCTIONS.] If a party intentionally fails to serve a disclosure form on the other party, knowingly makes misrepresentations in a disclosure form, or knowingly omits information from a disclosure form, the court shall award attorney fees for a motion to compel compliance for any delay or inconvenience. If, after the entry

of an order for support or maintenance, or denying support or maintenance, a party learns that the other party made a misrepresentation or omission in that party's disclosure form, whether knowingly or by mistake, inadvertence, or excusable neglect, which had a material effect on the marital property, nonmarital property, or liabilities considered by the court it is grounds for modifying an order for maintenance or child support.

Subd. 3. [PREPARATION OF A FORM.] The form required to be filed pursuant to subdivision 1 shall be developed by the supreme court. The form shall provide for a party to a marriage dissolution to disclose all income as defined in section 518.54, subdivision 6, and list all assets, including both marital property and nonmarital property as defined in section 518.54, subdivision 5. In the case of nonmarital property, a party shall list both property owned solely by that party and property in which the party has any form of joint ownership with another person. The form shall also provide for a party to disclose all financial liabilities, whether they are the sole liability of that party, liabilities jointly incurred with the other party, or liabilities jointly incurred with any other person. The form shall also provide for a party to list all basic living expenses. The form shall include authorization by a party for any pension fund in which the party participates to release information about the party's benefits to the other party. The supreme court may determine the design of the disclosure form, including the desirability of preparing a basic form with supplemental schedules for particular kinds of assets and liabilities.

Sec. 2. [518.146] [SEALING RECORDS.]

For good cause shown, on application of either party, the records of a marriage dissolution, or legal separation, or annulment, except for the portion of the decree granting the dissolution, legal separation, or annulment may be sealed."

Page 2, line 11, strike "custodian" and insert "parties"

Page 2, line 14, strike "custodian" and insert "custody arrangement"

Page 2, line 15, strike "the custodian agrees" and insert "both parties agree"

Page 2, line 17, strike "custodian" and insert "other party"

Page 2, delete lines 25 to 27 and insert:

"(e) In deciding whether to modify a prior joint custody order, the court shall apply the standards set forth in paragraph (d) unless: (1) the parties agree in writing to the application of a different

standard, or (2) the party seeking the modification is asking the court for permission to move the residence of the child to another state."

Page 3, line 10, after "may" insert "also"

Page 3, line 11, delete "additional"

Page 3, line 13, delete "above base pay" and insert ", in addition to, or if the obligor receives no base pay, in lieu of, an order for a specific dollar amount"

Page 7, line 4, before the period insert "and child support payments were not assigned to the public agency under section 256.74"

Page 8, line 9, delete everything after "ASSETS.]"

Page 8, delete lines 10 to 25 and insert "During the pendency of a marriage dissolution, separation, or annulment proceeding, or in contemplation of commencing a marriage dissolution, separation, or annulment proceeding, each party owes a fiduciary duty to the other for any profit or loss derived by the party, without the consent of the other, from a transaction or from any use by the party of the marital assets. If the court finds that a party to a marriage, without consent of the other party, has in contemplation of commencing, or during the pendency of, the current dissolution, separation, or annulment proceeding, transferred, encumbered, concealed, or disposed of marital assets except in the usual course of business or for the necessities of life, the court shall compensate the other party by placing both parties in the same position that they would have been in had the transfer, encumbrance, concealment, or disposal not occurred. The burden of proof under this subdivision is on the party claiming that the other party transferred, encumbered, concealed, or disposed of marital assets in contemplation of commencing or during the pendency of the current dissolution, separation, or annulment proceeding, without consent of the claiming party, and that the transfer, encumbrance, concealment, or disposal was not in the usual course of business or for the necessities of life. In compensating a party under this section, the court, in dividing the marital property, may impute the entire value of an asset to the party who transferred, encumbered, concealed, or disposed of it. The absence of a restraining order against the transfer, encumbrance, concealment, or disposal of marital property is not available as a defense under this subdivision."

Page 8, lines 33 to 36, delete the new language

Page 9, line 1, after "evaluation" insert "unless: (1) the parties agree in writing, executed after the termination of mediation, that the mediator may conduct the investigation or evaluation, or (2)

there is no other person reasonably available to conduct the investigation or evaluation"

Page 9, line 20, delete "shall" and insert "may"

Page 10, after line 34, insert:

"Sec. 10. Minnesota Statutes 1990, section 518.641, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] An order for maintenance or child support shall provide for a biennial adjustment in the amount to be paid based on a change in the cost of living. An order that provides for a cost-of-living adjustment shall specify the cost-of-living index to be applied and the date on which the cost-of-living adjustment shall become effective. The court may use the consumer price index for all urban consumers, Minneapolis-St. Paul (CPI-U), the consumer price index for wage earners and clerical, Minneapolis-St. Paul (CPI-W), or another cost-of-living index published by the department of labor which it specifically finds is more appropriate. ~~The court may specify that the housing component be excluded from the cost-of-living adjustment.~~ Cost-of-living increases under this section shall be compounded. The court may also increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings. The adjustment becomes effective on the first of May of the year in which it is made, for cases in which payment is made to the public authority. For cases in which payment is not made to the public authority, application for an adjustment may be made in any month but no application for an adjustment may be made sooner than two years after the date of the dissolution decree. A court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for cost-of-living adjustment or that the order for maintenance or child support has a provision such as a step increase that has the effect of a cost-of-living clause. The court may waive a cost-of-living adjustment in a maintenance order if the parties so agree in writing. The commissioner of human services may promulgate rules for child support adjustments under this section in accordance with the rulemaking provisions of chapter 14.

Sec. 11. Minnesota Statutes 1990, section 518.641, subdivision 2, is amended to read:

Subd. 2. [CONDITIONS.] No adjustment under this section may be made unless the order provides for it and until the following conditions are met:

(a) the obligee or public authority serves notice of its application for adjustment by mail on the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment;

(b) the notice to the obligor ~~shall inform~~ informs the obligor ~~that~~ on of the date on which the adjustment in payments shall become effective on the first of May; and

(c) after receipt of notice and before the effective day of the adjustment, the obligor fails to request a hearing on the issue of whether the adjustment should take effect, and ex parte, to stay imposition of the adjustment pending outcome of the hearing."

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 321, A bill for an act relating to marriage dissolution; requiring a summons to contain certain information; providing for court approval of certain items without a hearing; changing requirements for certain court orders; limiting joint custody; creating a summary dissolution pilot project; appropriating money for legal service to low-income persons and for marriage dissolution education and orientation; amending Minnesota Statutes 1990, sections 518.13, by adding a subdivision; 518.167, subdivision 1; and 518.17, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 518.

Reported the same back with the following amendments:

Page 1, delete lines 16 to 29 and insert:

"(a) Every summons must include the notice in this paragraph.

"NOTICE OF TEMPORARY RESTRAINING PROVISIONS

Under Minnesota law, service of this summons makes the following requirements apply to both parties to this action, unless they are modified by the court or the proceeding is dismissed:

(1) neither party may dispose of any assets except (i) for the necessities of life or for the necessary generation of income or preservation of assets, (ii) by an agreement in writing, or (iii) for retaining counsel to carry on or to contest this proceeding;

(2) neither party may harass the other party; and

(3) all currently available insurance coverage must be maintained and continued without change in coverage or beneficiary designation.

If you violate any of these provisions, you will be subject to sanctions by the court."

(b) Upon service of the summons, the restraining provisions contained in the notice apply by operation of law upon both parties until modified by further order of the court or dismissal of the proceeding."

Page 2, line 8, after "stipulation" insert "which includes a listing of all marital assets and debts, and their apportionment between the parties"

Page 2, line 12, after "stipulation" insert "which includes a listing of all marital assets and debts, and their apportionment between the parties"

Page 2, after line 32, insert:

"Sec. 4. Minnesota Statutes 1990, section 518.167, is amended by adding a subdivision to read:

Subd. 5. [COSTS.] The court shall order all or part of the cost of the investigation and report to be paid by either or both parties, based on their ability to pay. Any part of the cost that the court finds the parties are incapable of paying must be borne by the county welfare agency or department of court services that performs the investigation. The court may not order costs under this subdivision to be paid by a party receiving public assistance or legal assistance from a qualified legal services program or by a party whose annual income falls below the poverty line under United States Code, title 42, section 9902(2)."

Page 3, line 13, before "The" insert "Upon request of either or both parties," and strike "upon"

Page 3, line 14, strike "request of either or both parties,"

Page 3, after line 18, insert:

“Notwithstanding section 518.13, subdivision 5, before awarding joint physical custody, the court shall question the parties to determine that the parents have demonstrated that they can be flexible and cooperative so that joint physical custody will inure to the best interests of the child.”

Page 3, delete lines 24 to 26

Page 4, line 28, delete “the” and insert “any”

Page 4, line 29, after “available” insert “from the court”

Page 4, line 30, delete the first “the” and insert “any such”

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 5, delete “certain” and after “orders” insert “in contested custody cases and providing for payment of investigation costs”

Page 1, line 11, before the first semicolon, insert “, and by adding a subdivision”

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 333, A bill for an act relating to health; mental health; assigning additional duties to the commissioner of human services in the area of mental health; requiring the commissioner to adopt and revise rules relating to case management services; modifying the requirement for county maintenance of effort; including community residential treatment as a service covered by medical assistance; appropriating money; amending Minnesota Statutes 1990, sections 245.461, subdivision 3, and by adding a subdivision; 245.4711, by adding a subdivision; 245.48; 245.487, by adding a subdivision; 245.4881, by adding a subdivision; and 256B.0625, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 245.461, subdivision 3, is amended to read:

Subd. 3. [REPORT.] By February 15, 1988, and annually after that until February 15, ~~1990~~ 1994, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.461 to 245.486 and on additional resources needed to further implement those sections.

Sec. 2. Minnesota Statutes 1990, section 245.461, is amended by adding a subdivision to read:

Subd. 5. [FUNDING FROM THE FEDERAL GOVERNMENT AND OTHER SOURCES.] The commissioner shall seek and apply for federal and other nonstate, nonlocal government funding for the mental health services specified in sections 245.461 to 245.486, in order to maximize nonstate, nonlocal dollars for these services.

Sec. 3. Minnesota Statutes 1990, section 245.462, subdivision 6, is amended to read:

Subd. 6. [COMMUNITY SUPPORT SERVICES PROGRAM.] "Community support services program" means services, other than inpatient or residential treatment services, provided or coordinated by an identified program and staff under the clinical supervision of a mental health professional designed to help adults with serious and persistent mental illness to function and remain in the community. A community support services program includes:

- (1) client outreach,
- (2) medication monitoring,
- (3) assistance in independent living skills,
- (4) development of employability and work-related opportunities,
- (5) crisis assistance,
- (6) psychosocial rehabilitation,
- (7) help in applying for government benefits, and
- (8) ~~the development, identification, and monitoring of living arrangements~~ housing support services.

The community support services program must be coordinated with the case management services specified in section 245.4711.

Sec. 4. Minnesota Statutes 1990, section 245.462, subdivision 18, is amended to read:

Subd. 18. [MENTAL HEALTH PROFESSIONAL.] "Mental health professional" means a person providing clinical services in the treatment of mental illness who is qualified in at least one of the following ways:

(1) in psychiatric nursing: a registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in adult psychiatric and mental health nursing by the American nurses association or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work: a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(3) in psychology: a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental illness;

(4) in psychiatry: a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

(5) in allied fields: a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.

Sec. 5. Minnesota Statutes 1990, section 245.4711, is amended by adding a subdivision to read:

Subd. 9. [REVISION OF RULES.] The commissioner, by July 1, 1992, shall revise existing rules governing case management services, in order to:

(1) make improvements in rule flexibility;

(2) establish a comprehensive coordination of services;

(3) increase the rate of reimbursement for case management services;

(4) require case managers to arrange for standardized assessments of side effects related to the administration of psychotropic medication;

(5) establish a reasonable caseload limit for case managers;

(6) provide reimbursement for transportation costs for case managers; and

(7) review the eligibility criteria for case management services covered by medical assistance.

Sec. 6. Minnesota Statutes 1990, section 245.472, is amended by adding a subdivision to read:

Subd. 4. [ADMISSION, CONTINUED STAY, AND DISCHARGE CRITERIA.] No later than January 1, 1992, the county board shall ensure that placement decisions for residential services are based on the clinical needs of the adult. The county board shall ensure that each entity under contract with the county to provide residential treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts shall specify specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. A requirement that clients be advised of appeal rights under section 245.477 shall be included in all contracts for provision of residential services.

Sec. 7. Minnesota Statutes 1990, section 245.473, is amended by adding a subdivision to read:

Subd. 3. [ADMISSION, CONTINUED STAY, AND DISCHARGE CRITERIA.] No later than January 1, 1992, the county board shall ensure that placement decisions for acute care inpatient services are based on the clinical needs of the adult. The county board shall ensure that each entity under contract with the county to provide acute care hospital treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts shall specify specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. A requirement that clients be advised of appeal rights under section 245.477 shall be included in all contracts for provision of acute care hospital inpatient services.

Sec. 8. Minnesota Statutes 1990, section 245.473, is amended by adding a subdivision to read:

Subd. 4. [INDIVIDUAL PLACEMENT AGREEMENT.] Except for services reimbursed under chapters 256B and 256D, the county board shall enter into an individual placement agreement with a provider of acute care hospital inpatient treatment services to an adult eligible for services under this section. The agreement must specify the payment rate and the terms and conditions of county payment for the placement.

Sec. 9. Minnesota Statutes 1990, section 245.484, is amended to read:

245.484 [RULES.]

The commissioner shall adopt emergency rules to govern implementation of case management services for eligible children in section 245.4881 and professional home-based family treatment services for medical assistance eligible children, in section 245.4884, subdivision 3, by January 1, 1992, and must adopt permanent rules by January 1, 1993.

The commissioner shall adopt permanent rules as necessary to carry out sections 245.461 to 245.486 and Laws 1989, chapter 282, article 4, sections 1 to 53 245.487 to 245.4887. The commissioner shall reassign agency staff as necessary to meet this deadline.

Sec. 10. Minnesota Statutes 1990, section 245.487, subdivision 4, is amended to read:

Subd. 4. [IMPLEMENTATION.] (a) The commissioner shall begin implementing sections 245.487 to 245.4887 by February 15, 1990, and shall fully implement sections 245.487 to 245.4887 by January 1, 1992 1993.

(b) Annually until February 15, 1992 1994, the commissioner shall report to the legislature on all steps taken and recommendations for full implementation of sections 245.487 to 245.4887 and on additional resources needed to further implement those sections. The report shall include information on county and state progress in identifying the needs of cultural and racial minorities and in using special mental health consultants to meet these needs.

Sec. 11. Minnesota Statutes 1990, section 245.487, is amended by adding a subdivision to read:

Subd. 6. [FUNDING FROM THE FEDERAL GOVERNMENT AND OTHER SOURCES.] The commissioner shall seek and apply for federal and other nonstate, nonlocal government funding for

mental health services specified in sections 245.487 to 245.4887, in order to maximize nonstate, nonlocal dollars for these services.

Sec. 12. Minnesota Statutes 1990, section 245.4871, subdivision 27, is amended to read:

Subd. 27. [MENTAL HEALTH PROFESSIONAL.] "Mental health professional" means a person providing clinical services in the diagnosis and treatment of children's emotional disorders. A mental health professional must have training and experience in working with children consistent with the age group to which the mental health professional is assigned. A mental health professional must be qualified in at least one of the following ways:

(1) in psychiatric nursing, the mental health professional must be a registered nurse who is licensed under sections 148.171 to 148.285 and who is certified as a clinical specialist in child and adolescent psychiatric or mental health nursing by the American nurses association or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;

(2) in clinical social work, the mental health professional must be a person licensed as an independent clinical social worker under section 148B.21, subdivision 6, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental disorders;

(3) in psychology, the mental health professional must be a psychologist licensed under sections 148.88 to 148.98 who has stated to the board of psychology competencies in the diagnosis and treatment of mental disorders;

(4) in psychiatry, the mental health professional must be a physician licensed under chapter 147 and certified by the American board of psychiatry and neurology or eligible for board certification in psychiatry; or

(5) in allied fields, the mental health professional must be a person with a master's degree from an accredited college or university in one of the behavioral sciences or related fields, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of emotional disturbances.

Sec. 13. Minnesota Statutes 1990, section 245.4871, subdivision 31, is amended to read:

Subd. 31. [PROFESSIONAL HOME-BASED FAMILY TREATMENT.] "Professional home-based family treatment" means intensive mental health services provided to children because of a severe emotional disturbance (1) who are at risk of out-of-home placement; (2) who are in out-of-home placement; or (3) who are returning from out-of-home placement because of an emotional disturbance. Services are provided to the child and the child's family primarily in the child's home environment or other location. Services may also be provided in the child's school, child care setting, or other community setting appropriate to the child. Examples of appropriate locations include, but are not limited to, the child's school, day care center, home, and any other living arrangement of the child. Services must be provided on an individual family basis, must be child-oriented and family-oriented, and must be designed using information from diagnostic and functional assessments to meet the specific mental health needs of the child and the child's family. Examples of services include family and are: (1) individual therapy and; (2) family therapy; (3) client outreach; (4) assistance in developing individual living skills training and; (5) assistance in developing parenting skills necessary to address the needs of the child; (6) assistance with leisure and recreational services; (7) crisis assistance, including crisis respite care and arranging for crisis placement; and (8) assistance in locating respite and child care. Services must be coordinated with other service providers services provided to the child and family.

Sec. 14. Minnesota Statutes 1990, section 245.4871, is amended by adding a subdivision to read:

Subd. 33a. [SPECIAL MENTAL HEALTH CONSULTANT.] "Special mental health consultant" is a mental health practitioner or professional with special expertise in treating children from a particular cultural or racial minority group.

Sec. 15. Minnesota Statutes 1990, section 245.4873, subdivision 6, is amended to read:

Subd. 6. [PRIORITIES.] By January 1, 1992, the commissioner shall require that each of the treatment services and management activities described in sections 245.487 to 245.4887 be developed for children with emotional disturbances within available resources based on the following ranked priorities. The commissioner shall reassign agency staff and use consultants as necessary to meet this deadline:

(1) the provision of locally available mental health emergency services;

(2) the provision of locally available mental health services to all children with severe emotional disturbance;

(3) the provision of early identification and intervention services to children who are at risk of needing or who need mental health services;

(4) the provision of specialized mental health services regionally available to meet the special needs of all children with severe emotional disturbance, and all children with emotional disturbances;

(5) the provision of locally available services to children with emotional disturbances; and

(6) the provision of education and preventive mental health services.

Sec. 16. Minnesota Statutes 1990, section 245.4874, is amended to read:

245.4874 [DUTIES OF COUNTY BOARD.]

The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local children's mental health service proposal required under section 245.4887, and approved by the commissioner. The county board must:

(1) develop a system of affordable and locally available children's mental health services according to sections 245.487 to 245.4887;

(2) assure that parents and providers in the county receive information about how to gain access to services provided according to sections 245.487 to 245.4887;

(3) coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services to children and the cost effectiveness of their delivery;

(4) assure that mental health services delivered according to sections 245.487 to 245.4887 are delivered expeditiously and are appropriate to the child's diagnostic assessment and individual treatment plan;

(5) provide the community with information about predictors and symptoms of emotional disturbances and how to access children's mental health services according to sections 245.4877 and 245.4878;

(6) provide for case management services to each child with severe

emotional disturbance according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions 1, 3, and 5;

(7) provide for screening of each child under section 245.4885 upon admission to a residential treatment facility, acute care hospital inpatient treatment, or informal admission to a regional treatment center;

(8) prudently administer grants and purchase-of-service contracts that the county board determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4887;

(9) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract to the county to provide mental health services are qualified under section 245.4871; ~~and~~

(10) assure that children's mental health services are coordinated with adult mental health services specified in sections 245.461 to 245.486 so that a continuum of mental health services is available to serve persons with mental illness, regardless of the person's age; and

(11) assure that special mental health consultants are used as necessary to assist the county board in assessing and providing appropriate treatment for children of cultural or racial minority heritage.

Sec. 17. Minnesota Statutes 1990, section 245.4881, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF CASE MANAGEMENT SERVICES.] (a) By July 1, 1991, the county board shall provide case management services for each child with severe emotional disturbance who is a resident of the county and the child's family who request or consent to the services. Staffing ratios must be sufficient to serve the needs of the clients. The case manager must meet the requirements in section 245.4871, subdivision 4.

(b) Except as permitted by law and the commissioner under demonstration projects, case management services provided to children with severe emotional disturbance eligible for medical assistance must be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.

Sec. 18. Minnesota Statutes 1990, section 245.4882, is amended by adding a subdivision to read:

Subd. 4. [ADMISSION, CONTINUED STAY, AND DISCHARGE CRITERIA.] No later than January 1, 1992, the county board shall ensure that placement decisions for residential treatment services

are based on the clinical needs of the child. The county board shall ensure that each entity under contract to provide residential treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts shall specify specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. The county board shall ensure that, at least ten days prior to discharge, the operator of the residential treatment facility shall provide written notification of the discharge to the child's parent or caretaker, the local education agency in which the child is enrolled and the receiving education agency to which the child will be transferred upon discharge. When the child has an individual education plan, the notice shall include a copy of the individual education plan. A requirement that clients be advised of appeal rights under section 245.4886 shall be included in all contracts for the provision of residential services.

Sec. 19. Minnesota Statutes 1990, section 245.4882, is amended by adding a subdivision to read:

Subd. 5. [ADMISSION, CONTINUED STAY, AND DISCHARGE CRITERIA.] No later than January 1, 1992, the county board shall ensure that placement decisions for acute care hospital inpatient treatment services are based on the clinical needs of the child and, if appropriate, the child's family. The county board shall ensure that each entity under contract with the county to provide acute care hospital treatment services has admission, continued stay, discharge criteria and discharge planning criteria as part of the contract. Contracts should specify the specific responsibilities between the county and service providers to ensure comprehensive planning and continuity of care between needed services according to data privacy requirements. A requirement that clients be advised of appeal rights under section 245.4886 shall be included in contracts for provision of acute care hospital inpatient treatment services.

Sec. 20. Minnesota Statutes 1990, section 245.4884, subdivision 1, is amended to read:

Subdivision 1. [AVAILABILITY OF FAMILY COMMUNITY SUPPORT SERVICES.] By July 1, 1991, county boards must provide or contract for sufficient family community support services within the county to meet the needs of each child with severe emotional disturbance who resides in the county and the child's family. Children or their parents may be required to pay a fee in accordance with section 245.481.

Family community support services must be designed to improve the ability of children with severe emotional disturbance to:

- (1) ~~handle~~ manage basic activities of daily living;
- (2) ~~improve functioning~~ function appropriately in home, school, and community settings;
- (3) participate in leisure time or community youth activities;
- (4) set goals and plans;
- (5) reside with the family in the community;
- (6) participate in after-school and summer activities;
- (7) make a smooth transition among mental health and education services provided to children; and
- (8) make a smooth transition into the adult mental health system as appropriate.

In addition, family community support services must be designed to improve overall family functioning if clinically appropriate to the child's needs, and to reduce the need for and use of placements more intensive, costly, or restrictive both in the number of admissions and lengths of stay than indicated by the child's diagnostic assessment.

Sec. 21. Minnesota Statutes 1990, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. [SCREENING REQUIRED.] The county board shall, ~~upon prior to admission, except in the case of emergency admission, screen all children admitted referred for treatment of severe emotional disturbance to a residential treatment facility, an acute care hospital, or informally admitted to a regional treatment center if public funds are used to pay for the services. The county board shall also screen all children admitted to an acute care hospital for treatment of severe emotional disturbance if public funds other than reimbursement under chapters 256B and 256D are used to pay for the services. If a child is admitted to a residential treatment facility or acute care hospital for emergency treatment of emotional disturbance or held for emergency care by a regional treatment center under section 253B.05, subdivision 1, screening must occur within five three working days of admission. Screening shall determine whether the proposed treatment:~~

- (1) is necessary;
- (2) is appropriate to the child's individual treatment needs;
- (3) cannot be effectively provided in the child's home; and

(4) provides a length of stay as short as possible consistent with the individual child's need.

Screening shall include both a diagnostic assessment and a functional assessment which evaluates family, school, and community living situations. If a diagnostic assessment or functional assessment has been completed by a mental health professional within 180 days, a new diagnostic or functional assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the screening process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether or not these services are available and accessible to the child and family.

During the screening process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family community support plan is being developed by the case manager, if assigned.

Screening shall be in compliance with section 256F.07 or 257.071, whichever applies. Wherever possible, the parent shall be consulted in the screening process, unless clinically inappropriate.

The screening process, and placement decision, and recommendations for mental health services must be documented in the child's record.

An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards in clauses (1) to ~~(5)~~ (4).

Sec. 22. Minnesota Statutes 1990, section 245.4885, subdivision 2, is amended to read:

Subd. 2. [QUALIFICATIONS.] No later than July 1, 1991, screening of children for residential and inpatient services must be conducted by a mental health professional. Where appropriate and available, special mental health consultants must participate in the screening. Mental health professionals providing screening for inpatient and residential services must not be financially affiliated with any acute care inpatient hospital, residential treatment facility, or regional treatment center. The commissioner may waive this requirement for mental health professional participation after July 1, 1991, if the county documents that:

(1) mental health professionals or mental health practitioners are unavailable to provide this service; and

(2) services are provided by a designated person with training in human services who receives clinical supervision from a mental health professional.

Sec. 23. Minnesota Statutes 1990, section 245.4885, is amended by adding a subdivision to read:

Subd. 3a. [SUMMARY DATA COLLECTION.] The county board shall annually collect summary information on the number of children screened, the age and racial or ethnic background of the children, the presenting problem, and the screening recommendations. The county shall include information on the degree to which these recommendations are followed and the reasons for not following recommendations. Summary data shall be available to the public and shall be used by the county board and local children's advisory council to identify needed service development.

Sec. 24. [245.4886] [CHILDREN'S COMMUNITY-BASED MENTAL HEALTH FUND.]

Subdivision 1. [STATEWIDE PROGRAM; ESTABLISHMENT.] The commissioner shall establish a statewide program to assist counties in providing services to children with severe emotional disturbance as defined in section 245.4871, subdivision 15, and their families. Services must be designed to help each child to function and remain with the child's family in the community. The commissioner shall make grants to counties to establish, operate, or contract with private providers to provide the following services in the following order of priority when these cannot be reimbursed under section 256B.0625:

(1) family community support services including crisis placement and crisis respite care as specified in section 245.4871, subdivision 17;

(2) case management services as specified in section 245.4871, subdivision 3;

(3) day treatment services as specified in section 245.4871, subdivision 10;

(4) professional home-based family treatment as specified in section 245.4871, subdivision 31; and

(5) therapeutic support of foster care as specified in section 245.4871, subdivision 34.

Funding appropriated beginning July 1, 1991, must be used by county boards to provide family community support services and case management services. Additional services shall be provided in the order of priority as identified in this subdivision.

Subd. 2. [GRANT APPLICATION AND REPORTING REQUIREMENTS.] To apply for a grant a county board shall submit an application and budget for the use of the money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets are approved by the commissioner. In awarding grants, the commissioner shall give priority to those counties whose applications indicate plans to collaborate in the development, funding, and delivery of services with other agencies in the local system of care. The commissioner shall adopt emergency and permanent rules to govern grant applications, approval of applications, allocation of grants, and maintenance of financial statements by grant recipients. The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The commissioner shall require collection of data and periodic reports which the commissioner deems necessary to demonstrate the effectiveness of each service in realizing the stated purpose as specified for family community support in section 245.4884, subdivision 1; therapeutic support of foster care in section 245.4884, subdivision 4; professional home-based family treatment in section 245.4884, subdivision 3; day treatment in section 245.4884, subdivision 2; and case management in section 245.4881.

Sec. 25. Minnesota Statutes 1990, section 253C.01, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] As used in this section, "residential program" means (1) a freestanding primary treatment program or hospital-based primary treatment program that provides residential treatment to chemically dependent or mentally ill minors with emotional disturbance as defined by the comprehensive children's mental health act in sections 245.487 to 245.4888, or (2) a facility licensed by the state under Minnesota Rules, parts 9545.0900 to 9545.1090, to provide services for emotionally disturbed to minors on a 24-hour basis.

Sec. 26. Minnesota Statutes 1990, section 253C.01, subdivision 2, is amended to read:

Subd. 2. [ANNUAL REPORT INFORMATION REQUIRED.] Beginning June 1, 1986, each residential program shall collect the information listed in this subdivision. Each residential program shall file a report no later than December 31, 1986, containing the information collected as of that date. Thereafter, each residential program shall prepare an annual report for the year ending June 30 of each year and file the report no later than December 31 of each

year. ~~Hospital-based primary treatment programs shall file the report with the commissioner of health provide the required information annually on a date to be determined by the commissioner of human services. All other residential programs shall file the report with to the commissioner of human services. The summary reports on each program are public data and must contain at least the following information for the period covered by the report:~~

- (1) number of minors admitted to the program;
- (2) number of minors discharged from the program;
- (3) primary diagnoses of each admitted minor number of minors served during the reporting period;
- (4) number of minors who remained in residence for less than 30 days;
- (5) number of minors who remained in residence for between 30 and 60 days;
- (6) number of minors who remained in residence for more than 60 days;
- (7) average length of stay of minors in the program;
- (8) number of minors who have received psychotropic medications as part of treatment in the program;
- (9) age, race, and sex of each minor admitted to the program;
- (10) ~~copy of written notices, forms, and other procedures being used to advise minors and their parents of their rights;~~
- (11) number of minors admitted ~~or presently in residence~~ who have previously had residential treatment;
- (12) (11) number of minors discharged who are on private pay or third-party reimbursement payment and number who are receiving government funds for treatment;
- (13) ~~criteria for admission and continued stay~~ (12) the county of residence of discharged minors;
- (14) (13) number of admitted minors whose admission is court-ordered; and
- (15) (14) number of beds on a locked unit and number of beds on an unlocked unit.

~~The information required by this subdivision must be separately stated for chemically dependent, mentally ill, and emotionally disturbed minors as defined by the residential programs.~~

Sec. 27. Minnesota Statutes 1990, section 256B.0625, subdivision 20, is amended to read:

Subd. 20. [MENTAL ILLNESS CASE MANAGEMENT.] To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness or subject to federal approval, children with severe emotional disturbance.

Sec. 28. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 2m. [DOWNSIZING OF NURSING FACILITIES THAT ARE INSTITUTIONS FOR MENTAL DISEASE.] (a) The provisions of this subdivision apply to a nursing facility that is an institution for mental disease and that has less than 23 licensed beds. A nursing facility that meets these conditions may reduce its total number of licensed beds to 16 licensed beds before April 1, 1992, by notifying the commissioner of health of the reduction by that date. If the nursing facility elects to reduce its licensed beds to 16, the commissioner of health shall approve that request effective on the date of request.

(b) The commissioner of human services must be notified by the nursing facility of the reduction in licensed beds by April 4, 1992, and that notice must include a copy of the request for reduction submitted to the commissioner of health.

(c) For the rate year beginning July 1, 1992, the commissioner shall establish the operating cost payment rates for a nursing facility that has reduced its licensed bed capacity under this subdivision by taking into account paragraphs (1) and (2).

(1) The commissioner must reduce the nursing facility's nurse's aide, orderly, and attendant salaries account and the food expense account for the reporting year ending September 30, 1991, by 50 percent of the percentage change in licensed beds.

(2) The commissioner shall adjust the nursing facility's resident days and standardized resident days for the reporting year ending September 30, 1991, as in clauses (i) and (ii).

(i) Resident days shall be the lesser of the nursing facility's actual resident days for that reporting year or 5,840.

(ii) Standardized resident days shall be the lesser of the nursing

facility's actual standardized resident days or the nursing facility's case mix score for that reporting year times 5,840.

(d) For the rate year beginning July 1, 1993, the commissioner shall establish the operating cost payment rates for a nursing facility that has reduced its licensed bed capacity under this subdivision by taking into account paragraphs (1) and (2).

(1) The commissioner must reduce the nursing facility's account for the nurse's aide, orderly, and attendant salaries, and its account for food expense for the reporting year ending September 30, 1992, by 37.5 percent of the percentage change in licensed beds.

(2) The commissioner shall adjust the nursing facility's resident days and standardized resident days for the reporting year ending September 30, 1992, as in clauses (i) and (ii).

(i) Resident days shall be the lesser of the nursing facility's actual resident days for that reporting year or 5,840.

(ii) Standardized resident days shall be the lesser of the nursing facility's actual standardized resident days or the nursing facility's case mix score for that reporting year times 5,840.

Sec. 29. Minnesota Statutes 1990, section 256B.431, is amended by adding a subdivision to read:

Subd. 2n. [NEGOTIATED RATE CAP EXEMPTION.] A nursing facility which requests, after January 1991, that its boarding care beds be decertified from participation in the medical assistance program, is not eligible for the exception to the negotiated rate cap in section 256I.05, subdivision 2, paragraph (c), clause (1).

Sec. 30. [RULE REVISION.]

The commissioner must revise Minnesota Rules, parts 9545.0900 to 9545.1090, which govern facilities that provide residential services for children with emotional handicaps. The rule revisions must be adopted within 12 months of the effective date of this section.

Sec. 31. [PILOT DEMONSTRATION PROJECT FOR CHILDREN IN CRISIS.]

The commissioner of human services shall establish a pilot demonstration project in Hennepin county to provide needed care for, and offer assistive services to the families of, children experiencing a mental health crisis. The project shall be designed to offer the following services, as needed: residential crisis care, in-home visits by crisis intervention teams, on-call services by a mental health professional, a telephone hotline service. The project shall be

designed to operate for the biennium ending June 30, 1993. By February 15, 1993, the commissioner shall report to the legislature on the implementation of the project and shall make recommendations about the feasibility of continuing and expanding the program statewide.

Sec. 32. [TASK FORCE TO STUDY INTEGRATED CHILDREN'S MENTAL HEALTH FUNDING.]

The commissioner of human services shall convene a task force to study the feasibility of establishing an integrated children's mental health fund. The task force shall consist of mental health professionals, county social services personnel, service providers, advocates, and parents of children who have experienced episodes of emotional disturbance. The task force shall also include representatives of the children's mental health subcommittee of the state advisory council and local coordinating councils established under sections 245.487 to 245.4887. The task force shall include the commissioners of education, health, and human services; two members of the senate; and two members of the house of representatives. The task force shall examine all possible county, state, and federal sources of funds for children's mental health with a view to designing an integrated children's mental health fund. Programs to be examined shall include, but not be limited to, the following: medical assistance, title IV-E of the social security act, title XX social service programs, chemical dependency programs, education and special education programs, and, for children with a dual diagnosis, programs for the developmentally disabled. The task force shall examine funding sources with a view to maximizing federal funding, and may consult with experts in the field, as necessary. The task force shall report back to the legislature by February 15, 1993, with its recommendations.

Sec. 33. [APPROPRIATION.]

\$..... is appropriated from the general fund to the commissioner of human services for the biennium ending June 30, 1993, to implement sections 1, 2, 5, 11, and 31.

Sec. 34. [REPEALER.]

Minnesota Statutes 1990, section 245.476, subdivisions 1, 2, and 3, are repealed.

Sec. 35. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall renumber Minnesota Statutes, section 245.4886 as section 245.4887 and Minnesota Statutes, section 245.4887 as section 245.4888, and shall correct all relevant cross-references in Minnesota Statutes and Minnesota Rules.

Sec. 36. [EFFECTIVE DATE.]

Sections 5 and 9 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to human services; mental health; clarifying reporting and screening requirements; clarifying the definition of psychiatric nurses; clarifying the definition of professional home-based family treatment; modifying the requirement for county maintenance of effort; including community residential treatment as a service covered by medical assistance; expanding county duties; assigning additional duties to the commissioner of human services; imposing criteria for admission, continued stays, and discharges for inpatient hospital and residential treatment; requiring the commissioner to revise and adopt rules; establishing a pilot project for crisis care; requiring a study; appropriating money; amending Minnesota Statutes 1990, sections 245.461, subdivision 3, and by adding a subdivision; 245.462, subdivisions 6 and 18; 245.4711, by adding a subdivision; 245.472, by adding a subdivision; 245.473, by adding subdivisions; 245.484; 245.487, subdivision 4, and by adding a subdivision; 245.4871, subdivisions 27 and 31, and by adding a subdivision; 245.4873, subdivision 6; 245.4874; 245.4881, subdivision 1; 245.4882, by adding subdivisions; 245.4884, subdivision 1; 245.4885, subdivisions 1 and 2, and by adding a subdivision; 253C.01, subdivisions 1 and 2; and 256B.0625, subdivision 20; 256B.431, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 245; repealing Minnesota Statutes 1990, section 245.476, subdivisions 1, 2, and 3."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Osthoff from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 366, A bill for an act relating to companion animals; establishing a low-cost spaying and neutering program; imposing a tax on wholesale sales of dog and cat food; imposing penalties; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 346; proposing coding for new law as Minnesota Statutes, chapter 297E.

Reported the same back with the following amendments:

Page 1, line 9, delete "ARTICLE 1"

Page 2, line 2, before "Only" insert "All dogs and cats are eligible except that, if required by local law to be licensed, then"

Page 2, line 3, delete "as required by local law"

Pages 2 to 9, delete "ARTICLE 2"

Amend the title as follows:

Page 1, line 3, delete everything after the semicolon

Page 1, delete line 4

Page 1, line 5, delete "penalties; appropriating money;"

Page 1, line 6, delete "; proposing" and insert a period

Page 1, delete line 7

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Skoglund from the Committee on Financial Institutions and Insurance to which was referred:

H. F. No. 385, A bill for an act relating to commerce; modifying provisions relating to certain motor vehicle accident prevention courses; appropriating money; amending Minnesota Statutes 1990, sections 65B.28, subdivisions 1, 2, and by adding subdivisions.

Reported the same back with the following amendments:

Page 1, delete section 1

Page 2, line 9, strike "three" and insert "five"

Page 2, line 10, after the period insert "The premium reduction applies for the five-year period beginning with the date that the insurer reduces the premium."

Page 2, line 24, delete everything after the headnote

Page 2, line 25, delete everything before "must" and insert "The commissioner of public safety shall establish fees to be paid by instructors and by providers of accident prevention courses. The fees"

Amend the title as follows:

Page 1, line 5, delete "subdivisions 1," and insert "subdivision"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Osthoff from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 397, A bill for an act relating to elections; authorizing certain experimental mail balloting; appropriating money; amending Minnesota Statutes 1990, section 204B.45, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 204B.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 203B.02, is amended by adding a subdivision to read:

Subd. 1a. [EXPERIMENTAL PROCEDURES.] A county board may authorize any eligible voter in the county to vote by absentee ballot without qualification by submitting a written request to the county auditor between August 1, 1991 and November 30, 1992, notwithstanding the provisions of subdivision 1. The county auditor shall notify the secretary of state immediately after the adoption of such a resolution of authorization by the county board.

The application for absentee ballots must include the voter's name, residence address in the county, address to which the ballots are to be mailed, the date of the request, and the voter's signature.

The county auditor shall maintain a record of the number of applications for absentee ballots submitted under this subdivision. No later than January 15, 1993, the secretary of state shall prepare a report to the legislature on the implementation of this subdivision.

Assistance to voters in marking absentee ballots is subject to section 204C.15, subdivision 1.

Sec. 2. Minnesota Statutes 1990, section 204B.45, is amended by adding a subdivision to read:

Subd. 1a. [EXPERIMENTAL MAIL BALLOTING; AUTHORIZATION.] The secretary of state may authorize Ramsey and Kittson counties to conduct elections entirely by mail on an experimental basis. A request from a county board seeking authorization to conduct an experimental mail election must be submitted to the secretary of state at least 90 days prior to the election. The county auditor must pay all costs related to mailing the ballots to and from the voters.

The secretary of state shall prepare a report to the legislature on the implementation of this subdivision by January 15, 1993.

Sec. 3. [204B.47] [EXPERIMENTAL MAIL ELECTIONS; PRESIDENTIAL PRIMARY.]

Subdivision 1. [AUTHORIZATION; GENERAL PROCEDURES.] The presidential primary authorized by section 207A.01 must be conducted by mail on an experimental basis in 1992. The provisions of sections 204B.45, subdivisions 2 and 3, and 207A.01 to 207A.09 apply to the presidential primary to the extent practicable, except as provided in this section.

Subd. 2. [BALLOT MAILER.] No earlier than 20 days or later than ten days before the presidential primary, the secretary of state shall prepare and send by nonforwardable mail a ballot mailer to each person registered to vote as of 5:00 p.m. on the 21st day prior to the presidential primary. The voter records in the statewide registration system must indicate whether the voter has been sent a ballot mailer. A ballot mailer must not be mailed to any voter who has previously been sent an absentee ballot for the presidential primary. The ballot mailer must include a separate ballot for each major political party, a mailing enclosure, a return envelope, a ballot secrecy envelope, and instructions to the voters on marking the ballot and completing the mail voter's certificate. The return envelope must be preaddressed for delivery to the secretary of state.

The secretary of state may prepare the ballot mailer in a manner which permits the votes on the ballots, the voter's party choice, and information included on the return envelope to be read electronically. The ballots included in the ballot mailer must be prepared in the format provided for the white ballot to the extent practicable. The envelopes included in the ballot mailer must be prepared in the format provided in the rules for mail balloting adopted by the secretary of state to the extent practicable.

Subd. 3. [VOTER VERIFICATION.] The county auditors shall indicate on the statewide registration system the persons who have received absentee ballots prior to the mailing of the presidential primary ballot mailer. After the mailing of the presidential primary ballot mailer, the county auditors shall determine whether a person who applied for an absentee ballot has been sent a ballot mailer. The county auditor shall not send or deliver an absentee ballot to a voter who has been sent a ballot mailer unless the voter requests a replacement ballot in the manner provided in the rules of the secretary of state.

Subd. 4. [COSTS.] The secretary of state shall pay the following costs for the presidential primary: printing the ballot mailers; providing first class postage for the mailing enclosure and the return envelope included in the ballot mailer; use of equipment to process the return envelopes and count the ballots; and acquisition of adequate space and staff needed to process the return envelopes and count the ballots. The county auditor shall pay the costs of preparing absentee and replacement ballots, and for first class postage for absentee ballots. The municipal clerks shall pay the costs of the election judges needed by the county auditor to process return envelopes and count the ballots, and the costs of providing ballot boxes and voting booths to the county auditor.

Subd. 5. [PROCESSING AND COUNTING BALLOTS.] The secretary of state may begin examining the return envelopes, removing voted ballots from the ballot secrecy envelopes, and placing the voted ballots in sealed containers immediately upon receipt of the return envelopes from the voters. The secretary of state may begin counting the voted ballots at any time on the day of the presidential primary. No results may be compiled or released to the public until after 8:00 p.m. on election day. The secretary of state may use equipment designed for optical character recognition on an experimental basis for the purpose of processing and counting the ballots.

The secretary of state shall provide adequate staff to process and count the voted ballots. Any staff employed must receive training in counting ballots similar to that required for election judges. The county auditors shall provide assistance to the secretary of state in the recruitment and training of staff and in the processing and counting of the ballots.

Subd. 6. [DUTIES OF COUNTY AUDITORS.] Each county auditor shall designate at least one place in the county where voters may deposit voted ballots and receive assistance. The county auditors shall also provide replacement ballots, absentee ballots, and ballots for persons who vote in person on election day.

The county auditor shall process and count absentee ballots, replacement ballots, and any ballots cast or returned on election day. The county auditor may begin examining return envelopes,

removing voted ballots from the ballot secrecy envelopes, and placing the voted ballots in sealed containers at any time on election day. The county auditor shall count the ballots immediately after the close of voting and shall report the results in the manner specified by the secretary of state. The municipal clerks shall provide the county auditor with ballot boxes, voting booths, and an adequate number of election judges to process and count the ballots.

Subd. 7. [VOTING ON ELECTION DAY.] Presidential primary ballots may be obtained and cast in person at the locations designated by the county auditor from 7:00 a.m. until 8:00 p.m. on election day. The county auditor shall verify that persons voting on election day have not already submitted a voted ballot.

Subd. 8. [REPORTING RESULTS.] The secretary of state shall prepare a report on the results of the presidential primary for the state canvassing board. The report must include statewide vote totals for each candidate.

Sec. 4. [APPROPRIATION.]

\$..... is appropriated from the general fund to the secretary of state to implement section 3. This appropriation is available until June 30, 1993."

Amend the title as follows:

Page 1, line 4, delete "section" and insert "sections 203B.02, by adding a subdivision; and"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 416, A bill for an act relating to crimes; child abduction; requiring convicted sex offenders to register with local law enforcement agencies; requiring the publication of missing children bulletins; establishing a historic data base of information concerning missing children; requiring training concerning the investigation of missing children cases; providing for the release of medical and dental records of missing children; appropriating money; amending Minnesota Statutes 1990, section 299C.52, subdivisions 1, 3, and 6; proposing coding for new law in Minnesota Statutes, chapters 243 and 299C.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 13.82, is amended by adding a subdivision to read:

Subd. 14a. [DATA ON REGISTERED CRIMINAL OFFENDERS.] Data described in section 3 shall be classified as described in that section.

Sec. 2. Minnesota Statutes 1990, section 13.82, is amended by adding a subdivision to read:

Subd. 14b. [DATA IN MISSING CHILDREN BULLETINS.] Data described in section 7 shall be classified as described in that section.

Sec. 3. [243.166] [REGISTRATION OF SEX OFFENDERS.]

Subdivision 1. [REGISTRATION REQUIRED.] A person shall comply with this section after being released from prison if:

(1) the person was sentenced to imprisonment following a conviction for kidnapping under section 609.25 or criminal sexual conduct under section 609.342, 609.343, or 609.344, and the offense was committed against a victim who was a minor;

(2) the sentencing court made a written finding at the sentencing hearing that registration is necessary because there is a significant risk that the offender may, in the future, commit a crime listed in clause (1). The court's finding must contain the facts on which it is based including, but not limited to, the offender's offense history, the nature and severity of the current offense, and social or psychological information about the offender in the presentence investigation report;

(3) the person is not now required to register under section 243.165; and

(4) ten years have not yet elapsed since the person was released from imprisonment.

Subd. 2. [NOTICE.] When a person who is required to register under this section is released, the commissioner of corrections shall tell the person of the duty to register under section 243.165 and this section. The commissioner shall require the person to read and sign a form stating that the duty of the person to register under this section has been explained. The commissioner shall obtain the address where the person expects to reside upon release and shall report within three days the address to the bureau of criminal

apprehension. The commissioner shall give one copy of the form to the person, and shall send one copy to the bureau of criminal apprehension and one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon release.

Subd. 3. [REGISTRATION PROCEDURE.] (a) The person shall, within 14 days after the end of the term of supervised release, register with the probation officer assigned to the person at the end of that term.

(b) If the person changes residence address, the person shall give the new address to the last assigned probation officer in writing within ten days. The probation officer shall, within three days after receipt of this information, forward it to the bureau of criminal apprehension.

Subd. 4. [CONTENTS OF REGISTRATION.] The registration provided to the probation officer must consist of a statement in writing signed by the person, giving information required by the bureau of criminal apprehension, and a fingerprint card and photograph of the person if these have not already been obtained in connection with the offense that triggers registration. Within three days, the probation officer shall forward the statement, fingerprint card, and photograph to the bureau of criminal apprehension.

Subd. 5. [CRIMINAL PENALTY.] A person required to register under this section who violates any of its provisions is guilty of a misdemeanor.

Subd. 6. [REGISTRATION PERIOD.] (a) A person required to register under this section shall continue to comply with this section until ten years have elapsed since the person was released from imprisonment.

(b) If a person required to register under this section fails to register following a change in address, the commissioner of public safety may require the person to continue to register for an additional period of five years.

Subd. 7. [USE OF INFORMATION.] The information provided under this section is private data on individuals under section 13.01, subdivision 12. The information may be used only for law enforcement purposes.

Sec. 4. Minnesota Statutes 1990, section 299C.52, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in sections 299C.52 and

~~299C.53~~ to section 9, the following terms have the meanings given them:

(a) "Child" means any person under the age of 18 years or any person certified or known to be mentally incompetent;

(b) "CJIS" means Minnesota criminal justice information system;

(c) "Missing" means the status of a child after a law enforcement agency that has received a report of a missing child has conducted a preliminary investigation and determined that the child cannot be located; and

(d) "NCIC" means National Crime Information Center.

Sec. 5. Minnesota Statutes 1990, section 299C.52, subdivision 3, is amended to read:

Subd. 3. [COMPUTER EQUIPMENT AND PROGRAMS.] The commissioner shall provide the necessary computer hardware and computer programs to enter, modify, and cancel information on missing children in the NCIC computer through the CJIS. These programs must provide for search and retrieval of information using the following identifiers: physical description, name and date of birth, name and social security number, name and driver's license number, vehicle license number, and vehicle identification number. The commissioner shall also provide a system for regional, statewide, multistate, and nationwide broadcasts of information on missing children. These broadcasts shall be made by local law enforcement agencies where possible or, in the case of statewide or nationwide broadcasts, by the bureau of criminal apprehension upon request of the local law enforcement agency.

Sec. 6. Minnesota Statutes 1990, section 299C.52, subdivision 6, is amended to read:

Subd. 6. [RULES.] The commissioner may adopt rules in conformance with sections 299C.52 ~~and 299C.53~~ to section 9 to provide for the orderly collection and entry of missing child information and requests for retrieval of missing child information.

Sec. 7. [299C.54] [MISSING CHILDREN BULLETINS.]

Subdivision 1. [MISSING CHILDREN BULLETIN.] The commissioner shall distribute a missing children bulletin on a quarterly basis to local law enforcement agencies, county attorneys, and public and nonpublic schools. The commissioner shall also make this information accessible to other parties involved in efforts to locate missing children and to other persons as the commissioner considers appropriate.

Subd. 2. [PHOTOGRAPHS.] The commissioner shall provide appropriate local law enforcement agencies with a list of missing children, with an appropriate waiver form to assist the agency in obtaining a photograph of each missing child. Local agencies shall obtain the most recent photograph available for missing children and forward those photographs to the commissioner. The commissioner shall include these photographs, as they become available, in the quarterly bulletins.

Subd. 3. [INCLUDED WITH MAILINGS.] State and local elected officials and agencies may enclose in their mailings information regarding missing children obtained from law enforcement agencies or from any organization that is recognized as a nonprofit, tax-exempt organization under state or federal law and has an ongoing missing children program. Elected officials and commissioners of state agencies are urged to develop policies to enclose missing children information in mailings when it will not increase postage costs and is otherwise considered appropriate.

Subd. 4. [DATA CLASSIFICATION.] The information included in the missing children bulletin is public data as defined in section 13.01, subdivision 15, except that photographs of missing children obtained under this section are private data on individuals as defined in section 13.01, subdivision 12.

Sec. 8. [299C.55] [TRAINING.]

The commissioner shall adopt standards for training appropriate personnel concerning the investigation of missing children cases.

Sec. 9. [299C.56] [RELEASE OF MEDICAL DATA.]

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, the following terms have the meanings given.

(b) "Health care facility" means the office of a dentist or physician, or another medical facility, that is in possession of identifying data.

(c) "Identifying data" means dental or skeletal X-rays, or both, and related information, previously created in the course of providing dental or medical care to a child who has now been reported as missing.

Subd. 2. [WRITTEN DECLARATION.] If a child is reported missing, a law enforcement agency may execute a written declaration, stating that an active investigation seeking the location of the missing child is being conducted, and that the identifying data are necessary for the exclusive purpose of furthering the investigation. Notwithstanding chapter 13 or section 144.651, subdivision 16, when a written declaration executed under this subdivision, signed

by a peace officer, is presented to a health care facility, the facility shall provide access to the missing child's identifying data to the law enforcement agency.

Sec. 10. Minnesota Statutes 1990, section 609.3461, is amended to read:

609.3461 [DNA ANALYSIS OF SEX OFFENDERS REQUIRED.]

When a court sentences a person convicted of violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, or when a court sentences a person as a patterned sex offender pursuant to section 609.1352, or the juvenile court adjudicates a person a delinquent child for violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, it shall order the person to provide a biological specimen for the purpose of DNA analysis as defined in section 299C.155. The biological specimen or the results of the analysis shall be maintained by the bureau of criminal apprehension as provided in section 299C.155. If a person convicted of violating or attempting to violate section 609.342, 609.343, 609.344, or 609.345, or sentenced as a patterned sex offender pursuant to section 609.1352, and committed to the custody of the commissioner of corrections for a term of imprisonment has not provided a biological specimen for the purpose of DNA analysis, the commissioner of corrections or local corrections authority shall order the person to provide a biological specimen for the purpose of DNA analysis before completion of the person's term of imprisonment. The commissioner of corrections or local corrections authority shall forward the sample to the bureau of criminal apprehension.

Sec. 11. [APPROPRIATION.]

\$..... is appropriated to the commissioner of public safety, bureau of criminal apprehension, to implement sections 3 to 9, to be available until June 30, 1993.

Sec. 12. [EFFECTIVE DATE.]

Sections 1, 3, and 10 are effective August 1, 1991, and apply to offenders sentenced on or after that date. Sections 2 and 4 to 9 are effective August 1, 1991, and apply to crimes committed, and persons reported missing, on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; child abduction; requiring certain convicted sex and kidnapping offenders to report a current address to probation officer following release from prison; requiring the publication of missing children bulletins; requiring training concerning the investigation of missing children cases; providing

law enforcement officers access to medical and dental records of missing children; extending DNA analysis requirements to persons sentenced as patterned sex offenders; appropriating money; amending Minnesota Statutes 1990, sections 13.82, by adding subdivisions; 299C.52, subdivisions 1, 3, and 6; and 609.3461; proposing coding for new law in Minnesota Statutes, chapters 243 and 299C."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 455, A bill for an act relating to education; merging the community colleges into the state university system; clarifying governing board powers and duties; transferring responsibilities of the chancellor and the state board for community colleges; amending Minnesota Statutes 1990, sections 15A.081, subdivision 7b; 135A.02; 135A.03, subdivisions 1 and 6; 135A.04; 135A.05; 135A.06, subdivision 1; 135A.08; 135A.09; 135A.10, subdivision 1; 136.017, subdivision 1; 136.02; 136.036, subdivisions 2 and 4; 136.045; 136.065; 136.07; 136.10; 136.11; 136.111, subdivisions 2 and 3; 136.141; 136.142; 136.143; 136.144; 136.145; 136.146; 136.147; 136.17; 136.171; 136.18; 136.19; 136.20; 136.21; 136.22; 136.24; 136.25; 136.31, subdivision 1; 136.311; 136.33; 136.35; 136.37; 136.38; 136.40, subdivisions 1, 3, 4, 8, and 9; 136.42; 136.43; 136.44; 136.45; 136.46; 136.47; 136.48; 136.49; 136.503, subdivision 1; 136.506; 136.55; 136.56; 136.58; 136.80; 136.81, subdivisions 1 and 1a; 136.82, subdivisions 1 and 2; 136.87, subdivision 1; 136.88, subdivision 1; 136A.02, subdivision 6; 136A.041; 136A.81, subdivision 1; 136A.86, subdivision 1; 179A.03, subdivision 14; 179A.10, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 136; repealing Minnesota Statutes 1990, sections 136.03; 136.031; 136.09; 136.111, subdivision 5; 136.12; 136.13; 136.14; 136.60; 136.602; 136.603; 136.61; 136.62; 136.621; 136.622; 136.63; 136.65; 136.651; 136.67; 136.70; 136.71; and 136.72.

Reported the same back with the following amendments:

Page 4, after line 3, insert:

"Sec. 7. [135A.052] [POST-SECONDARY MISSIONS.]

The legislature recognizes three distinctive missions within the overall provision of public higher education in the state. These are:

(1) vocational training and education to prepare students for skilled occupations;

(2) undergraduate liberal arts and preprofessional education at the associate and baccalaureate degree level; and

(3) postgraduate education at the masters and doctorate level and related research.

Programs and courses at the technical college system shall be concentrated on the first mission, those at the state university and community college system shall be concentrated on the second mission, and those of the University of Minnesota shall be concentrated on the third mission."

Page 7, after line 35, insert:

"Subd. 2. [DESIGNATION; ADMINISTRATION.] State universities and community colleges in existence on July 1, 1992, shall continue to be designated as either state universities or community colleges in the same manner they were prior to July 1, 1992. The state university and community college board shall adopt a mission statement that incorporates the role of both the state universities and the community colleges. Each university and community college shall have a president or campus provost. All presidents and provosts shall have equal access to the chancellor and board."

Renumber the remaining subdivisions in sequence

Page 50, line 10, delete everything after the comma and insert "in accordance with Minnesota Statutes, chapter 179A. Employees will continue to be assigned to collective bargaining units as provided in Minnesota Statutes, section 179A.10, in the same manner they were prior to the date of transfer. The exclusive representatives of the bargaining units shall remain the same unless changed in accordance with the procedures of Minnesota Statutes, chapter 179A."

Page 50, line 14, after the period insert "The report shall include the board's plans for reducing administrative structures, eliminating unnecessary program duplication and improving the efficient delivery of services within the regions served by each state university."

Page 50, after line 14, insert:

"Sec. 80. [ADMINISTRATIVE COSTS.]

The commissioner of finance shall identify the fiscal year 1991 administrative expenditures of the state university board and the community college board. The commissioner of finance shall sepa-

rate the central office administrative expenditures from the campus administrative expenditures. The commissioner shall develop definitions of central office administrative expenditures and campus level administrative expenditures, including expenditures for contracted services of an administrative nature. The commissioner shall report findings and recommendations to the appropriations and finance committees by January 15, 1992.

For fiscal year 1993 the state university and community college board shall reduce expenditures for central office administration by an amount determined by the legislature and shall reallocate those funds to the campuses for library acquisitions and instructional equipment.

As part of the biennial budget request, the state university and community college board shall report on the number of classified and unclassified administrative positions added, eliminated or consolidated. The report shall also identify changes in administrative compensation levels, beyond normal cost of living. The board shall include expenditures for contracted administrative services."

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 26, delete "chapter" and insert "chapters 135A and"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 463, A bill for an act relating to motor vehicles; providing for seven-year, in transit license plates for motor vehicle dealers; amending Minnesota Statutes 1990, sections 168.12, subdivision 1; 168.27, subdivisions 16 and 17; and 297B.035, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1990, section 168.10, subdivision 1a, is amended to read:

Subd. 1a. [COLLECTOR'S VEHICLES, PIONEER LICENSE.] Any motor vehicle manufactured prior to 1936 and owned and operated solely as a collector's item shall be listed for taxation and registration as follows: An affidavit shall be executed stating the name and address of the owner, the name and address of the person from whom purchased, the make of the motor vehicle, year and number of the model, the manufacturer's identification number and that the vehicle is owned and operated solely as a collector's item and not for general transportation purposes. If the registrar is satisfied that the affidavit is true and correct and the owner pays a \$25 tax, or in the case of personalized pioneer license plates the one-time fee prescribed in section 168.12, subdivision 2a, the registrar shall list such vehicle for taxation and registration and shall issue number plates.

The number plates so issued shall bear the inscription “Pioneer,” “Minnesota” and the registration number or other combination of characters authorized under section 168.12, subdivision 2a, but no date. The number plates are valid without renewal as long as the vehicle is in existence and shall be issued for the applicant's use only for such vehicle. The registrar has the power to revoke said plates for failure to comply with this subdivision.

Sec. 2. Minnesota Statutes 1990, section 168.10, subdivision 1b, is amended to read:

Subd. 1b. [COLLECTOR'S VEHICLE, CLASSIC CAR LICENSE.] Any motor vehicle manufactured between and including the years 1925 and 1948, and designated by the registrar of motor vehicles as a classic car because of its fine design, high engineering standards, and superior workmanship, and owned and operated solely as a collector's item shall be listed for taxation and registration as follows: An affidavit shall be executed stating the name and address of the owner, the name and address of the person from whom purchased, the make of the motor vehicle, year and number of the model, the manufacturer's identification number and that the vehicle is owned and operated solely as a collector's item and not for general transportation purposes. If the registrar is satisfied that the affidavit is true and correct and that the motor vehicle qualifies to be classified as a classic car, and the owner pays a \$25 tax, or in the case

of personalized classic car license plates the one-time fee prescribed in section 168.12, subdivision 2a, the registrar shall list such vehicle for taxation and registration and shall issue number plates.

The number plates so issued shall bear the inscription "Classic Car," "Minnesota," and the registration number or other combination of characters authorized under section 168.12, subdivision 2a, but no date. The number plates are valid without renewal as long as the vehicle is in existence and shall be issued for the applicant's use only for such vehicle. The registrar has the power to revoke said plates for failure to comply with this subdivision.

The following cars built between and including 1925 and 1948 are classic:

A.C.	
Adler	
Alfa Romeo	
Alvis	Speed 20, 25, and 4.3 litre.
Amilcar	
Aston Martin	
Auburn	All 8-cylinder and 12-cylinder models.
Audi	
Austro-Daimler	
Avions Voisin 12	
Bentley	
Blackhawk	
B.M.W.	Models 327, 328, and 335 only.
Brewster	
(Heart-front Ford)	
Bugatti	
Buick	1931 through 1942: series 90 only.
Cadillac	All 1925 through 1935. 1936-1948: Series 67, 70, 72, 75, 80, 85 and 90 only. 1938-1941: 60 special only.
Chrysler	1926 through 1930: Imperial 80. 1931: Imperial 8 Series CG. 1932: Series CG, CH and CL. 1933: Series CL. 1934: Series CW. 1935: Series CW. All Newports and Thunderbolts.
Cord	
Cunningham	
Dagmar	Model 25-70 only.
Daimler	
Delage	

Delahaye

Doble

Dorris

Duesenberg

du Pont

Franklin

All models except 1933-34 Olympic Sixes.

Frazer Nash

Hispano Suiza

Horch

Hotchkiss

Invicta

Isotta Fraschini

Jaguar

Jordan

Kissel

Speedway Series 'Z' only.

1925, 1926 and 1927: Model 8-75.

1928: Model 8-90, and 8-90 White Eagle.

1929: Model 8-126, and 8-90 White Eagle.

1930: Model 8-126.

1931: Model 8-126.

Lagonda

Lancia

La Salle

Lincoln

1927 through 1933 only.

All models K, L, KA, and KB.

1941: Model 168H.

1942: Model 268H.

1939 through 1948.

All models 48 and 90.

1927: Model 8-80.

1928: Model 8-80.

1929: Models 8-80 and 8-88.

Marmon

All 16-cylinder models.

1925: Model 74.

1926: Model 74.

1927: Model 75.

1928: Model E75.

1930: Big 8 model.

1931: Model 88, and Big 8.

Maybach

McFarlan

Mercedes Benz

Mercer

M.G.

Minerva

Packard

All models 2.2 litres and up.

6-cylinder models only.

1925 through 1934: All models.

1935 through 1942: Models 1200, 1201, 1202, 1203, 1204, 1205, 1207, 1208, 1400, 1401, 1402, 1403, 1404, 1405, 1407, 1408, 1500, 1501, 1502,

	1506, 1507, 1508, 1603, 1604, 1605, 1607, 1608, 1705, 1707, 1708, 1806, 1807, 1808, 1906, 1907, 1908, 2006, 2007, and 2008 only. 1946 and 1947: Models 2106 and 2126 only.
Peerless	1926 through 1928: Series 69. 1930-1931: Custom 8. 1932: Deluxe Custom 8.
Pierce Arrow	
Railton	
Renault	Grand Sport model only.
Reo	1930-1931: Royale Custom 8, and Series 8-35 and 8-52 Elite 8. 1933: Royale Custom 8.
Revere	
Roamer	1925: Series 8-88, 6-54e, and 4-75. 1926: Series 4-75e, and 8-88. 1927-1928: Series 8-88. 1929: Series 8-88, and 8-125. 1930: Series 8-125.
Rohr	
Rolls Royce	
Ruxton	
Salmson	
Squire	
Stearns Knight	
Stevens Duryea	
Steyr	
Stutz	
Sunbeam	
Talbot	
Vauxhall	Series 30-98 only.
Wills Saint Claire	

No commercial vehicles such as hearses, ambulances, or trucks are considered to be classic cars.

Sec. 3. Minnesota Statutes 1990, section 168.10, subdivision 1c, is amended to read:

Subd. 1c. [COLLECTOR'S VEHICLE, COLLECTOR LICENSE.] Any motor vehicle, including any truck, that is at least 20 model years old and manufactured after 1935, or any motor vehicle of a defunct make defined as any car or truck originally licensed as a separate identifiable make as designated by the division of motor vehicles, and owned and operated solely as a collector's vehicle, shall be listed for taxation and registration as follows: An affidavit shall

be executed stating the name and address of the person from whom purchased and of the new owner, the make of the motor vehicle, year and number of the model, the manufacturer's identification number and that the vehicle is owned and operated solely as a collector's item and not for general transportation purposes. The owner must also prove that the owner also has one or more vehicles with regular license plates. If the registrar is satisfied that the affidavit is true and correct and the owner pays a \$25 tax, or in the case of personalized collector license plates the one-time fee prescribed in section 168.12, subdivision 2a, the registrar shall list the vehicle for taxation and registration and shall issue number plates.

The number plates issued shall bear the inscription "Collector," "Minnesota" and the registration number or other combination of characters authorized under section 168.12, subdivision 2a, but no date. The number plates are valid without renewal as long as the vehicle is in existence and shall be issued for the applicant's use only for the vehicle. The registrar has the power to revoke the plates for failure to comply with this subdivision.

Sec. 4. Minnesota Statutes 1990, section 168.10, subdivision 1d, is amended to read:

Subd. 1d. [COLLECTORS VEHICLES, STREET ROD LICENSE.] Any modernized motor vehicle manufactured prior to the year 1949 or designed and manufactured to resemble such vehicle shall be listed for taxation and registration as follows:

An affidavit shall be executed stating the name and address of the person from whom purchased and of the new owner, the make of the motor vehicle, year number of model, and the manufacturer's identification number. The affidavit shall further state that the vehicle is owned and operated solely as a street rod and not for general transportation purposes. The owner must also prove that the owner has one or more vehicles with regular license plates. If the registrar is satisfied that the affidavit is true and correct and the owner pays a \$25 tax, or in the case of personalized street rod license plates the one-time fee prescribed in section 168.12, subdivision 2a, the registrar shall list such vehicle for taxation and registration and shall issue number plates.

The number plates issued shall bear the inscription "Street Rod", "Minnesota" and the registration number or other combination of characters authorized under section 168.12, subdivision 2a, but no

date. The number plates are valid without renewal as long as the vehicle is in existence and shall be issued for the applicant's use only for such vehicle. The registrar has the power to revoke such plates for failure to comply with this subdivision.

Sec. 5. Minnesota Statutes 1990, section 168.105, subdivision 2, is amended to read:

Subd. 2. [AFFIDAVIT FOR REGISTRATION AND TAXATION.] A classic motorcycle must be listed for taxation and registration by executed affidavit stating (1) the name and address of the owner, (2) the name and address of the person from whom purchased, (3) the make of the classic motorcycle, (4) the year and number of the model, (5) the manufacturer's identification number, (6) that the motorcycle is owned and operated solely as a collector's item and not used for general transportation purposes, and (7) that the owner has one or more motor vehicles with regular license plates.

When the registrar is satisfied that the affidavit is true, correct, and complete and that the owner has paid a \$10 tax, or in the case of a personalized classic motorcycle plate the one-time fee prescribed in section 168.12, subdivision 2a, the registrar shall list the vehicle for taxation and registration and shall issue special number plates.

Sec. 6. Minnesota Statutes 1990, section 168.105, subdivision 3, is amended to read:

Subd. 3. [LICENSE PLATES.] The registrar shall issue number plates of the same size as standard motorcycle license plates and inscribed "collector" and "Minnesota" with the registration number or other combination of characters authorized under section 168.12, subdivision 2a, but without a date. The plates are valid without renewal as long as the classic motorcycle exists and may be issued for the applicant's use only for the classic motorcycle. The registrar may revoke the plates for noncompliance with this subdivision.

Sec. 7. Minnesota Statutes 1990, section 168.12, subdivision 1, is amended to read:

Subdivision 1. [NUMBER PLATES; VISIBILITY, PERIODS OF ISSUANCE.] The registrar, upon the approval and payment, shall issue to the applicant the number plates required by law, bearing the state name and the number assigned. The number assigned may be a combination of a letter or sign with figures. The color of the

plates and the color of the abbreviation of the state name and the number assigned shall be in marked contrast. The plates shall be lettered, spaced, or distinguished to suitably indicate the registration of the vehicle according to the rules of the registrar, and when a vehicle is registered on the basis of total gross weight, the plates issued shall clearly indicate by letters or other suitable insignia the maximum gross weight for which the tax has been paid. These number plates shall be so treated as to be at least 100 times brighter than the conventional painted number plates. When properly mounted on an unlighted vehicle, these number plates, when viewed from a vehicle equipped with standard headlights, shall be visible for a distance of not less than 1,500 feet and readable for a distance of not less than 110 feet. The registrar shall issue these number plates for the following periods:

(1) Number plates issued pursuant to ~~sections 168.27, subdivisions 16 and 17, and~~ section 168.053 shall be for a one-year period.

(2) New number plates issued pursuant to section 168.012, subdivision 1, shall be issued to a vehicle for as long as it is owned by the exempt agency and shall not be transferable from one vehicle to another but may be transferred with the vehicle from one tax exempt agency to another.

(3) Plates issued for passenger automobiles as defined in section 168.011, subdivision 7, shall be issued for a seven-year period. All plates issued under this paragraph must be replaced if they are seven years old or older at the time of annual registration or will become so during the registration period.

(4) Number plates issued under section 168.27, subdivisions 16 and 17, shall be for a seven-year period.

(5) Plates for any vehicle not specified in clauses (1), ~~(2) and (3)~~ to (4), except for trailers as hereafter provided, shall be issued for the life of the vehicle. Beginning with number plates issued for the year 1981, plates issued for trailers with a total gross weight of 3,000 pounds or less shall be issued for the life of the trailer and shall be not more than seven inches in length and four inches in width.

In a year in which plates are not issued, the registrar shall issue for each registration a tab or sticker to designate the year of registration. This tab or sticker shall show the calendar year or years for which issued, and is valid only for that period. The number plates, number tabs, or stickers issued for a motor vehicle may not be transferred to another motor vehicle during the period for which it is issued.

Notwithstanding any other provision of this subdivision, number plates issued to a vehicle which is used for behind-the-wheel instruction in a driver education course in a public school may be

transferred to another vehicle used for the same purpose without payment of any additional fee. The registrar shall be notified of each transfer of number plates under this paragraph and may prescribe a form for notification.

Sec. 8. Minnesota Statutes 1990, section 168.12, subdivision 2a, is amended to read:

Subd. 2a. [PERSONALIZED LICENSE PLATES.] Personalized license plates must be issued to an applicant for registration of a passenger automobile, including a passenger automobile registered as a classic car, pioneer car, collector car, or street rod; van; pickup truck; motorcycle, including a classic motorcycle; or self-propelled recreational vehicle, upon compliance with the laws of this state relating to registration of the vehicle and upon payment of a one-time fee of \$100. The fee is in addition to the registration tax required by law for the vehicle, except in the case of classic cars, pioneer cars, collector cars, street rods, and classic motorcycles. The registrar shall designate a replacement fee for personalized license plates that is calculated to cover the cost of replacement. This fee must be paid by the applicant whenever the personalized license plates are required to be replaced by law. In lieu of the numbers assigned as provided in subdivision 1, personalized license plates must have imprinted on them a series of not more than seven numbers and letters in any combination. When an applicant has once obtained personalized plates, the applicant shall have a prior claim for similar personalized plates in the next succeeding year that plates are issued if application is made for them at least 30 days before the first date that registration can be renewed. The commissioner of public safety shall adopt rules in the manner provided by chapter 14, regulating the issuance and transfer of personalized license plates. No words or combination of letters placed on personalized license plates may be used for commercial advertising, be of an obscene, indecent, or immoral nature, or be of a nature that would offend public morals or decency. The call signals or letters of a radio or television station are not commercial advertising for the purposes of this subdivision.

Notwithstanding the provisions of subdivision 1, personalized license plates issued under this subdivision may be transferred to another motor vehicle owned or jointly owned by the applicant, upon the payment of a fee of \$5, which must be paid into the state treasury and credited to the highway user tax distribution fund. The registrar may by rule provide a form for notification. A personalized license plate issued for a classic car, pioneer car, collector car, street rod, or classic motorcycle may not be transferred to a vehicle not eligible for such a license plate.

Notwithstanding any law to the contrary, if the personalized license plates are lost, stolen, or destroyed, the applicant may apply and shall receive duplicate license plates bearing the same combi-

nation of letters and numbers as the former personalized plates upon the payment of the fee required by section 168.29.

Fees from the sale of permanent and duplicate personalized license plates must be paid into the state treasury and credited to the highway user tax distribution fund.

Sec. 9. Minnesota Statutes 1990, section 168.27, subdivision 16, is amended to read:

Subd. 16. [PLATES, DISTINGUISHING NUMBERS.] (a) The registrar shall issue to every motor vehicle dealer, upon a request from the motor vehicle dealer licensed as provided in subdivision 2 or 3, one or more plates displaying a general distinguishing number. This subdivision does not apply to a scrap metal processor, a used vehicle parts dealer, or a vehicle salvage pool. The fee for each of the first four plates is \$75 per calendar year, of which \$60 must be paid to the registrar and the remaining \$15 is payable as motor vehicle excise tax under section 297B.035. For each additional plate, the dealer shall pay the registrar a fee of \$25 and a motor vehicle excise tax of \$15 annually per calendar year. The registrar shall deposit the tax in the state treasury and it shall be credited as provided in section 297B.09. Motor vehicles, new or used, owned by the motor vehicle dealer and bearing the number plate, except vehicles leased to the user who is not an employee of the dealer during the term of the lease, held for hire, or customarily used by the dealer as a tow truck, service truck, or parts pickup truck, may be driven upon the streets and highways of this state:

(1) by the motor vehicle dealer or dealer's spouse, or any full-time employee of the motor vehicle dealer for either private or business purposes;

(2) by a part-time employee when the use is directly related to a particular business transaction of the dealer;

(3) for demonstration purposes by any prospective buyer thereof for a period of 48 hours or in the case of a truck, truck-tractor, or semitrailer, for a period of seven days; or

(4) in a promotional event that lasts no longer than four days in which at least three motor vehicles are involved.

(b) A new or used motor vehicle sold by the motor vehicle dealer and bearing the motor vehicle dealer's number plate may be driven upon the public streets and highways for a period of 72 hours by the buyer for either of the following purposes: (1) Removing the vehicle from this state for registration in another state, or (2) permitting the buyer to use the motor vehicle before the buyer receives number plates pursuant to registration. Use of a motor vehicle by the buyer

under the provisions of clause (2) of the preceding sentence before the buyer receives number plates pursuant to registration constitutes a use of the public streets or highways for the purpose of the time requirements for registration of motor vehicles.

Sec. 10. Minnesota Statutes 1990, section 168.27, subdivision 17, is amended to read:

Subd. 17. [APPLICATION FOR IN TRANSIT PLATES.] Every licensed dealer in motor vehicles may make application upon a blank provided by the registrar for that purpose for a general distinguishing number for use upon all new or used motor vehicles being transported from the dealer's source of supply, or other place of storage, to the dealer's place of business, or to another place of storage, or from one dealer to another. A general distinguishing number shall be assigned by the registrar to the dealer for that purpose, and the registrar shall then issue to the dealer the number of plates as the dealer may request, upon the payment by the dealer to the registrar of the sum of \$5 per plate per calendar year. The plates shall be known as "in transit" plates. The registrar may issue "in transit" plates, upon the payment of the sum of \$5 to the registrar, to dealers duly licensed in other states or provinces upon information furnished in the manner as the registrar may prescribe, and which satisfies the registrar that persons or companies applying therefor are duly licensed dealers under the laws of the states or provinces.

Sec. 11. Minnesota Statutes 1990, section 169.01, subdivision 75, is amended to read:

Subd. 75. [COMMERCIAL MOTOR VEHICLE.] (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle:

(1) has a gross vehicle weight of ~~26,001 or more~~ more than 26,000 pounds;

(2) has a towed unit with a gross vehicle weight of more than 10,000 pounds and the combination of vehicles has a combined gross vehicle weight of more than 26,000 pounds;

(3) is a bus;

(4) is of any size and is used in the transportation of hazardous materials defined in section 221.033, except for those vehicles having a gross vehicle weight of 26,000 pounds or less while carrying in bulk tanks a total of not more than 200 gallons of petroleum products and liquid fertilizer; or

(5) is outwardly equipped and identified as a school bus, except for school buses defined in section 169.44, subdivision 15.

(b) For purposes of sections 169.1211, 169.1215, and 169.123, subdivisions 2 and 4, a commercial motor vehicle does not include a farm truck, firefighting equipment, or recreational equipment being operated by a person within the scope of section 171.02, subdivision 2, paragraph (a).

Sec. 12. Minnesota Statutes 1990, section 169.01, is amended by adding a subdivision to read:

Subd. 76. [HAZARDOUS MATERIALS.] "Hazardous materials" means those materials found to be hazardous for the purposes of the federal Hazardous Materials Transportation Act and that require the motor vehicle to be placarded under Code of Federal Regulations, title 49, part 172, subpart F.

Sec. 13. Minnesota Statutes 1990, section 169.121, subdivision 8, is amended to read:

Subd. 8. [ALCOHOL CHEMICAL USE ASSESSMENT.] When the evidentiary test shows an alcohol concentration of 0.07 or more, that result shall be reported to the commissioner of public safety. The commissioner shall record that fact on the driver's record. When the driver's record shows a second or subsequent report of an alcohol concentration of 0.07 or more within two years of a recorded report, the commissioner may require that the driver have ~~an alcohol problem~~ a chemical use assessment meeting the commissioner's requirements. The assessment shall be at the driver's expense. In no event shall the commissioner deny the license of a person who refuses to take the assessment or to undertake treatment, if treatment is indicated by the assessment, for longer than 90 days. If an assessment is made pursuant to this section, the commissioner may waive the assessment required by section 169.126.

Sec. 14. Minnesota Statutes 1990, section 169.123, subdivision 5c, is amended to read:

Subd. 5c. [PETITION FOR JUDICIAL REVIEW.] Within 30 days following receipt of a notice and order of revocation or disqualification pursuant to this section, a person may petition the court for review; ~~unless the person is entitled to review under section 171.166.~~ The petition shall be filed with the district court administrator in the county where the alleged offense occurred, together with proof of service of a copy on the commissioner of public safety, and accompanied by the standard filing fee for civil actions. No responsive pleading shall be required of the commissioner of public safety, and no court fees shall be charged for the appearance of the commissioner of public safety in the matter.

The petition shall be captioned in the full name of the person making the petition as petitioner and the commissioner of public safety as respondent. The petition must include the petitioner's date of birth, driver's license number, and date of the offense. The petition shall state with specificity the grounds upon which the petitioner seeks rescission of the order of revocation, disqualification, or denial and state the facts underlying each claim asserted.

The filing of the petition shall not stay the revocation, disqualification, or denial. The reviewing court may order a stay of the balance of the revocation or disqualification if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper. Judicial reviews shall be conducted according to the rules of civil procedure.

Sec. 15. Minnesota Statutes 1990, section 169.123, subdivision 8, is amended to read:

Subd. 8. [NOTICE OF ACTION TO OTHER STATES.] When it ~~has been finally determined that~~ a nonresident's privilege to operate a motor vehicle in this state has been revoked or denied, the commissioner of public safety shall give information in writing of the action taken to the official in charge of traffic control or public safety of the state of the person's residence and of any state in which the person has a license.

Sec. 16. Minnesota Statutes 1990, section 171.01, subdivision 22, is amended to read:

Subd. 22. [COMMERCIAL MOTOR VEHICLE.] "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle:

(1) has a gross vehicle weight of ~~26,001 or more~~ more than 26,000 pounds;

(2) has a towed unit with a gross vehicle weight of more than 10,000 pounds and the combination of vehicles has a combined gross vehicle weight of more than 26,000 pounds;

(3) is a bus;

(4) is of any size and is used in the transportation of hazardous materials ~~defined in section 221.033,~~ except for those vehicles having a gross vehicle weight of 26,000 pounds or less and carrying in bulk tanks a total of not more than 200 gallons of liquid fertilizer and petroleum products; or

(5) is outwardly equipped and identified as a school bus, except for school buses defined in section 169.44, subdivision 15.

Sec. 17. Minnesota Statutes 1990, section 171.01, is amended by adding a subdivision to read:

Subd. 24. [FARM TRUCK.] For purposes of this chapter only, "farm truck" means a single-unit truck, including a pickup truck as defined in section 168.011; truck-tractor; tractor; semitrailer; or trailer, used by its owner:

(1) to transport from the farm to the market agricultural, horticultural, dairy, or other farm products, including livestock, produced or finished by the owner of the farm truck;

(2) to transport the owner's other personal property from the farm to market; or

(3) to transport property and supplies to the farm of the owner.

Sec. 18. Minnesota Statutes 1990, section 171.01, is amended by adding a subdivision to read:

Subd. 25. [HAZARDOUS MATERIALS.] "Hazardous materials" means those materials found to be hazardous for the purposes of the federal Hazardous Materials Transportation Act and that require the motor vehicle to be placarded under Code of Federal Regulations, title 49, part 172, subpart F.

Sec. 19. Minnesota Statutes 1990, section 171.02, subdivision 2, is amended to read:

Subd. 2. [DRIVER'S LICENSE CLASSIFICATIONS, ENDORSEMENTS, EXEMPTIONS.] Drivers' licenses shall be classified according to the types of vehicles which may be driven by the holder of each type or class of license. The commissioner may, as appropriate, subdivide the classes listed in this subdivision and issue licenses classified accordingly. No class of license shall be valid to operate a motorcycle, school bus, tank vehicle, double-trailer or triple-trailer combination, vehicle transporting hazardous materials, or bus, unless so endorsed. There shall be four general classes of licenses as follows:

(a) Class C; valid for:

(1) all farm trucks as defined in section 168.011, subdivision 17, operated by (i) the owner, (ii) an immediate family member of the owner, (iii) an employee of the owner not primarily employed to operate the farm truck, within 150 miles of the farm, or (iv) an employee of the owner employed during harvest to operate the farm

truck for the first, continuous transportation of agricultural products from the production site or on-farm storage site to any other location within 50 miles of that site;

(2) fire trucks and emergency fire equipment, whether or not in excess of 26,000 pounds gross vehicle weight, operated by a fire-fighter while on duty, or a tiller operator employed by a fire department who drives the rear portion of a midmount aerial ladder truck;

(3) recreational equipment as defined in section 168.011, subdivision 25, that is operated for personal use; and

(4) all single unit vehicles except vehicles with a gross vehicle weight of ~~26,001 or more than 26,000~~ pounds, vehicles designed to carry more than 15 passengers including the driver, and vehicles that carry hazardous materials.

The holder of a class C license may also tow vehicles ~~under 10,000 pounds~~ if the combination of vehicles has a gross vehicle weight of 26,000 pounds or less.

(b) Class CC; valid for:

(1) operating class C vehicles;

(2) with a hazardous materials endorsement, transporting hazardous materials in class C vehicles; and

(3) with a school bus endorsement, operating school buses designed to transport 15 or fewer passengers, including the driver.

(c) Class B; valid for all vehicles in class C, class CC, and all other single unit vehicles including, with a passenger endorsement, buses.

(d) Class A; valid for any vehicle or combination thereof.

Sec. 20. Minnesota Statutes 1990, section 171.02, is amended by adding a subdivision to read:

Subd. 2a. [EXCEPTION.] Notwithstanding subdivision 2, a hazardous materials endorsement is not required to operate a vehicle having a gross vehicle weight of 26,000 pounds or less while carrying in bulk tanks a total of not more than 200 gallons of petroleum products and liquid fertilizer.

Sec. 21. Minnesota Statutes 1990, section 171.03, is amended to read:

171.03 [PERSONS EXEMPT.]

The following persons are exempt from license hereunder:

(1) any a person in the employ or service of the United States federal government while driving or operating a motor vehicle owned by or leased to the United States federal government, except that only a noncivilian operator of a commercial motor vehicle owned or leased by the United States Department of Defense or the Minnesota national guard is exempt from the requirement to possess a valid commercial motor vehicle driver's license;

(2) any person while driving or operating any farm tractor, or implement of husbandry temporarily operated or moved on a highway, and for purposes of this section an all-terrain vehicle, as defined in section 84.92, subdivision 8, is not an implement of husbandry;

(3) a nonresident who is at least 15 years of age and who has in immediate possession a valid driver's license issued to the nonresident in the home state or country may operate a motor vehicle in this state only as a driver;

(4) a nonresident who has in immediate possession a valid commercial driver's license issued by a state in compliance with the Commercial Motor Vehicle Safety Act of 1986, United States Code, title 49, sections 521, 2304, and 2701 to 2716, and who is operating in Minnesota the class of commercial motor vehicle authorized by the issuing state;

(5) any nonresident who is at least 18 years of age, whose home state or country does not require the licensing of drivers may operate a motor vehicle as a driver, only for a period of not more than 90 days in any calendar year if the motor vehicle so operated is duly registered for the current calendar year in the home state or country of such nonresident;

(6) any person who becomes a resident of the state of Minnesota and who has in possession a valid driver's license issued to the person under and pursuant to the laws of some other state or province or by military authorities of the United States may operate a motor vehicle as a driver, only for a period of not more than 60 days after becoming a resident of this state without being required to have a Minnesota driver's license as provided in this chapter;

(7) any person who becomes a resident of the state of Minnesota and who has in possession a valid commercial driver's license issued by another state in compliance with the Commercial Motor Vehicle Safety Act of 1986, United States Code, title 49, sections 521, 2304, and 2701 to 2716, for not more than 30 days after becoming a resident of this state; and

(8) any person operating a snowmobile, as defined in section 84.81.

Sec. 22. Minnesota Statutes 1990, section 171.165, subdivision 3, is amended to read:

Subd. 3. [GRAVE OR MULTIPLE OFFENSES.] Subject to section 171.166, the commissioner shall disqualify a person from operating commercial motor vehicles for:

(1) not less than three years, for a conviction or revocation set forth in subdivision 1 or 2 committed during the transportation of hazardous materials;

(2) not less than ten years, if the person is convicted a second or subsequent time of an offense set forth in subdivision 1 or if ~~the person's license is revoked more than once under section 169.123 or 2,~~ a statute of another state or ordinance in conformity with it, or any combination of ~~them~~ those offenses; or

(3) life, if the person is convicted under chapter 152 of a felony involving the manufacture, sale, or distribution of a controlled substance, or involving the possession of a controlled substance with intent to manufacture, sell, or distribute it, and the person is found to have used a commercial motor vehicle in the commission of the felony.

Sec. 23. Minnesota Statutes 1990, section 171.29, subdivision 1, is amended to read:

Subdivision 1. No person whose ~~drivers~~ driver's license has been revoked by reason of conviction, plea of guilty, or forfeiture of bail not vacated, under section 171.17 or 65B.67, or revoked under section 169.123 or 169.172 shall be issued another license unless and until that person shall have successfully passed an examination as required for an initial license.

Sec. 24. Minnesota Statutes 1990, section 171.30, subdivision 1, is amended to read:

Subdivision 1. [ISSUANCE.] In any case where a person's license has been suspended under section 171.18 or revoked under section 65B.67, 169.121, 169.123, 169.792, or 171.17, the commissioner may issue a limited license to the driver including under the following conditions:

(1) if the driver's livelihood or attendance at a chemical dependency treatment or counseling program depends upon the use of the driver's license;

(2) if the use of a driver's license by a homemaker is necessary to prevent the substantial disruption of the education, medical, or nutritional needs of the family of the homemaker; or

(3) if attendance at a post-secondary institution of education by an enrolled student of that institution depends upon the use of the driver's license.

The commissioner in issuing a limited license may impose such conditions and limitations as in the commissioner's judgment are necessary to the interests of the public safety and welfare including reexamination as to the driver's qualifications. The license may be limited to the operation of particular vehicles, to particular classes and times of operation and to particular conditions of traffic. The commissioner may require that an applicant for a limited license affirmatively demonstrate that use of public transportation or carpooling as an alternative to a limited license would be a significant hardship.

For purposes of this subdivision, "homemaker" refers to the person primarily performing the domestic tasks in a household of residents consisting of at least the person and the person's dependent child or other dependents.

The limited license issued by the commissioner shall clearly indicate the limitations imposed and the driver operating under the limited license shall have the license in possession at all times when operating as a driver.

In determining whether to issue a limited license, the commissioner shall consider the number and the seriousness of prior convictions and the entire driving record of the driver and shall consider the number of miles driven by the driver annually.

If the person's driver's license or permit to drive, or nonresident operating privileges, have been revoked under section 65B.67 or 169.172, the commissioner may only issue a limited license to the person after the person has presented an insurance identification card, policy, or written statement indicating that the driver or owner has insurance coverage satisfactory to the commissioner of public safety. The commissioner of public safety may require the insurance identification card provided to satisfy this subdivision be certified by the insurance company to be noncancelable for a period not to exceed 12 months.

Sec. 25. Minnesota Statutes 1990, section 297B.035, subdivision 2, is amended to read:

Subd. 2. [ANNUAL TAX FOR DEALER PLATE.] Motor vehicles which satisfy the definitions of subdivision 1, shall be taxed at a yearly rate of \$15 per dealer plate. This tax shall be paid when dealer plates, tabs, or stickers are purchased and shall be deposited in the state treasury and credited as provided in section 297B.09. This tax shall be in lieu of any other state sales, excise, or use tax.

Sec. 26. [EFFECTIVE DATE.]

Sections 7, 9, 10, and 25 are effective July 1, 1991, for dealer plates, tabs, and stickers bought on and after that date."

Delete the title and insert:

"A bill for an act relating to motor vehicles; allowing personalized license plates for classic, pioneer, collector, and street rod vehicles; providing for seven-year, in transit license plates for motor vehicle dealers; making technical changes in driver's license law; clarifying procedure for review of driver's license revocation or disqualification under implied consent law; defining hazardous materials, commercial motor vehicle, and farm truck; allowing class C driver's license holder to tow when the gross weight of the vehicles is 26,000 pounds or less; restricting exemption for drivers of certain federal vehicles from requirement to possess commercial driver's license; clarifying offenses for which driver may be disqualified from holding commercial driver's license; requiring person whose driver's license has been revoked to pass examination under certain circumstances; permitting qualified driver to obtain limited license following revocation for failure to have vehicle insurance; amending Minnesota Statutes 1990, sections 168.10, subdivisions 1a, 1b, 1c, and 1d; 168.105, subdivisions 2 and 3; 168.12, subdivisions 1 and 2a; 168.27, subdivisions 16 and 17; 169.01, subdivision 75, and by adding a subdivision; 169.121, subdivision 8; 169.123, subdivisions 5c and 8; 171.01, subdivision 22, and by adding subdivisions; 171.02, subdivision 2, and by adding a subdivision; 171.03; 171.165, subdivision 3; 171.29, subdivision 1; 171.30, subdivision 1; and 297B.035, subdivision 2."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Anderson, I., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 470, A bill for an act relating to metropolitan government; providing for the powers of the mosquito control district; amending Minnesota Statutes 1990, sections 473.704, by adding a subdivision; and 473.705.

Reported the same back with the following amendments:

Page 1, after line 6, insert:

"Section 1. Minnesota Statutes 1990, section 473.1623, subdivision 6, is amended to read:

Subd. 6. [PERSONNEL AND ETHICAL PRACTICES; COMMUNICATION.] By January 1 of each year, the council ~~and~~, each agency represented on the advisory committee established under this section, and the metropolitan mosquito control commission shall report to the legislature on the following:

(1) agency personnel practices, including an analysis of trends, compliance with legal requirements, health care and other benefits, and salary levels in comparison with relevant job markets; and

(2) ethical practices requirements for board members and employees of each agency, including the sources of the requirements, agency comparisons, and comparison with requirements for state and local government officers and employees; and

(3) the activities undertaken by each agency board member and council member to regularly meet with and communicate with local officials and legislators in the member's district about issues before the agency or council.

The report on employee salaries under clause (1) must include details of: all lump sum payments or bonuses; and a description of all payments, expense accounts, allowances, including travel allowances, and other current benefits granted to individuals that are not made generally available to employees of the council or agency.

Sec. 2. Minnesota Statutes 1990, section 473.1623, is amended by adding a subdivision to read:

Subd. 7. [APPLICATION TO COMMISSION.] The provisions of subdivisions 4 and 4b also apply to the metropolitan mosquito control commission."

Renumber remaining sections in sequence

Amend the title as follows:

Page 1, line 4, after "sections" insert "473.1623, subdivision 6, and by adding a subdivision;"

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Begin from the Committee on Labor-Management Relations to which was referred:

H. F. No. 474, A bill for an act relating to employment; regulating certain construction bids; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 181.

Reported the same back with the following amendments:

Page 1, line 9, delete "the costs" and insert "coverage" and after "compensation" delete "coverage"

Page 1, line 10, delete "contributions"

Page 2, line 1, delete "treble" and insert "double"

With the recommendation that when so amended the bill pass.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 530, A bill for an act relating to state lands; authorizing private sale of certain tax-forfeited land in Washington county.

Reported the same back with the following amendments:

Page 1, line 7, delete "section 92.45, the"

Page 1, line 8, delete everything before "chapter"

Page 1, lines 9 and 11, delete "shall" and insert "may"

With the recommendation that when so amended the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 571, A bill for an act relating to retirement; Minneapolis municipal employees; making various changes reflecting benefits, administration, and investment practices of the Minneapolis employees retirement fund; amending Minnesota Statutes 1990, sec-

tions 422A.03, subdivision 1; 422A.05, subdivision 2c; 422A.09, subdivision 3; 422A.13, subdivision 2; and 422A.16, subdivisions 1 and 3.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 11A.24, subdivision 1, is amended to read:

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

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

356.71 [REAL ESTATE INVESTMENTS.]

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

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

Subdivision 1. The retirement board shall meet on the third Tuesday of each calendar month of each year and may adjourn from time to time. Special meetings may be held upon the call of the president. The board shall, by a four-sevenths vote of all members of the board, appoint an executive director, who shall have charge of the performance of the duties required by the provisions of sections 422A.01 to 422A.25, and who shall appoint other necessary employees to positions approved in advance by the board. If at the time of appointment as executive director the appointee holds a position subject to the civil service rules and regulations of the city the appointee shall be deemed to be on leave of absence from the civil service position during tenure as executive director, and upon

termination of service shall be returned to the appointee's permanent civil service classification. If no vacancy is available in the appointee's permanent civil service classified position, seniority shall prevail, and the person most recently certified to the position shall be returned to the permanent civil service classification held prior to such certification.

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

Subd. 2c. (a) For investments made on or after July 1, 1991, the board ~~may~~ shall invest funds only in investments authorized by section 11A.24. However, in addition to other authorized real estate investments authorized by section 11A.24, the board may also invest funds in make loans to purchasers of Minnesota situs nonfarm residential real state ownership interests or loans that is owned by the Minneapolis employees retirement fund. The loans must be secured by mortgages or deeds of trust.

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

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

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

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

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

All retirement allowances shall be computed and determined as provided herein, except that in determining the number of years of service, credit shall be given for time served as an elective officer or employee, or member of an executive board or commission or any combination thereof. Persons who have served in elective positions

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

(3) Persons serving without pay.

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

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

(6) Any person who is employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal Comprehensive Employment and Training Act from and after March 30, 1978, unless the city council of the city of Minneapolis specifies that the person is to be considered as a provisional member of the retirement fund pursuant to section 356.451 or unless the person has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement fund to

meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Training and Employment Act, or the person agrees in writing to make the required employer contribution in addition to the required employee contribution.

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

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

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

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

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

Subd. 3. If such contributing member dies ~~before reaching the age of 65 years, or having attained the age of 65 years~~ without having made the election provided for herein, the net accumulated amount of deductions from the member's salary, pay or compensation plus interest to the member's credit on date of death ~~shall~~ must be paid to such person, or persons, as the member shall have nominated by written designation filed with the retirement board, in such form as the retirement board shall require. If the employee fails to make a designation, or if the person or persons designated by the employee is not living to receive payment, the net accumulated amount of deductions from the employee's salary, pay, or compensation, plus interest to the credit of such employee on date of death ~~shall~~ must be paid to the employee's estate. The net accumulated city deposits ~~shall~~ must be paid to a beneficiary designated by such contributing member in such form as the retirement board shall require, who

shall be the surviving spouse, or surviving child, or children of such member. If there be is no surviving spouse, or surviving child or children, deposits ~~shall~~ must be paid to a person actually dependent on and receiving principal support from such member or surviving mother or father, or surviving brother or sister, or surviving children of the deceased brother or sister of such member.

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

Sec. 9. [EFFECTIVE DATE.]

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

Amend the title as follows:

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

With the recommendation that when so amended the bill pass.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 640, A bill for an act relating to education; providing for prepaid tuition; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 135B.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [136A.096] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of sections 1 and 2, the terms defined in this section have the meanings given them.

Subd. 2. [BOARD.] "Board" means the higher education coordinating board.

Subd. 3. [CONTRACT.] "Contract" means a prepaid tuition contract entered into by the board and a purchaser.

Subd. 4. [PURCHASER.] "Purchaser" means a person who makes or is obligated to make advance payments in accordance with a prepaid tuition contract.

Subd. 5. [QUALIFIED BENEFICIARY.] "Qualified beneficiary" means a person who is a resident of this state at the time a purchaser enters into a contract on behalf of the resident.

Subd. 6. [TUITION.] "Tuition" means the quarter, semester, or term charges imposed by a school, including all mandatory fees, as a condition of enrollment.

Sec. 2. [PREPAID TUITION PROGRAM.]

Subdivision 1. [CREATION.] The board, or its authorized officer, agent, or employee, is authorized to contract with a purchaser for the lump sum or installment prepayment of tuition costs by the purchaser for a qualified beneficiary to attend any public post-secondary institution in this state to which the qualified beneficiary is admitted, without further tuition costs. The board is authorized to bind the public post-secondary institution, including the University of Minnesota if the board of regents consents, to the terms of a contract.

Subd. 2. [ADMINISTRATION.] The board shall administer the prepaid tuition program created by this section. The board is granted all powers necessary to implement the program and may adopt rules necessary to implement the program.

Subd. 3. [TYPES OF CONTRACT.] The board must offer contracts for each public system of post-secondary institutions. The board shall offer a contract for the University of Minnesota if the board of regents of the University of Minnesota agrees to be bound by the contract.

Subd. 4. [CONTRACT TERMS.] A contract shall include, but not be limited to, the following:

(1) the price which may vary according to the institutions covered by the contract, age of the qualified beneficiary, and the number of payments;

(2) provisions for withdrawal from the plan, including refunds and any penalty therefor;

(3) the name and date of birth of the qualified beneficiary;

(4) terms and conditions under which another person may be subsequently substituted for the qualified beneficiary originally named;

(5) the person entitled to terminate the contract, how a contract may be terminated, and the name of the person entitled to and the amount of any refund due on termination of the contract;

(6) the period of time during which a qualified beneficiary must claim benefits through the program;

(7) all other rights and obligations of the purchaser and the board; and

(8) such other terms as the board considers in its sole discretion to be necessary or appropriate.

Subd. 5. [TRANSFERABILITY.] In the event a qualified beneficiary elects not to attend a state public post-secondary institution and is accepted by any other post-secondary institution, the board shall, upon receipt of evidence of admission to the other post-secondary institution, remit on a quarterly, semester, or term basis as appropriate, an amount pursuant to the terms of the contract that is equal to the amount that would have been payable to a public post-secondary institution under the contract.

Subd. 6. [CANCELLATION.] A contract must provide that, if after a specified period of time, the contract has not been terminated nor the qualified beneficiary's rights under the contract exercised, the board, after making reasonable effort to locate the purchaser and qualified beneficiary or the agent of either, shall retain the amounts otherwise payable and the rights of the qualified beneficiary, the purchaser, or the agent of either are terminated.

Subd. 7. [NO PROMISE OF ADMISSION OR GRADUATION.] Nothing in this section, nor in a prepaid tuition contract entered into pursuant to this section, shall be construed as a promise or guarantee by the board or the state that a person shall be:

(1) admitted to a particular post-secondary institution;

(2) allowed to continue to attend a post-secondary institution after having been admitted; or

(3) graduated from a post-secondary institution.

Subd. 8. [NO ADDITIONAL TUITION.] The contract must provide that upon receipt of the contract price, the qualified beneficiary may attend the public post-secondary institution named in the contract without payment of any additional tuition.

Subd. 9. [PAYROLL DEDUCTIONS.] The state, a political subdivision of the state, or any other employer in the state is authorized, by contract, or otherwise, to agree with any employee to remit payments toward prepaid tuition contracts through payroll deduction under the terms of a prepaid tuition contract.

Subd. 10. [DEPOSIT OF FUNDS.] Money received by the board in payment for contracts under this section shall be deposited in a dedicated fund in the state treasury. Money in the dedicated fund shall be used solely to meet the board's obligations under contracts executed pursuant to this section and to pay for the cost of administering this section. A sum sufficient to meet contract obligations and pay administrative costs is annually appropriated from the dedicated fund to the board.

Subd. 11. [MANAGEMENT OF FUNDS.] The Minnesota state board of investment shall invest the money in the dedicated fund subject to chapter 11A. All income and investment gains and losses must be credited to the dedicated fund.

Subd. 12. [MINORITY, ECONOMICALLY DISADVANTAGED BENEFICIARIES.] The board shall develop and publicize a program whereby corporate, foundation, and other purchasers unrelated to a beneficiary purchase contracts for the benefit of minority or economically disadvantaged children. The board shall attempt to structure the program so that payment by these unrelated purchasers are deductible under federal and state income tax laws as charitable contributions.

Sec. 3. [APPROPRIATION.]

\$..... is appropriated from the general fund to the higher education coordinating board for the purposes of section 2 for the biennium ending June 30, 1993.

Sec. 4. [EFFECTIVE DATE.]

This act is effective July 1, 1991."

Delete the title and insert:

"A bill for an act relating to higher education; creating a prepaid tuition program for post-secondary institutions; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 136A."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 647, A bill for an act relating to crime; providing penalties for intentional damage to timber or wood processing, manufacturing, or transportation equipment; providing penalties for possessing certain devices to damage timber or wood processing, manufacturing, or transportation equipment; providing penalties for unlawful interference with timber harvests; proposing coding for new law in Minnesota Statutes, chapter 609.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Segal from the Committee on Economic Development to which was referred:

H. F. No. 650, A bill for an act relating to trade and economic development; appropriating money for a history center at Traverse des Sioux.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 664, A bill for an act relating to commerce; requiring accessibility specialists; requiring certification by building officials; amending Minnesota Statutes 1990, sections 16B.63, by adding a subdivision; and 16B.65, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, after line 22, insert:

"Sec. 3. Minnesota Statutes 1990, section 471.468, is amended to read:

471.468 [BUILDING PLANS; APPROVAL; EXCEPTIONS.]

On site construction or remodeling shall not hereafter be commenced of any building or facility until the plans and specifications of the building or facility have been reviewed and approved by the local authority. The provisions of sections 471.465 to 471.469 are applicable only to contracts awarded subsequent to May 22, 1971. The local authority shall certify in writing that the review and approval under this section have occurred. The certification must be attached to the permit of record."

Amend the title as follows:

Page 1, line 5, delete "and"

Page 1, line 6, before the period insert "; and 471.468"

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 678, A bill for an act relating to juveniles; requiring a study of the juvenile certification process.

Reported the same back with the following amendments:

Page 2, after line 1, insert:

"The membership of the study group shall include at least four members who reside in nonmetropolitan counties and who include a judge, a county attorney, a public defender, and a representative of a local correctional system."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 684, A bill for an act relating to retirement; Duluth teachers retirement fund association and St. Paul teachers retirement fund association; proposing coding for new law in Minnesota Statutes, chapter 354A; repealing Laws 1985, chapter 259, sections 2 and 3; and Laws 1990, chapter 570, article 7, section 4.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Osthoff from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 685, A bill for an act relating to gambling; requiring posting of the compulsive gambling hotline number; imposing surcharges on gambling permits and licenses; appropriating money; amending Minnesota Statutes 1990, sections 240.13, subdivision 2; 349.172; and 349A.06, subdivision 5.

Reported the same back with the following amendments:

Page 3, delete lines 14 to 22

Page 3, line 23, delete "5" and insert "4"

Page 3, line 24, delete "\$767,000" and insert "\$....." and delete "\$756,000" and insert "\$....."

Page 3, line 29, delete "\$260,000" and insert "\$....." and delete "\$260,000" and insert "\$....."

Page 4, line 1, delete "6" and insert "5"

Amend the title as follows:

Page 1, line 3, delete "imposing"

Page 1, delete line 4

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 688, A bill for an act relating to corrections; requiring county boards to provide medical aid for prisoners in jail; amending Minnesota Statutes 1990, section 641.15.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 641.15, is amended to read:

641.15 [PRISONERS; FEEDING, CARE.]

Subdivision 1. [CLOTHING AND CARE.] The county board shall provide suitable jail clothing, without distinctive marks, underclothing, linen and bedding, towels, and medical aid for prisoners, and fuel for the jail and, if adjoining and connected, the sheriff's residence. The sheriff may require a prisoner to wear jail clothing during confinement, but shall restore personal clothing upon discharge. No prisoner shall must be required to wear clothing previously used until it has been thoroughly cleansed. The sheriff or jailer shall keep the jail in a clean and healthy condition, have each prisoner's clothing washed at least once a week, furnish to each sufficient clean water for drinking and bathing, and serve each three times a day with a sufficient quantity of wholesome, well cooked food.

Subd. 2. [MEDICAL AID.] Except as provided in section 466.101, the county board shall provide medical aid for prisoners. The county is not responsible for payment of medical bills to the extent that the prisoner to whom the medical aid was provided has the ability to pay the bills. If there is a disagreement between the county and a prisoner concerning the prisoner's ability to pay, the court with jurisdiction over the defendant shall determine the extent, if any, of the prisoner's ability to pay for the medical aid. If a prisoner is covered by health or medical insurance or other health plan when medical aid is provided, the county providing the medical aid has a right of subrogation to be reimbursed by the insurance carrier for all sums spent by it for medical aid to the prisoner that are covered by

the policy of insurance or health plan, in accordance with the benefits, limitations, exclusions, provider restrictions, and other provisions of the policy or health plan, as provided in section 62A.156. The county may maintain an action to enforce this subrogation right.

Subd. 3. [INTAKE PROCEDURE; HEALTH COVERAGE.] As part of its intake procedure for new prisoners, the sheriff shall ask the prisoner whether the prisoner has health coverage. If the prisoner has coverage as described in section 62A.156, subdivision 1, coverage through a self-insured plan, or other health coverage, the prisoner shall provide to the sheriff the name of the carrier or administrator and other information and authorizations necessary for the sheriff to obtain specific information about coverage.

Subd. 4. [OBTAINING HEALTH CARE IN COMPLIANCE WITH COVERAGE.] A county board may authorize the sheriff to fulfill the county board's obligation to provide the medical aid required by subdivision 1 in accordance with the terms of the health plan covering the prisoner, where possible, subject to any rules and exceptions provided by the county board. The sheriff has no obligation to the prisoner to obtain the prisoner's health care in accordance with the prisoner's health coverage.

Subd. 5. [SCOPE.] Subdivisions 2, 3, and 4 apply to any medical aid, including dental care, provided to prisoners held in a county jail or workhouse."

With the recommendation that when so amended the bill pass.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 693, A bill for an act relating to the collection and dissemination of data; authorizing child protective service agencies and family court service agencies to share information about cases relating to child abuse when they involve common clients; amending Minnesota Statutes 1990, sections 13.46, by adding a subdivision; and 13.84, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 13.01, is amended by adding a subdivision to read:

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

Data on individuals that are not public can be classified as either private, meaning the data are accessible by the individual who is the subject of the data, or as confidential meaning the data are usually not accessible by the subject of the data. Data not on individuals that are not public can be classified as either nonpublic, meaning the data are accessible by the subject of the data if there is a data subject, or protected nonpublic meaning the data are usually not accessible by the subject of the data. Statutory sections classifying data can be found in this chapter.

This chapter also establishes rights for individual subjects of data and duties to be performed by state agencies, statewide systems, and political subdivisions. It provides remedies to citizens and both criminal and personnel sanctions for violations of the statute. This chapter also contains a number of sections that define various types of data, classifications are stated for those types of data, and special issues associated with those types of data are resolved.

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

Subd. 9. [EFFECT OF CHANGES TO CLASSIFICATION.] Unless otherwise expressly provided by a particular statute, the classification of data is determined by the law that applies to the data at the time a request for access to the data is made, regardless of the data's classification at the time it was collected, created, or received.

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

13.40 [LIBRARY AND HISTORICAL DATA.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this section.

(a) "Historical records repository" means an archives or manuscript repository operated by any state agency, political subdivision, or statewide system whose purpose is to collect and maintain records to further the history of a geographic or subject area. The term does not include the state archives as defined in section 138.17, subdivision 1, clause (5).

(b) "Records" means all cards, correspondence, discs, maps, memoranda, microfilms, papers, photographs, recordings, tapes, writings, optical disks, and other data, information, or documentary material, regardless of physical form or characteristics, storage media, or conditions of use.

Subd. 2. [RECORDS SUBJECT TO THIS CHAPTER.] All records collected, maintained, used, or disseminated by a library or historical records repository operated by any state agency, political subdivision, or statewide system shall be administered in accordance with the provisions of this chapter.

Subd. 2. 3. [PRIVATE DATA; RECORDS OF BORROWING.] That portion of records maintained by a library which links a library patron's name with materials requested or borrowed by the patron or which links a patron's name with a specific subject about which the patron has requested information or materials is classified as private, pursuant to under section 13.02, subdivision 12, and shall not be disclosed except pursuant to a valid court order.

Subd. 4. [NONGOVERNMENTAL RECORDS.] All records held in the custody of a historical records repository that were not originally created, received, maintained, or disseminated by a state agency, political subdivision, or statewide system shall not be considered government data. These records shall be made accessible to the public unless:

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

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

Sec. 4. Minnesota Statutes 1990, section 13.43, subdivision 2, is amended to read:

Subd. 2. [PUBLIC DATA.] (a) Except for employees described in subdivision 5, the following personnel data on current and former employees, volunteers, and independent contractors of a state agency, statewide system, or political subdivision and members of advisory boards or commissions is public: name; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; job title; job description; education and training background; previous work experience; date of first and last employment; the existence and status of any complaints or charges against the employee, whether or not the complaint or charge resulted in a disciplinary action; the final disposition of any disciplinary action together with the specific reasons for the action and data document-

ing the basis of the action, excluding data that would identify confidential sources who are employees of the public body; the terms of any agreement settling administrative or judicial proceedings; work location; a work telephone number; badge number; honors and awards received; payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data; and city and county of residence.

(b) For purposes of this subdivision, a final disposition occurs when the state agency, statewide system, or political subdivision makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the state agency, statewide system, political subdivision, or arbitrator.

(c) The state agency, statewide system, or political subdivision may display a photograph of a current or former employee to a prospective witness as part of the state agency's, statewide system's, or political subdivision's investigation of any complaint or charge against the employee.

Sec. 5. Minnesota Statutes 1990, section 13.43, is amended by adding a subdivision to read:

Subd. 2b. [MUNICIPAL AGENCY MEMBER DATA.] (a) The terms defined in this paragraph apply to this subdivision.

(1) "Board" means a board, commission, task force, or other similar multimember agency of a statutory or home rule charter city.

(2) "City" means a statutory or home rule charter city.

(b) Notwithstanding any law to the contrary, in addition to the data classified as public under subdivision 2, the following data pertaining to applicants for appointment to a board are public: name, home address, and qualifications.

The city shall make this data available upon request.

Sec. 6. [13.48] [AWARD DATA.]

All financial data on business entities, including but not limited to audited financial statements prepared by a certified public

accountant, balance sheets, statements of cash flow, internal production costs, and statements of changes in financial condition submitted to a state agency, statewide system, or political subdivision for the purpose of presenting awards to business entities for achievements in business development or performance are classified as nonpublic data.

Sec. 7. Minnesota Statutes 1990, section 13.55, is amended to read:

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

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

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

(b) Identity of firms and corporations which contact the ~~authority facility~~;

(c) Type of event which they wish to stage in ~~authority facilities the facility~~;

(d) Suggested terms of rentals; and

(e) Responses of authority staff to these inquiries.

Subd. 2. [PUBLIC DATA.] The data made ~~nonpublic not public~~ by the provisions of subdivision 1 shall become public upon the occurrence of any of the following:

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

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

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

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

Sec. 8. Minnesota Statutes 1990, section 13.82, subdivision 4, is amended to read:

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

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

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

(c) Any resistance encountered by the agency;

(d) Any pursuit engaged in by the agency;

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

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

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

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

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

(j) Response or incident report number; and

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

Sec. 9. Minnesota Statutes 1990, section 13.82, subdivision 10, is amended to read:

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

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

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

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

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

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

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

Sec. 10. Minnesota Statutes 1990, section 13.83, subdivision 4, is amended to read:

Subd. 4. [INVESTIGATIVE DATA.] Data created or collected by a county coroner or medical examiner which is part of an active investigation mandated by chapter 390, or any other general or local law relating to coroners or medical examiners is confidential data or protected nonpublic data, until the completion of the coroner's or medical examiner's final summary of findings at which point the data collected in the investigation and the final summary thereof shall become private or nonpublic data, except that unless the final summary and the death certificate indicate the manner of death is homicide, undetermined, or pending investigation and there is an active law enforcement investigation, within the meaning of section

13.82, subdivision 5, relating to the death of the deceased individual. If there is an active law enforcement investigation of a possible homicide, the data remain confidential or protected nonpublic. However, upon review by the county attorney of the jurisdiction in which the law enforcement investigation is active, the data may be released to persons described in subdivision 8 if the county attorney determines release would not impede the ongoing investigation. When the law enforcement investigation becomes inactive, the data shall become private or nonpublic data. Nothing in this subdivision shall be construed to make not public the data elements identified in subdivision 2 at any point in the investigation or thereafter.

Sec. 11. Minnesota Statutes 1990, section 13.83, subdivision 8, is amended to read:

Subd. 8. [ACCESS TO NONPUBLIC DATA.] The data made nonpublic by this section are accessible to the physician who attended the decedent at the time of death, the legal representative of the decedent's estate and to the decedent's surviving spouse, parents, children, and siblings and their legal representatives.

Sec. 12. Minnesota Statutes 1990, section 13.83, is amended by adding a subdivision to read:

Subd. 10. [CLASSIFICATION OF CERTAIN MEDICAL EXAMINER AND CORONER DATA.] Data described in sections 383B.225, subdivision 6, 390.11, subdivision 7, and 390.32, subdivision 6, shall be classified as described therein.

Sec. 13. Minnesota Statutes 1990, section 13.84, is amended by adding a subdivision to read:

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

(1) the child protective services unit has an active case involving a common client or clients who are the subject of the data; and

(2) the data are necessary for the child protective services unit to effectively process the units' case, including investigating or performing other duties relating to the case required by law.

The family court services data disclosed under this subdivision shall be used only for purposes of the active child protective services case described in clause (1) and must not be further disclosed to any

other person or agency, except by court order or written consent of the parties, or pursuant to section 626.556, subdivision 10.

Sec. 14. Minnesota Statutes 1990, section 144.335, is amended by adding a subdivision to read:

Subd. 3a. [PATIENT CONSENT TO RELEASE OF RECORDS; LIABILITY.] (a) A provider may not release a patient's health records to a person without a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release, unless the release is specifically authorized by law.

(b) This subdivision does not prohibit the release of health records for a medical emergency when the provider is unable to obtain the patient's consent.

(c) A provider which negligently or intentionally releases a health record in violation of this subdivision, or person who forges a signature on a consent form or who alters the consent form of another person without the person's consent, is liable to the patient for compensatory damages caused by an unauthorized release, plus costs and disbursements.

Sec. 15. Minnesota Statutes 1990, section 169.09, subdivision 13, is amended to read:

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

safety. Disclosing any information contained in any accident report, except as provided herein, is unlawful and a misdemeanor.

Nothing herein shall be construed to prevent any person who has made a report pursuant to this chapter from providing information to any persons involved in an accident or their representatives or from testifying in any trial, civil or criminal, arising out of an accident, as to facts within the person's knowledge. It is intended by this subdivision to render privileged the reports required but it is not intended to prohibit proof of the facts to which the reports relate. Legally qualified newspaper publications and licensed radio and television stations shall upon request to a law enforcement agency be given an oral statement covering only the time and place of the accident, the names, addresses, and dates of birth of the parties involved, whether a citation was issued, and if so, what it was for, and whether the parties involved were wearing seat belts, and a general statement as to how the accident happened without attempting to fix liability upon anyone, but said legally qualified newspaper publications and licensed radio and television stations shall not be given access to the hereinbefore mentioned confidential reports, nor shall any such statements or information so orally given be used as evidence in any court proceeding, but shall merely be used for the purpose of a proper publication or broadcast of the news. Response or incident data may be released pursuant to section 13.82, subdivision 4.

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

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

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

Sec. 16. Minnesota Statutes 1990, section 260.161, subdivision 3, is amended to read:

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

(b) Nothing in this subdivision prohibits the exchange of information by law enforcement agencies if the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing a criminal investigation.

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

Sec. 17. Minnesota Statutes 1990, section 383B.225, subdivision 6, is amended to read:

Subd. 6. [INVESTIGATION PROCEDURE.] (a) Upon notification of the death of any person, as provided in subdivision 5, the county medical examiner or a designee may proceed to the body, take charge of it, and order, when necessary, that there be no interference with the body or the scene of death. Any person violating the order of the examiner is guilty of a misdemeanor. The examiner or the examiner's designee shall make inquiry regarding the cause and manner of death and prepare written findings together with the report of death and its circumstances, which shall be filed in the office of the examiner. When it appears that death may have resulted from a criminal act and that further investigation is advisable, a copy of the report shall be transmitted to the county attorney. The examiner may take possession of all property of the deceased, mark it for identification, and make an inventory. The examiner shall take possession of all articles useful in establishing the cause of death,

mark them for identification and retain them securely until they are no longer needed for evidence or investigation. The examiner shall release any property or articles needed for any criminal investigation to law enforcement officers conducting the investigation. When a reasonable basis exists for not releasing property or articles to law enforcement officers, the examiner shall consult with the county attorney. If the county attorney determines that a reasonable basis exists for not releasing the property or articles, the examiner may retain them. The property or articles shall be returned immediately upon completion of the investigation. When the property or articles are no longer needed for the investigation or as evidence, the examiner shall release the property or articles to the person or persons entitled to them. Notwithstanding any other law to the contrary, when personal property of a decedent has come into the possession of the examiner, and is not used for a criminal investigation or as evidence, and has not been otherwise released as provided in this subdivision, the name of the decedent shall be filed with the probate court, together with a copy of the inventory of the decedent's property. At that time, an examination of the records of the probate court shall be made to determine whether a will has been admitted to probate or an administration has been commenced. Property of a nominal value, including wearing apparel, may be released to the spouse or any blood relative of the decedent or to the person accepting financial responsibility for burial of the decedent. If property has not been released by the examiner and no will has been admitted to probate or administration commenced within six months after death, the examiner shall sell the property at a public auction upon notice and in a manner as the probate court may direct. If the name of the decedent is not known, the examiner shall inventory the property of the decedent and after six months may sell the property at a public auction. The examiner shall be allowed reasonable expenses for the care and sale of the property and shall deposit the net proceeds of the sale with the county administrator, or the administrator's designee, in the name of the decedent, if known. If the decedent is not known, the examiner shall establish a means of identifying the property of the decedent with the unknown decedent and shall deposit the net proceeds of the sale with the county administrator, or a designee, so, that, if the unknown decedent's identity is established within six years, the proceeds can be properly distributed. In either case, duplicate receipts shall be provided to the examiner, one of which shall be filed with the court, the other of which shall be retained in the office of the examiner. If a representative shall qualify within six years from the time of deposit, the county administrator, or a designee, shall pay the amount of the deposit to the representative upon order of the court. If no order is made within six years, the proceeds of the sale shall become a part of the general revenue of the county.

(b) For the purposes of this section, health-related records or data on a decedent, except health data defined in section 13.38, whose death is being investigated under this section, whether the records

or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, shall be made promptly available to the medical examiner, upon the medical examiner's written request, by a person having custody of, possession of, access to, or knowledge of the records or data. The medical examiner shall pay the reasonable costs of copies of records or data provided to the medical examiner under this section. Data collected or created pursuant to this subdivision relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated shall remain confidential or protected nonpublic data, except that the medical examiner's report may contain a summary of such data.

Sec. 18. Minnesota Statutes 1990, section 390.11, subdivision 7, is amended to read:

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

(b) For the purposes of this section, health-related records or data on a decedent, except health data defined in section 13.38, whose death is being investigated under this section, whether the records or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, shall be made promptly available to the coroner, upon the coroner's written request, by a person having custody of, possession of, access to, or knowledge of the records or data. The coroner shall pay the reasonable costs of copies of records or data provided to the coroner under this section. Data collected or created pursuant to this subdivision relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated shall remain confidential or protected nonpublic data, except that the coroner's report may contain a summary of such data.

Sec. 19. Minnesota Statutes 1990, section 390.32, subdivision 6, is amended to read:

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

(b) For the purposes of this section, health-related records or data

on a decedent, except health data as defined in section 13.38, whose death is being investigated under this section, whether the records or data are recorded or unrecorded, including but not limited to those concerning medical, surgical, psychiatric, psychological, or any other consultation, diagnosis, or treatment, including medical imaging, shall be made promptly available to the medical examiner, upon the medical examiner's written request, by a person having custody of, possession of, access to, or knowledge of the records or data. The medical examiner shall pay the reasonable costs of copies of records or data provided to the medical examiner under this section. Data collected or created pursuant to this subdivision relating to any psychiatric, psychological, or mental health consultation with, diagnosis of, or treatment of the decedent whose death is being investigated shall remain confidential or protected nonpublic data, except that the medical examiner's report may contain a summary of such data.

Sec. 20. Minnesota Statutes 1990, section 403.07, subdivision 4, is amended to read:

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

Sec. 21. Minnesota Statutes 1990, section 595.024, subdivision 3, is amended to read:

Subd. 3. [DETERMINATION; APPEAL.] The district court shall consider the nature of the proceedings, the merits of the claims and defenses, the adequacies of alternative remedies, the relevancy of the information sought, and the possibility of establishing by other means that which the source is expected or may tend to prove. The court shall make its appropriate order after making findings of fact. The order may be appealed directly to the court of appeals according to the rules of appellate procedure. The order is stayed and nondisclosure shall remain in full force and effect during the pendency of the appeal. Where the court finds that the information sought has been published or broadcast, there shall be no automatic stay unless an appeal is filed within two days after the order is issued. Either party may request expedited consideration.

Sec. 22. Minnesota Statutes 1990, section 626.556, is amended by adding a subdivision to read:

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

(1) the family court services agency has an active case involving a common client or clients who are the subject of the data; and

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

The child protective services data disclosed under this subdivision shall be used only for purposes of the active family court services case described in clause (1) and must not be further disclosed to any other person or agency, except by court order or written consent of the parties or pursuant to section 518.167.

Sec. 23. Minnesota Statutes 1990, section 626.556, subdivision 11c, is amended to read:

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

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

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

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

cation when other records relating to the report under investigation or assessment are destroyed under this subdivision.

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

Sec. 24. [EFFECTIVE DATE.]

Sections 2, 8, 15, and 16 are effective the day following final enactment. Section 17 takes effect the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the board of commissioners of Hennepin county."

Delete the title and insert:

"A bill for an act relating to data practices; providing for classifications of government data; amending Minnesota Statutes 1990, sections 13.01, by adding a subdivision; 13.03, by adding a subdivision; 13.40; 13.43, subdivision 2 and by adding a subdivision; 13.55; 13.82, subdivisions 4 and 10; 13.83, subdivisions 4, 8, and by adding a subdivision; 13.84, by adding a subdivision; 144.335, by adding a subdivision; 169.09, subdivision 13; 260.161, subdivision 3; 383B.225, subdivision 6; 390.11, subdivision 7; 390.32, subdivision 6; 403.07, subdivision 4; 595.024, subdivision 3; and 626.556, subdivision 11c, and by adding a subdivision; proposing coding for new law in chapter 13."

With the recommendation that when so amended the bill pass.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 694, A bill for an act relating to the environment; establishing an environmental enforcement account; establishing a field citation pilot project for unauthorized disposal of solid waste; authorizing background investigations of environmental permit applicants; expanding current authority to impose administrative penalties for air and water pollution and solid waste management violations; imposing criminal penalties for knowing violations of standards related to hazardous air pollutants and toxic pollutants in water; providing that certain property is subject to forfeiture in connection with convictions for water pollution and air pollution

violations; imposing criminal penalties for unauthorized disposal of solid waste; authorizing prosecution of environmental crimes by the attorney general; providing for environmental restitution as part of a sentence; increasing criminal penalties for false statements on documents related to permits and record keeping; requiring reports; amending Minnesota Statutes 1990, sections 18D.331, subdivision 4; 115.071, by adding a subdivision; 115.072; 115C.05; 116.07, subdivision 4d; 116.072, subdivisions 1, 2, 6, 10, and 11; 609.531, subdivision 1; and 609.671; proposing coding for new law in Minnesota Statutes, chapters 115 and 116.

Reported the same back with the following amendments:

Page 4, line 3, after “waste” insert “if, after being notified that waste has escaped the vehicle, the person or company transporting the waste fails to collect the waste”

Page 4, line 31, after “a” insert “hazardous waste facility permit or a solid waste facility”

Page 5, line 6, delete “and” and insert “or”

Page 5, line 10, after “convictions” insert “of the permit applicant”

Page 5, line 16, delete “its” and insert “the permit applicant’s”

Page 5, line 28, delete “or” and insert “and”

Page 6, line 31, delete “; section 115B.17, subdivision 3; and any” and insert “, any rules promulgated under those chapters, and any standards, limitations, or conditions established in an agency permit; and for failure to respond to a request for information under section 115B.17, subdivision 3”

Page 6, delete lines 32 and 33

Page 6, line 34, delete everything before the period

Page 9, line 23, after “provisions” insert “, under which penalties are not assessed,”

Page 10, line 4, delete “and the attorney general”

Page 10, line 8, after “of” insert “the attorney general,”

Page 10, line 26, before the period insert “and methods of avoiding duplicative enforcement activities”

Page 10, line 30, delete “and the attorney general”

Page 10, line 33, after “and” insert “, after consulting with the attorney general,”

Page 11, line 32, delete everything after “agency”

Page 11, line 33, delete everything before “may”

Page 14, lines 11 to 14, delete the new language and insert “(a) For purposes of this section, whether an act was “knowing” may be inferred from the person’s conduct, from the person’s familiarity with the subject matter in question, or from all of the facts and circumstances connected with the case. Proof of knowledge does not require that a person knew a particular act or failure to act was a violation of law or that the person had specific knowledge of the regulatory limits or testing procedures involved in a case. Knowledge may also be established by proof that the person deliberately avoided learning the truth about facts that a reasonably prudent person would have known. Mere negligence or mistake is not sufficient to establish knowledge.

(b) Knowledge by a corporate officer may be established under paragraph (a) or by proof that the person is a responsible corporate officer. To prove that a person is a responsible corporate officer, it must be shown that:

(1) the person is an officer of the corporation, not merely an employee; and

(2) the person has direct control of or supervisory responsibility for the activities. It is not sufficient to prove merely that the person held a certain job or position in a corporation; and

(3) the person had information that would lead a reasonably prudent person under the circumstances to learn or attempt to learn the actual facts”

Page 19, line 25, after “limitation” insert “for a hazardous air pollutant”

Page 20, after line 5, insert:

“Subd. 14. [DEFENSE.] Except for intentional violations, it is a defense to criminal liability under subdivision 8, paragraph (a), and subdivision 12 if the person notified the pollution control agency of the violation as soon as the person discovered the violation and took steps to promptly remedy the violation.”

Page 20, line 6, delete “14” and insert “15”

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 713, A bill for an act relating to the justice system; making various technical corrections and minor changes to the public defender law; providing for payment of travel fees for defense witnesses; allowing persons in custody reasonable telephone access to their attorneys without charge; providing for certain compensation increases for district public defenders and assistant public defenders; providing who is eligible to be represented by the public defender; making the eighth judicial district court financing pilot project permanent; providing for a county aid offset if certain court costs are assumed by the state; requiring the supreme court to study the costs and prepare a budget; appropriating money; amending Minnesota Statutes 1990, sections 357.24; 477A.012, by adding a subdivision; 481.10; 611.215, subdivision 2; and 611.26, subdivision 6, and by adding subdivisions; and Laws 1989, chapter 335, article 3, section 44, as amended; repealing Minnesota Statutes 1990, sections 611.215, subdivision 4; 611.261; 611.28; and 611.29; and Laws 1989, chapter 335, article 3, section 54, as amended.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“ARTICLE 1

PUBLIC DEFENDER LAW CHANGES

Section 1. Minnesota Statutes 1990, section 275.50, subdivision 5, is amended to read:

Subd. 5. Notwithstanding any other law to the contrary for taxes levied in 1990 payable in 1991 and subsequent years, “special levies” means those portions of ad valorem taxes levied by governmental subdivisions to:

(a) for taxes levied in 1990, payable in 1991 and subsequent years, pay the costs not reimbursed by the state or federal government, of payments made to or on behalf of recipients of aid under any public assistance program authorized by law, and the costs of purchase or delivery of social services. The aggregate amounts levied under this clause for the costs of purchase or delivery of social services and income maintenance programs, other than those identified in sec-

tion 273.1398, subdivision 1, paragraph (i), are subject to a maximum increase over the amount levied for the previous year of 12 percent for counties within the metropolitan area as defined in section 473.121, subdivision 2, or counties outside the metropolitan area but containing a city of the first class, and 15 percent for other counties. For purposes of this clause, "income maintenance programs" include income maintenance programs in section 273.1398, subdivision 1, paragraph (i), to the extent the county provides benefits under those programs over the statutory mandated standards. Effective with taxes levied in 1990, the portion of this special levy for human service programs identified in section 273.1398, subdivision 1, paragraph (i), is eliminated;

(b) pay the costs of principal and interest on bonded indebtedness except on bonded indebtedness issued under section 471.981, subdivisions 4 to 4c, or to reimburse for the amount of liquor store revenues used to pay the principal and interest due in the year preceding the year for which the levy limit is calculated on municipal liquor store bonds;

(c) pay the costs of principal and interest on certificates of indebtedness, except tax anticipation or aid anticipation certificates of indebtedness, issued for any corporate purpose except current expenses or funding an insufficiency in receipts from taxes or other sources or funding extraordinary expenditures resulting from a public emergency; and to pay the cost for certificates of indebtedness issued pursuant to sections 298.28 and 298.282;

(d) fund the payments made to the Minnesota state armory building commission pursuant to section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(e) provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(f) pay the amounts required, in accordance with section 275.075, to correct for a county auditor's error of omission but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(g) pay amounts required to correct for an error of omission in the levy certified to the appropriate county auditor or auditors by the governing body of a city or town with statutory city powers in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(h) pay amounts required by law to be paid to pay the interest on

and to reduce the unfunded accrued liability of public pension funds in accordance with the actuarial standards and guidelines specified in sections 356.215 and 356.216 reduced by 106 percent of the amount levied for that purpose in 1976, payable in 1977. For the purpose of this special levy, the estimated receipts expected from the state of Minnesota pursuant to sections 69.011 to 69.031 or any other state aid expressly intended for the support of public pension funds shall be considered as a deduction in determining the required levy for the normal costs of the public pension funds. No amount of these aids shall be considered as a deduction in determining the governmental subdivision's required levy for the reduction of the unfunded accrued liability of public pension funds;

(i) to compensate the state for the cost of a reassessment ordered by the commissioner of revenue pursuant to section 270.16;

(j) pay the debt service on tax increment financing revenue bonds to the extent that revenue to pay the bonds or to maintain reserves for the bonds is insufficient as a result of the provisions of Laws 1988, chapter 719, article 5;

(k) pay the cost of hospital care under section 261.21;

(l) pay the unreimbursed costs incurred in the previous year to satisfy judgments rendered against the governmental subdivision by a court of competent jurisdiction in any tort action, or to pay the costs of settlements out of court against the governmental subdivision in a tort action when substantiated by a stipulation for the dismissal of the action filed with the court of competent jurisdiction and signed by both the plaintiff and the legal representative of the governmental subdivision, provided that an appeal for the unreimbursed costs under this clause was approved by the commissioner of revenue under section 275.51, subdivision 3;

(m) pay the expenses reasonably and necessarily incurred in preparing for or repairing the effects of natural disaster including the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from natural causes such as earthquake, fire, flood, wind storm, wave action, oil spill, water contamination, air contamination, or drought in accordance with standards formulated by the emergency services division of the state department of public safety, provided that an appeal for the expenses incurred under this clause were approved by the commissioner of revenue under section 275.51, subdivision 3;

(n) pay a portion of the losses in tax receipts to a city due to tax abatements or court actions in the year preceding the current levy year, provided that an appeal for the tax losses was approved by the commissioner of revenue under section 275.51, subdivision 3. This special levy is limited to the amount of the losses times the ratio of the nonspecial levies to total levies for taxes payable in the year the

abatementments were granted. County governments are not authorized to claim this special levy;

(o) pay the operating cost of regional library services authorized under section 134.34, subject to a maximum increase over the previous year of the greater of (1) 103 percent multiplied by one plus the percentage increase determined for the governmental subdivision under section 275.51, subdivision 3h, clause (b), or (2) six percent. If a governmental subdivision elected to include some or all of its levy for libraries within its adjusted levy limit base in the prior year, but elects to claim the levy as a special levy in the current levy year, the allowable increase is determined by applying the greater percentage determined under clause (1) or (2) to the total amount levied for libraries in the prior levy year. After levy year 1989, the increase must not be determined using a base amount other than the amount that could have been levied as a special levy in the prior year. This limit may be redistributed according to the provisions of section 134.342. In no event shall the special levy be less than the minimum levy required under sections 134.33 and 134.34, subdivisions 1 and 2;

(p) pay the amount of the county building fund levy permitted under section 373.40, subdivision 6;

(q) pay the county's share of the costs levied in 1989, 1990, and 1991 for the Minnesota cooperative soil survey under Minnesota Statutes 1988, section 40.07, subdivision 15;

(r) for taxes levied in 1989, payable in 1990 only, pay the cost incurred for the minimum share required by counties levying for the first time under section 134.34 as required under section 134.341. For taxes levied in 1990, and thereafter, counties levying under this provision must levy under clause (o), and their allowable increase must be determined with reference to the amount levied in 1989 under this paragraph;

(s) for taxes levied in ~~1989~~ 1991, payable in ~~1990~~ 1992 only, provide an amount equal to 50 percent of the estimated amount of the reduction in aids payable in 1992 to a county located in the third or sixth judicial district under sections ~~273.1398, subdivision 2, paragraph (d), and 477A.012, subdivision 3,~~ for aids payable in 1990 section 3;

(t) for taxes levied in 1990 only by a county in the eighth judicial district, provide an amount equal to the amount of the levy, if any, that is required under Laws 1989, chapter 335, article 3, section 54, subdivision 8, as amended by Laws 1990, chapter 604, article 9, section 14;

(u) for taxes levied in 1989, payable in 1990 only, pay the costs not reimbursed by the state or federal government:

(i) for the costs of purchase or delivery of social services. The aggregate amounts levied under this item are subject to a maximum increase over the amount levied in the previous year of 12 percent for counties within the metropolitan area as defined in section 473.121, subdivision 2, or counties outside the metropolitan area but containing a city of the first class, and 15 percent for other counties.

(ii) for payments made to or on behalf of recipients of aid under any public assistance program authorized by law. The aggregate amounts levied under this item are subject to a maximum increase over the amount levied in the previous year of 12 percent and must be used only for the public assistance programs.

If the amount levied under this paragraph (u) in 1989 is less than the actual expenditures needed for these programs for 1990, the difference between the actual expenditures and the amount levied may be levied in 1990 as a special levy. If the amount levied in 1989 is greater than the actual expenditures needed for these programs for 1990, the difference between the amount levied and the actual expenditures shall be deducted from the 1990 levy limit, payable in 1991;

(v) pay an amount of up to 25 percent of the money sought for distribution and approved under section 115A.557, subdivision 3, paragraph (b), clause (3);

(w) pay the unreimbursed costs of per diem jail or correctional facilities services paid by the county in the previous 12-month period ending on July 1 of the current year provided that the county is operating under a department of corrections directive that limits the capacity of a county jail as authorized in section 641.01 or 641.262, or a correctional facility as defined in section 241.021, subdivision 1, paragraph (5);

(x) for taxes levied in 1990 and 1991, payable in 1991 and 1992 only, pay the operating or maintenance costs of a county jail as authorized in section 641.01 or 641.262, or of a correctional facility as defined in section 241.021, subdivision 1, paragraph (5), to the extent that the county can demonstrate to the commissioner of revenue that the amount has been included in the county budget as a direct result of a rule, minimum requirement, minimum standard, or directive of the department of corrections. If the county utilizes this special levy, any amount levied by the county in the previous levy year for the purposes specified under this clause and included in the county's previous year's levy limitation computed under section 275.51, shall be deducted from the levy limit base under section 275.51, subdivision 3f, when determining the county's current year levy limitation. The county shall provide the necessary information to the commissioner of revenue for making this determination;

(y) for taxes levied in 1990, payable in 1991 only, pay an amount

equal to the unreimbursed county costs paid in 1989 and 1990 for the purpose of grasshopper control; and, for taxes levied in 1991 payable in 1992 only, pay an amount equal to the unreimbursed county costs paid in 1991 for the purpose of grasshopper control;

(z) for a county, provide an amount needed to fund comprehensive local water implementation activities under sections 103B.3361 to 103B.3369 as provided in this clause.

A county may levy an amount not to exceed the water implementation local tax rate times the adjusted net tax capacity of the county for the preceding year. The water implementation local tax rate shall be set by August 1 each year by the commissioner of revenue for taxes payable in the following year. As used in this paragraph, the "adjusted net tax capacity of the county" means the net tax capacity of the county as equalized by the commissioner of revenue based upon the results of an assessment/sales ratio study. That rate shall be the rate, rounded up to the nearest one-thousandth of a percent, that, when applied to the adjusted net tax capacity for all counties, raises the amount specified in this clause. The water implementation local tax rate for taxes levied in 1990 shall be the rate that raises \$1,500,000 and the rate for taxes levied in 1991 shall be the rate that raises \$1,500,000. A county must levy a tax at the rate established under this clause to qualify for a grant from the board of water and soil resources under section 103B.3369, subdivision 5;

(aa) pay the unreimbursed county costs for court-ordered family-based services and court-ordered out-of-home placement for children to the extent that the county can demonstrate to the commissioner of revenue that the estimated amount included in the county's budget for the following levy year is for the purposes specified under this clause. For purposes of this special levy, costs for "family-based services" and "out-of-home placement" means costs resulting from court-ordered targeted family services designed to avoid out-of-home placement and from court-ordered out-of-home placement under the provisions of sections 260.172 and 260.191, which are unreimbursed by the state or federal government, insurance proceeds, or parental or child obligations. Any amount levied under this clause must only be used by the county for the purposes specified in this clause.

If the county uses this special levy and the county levied an amount in the previous levy year, for the purposes specified under this clause, under another special levy or under the levy limitation in section 275.51, the following adjustments must be made:

(i) The amount levied in the previous levy year for the purposes specified under this clause under the levy limitation in section 275.51 must be deducted from the levy limit base under section 275.51, subdivision 3f, when determining the current year levy limitation.

(ii) The amount levied in the previous levy year, for the purposes specified under clause (a) or (u) must be deducted from the previous year's amount used to calculate the maximum amount allowable under clause (a) in the current levy year; and

(bb) pay the amounts allowed as special levies under Laws 1989, First Special Session chapter 1, article 5, section 50, and subdivisions 5a and 5b.

Sec. 2. Minnesota Statutes 1990, section 275.51, subdivision 3f, is amended to read:

Subd. 3f. [LEVY LIMIT BASE.] (a) The property tax levy limit base for governmental subdivisions for taxes levied in 1988 shall be equal to the total actual levy for taxes payable in 1988 with additions and subtractions as specified in paragraphs (b) and (c).

(b) The amounts to be added to the actual 1988 levy are (1) the amount of local government aid the governmental subdivision was certified to receive in 1988 under sections 477A.011 to 477A.014, (2) its 1988 taconite aids under sections 298.28 and 298.282, and (3) its 1988 wetlands and native prairie reimbursements under Minnesota Statutes 1986, sections 273.115, subdivision 3, and 273.116, subdivision 3.

(c) The amounts to be subtracted from the actual 1988 levy are (1) any special levies claimed for taxes payable in 1988 pursuant to Laws 1987, chapter 268, article 5, section 12, subdivision 4, clauses (1), (2), (3), and (4); and (2) for a governmental subdivision participating in a regional library system receiving grants from the department of education under section 134.34, the amount levied for taxes payable in 1988 for the operating costs of a public library service.

(d) For taxes levied in 1989 and subsequent years, a governmental subdivision's levy limit base is equal to its adjusted levy limit base for the preceding year, provided that for taxes levied in 1989, the amount of the administrative reimbursement aid received in 1988 shall be added to the base.

(e) For taxes levied by a county in 1989, the levy limit base determined under paragraph (d) shall be reduced by an amount equal to 90 percent of the cost of public defender services for felonies and gross misdemeanors and the costs of law clerks in the county that are assumed by the state during calendar year 1990, less 103 percent of one-half the amount of fees collected by the courts in the county during calendar year 1988. For taxes levied in 1990, the levy limit base determined under paragraph (d) shall first be increased by the product of (1) the amount deducted under this paragraph for taxes levied in 1989 and (2) the adjustments under subdivision 3h, paragraphs (a) and (b) for taxes levied in 1989, and then shall be

reduced by an amount equal to the cost of public defender services for felonies and gross misdemeanors and the cost of law clerks in the county that are assumed by the state during calendar year 1991, less the amount of fees collected by the courts in the county during calendar year 1989, computed at the rate of \$30 for civil and probate filings and \$20 for marriage dissolutions.

(f) For taxes levied in 1989 by a county that is located in the eighth judicial district, the levy limit base determined under paragraphs (d) and (e) shall be further reduced by an amount equal to 90 percent of the cost of operation of the trial courts in the county during calendar year 1990 that are assumed by the state and for which an appropriation is provided, less 103 percent of the sum of (1) the remaining one-half of the amount of fees and (2) 100 percent of the amount of fines collected by the courts in the county during calendar year 1988.

(g) By October 15, 1989, the board of public defense shall determine and certify to the commissioner of revenue the pro rata share for each county of the state-financed public defense services described in paragraph (e) during the six-month period beginning July 1, 1990. By October 15, 1989, the supreme court shall determine and certify to the department of revenue for each county the pro rata share for each county of the cost of providing law clerks during the three-month period beginning October 1, 1990, plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during calendar year 1990.

By July 15, 1990, the board of public defense shall determine and certify to the department of revenue the pro rata share for each county of the state-financed public defense services described in paragraph (e) during calendar year 1991. By July 15, 1990, the supreme court shall determine and certify to the department of revenue for each county the pro rata share for each county of the cost of providing law clerks during calendar year 1991 plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during the first six months of 1991.

(h) For taxes levied in a county in 1991, the levy limit base shall be reduced by an amount equal to the cost in the county of court reporters, judicial officers, and district court referees and the expenses of law clerks and court reporters as authorized in sections 484.545, subdivision 3, and 486.05, subdivisions 1 and 1a, as certified by the supreme court pursuant to section 477A.012, subdivision 4.

(i) If a governmental subdivision received an adjustment to its levy limit base for taxes levied in 1988 under section 275.51, subdivision 3j, its levy limit base for taxes levied in 1989 must be reduced by the lesser of (1) the adjustment under section 275.51, subdivision 3j, or (2) the difference between its (i) levy limit for taxes

levied in 1988 and its (ii) total actual levy for taxes levied in 1988 minus any special levies claimed for taxes levied in 1988 under section 275.50, subdivision 5.

(j) For taxes levied in 1991 in a county that is located in the third or sixth judicial districts, the levy limit base shall be reduced by an amount equal to the cost of public defense services in juvenile and misdemeanor cases in the county as certified by the board of public defense in section 3.

Sec. 3. Minnesota Statutes 1990, section 477A.012, is amended by adding a subdivision to read:

Subd. 6. [AID OFFSET FOR PUBLIC DEFENSE COSTS.] (a) There shall be deducted from the payment to a county under this section an amount representing the cost to the state for the assumption of the cost, in the case of a county located in the third or sixth judicial districts, of public defense services in juvenile and misdemeanor cases in the county during the fiscal year beginning on July 1, 1992. The amount of the deduction is computed as provided in this subdivision.

(b) By June 30, 1991, the board of public defense shall determine and certify to the department of revenue the pro rata share for each county in the third or sixth judicial districts of the cost of the state-financed public defense services in juvenile and misdemeanor cases in the third or sixth judicial districts during the fiscal year beginning on July 1, 1992.

(c) One-half of the amount computed under paragraph (b) for each county in the third or sixth judicial districts shall be deducted from each local government aid payment to the county in the third or sixth judicial districts under section 477A.015 in 1992 and each subsequent year. If the amount computed under paragraph (b) exceeds the amount payable to a county under subdivision 1, the excess shall be deducted from the county's homestead and agricultural credit aid under section 273.1398, subdivision 2, and then, if necessary, from the disparity reduction aid under section 273.1398, subdivision 3.

Sec. 4. Minnesota Statutes 1990, section 590.05, is amended to read:

590.05 [INDIGENT PETITIONERS.]

A person financially unable to obtain counsel who desires to pursue the remedy provided in section 590.01 ~~is entitled to be represented~~ may apply for representation by the state public defender. The state public defender shall be ~~appointed to represent~~ such person ~~pursuant to~~ under the applicable provisions of Minne-

sota Statutes 1965, sections 611.14 to 611.29, if the person has not already had a direct appeal of the conviction. The state public defender may represent, without charge, all other persons pursuing a postconviction remedy under section 590.01, who are financially unable to obtain counsel.

Sec. 5. Minnesota Statutes 1990, section 611.14, is amended to read:

611.14 [RIGHT TO REPRESENTATION BY PUBLIC DEFENDER.]

The following persons who are financially unable to obtain counsel, shall be are entitled to be represented by a public defender:

(a) (1) a person charged with a felony or gross misdemeanor, including a person charged ~~pursuant to~~ under sections 629.01 to 629.29;

(b) (2) a person appealing from a conviction of a felony or gross misdemeanor, or a person convicted of a felony or gross misdemeanor who is pursuing a postconviction proceeding, ~~after the time for appeal from the judgment has expired and who has not already had a direct appeal of the conviction;~~

(c) (3) a person who is entitled to be represented by counsel ~~pursuant to the provisions of~~ under section 609.14, subdivision 2;

(d) (4) a minor who is entitled to be represented by counsel ~~pursuant to the provisions of~~ under section 260.155, subdivision 2, if the judge of the juvenile court concerned has requested and received the approval of a majority of the district court judges of the judicial district to utilize the services of the public defender in such cases, and approval of the compensation on a monthly, hourly, or per diem basis to be paid for such services ~~pursuant to~~ under section 260.251, subdivision 2, clause (e); or

(e) (5) a person, entitled by law to be represented by counsel, charged with an offense within the trial jurisdiction of a municipal, county, or probate court, if the trial judge or a majority of the trial judges of the court concerned have requested and received approval of a majority of the district court judges of the judicial district to utilize the services of the public defender in such cases and approval of the compensation on a monthly, hourly, or per diem basis to be paid for such services by the county or municipality within the court's jurisdiction.

Sec. 6. Minnesota Statutes 1990, section 611.18, is amended to read:

611.18 [APPOINTMENT OF PUBLIC DEFENDER.]

If it appears to a court that a person requesting the appointment of counsel satisfies the requirements of this chapter, the court shall order the appropriate public defender to represent the person at all further stages of the proceeding through appeal, if any. ~~For those persons a person appealing from a conviction, or a person pursuing a post conviction proceeding, after the time for appeal has expired and who has not already had a direct appeal of the conviction, the state public defender shall be appointed. For all other persons a person covered by section 611.14, clause (1), a district public defender shall be appointed to represent them that person.~~ If (a) conflicting interests exist, (b) the district public defender for any other reason is unable to act, or (c) the interests of justice require, the state public defender may be ordered to represent a person. When the state public defender is directed by a court to represent a defendant or other person, the state public defender may assign the representation to any district public defender. If at any stage of the proceedings, including an appeal, the court finds that the defendant is financially unable to pay counsel whom the defendant had retained, the court may appoint the appropriate public defender to represent the defendant, as provided in this section. Prior to any court appearance, a public defender may represent a person accused of violating the law, who appears to be financially unable to obtain counsel, and shall continue to represent the person unless it is subsequently determined that the person is financially able to obtain counsel. The representation may be made available at the discretion of the public defender, upon the request of the person or someone on the person's behalf. Any law enforcement officer may notify the public defender of the arrest of any such person.

Sec. 7. Minnesota Statutes 1990, section 611.25, subdivision 1, is amended to read:

Subdivision 1. [REPRESENTATION.] The state public defender shall represent, without charge, a defendant or other person appealing from a conviction ~~or pursuing a postconviction proceeding after the time for appeal has expired when the state public defender is directed to do so by a judge of the district court, of the court of appeals or of the supreme court of a felony or gross misdemeanor.~~ The state public defender shall represent, without charge, a person convicted of a felony or gross misdemeanor who is pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction. The state public defender may represent, without charge, all other persons pursuing a postconviction remedy under section 590.01, who are financially unable to obtain counsel. The state public defender shall represent any other person, who is financially unable to obtain counsel, when directed to do so by the supreme court or the court of appeals, except that the state public defender shall not represent a person in any action or proceeding in which a party is seeking a monetary judgment, recovery or award.

When requested by a district public defender or appointed counsel, the state public defender may assist the district public defender, appointed counsel, or an organization designated in section 611.216 in the performance of duties, including trial representation in matters involving legal conflicts of interest or other special circumstances, and assistance with legal research and brief preparation. When the state public defender is directed by a court to represent a defendant or other person, the state public defender may, ~~with the court's approval,~~ assign the representation to any district public defender.

Sec. 8. Minnesota Statutes 1990, section 611.26, is amended by adding a subdivision to read:

Subd. 3a. (a) Notwithstanding subdivision 3 or any other law to the contrary, compensation and economic benefit increases for district public defenders and assistant district public defenders under the state board of public defense are considered compensation as defined in subdivision 3. These increases are eligible increases that may be paid from state appropriations for salary supplements for state employees.

(b) Those budgets for district public defender services under the jurisdiction of the state board of public defense shall be eligible for adjustments to their base budgets in the same manner as other state agencies. In making biennial budget base adjustments, the commissioner of finance shall consider the budgets for district public defender services, as allocated by the state board of public defense, in the same manner as other state agencies.

Sec. 9. Minnesota Statutes 1990, section 611.26, subdivision 6, is amended to read:

Subd. 6. The district public defender shall represent, without charge, a defendant charged with a felony or a gross misdemeanor when so directed by the district court. In the second, third, fourth, sixth, and eighth districts only, the district public defender shall also represent a defendant charged with a misdemeanor when so directed by the district court and shall represent a minor in the juvenile court when so directed by the juvenile court.

Sec. 10. Minnesota Statutes 1990, section 611.26, is amended by adding a subdivision to read:

Subd. 9. Notwithstanding any other law to the contrary, district public defenders and assistant district public defenders, and their employees and their dependents, may elect to enroll in the appropriate life insurance, hospital, medical and dental benefits, and optional coverages of their respective host county, as designated by the state board of public defense under section 611.27, subdivision 2, at the time, in the manner, and under conditions of eligibility as

established by the host county for its employees. The host county must provide for payroll deductions to be made in the same manner and under the same conditions as provided for an eligible county employee and the employee's dependents.

Sec. 11. Minnesota Statutes 1990, section 643.29, subdivision 1, is amended to read:

Subdivision 1. ["GOOD CONDUCT" ALLOWANCE.] Any person sentenced for a term to any county jail, workhouse, or correctional work farm, whether the term is part of an executed sentence or as a condition of probation, shall diminish the term of the sentence five days for each month, commencing on the day of arrival, during which the person has not violated any rule or discipline of the place wherein the person is incarcerated and, if required to labor, has labored with diligence and fidelity.

Sec. 12. [APPROPRIATION.]

\$..... is appropriated from the general fund to the state board of public defense to be available until June 30, 1993.

Sec. 13. [REPEALER.]

Minnesota Statutes 1990, sections 611.215, subdivision 4; 611.261; 611.28; and 611.29, are repealed.

Sec. 14. [EFFECTIVE DATE.]

Section 2 is effective for taxes levied in 1991 payable in 1992. Section 3 is effective for aids payable in calendar year 1992 and thereafter. Sections 4 to 10 and 13 are effective the day after final enactment.

ARTICLE 2

FEES AND MISCELLANEOUS CHANGES

Section 1. Minnesota Statutes 1990, section 357.24, is amended to read:

357.24 [CRIMINAL CASES.]

Witnesses for the state and for the defense in criminal cases shall receive the same fees for travel and attendance as provided in section 357.22, and judges may, in their discretion, allow like fees to witnesses attending in behalf of any defendant. In addition these witnesses shall receive reasonable expenses actually incurred for meals, loss of wages and child care, not to exceed \$40 per day. ~~In~~

~~courts these witness fees shall be certified and paid in the same manner as jurors. The compensation and reimbursement shall be paid out of the county treasury.~~

Sec. 2. Minnesota Statutes 1990, section 481.10, is amended to read:

481.10 [CONSULTATION WITH PERSONS RESTRAINED.]

All officers or persons having in their custody a person restrained of liberty upon any charge or cause alleged, except in cases where imminent danger of escape exists, shall admit any resident attorney retained by or in behalf of the person restrained, or whom the restrained person may desire to consult, to a private interview at the place of custody. Such custodians, upon request of the person restrained, as soon as practicable, and before other proceedings shall be had, shall notify any attorney residing in the county of the request for a consultation with the attorney. Reasonable telephone access to the attorney shall be provided to the person restrained at no charge to the attorney or to the person restrained. Every officer or person who shall violate any provision of this section shall be guilty of a misdemeanor and, in addition to the punishment prescribed therefor shall forfeit \$100 to the person aggrieved, to be recovered in a civil action.

ARTICLE 3

COURTS

Section 1. Minnesota Statutes 1990, section 275.51, subdivision 3f, is amended to read:

Subd. 3f. [LEVY LIMIT BASE.] (a) The property tax levy limit base for governmental subdivisions for taxes levied in 1988 shall be equal to the total actual levy for taxes payable in 1988 with additions and subtractions as specified in paragraphs (b) and (c).

(b) The amounts to be added to the actual 1988 levy are (1) the amount of local government aid the governmental subdivision was certified to receive in 1988 under sections 477A.011 to 477A.014, (2) its 1988 taconite aids under sections 298.28 and 298.282, and (3) its 1988 wetlands and native prairie reimbursements under Minnesota Statutes 1986, sections 273.115, subdivision 3, and 273.116, subdivision 3.

(c) The amounts to be subtracted from the actual 1988 levy are (1) any special levies claimed for taxes payable in 1988 pursuant to Laws 1987, chapter 268, article 5, section 12, subdivision 4, clauses (1), (2), (3), and (4); and (2) for a governmental subdivision participating in a regional library system receiving grants from the

department of education under section 134.34, the amount levied for taxes payable in 1988 for the operating costs of a public library service.

(d) For taxes levied in 1989 and subsequent years, a governmental subdivision's levy limit base is equal to its adjusted levy limit base for the preceding year, provided that for taxes levied in 1989, the amount of the administrative reimbursement aid received in 1988 shall be added to the base.

(e) For taxes levied by a county in 1989, the levy limit base determined under paragraph (d) shall be reduced by an amount equal to 90 percent of the cost of public defender services for felonies and gross misdemeanors and the costs of law clerks in the county that are assumed by the state during calendar year 1990, less 103 percent of one-half the amount of fees collected by the courts in the county during calendar year 1988. For taxes levied in 1990, the levy limit base determined under paragraph (d) shall first be increased by the product of (1) the amount deducted under this paragraph for taxes levied in 1989 and (2) the adjustments under subdivision 3h, paragraphs (a) and (b) for taxes levied in 1989, and then shall be reduced by an amount equal to the cost of public defender services for felonies and gross misdemeanors and the cost of law clerks in the county that are assumed by the state during calendar year 1991, less the amount of fees collected by the courts in the county during calendar year 1989, computed at the rate of \$30 for civil and probate filings and \$20 for marriage dissolutions.

(f) For taxes levied in 1989 by a county that is located in the eighth judicial district, the levy limit base determined under paragraphs (d) and (e) shall be further reduced by an amount equal to 90 percent of the cost of operation of the trial courts in the county during calendar year 1990 that are assumed by the state and for which an appropriation is provided, less 103 percent of the sum of (1) the remaining one-half of the amount of fees and (2) 100 percent of the amount of fines collected by the courts in the county during calendar year 1988.

(g) By October 15, 1989, the board of public defense shall determine and certify to the commissioner of revenue the pro rata share for each county of the state-financed public defense services described in paragraph (e) during the six-month period beginning July 1, 1990. By October 15, 1989, the supreme court shall determine and certify to the department of revenue for each county the pro rata share for each county of the cost of providing law clerks during the three-month period beginning October 1, 1990, plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during calendar year 1990.

By July 15, 1990, the board of public defense shall determine and certify to the department of revenue the pro rata share for

county of the state-financed public defense services described in paragraph (e) during calendar year 1991. By July 15, 1990, the supreme court shall determine and certify to the department of revenue for each county the pro rata share for each county of the cost of providing law clerks during calendar year 1991 plus, for each county located in the eighth judicial district, the cost of operation of the trial courts during the first six months of 1991.

(h) For taxes levied in a county in 1991, the levy limit base shall be reduced by an amount equal to the cost in the county of court reporters, judicial officers, and district court referees and the expenses of law clerks and court reporters as authorized in sections 484.545, subdivision 3, and 486.05, subdivisions 1 and 1a, as certified by the supreme court pursuant to section 477A.012, subdivision 4.

(i) If a governmental subdivision received an adjustment to its levy limit base for taxes levied in 1988 under section 275.51, subdivision 3j, its levy limit base for taxes levied in 1989 must be reduced by the lesser of (1) the adjustment under section 275.51, subdivision 3j, or (2) the difference between its (i) levy limit for taxes levied in 1988 and its (ii) total actual levy for taxes levied in 1988 minus any special levies claimed for taxes levied in 1988 under section 275.50, subdivision 5.

(j) For taxes levied in 1991, the county's levy limit base shall be reduced by an amount equal to the cost in the county of court administrator's salary and benefits and jury fees as certified to by the supreme court under section 2.

Sec. 2. Minnesota Statutes 1990, section 477A.012, is amended by adding a subdivision to read:

Subd. 7. [AID OFFSET FOR 1992 COURT COSTS.] (a) There shall be deducted from the payment to a county under this section an amount representing the cost to the state for assumption of the cost of court administrator's salary and benefits and jury fees. The amount of the deduction is computed as provided in this subdivision.

(b) By June 30, 1991, the supreme court shall determine and certify to the department of revenue for each county, except counties located in the eighth judicial district, the cost for each county of court administrator's salary and benefits and jury fees during the calendar year beginning on January 1, 1992.

(c) One-half of the amount computed under paragraph (b) for each county shall be deducted from each local government aid payment to the county under section 477A.015 in 1992 and each subsequent year. If the amount computed under paragraph (b) exceeds the amount payable to a county under subdivision 1, the excess shall be deducted from the aid payable to the county under section 273.1398,

subdivision 2, and then, if necessary, from the disparity reduction aid under section 273.1398, subdivision 3.

Sec. 3. Minnesota Statutes 1990, section 480.181, is amended by adding a subdivision to read:

Subd. 5. Whenever a group of court employees is transferred from county to state funding, the provisions of section 480.181 shall apply.

Sec. 4. Minnesota Statutes 1990, section 593.48, is amended to read:

593.48 [COMPENSATION OF JURORS AND TRAVEL REIMBURSEMENT.]

A juror shall be reimbursed for roundtrip travel between the juror's residence and the place of holding court at a rate of ~~15 to 24 cents per mile determined by the supreme court~~, and shall be compensated at a rate of \$15 for each day of required attendance at sessions of the court. Except in the eighth judicial district where the state shall pay directly, the compensation and reimbursement shall be paid out of the county treasury upon receipt of authorization to pay from the jury commissioner. These jury costs shall be reimbursed monthly by the supreme court upon submission of an invoice by the county treasurer. A monthly report of payments to jurors shall be sent to the jury commissioner within two weeks of the end of the month in the form required by the jury commissioner.

Sec. 5. Laws 1989, chapter 335, article 3, section 44, as amended by Laws 1990, chapter 604, article 9, section 13, is amended to read:

Sec. 44. [APPLICATION.]

~~Sections 45 to 54, except the parts of section 54, that by their terms have broader application, 53 apply only in the eighth judicial district for the period from January 1, 1990, to December 31, 1991.~~

~~Those parts of section 54, having broader application, apply statewide for the period from July 1, 1989, to December 31, 1991.~~

Sec. 6. [STUDY.]

The supreme court shall study and report to the legislature by February 1, 1992, the costs of transferring to the state the costs of the court administration offices and guardian ad litem programs statewide and shall develop a detailed budget for those costs.

Sec. 7. [APPROPRIATION.]

\$..... is appropriated from the general fund to the trial courts to be available until June 30, 1993.

Sec. 8. [REPEALER.]

Laws 1989, chapter 335, article 3, section 54, as amended by Laws 1989, First Special Session chapter 1, article 5, section 47, and Laws 1990, chapter 604, article 9, section 14, is repealed.

Sec. 9. [EFFECTIVE DATES.]

Section 2 is effective for aids paid in 1992 and thereafter, if a law providing for the assumption by the state of the costs of court administrator's salary and benefits and jury fees is enacted.

Section 3 is effective the day following final enactment. Section 8 is effective for taxes levied in 1991 payable in 1992, and thereafter."

Delete the title and insert:

"A bill for an act relating to the justice system; making various technical corrections and minor changes to the public defender law; providing for payment of travel fees for defense witnesses; allowing persons in custody reasonable telephone access to their attorneys without charge; providing for certain compensation increases for district public defenders and assistant public defenders; providing who is eligible to be represented by the public defender; making the eighth judicial district court financing pilot project permanent; providing a special levy for certain court costs; providing a levy limit base adjustment for certain court costs; providing for a county aid offset if certain court costs are assumed by the state; requiring the supreme court to study the costs and prepare a budget; appropriating money; amending Minnesota Statutes 1990, sections 275.50, subdivision 5; 275.51, subdivision 3f; 357.24; 477A.012, by adding subdivisions; 480.181, by adding a subdivision; 481.10; 590.05; 593.48; 611.14; 611.18; 611.25, subdivision 1; 611.26, subdivision 6, and by adding subdivisions; 643.29, subdivision 1; and Laws 1989, chapter 335, article 3, section 44, as amended; repealing Minnesota Statutes 1990, sections 611.215, subdivision 4; 611.261; 611.28; 611.29; and Laws 1989, chapter 335, article 3, section 54, as amended."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Osthoff from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 718, A bill for an act relating to the state lottery; providing for the distribution of a portion of net proceeds from the state lottery in fiscal years 1992 and 1993 to the housing trust fund account and a head start account; amending Minnesota Statutes 1990, section 349A.10, subdivision 5, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 268.

Reported the same back with the following amendments:

Page 2, delete lines 32 to 36

Page 3, delete lines 1 and 2

Page 3, line 3, delete "account."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 728, A bill for an act relating to drivers' licenses; requiring certain notice on uniform traffic ticket; providing penalty for failure to respond to summons and complaint on uniform traffic ticket; prohibiting issuance of warrant on person failing to pay fine for parking violation; establishing system for collecting unpaid fines; allocating driver's license reinstatement fees; amending Minnesota Statutes 1990, sections 169.99, by adding a subdivision; 171.16, subdivision 3, and by adding subdivisions; 171.20, subdivision 1; and 171.29, by adding subdivisions.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [168.135] [RENEWAL APPLICATIONS; DELINQUENT PARKING CITATIONS.]

Subdivision 1. [APPLICATION; NOTICE.] When a person applies to renew the registration for a motor vehicle, applies for duplicate, special, or personalized license plates, or applies for a change of classification, the registrar or deputy registrar shall check the

computerized records system established under subdivision 2 to determine whether the applicant has been charged with a violation of a law or ordinance regulating the parking of vehicles for which the records collected under section 169.95 indicate a delinquent citation and fine. If a delinquent citation and fine is indicated, the registrar or deputy registrar shall notify the applicant as to the court to which payment of the fine is due.

Subd. 2. [COMPUTERIZED RECORDS SYSTEM; ACCESS.] (a) The registrar shall install, administer, and maintain in the department of public safety an efficient, computerized data base records system dedicated solely as the repository for delinquent parking citation and fine reports. The registrar shall provide and specify equipment and interconnection specifications, programming requirements, and training materials needed to provide courts and deputy registrars access to the department's dedicated computer data base of records on delinquent parking citations and fines.

(b) The system must be designed to allow each court to report and update by electronic communication directly with the system's computer data base those delinquent parking citations and fines that remain owing to the court. The system must be designed to allow access by a deputy registrar to the system upon transmittal of the access code of the deputy registrar, as assigned by the registrar.

(c) On complying with these specifications, providing the requisite data base accessing equipment and programming, and providing the specified interconnection equipment, the registrar shall allow each deputy registrar direct computer inquiry of these records. The system must allow electronic and toll-free telephonic access by deputy registrars as necessary to perform their vehicle registration responsibilities under subdivision 3. The registrar shall not assess a deputy registrar transaction or user costs, fees, or charges for inquiries required or necessary to discharge the duties of a deputy registrar under this section.

(d) Access must include the records required by this section and exclude only those records restricted by governing state or federal data privacy laws.

Subd. 3. [DEPUTY REGISTRARS' RESPONSIBILITIES.] (a) On receiving an application described in subdivision 1, the registrar or a deputy registrar shall access the computerized records system to discover if the applicant has a delinquent parking citation and fine. On gaining access to the system, the deputy registrar shall identify and communicate the license plate number for which the information is requested.

(b) Neither the registrar nor a deputy registrar may receive or process an application described in subdivision 1 if the response from the records system indicates that there is a delinquent citation

and fine arising from a violation of a law or ordinance regulating the parking of vehicles and involving the vehicle for which the license plate was issued. A deputy registrar may rely conclusively upon the response of the records system to the inquiry.

(c) When a delinquent parking citation and fine has been paid or otherwise disposed of to the court's satisfaction, the court shall:

(1) issue the violator a receipt of payment or statement certifying that the delinquent fine has been paid or otherwise disposed of to the court's satisfaction; and

(2) update its listing of outstanding delinquent parking citations and fines to be recorded in the records system established in subdivision 2.

The applicant may reapply after the court's file of delinquent citations and fines has been recorded and updated in the computerized records system. Instead, the applicant may present receipts or the statements certifying that all delinquent fines have been paid or otherwise disposed of to the satisfaction of all applicable courts, to the registrar or a deputy registrar who shall then process the application. A deputy registrar may rely conclusively upon the receipts or certified statements purporting to be that of the court named in the receipt or certification that the fines owed to that court have been paid or otherwise satisfied.

Subd. 4. [NOTICE AND REPORT BY COURT.] At least 15 days before any information on delinquent parking citations and fines is transmitted to the department's computerized records system, the court shall notify by mail to the last known address of the registered owner of the motor vehicle involved in the parking violation, of the nature of the violation, the amount of the fine, where the fine should be paid, and the resulting consequences concerning vehicle registration renewal if the fine is not paid. If the fine is not paid or otherwise disposed of to the satisfaction of the court or if a court appearance has not been scheduled, the court shall transmit the information to the department's computerized records system. The court may impose costs and assess penalties to the defendant to recover any expense incurred by the court in administering the notice and reporting requirements of this section. The costs and penalties are payable to the court.

Sec. 2. [168.331] [PARKING VIOLATION NOTIFICATION PROGRAM; FEE.]

An additional fee of \$1 is imposed on all violations of laws and ordinances regulating the parking of motor vehicles. Courts, violations bureaus, or other entities that collect fines for parking violations shall transmit monthly the proceeds of the fee to the

registrar. The registrar shall deposit the proceeds in the general fund.

Sec. 3. [169.042] [PARKING VIOLATION WARRANTS PROHIBITED.]

A court shall not issue a warrant for the arrest of a person for delinquent parking citations for vehicles registered in Minnesota.

Sec. 4. Minnesota Statutes 1990, section 169.91, subdivision 3, is amended to read:

Subd. 3. [NOTICE TO APPEAR.] When a citation is issued for a parking violation or when a person is arrested for any violation of any law or ordinance relating to motor vehicles, their registration or their operation, or the use of the highways, the issuing or arresting officer shall prepare a written notice to appear in court. This place must be before a judge within the county in which the offense charged is alleged to have been committed who has jurisdiction and is nearest or most accessible with reference to the place of arrest or parking violation. If the offense is a petty misdemeanor, the notice to appear must include a statement that a failure to appear will be considered a plea of guilty and waiver of the right to trial, unless the failure to appear is due to circumstances beyond the person's control. If the offense is for a violation of a law or ordinance regulating the parking of vehicles, a subsequent notice to appear must be mailed to the registered owner of the vehicle.

Sec. 5. Minnesota Statutes 1990, section 169.95, is amended to read:

169.95 [COURTS TO KEEP SEPARATE COURT RECORDS AND REPORTS OF VIOLATIONS AND DELINQUENT FINES.]

Subdivision 1. [RECORDS.] Every court administrator shall keep a full record of every case in which a person is charged with a violation of any law or ordinance, regulating the operation or parking of vehicles on highways.

Subd. 2. [REPORTS OF TRAFFIC VIOLATIONS.] Within ten days after the conviction or forfeiture of bail of a person upon a charge of violating any provisions of any law or ordinance, regulating the operation of vehicles on highways, except for parking violations, the court administrator of the court in which the conviction was had or bail was forfeited, shall immediately forward to the department of public safety an abstract of the record of the court covering the case in which the person was convicted or forfeited bail. The abstract must be certified by the person required to prepare it to be true and correct.

The abstract must be made upon a form furnished by the department of public safety, and shall include the name and address of the party charged, the driver's license number of the person involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail was forfeited, and the amount of the fine or forfeiture, as the case may be.

Every court shall also forward a report to the department of public safety reporting the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

Subd. 3. [REPORTS OF DELINQUENT FINES.] Every court administrator shall report delinquent parking citations and fines to the department of public safety's computerized records system established under section 1. The court administrator shall report within 30 days after the date that the payment of a fine is due. The report must be made to the commissioner of public safety as prescribed in section 1 and must contain the following information:

(1) the license plate number of the motor vehicle involved in the violation;

(2) the number of delinquent parking citations and fines; and

(3) the amount of the fine for each citation.

Subd. 4. [JUDICIAL COMPLIANCE.] The failure, refusal, or neglect of any judicial officer to comply with any of the requirements of this section shall constitute misconduct in the office and shall be grounds for removal.

Sec. 6. Minnesota Statutes 1990, section 169.99, subdivision 1, is amended to read:

Subdivision 1. [EFFECT; FORM; CONTENT.] (a) Except as provided in subdivision 3, there shall be a uniform ticket issued throughout the state by the police and peace officers or by any other person for violations of this chapter and ordinances in conformity thereto. Such uniform traffic ticket shall be in the form and have the effect of a summons and complaint. Except as provided in paragraph (b), the uniform ticket shall state that if the defendant fails to appear in court in response to the ticket, an arrest warrant may be issued. The uniform traffic ticket shall consist of four parts, on paper sensitized so that copies may be made without the use of carbon paper, as follows:

(1) the complaint, with reverse side for officer's notes for testifying in court, driver's past record, and court's action, printed on white paper;

(2) the abstract of court record for the department of public safety, which shall be a copy of the complaint with the certificate of conviction on the reverse side, printed on yellow paper;

(3) the police record, which shall be a copy of the complaint and of the reverse side of copy (1), printed on pink paper;

(4) the summons, with, on the reverse side, such information as the court may wish to give concerning the traffic violations bureau, and a plea of guilty and waiver, printed on off-white tag stock.

(b) If the offense is a petty misdemeanor, the uniform ticket must state that a failure to appear will be considered a plea of guilty and waiver of the right to trial, unless the failure to appear is due to circumstances beyond the person's control.

(c) The copy of the uniform traffic ticket provided to the violator of a law or ordinance regulating the parking of vehicles must include a notice specifying the consequences regarding vehicle registration that may result if the violator fails to respond to the citation.

Sec. 7. [APPROPRIATION.]

\$469,000 is appropriated from the general fund to the commissioner of public safety for the purposes of sections 1 to 6. This appropriation is available until spent.

The complement of the department of public safety is increased by one position."

Delete the title and insert:

"A bill for an act relating to traffic regulations; motor vehicles; establishing system for the notification, recording, and collection of delinquent fines for parking violations; prohibiting registration of vehicle of owner who has not paid the fine for a parking violation; prohibiting issuance of warrants for parking violations; imposing a fee; appropriating money; amending Minnesota Statutes 1990, sections 169.91, subdivision 3; 169.95; and 169.99, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 168 and 169."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 734, A bill for an act relating to public safety; regulating limousine drivers; adding identification to license plates; providing for limousine driver endorsement on drivers licenses; providing for payment of fees for limousine drivers licenses; requiring the commissioner of public safety to adopt rules relating to limousine permits; appropriating money; amending Minnesota Statutes 1990, sections 168.128, subdivisions 2 and 3; 171.01, by adding a subdivision; 171.02, subdivision 2; 171.10, subdivision 2; 171.13, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 171.

Reported the same back with the following amendments:

Page 2, line 23, delete everything after the headnote and insert ““Limousine” means an unmarked luxury passenger automobile that is not a van or station wagon and has a seating capacity of not more than 12 persons, excluding the driver.”

Page 2, delete line 24

Page 3, line 17, strike “and”

Page 3, line 21, before the period insert “; and

(5) with a limousine endorsement, operating limousines”

Page 3, line 27, reinstate the stricken “and”

Page 3, lines 30 and 31, delete the new language

Page 5, delete lines 5 and 6

Page 5, line 7, delete “[171.3212]” and insert “[221.85]”

Page 5, line 8, before “(a)” insert “Subdivision 1. [REGULATION BY COMMISSIONER.]” and after “of” insert “a company permit”

Page 5, line 9, delete “permits”

Page 5, line 24, delete “operator” and insert “company”

Page 5, line 26, before the period insert “for noncommercial use”

Page 5, delete lines 27 to 34 and insert:

"Subd. 2. [LOCAL REGULATION.] A municipality may by ordinance establish a limousine company permitting authority with jurisdiction over limousine companies. The municipality may fix the initial and renewal fee and the period of duration of a company permit. The maximum fees may not exceed those set by the commissioner in subdivision 1. A company may be licensed by the department of transportation or by a municipality and may operate anywhere in the state with either license."

Page 6, line 2, delete "8" and insert "7, and \$..... is appropriated from the general fund to the commissioner of transportation for the purposes of section 8,"

Amend the title as follows:

Page 1, line 2, delete "public safety" and insert "transportation"

Page 1, line 6, delete "public" and insert "transportation"

Page 1, line 7, delete "safety" and after the semicolon insert "providing for local regulation;"

Page 1, line 12, delete "171" and insert "221"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 736, A bill for an act relating to alcohol and drug abuse; establishing statewide and local prevention programs; establishing family resource center pilot projects; requiring plans and studies; requiring children to attend school through age 17; establishing school prevention programs; providing for research and evaluation; requiring studies; appropriating money; amending Minnesota Statutes 1990, sections 120.101, subdivisions 5 and 9; 120.105; 123.35, subdivision 8; 124.26, subdivision 1b; 126.031, subdivision 1; 145.924; 254A.16, by adding subdivisions; 254A.17, subdivision 1; and 260.015, subdivision 19; proposing coding for new law in Minnesota Statutes, chapters 144 and 245.

Reported the same back with the following amendments:

Pages 8 to 11, delete "ARTICLE 3"

Delete the title and insert:

"A bill for an act relating to alcohol and drug abuse; establishing statewide and local prevention programs; establishing family resource center pilot projects; requiring plans and studies; appropriating money; amending Minnesota Statutes 1990, sections 145.924; 254A.16, by adding subdivisions; and 254A.17, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 144 and 245."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 741, A bill for an act relating to education; designating a portion of state head start appropriations for grants to establish new early childhood education programs; amending Minnesota Statutes 1990, section 268.914.

Reported the same back with the following amendments:

Page 2, line 20, delete "local head" and insert "serve eligible children in home-based or center-based program options not already existing in local communities. The commissioner of jobs and training shall designate an existing head start grantee to receive the grant and administer the program."

Page 2, delete lines 21 to 25

Page 2, line 26, delete the paragraph coding and delete "(b)" and after "program" insert "option"

Page 2, line 28, delete "establish a program" and insert "coordinate or co-locate the services"

Page 3, line 2, delete "(c)" and insert "(b)"

Page 3, line 3, strike "this" and after "paragraph" insert "(a)"

Delete the title and insert:

"A bill for an act relating to education; designating a portion of state head start appropriations for grants to expand head start

program options; amending Minnesota Statutes 1990, section 268.914.”

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 747, A bill for an act relating to state lands; offering an alternative to bond or deposit requirements on contracts for cutting timber; proposing coding for new law in Minnesota Statutes, chapter 90.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. [90.162] [ALTERNATIVE TO BOND OR DEPOSIT REQUIREMENTS.]

In lieu of the bond or cash deposit required by section 90.161 or 90.173, a purchaser of state timber may, at the time of the bid approval and upon payment by the purchaser to the commissioner of 25 percent of the appraised value under section 90.14, elect in writing on a form prescribed by the attorney general to prepay the purchase price for any designated cutting block identified on the permit before the date the purchaser enters upon the land to begin harvesting the timber. The commissioner shall not be required to apply the advance payment to the purchase price or to any nonfinal payment.

Sec. 2. Minnesota Statutes 1990, section 90.173, is amended to read:

90.173 [PURCHASER'S OR ASSIGNEE'S CASH DEPOSIT IN LIEU OF BOND.]

(a) In lieu of filing the bond required by section 90.161 or 90.171, as security for the issuance or assignment of a timber permit the person required to file the bond may deposit with the state treasurer cash, a certified check, a cashier's check, a personal check, a postal, bank, or express money order, assignable bonds or notes of the United States, or an assignment of a bank savings account or investment certificate or an irrevocable bank letter of credit, in the same amount as would be required for a bond. If securities listed in

this section are deposited, the par value of the securities shall be not less than the amount required for the timber sale bond, and the person required to file the timber sale bond shall submit an agreement authorizing the commissioner to sell or otherwise take possession of the security in the event of default under the timber sale. All of the conditions of the timber sale bond shall equally apply to the deposit with the state treasurer. In the event of a default the state may take from the deposit the sum of money to which it is entitled; the remainder, if any, shall be returned to the person making the deposit and shall bear interest at the rate determined pursuant to section 549.09 if not returned within 30 days from the date of the default. Sums of money as may be required by the state treasurer to carry out the terms and provisions of this section are appropriated from the general fund to the state treasurer for these purposes. When cash is deposited for a bond, it shall be applied to the amount due when a statement is prepared and transmitted to the permit holder pursuant to section 90.181. Any balance due to the state shall be shown on the statement and shall be paid as provided in section 90.181. Any amount of the deposit in excess of the amount determined to be due pursuant to section 90.181 shall be returned to the permit holder when a final statement is transmitted pursuant to that section. All or part of a cash bond may be withheld from application to an amount due on a nonfinal statement if it appears that the total amount due on the permit will exceed the bid price.

(b) If an irrevocable bank letter of credit is provided as security under paragraph (a), at the written request of the permittee the state shall annually allow the amount of the bank letter of credit to be reduced by an amount proportionate to the value of timber that has been harvested and for which the state has received payment under the timber permit. The remaining amount of the bank letter of credit after a reduction under this paragraph must not be less than the value of the timber remaining to be harvested under the timber permit.

Sec. 3. [EFFECTIVE DATE.]

This act is effective the day following final enactment. Section 1 applies to timber sale contracts entered into 30 days after the effective date of that section."

Delete the title and insert:

"A bill for an act relating to natural resources; offering an alternative to bond or deposit requirements on contracts for cutting timber; allowing reduction in value of letters of credit given as security for timber permits; amending Minnesota Statutes 1990, section 90.173; proposing coding for new law in Minnesota Statutes, chapter 90."

With the recommendation that when so amended the bill pass.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 766, A bill for an act relating to crime; sentencing; clarifying and revising the intensive community supervision program; amending Minnesota Statutes 1990, sections 244.05, subdivision 6; 244.12; 244.13; 244.14; and 244.15.

Reported the same back with the following amendments:

Page 2, after line 1, insert:

"Sec. 2. Minnesota Statutes 1990, section 244.09, subdivision 2, is amended to read:

Subd. 2. The sentencing guidelines commission shall consist of the following:

- (1) the chief justice of the supreme court or a designee;
- (2) one judge of the court of appeals, appointed by the chief justice of the supreme court;
- (3) one district court judge appointed by the chief justice of the supreme court;
- (4) one public defender appointed by the governor upon recommendation of the state public defender;
- (5) one county attorney appointed by the governor upon recommendation of the board of ~~governors~~ directors of the Minnesota county attorneys council association;
- (6) the commissioner of corrections or a designee;
- (7) one peace officer as defined in section 626.84 appointed by the governor;
- (8) one probation officer or parole officer appointed by the governor; and
- (9) three public members appointed by the governor, one of whom shall be a victim of a crime defined as a felony.

When an appointing authority selects individuals for membership on the commission, the authority shall make reasonable efforts to appoint qualified members of protected groups, as defined in section 43A.02, subdivision 33.

One of the members shall be designated by the governor as chair of the commission."

Page 3, after line 17, insert:

"After July 1, 1994, the commissioner shall award grants so that at least one-half of the money appropriated for programs by this section is awarded to community corrections act counties in each year."

Page 3, after line 24, insert:

"An intensive supervised release agent must have qualifications equal to those for a state corrections agent."

Page 6, line 35, delete "5" and insert "6"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, after the first semicolon insert "244.09, subdivision 2;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 774, A bill for an act relating to children; child protection and placement; establishing an office of ombudsperson for families of color; authorizing additional placement reviews for children of color; amending Minnesota Statutes 1990, sections 257.071, subdivision 1a; and 257.352, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 257.

Reported the same back with the following amendments:

Page 1, line 20, delete "an Indian child" and insert "a child from a family of color" and delete "non-Indian"

Page 1, line 21, before the comma insert "of a different racial or ethnic background"

Page 1, line 22, delete "shall" and insert "each 30 days thereafter for the first six months to"

Page 1, line 27, delete "serve" and insert "operate independently but under the auspices of"

Page 2, line 1, delete "with"

Page 2, line 5, delete "committee" and insert "board"

Page 2, line 7, delete "committee established under section 11" and insert "board"

Page 2, line 13, delete "must be"

Page 2, line 14, delete "sensitive to" and insert "knowledgeable about"

Page 3, line 11, before the comma insert "or legal guardian"

Page 4, line 4, delete "cultural sensitivity and diversity training of"

Page 4, line 5, delete "is"

Page 4, line 6, delete "provided" and insert "are trained in cultural diversity"

Page 4, delete lines 18 and 19

Page 4, line 20, delete "(2)" and insert "(1)"

Page 4, line 22, delete "(3)" and insert "(2)"

Page 4, line 24, delete "(4)" and insert "(3)"

Page 4, line 32, delete "(5)" and insert "(4)"

Page 4, line 33, delete "(6)" and insert "(5)" and delete "at any time" and insert "during normal business hours"

Page 4, line 35, delete "(7)" and insert "(6)"

Page 5, line 8, delete "committee" and insert "board"

Page 6, line 21, before "groups" insert "advisory board and to the"

Page 7, line 7, delete "COMMITTEE" and insert "BOARD"

Page 7, line 9, delete "committee" and insert "board"

Page 7, line 11, delete "committee" and insert "board"

Page 7, line 14, after the period insert "Each council shall appoint four members to the board." and delete "committee" and insert "board"

Page 7, line 21, delete "committee" and insert "board"

Page 7, line 24, delete "committee" and insert "board"

Page 7, line 33, delete "committee" and insert "board"

Page 7, line 34, delete "COMPENSATION,"

Page 7, line 35, delete "compensation,"

Page 7, line 36, delete "committee" and insert "board"

Page 8, after line 23, insert:

"Sec. 13. [APPROPRIATIONS.]

(a) \$..... is appropriated from the general fund to the Indian Affairs Council for the biennium ending June 30, 1993, for the purposes of sections 2 to 11.

(b) \$..... is appropriated from the general fund to the Spanish-speaking Affairs Council for the biennium ending June 30, 1993, for the purposes of sections 2 to 11.

(c) \$..... is appropriated from the general fund to the Council of Black Minnesotans for the biennium ending June 30, 1993, for the purposes of sections 2 to 11.

(d) \$..... is appropriated from the general fund to the Council on Asian-Pacific Minnesotans for the biennium ending June 30, 1993, for the purposes of sections 2 to 11."

Amend the title as follows:

Page 1, line 5, after the semicolon insert "appropriating money;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

H. F. No. 786, A bill for an act relating to contracts; providing for enforcement of certain contracts; making technical changes; correcting inconsistencies; clarifying certain provisions; amending Minnesota Statutes 1990, section 325E.37.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 325E.37, is amended to read:

325E.37 [TERMINATION OF SALES REPRESENTATIVES.]

Subdivision 1. [DEFINITIONS.] (a) As used in this section, the following terms have the meaning given them.

(b) "Good cause" means failure by the sales representative to substantially comply with the material and reasonable requirements imposed by a material breach of one or more provisions of a written sales representative agreement governing the relationship with the manufacturer, wholesaler, assembler, or importer, including or in absence of a written agreement, failure by the sales representative to substantially comply with the material and reasonable requirements imposed by the manufacturer, wholesaler, assembler, or importer. Good cause includes, but not limited to:

- (1) the bankruptcy or insolvency of the sales representative;
- (2) assignment for the benefit of creditors or similar disposition of the assets of the sales representative's business;
- (3) the voluntary abandonment of the business by the sales representative as determined by a totality of the circumstances;
- (4) conviction or a plea of guilty or no contest to a charge of violating any law relating to the sales representative's business; ~~or~~
- (5) any act ~~by or conduct~~ of the sales representative which materially impairs the good will associated with the manufacturer's,

wholesaler's, assembler's, or importer's trademark, trade name, service mark, logotype, or other commercial symbol; or

(6) failure to forward customer payments to the manufacturer, wholesaler, assembler, or importer.

(c) "Person" means a natural person, but also includes a partnership, corporation, and all other entities.

(d) "Sales representative" means a person, other than an employee, who contracts with a principal to solicit wholesale orders and who is compensated, in whole or in part, by commission, but does not include a person who places orders or purchases exclusively for the person's own account for resale.

Sales representative does not include a person who:

(1) is an employee of the principal;

(2) places orders or purchases for the person's own account for resale;

(3) holds the goods on a consignment basis for the principal's account for resale; or

(4) distributes, sells, or offers the goods, other than samples, to end users, not for resale.

(d) (e) "Sales representative agreement" means a contract or agreement, either express or implied, whether oral or written, for a definite or indefinite period, between a sales representative and another person or persons, whereby a sales representative is granted the right to distribute, represent, sell, or offer for sale a manufacturer's, wholesaler's, assembler's, or importer's goods by use of the latter's trade name, trademark, service mark, logotype, advertising, or other commercial symbol or related characteristics, and in which there exists a community of interest between the parties in the marketing of the goods or services at wholesale, retail, by lease, agreement, or otherwise. "Wholesale orders" means the solicitation of orders for goods by persons in the distribution chain for ultimate sale at retail.

Subd. 2. [TERMINATION OF AGREEMENT.] (a) A manufacturer, wholesaler, assembler, or importer may not terminate a sales representative agreement unless the person has good cause and:

(1) that person has given written notice setting forth all the reasons reason(s) for the termination at least 90 days in advance of termination; and

(2) the recipient of the notice fails to correct the reasons stated for termination in the notice within 60 days of receipt of the notice.

(b) A notice of termination is effective immediately upon receipt where the alleged grounds for termination are: the reasons set forth in subdivision 1, paragraph (b), clauses (1) to (6), hereof

(1) ~~voluntary abandonment of the relationship by the sales representative;~~

(2) ~~the conviction of the sales representative of an offense directly related to the business conducted pursuant to the sales representative agreement; or~~

(3) ~~material impairment of the good will associated with the manufacturer's, assembler's, or importer's trade name, trademark, service mark, logotype, or other commercial symbol.~~

Subd. 3. [RENEWAL OF AGREEMENTS.] Unless the failure to renew a sales representative agreement is for good cause, and the sales representative has failed to correct reasons for termination as required by subdivision 2, no person may fail to renew a sales representative agreement unless the sales representative has been given written notice of the intention not to renew at least 90 days in advance of the expiration of the agreement. For purposes of this subdivision, a sales representative agreement of indefinite duration shall be treated as if it were for a definite duration expiring 180 days after the giving of written notice of intention not to continue the agreement.

Subd. 4. [RIGHTS UPON TERMINATION.] If a sales representative is paid by commission under a sales representative agreement and the agreement is terminated, the representative is entitled to be paid for all sales ~~made and orders to creditworthy customers made~~ in the representative's territory as to which the representative would have been entitled to commissions pursuant to the provisions of the sales representative agreement, provided that the goods purchased are actually shipped prior to the date of termination of the agreement or the end of the notification period, whichever is later; regardless of whether the goods or services have actually been delivered to the purchaser. The payments of commissions are due when the goods or services are delivered or at the date of termination, whichever occurs first. For sales as to which the representative would have been entitled to commissions pursuant to the sales representative agreement and for which the goods purchased have not been actually shipped prior to the later of the date of termination or the end of the notification period, the sales representative shall be paid commissions earned on such sale. Payment of commissions due the sales representative shall be paid in accordance with the terms of the sales representative agreement or, if not specified in

the agreement, payments of commissions due the sales representative shall be paid in accordance with section 181.145.

Subd. 5. [ARBITRATION.] (a) The sole remedy for a sales representative against a manufacturer, wholesaler, assembler, or importer who has allegedly violated any provision of this section is to submit the matter to arbitration. In the alternative, at the employee's sales representative's option, the employee sales representative may bring the employee's sales representative's common law claims in a court of law. In the event the parties do not agree to an arbitrator within 30 days after the sales representative demands arbitration in a writing delivered to the principal, either party may request the appointment of an arbitrator from the American Arbitration Association. Each party to a sales representative agreement shall be bound by the arbitration. In the event that the American Arbitration Association declines to appoint an arbitrator, the arbitration shall proceed under chapter 572. The cost of an arbitration hearing must be borne equally by both parties. Except as provided in paragraph (c), the arbitration proceeding is to be governed by the uniform arbitration act, sections 572.08 to 572.30.

(b) The arbitrator may provide any of the following remedies:

(1) sustainment of the termination of the sales representative agreement;

(2) reinstatement of the sales representative agreement;

(3) payment of commissions due under subdivision 4;

(4) reasonable attorneys' fees and costs to a prevailing sales representative;

(5) reasonable attorneys' fees and costs to a prevailing manufacturer, wholesaler, assembler, or importer, if the arbitrator finds the complaint was frivolous, unreasonable, or without foundation; or

(6) the full amount of the arbitrator's fees and expenses if the arbitrator finds that the sales representative's resort to arbitration or the manufacturer's, wholesaler's, assembler's, or importer's defense in arbitration was vexatious and lacking in good faith.

(c) Notwithstanding any provision of the uniform arbitration act to the contrary, the decision of any arbitration hearing under this subdivision is final and binding nonbinding on the sales representative and the manufacturer, wholesaler, assembler, or importer, unless otherwise agreed by the parties in writing. Any party upon application may remove the decision to district court for a trial de novo. If an application to remove a decision is not filed in the district court within 30 days after the date the decision is received by the

parties, then the district court shall, upon application of a party, issue an order confirming the decision. A written decision issued by an arbitrator, and any written findings upon which the decision is based, are admissible as nonbinding evidence in any subsequent legal action and are not subject to further foundation requirements.

Subd. 6. [SCOPE; LIMITATIONS.] (a) This section applies to a sales representative who, during some part of the period of the sales representative agreement:

(1) is a resident of Minnesota or maintains that person's principal place of business in Minnesota; or

(2) whose geographical territory specified in the sales representative agreement includes part or all of Minnesota.

(b) To be effective, any demand for arbitration under subdivision 5 must be made in writing and delivered to the principal on or before 365 days after the effective date of the termination of the agreement.

Sec. 2. [APPLICATION.]

Section 1 applies to an agreement entered into or renewed on or after the effective date of this act."

With the recommendation that when so amended the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 806, A bill for an act relating to retirement; St. Paul teachers retirement fund association; special postretirement adjustment for certain pre-1978 retirees.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Segal from the Committee on Economic Development to which was referred:

H. F. No. 833, A bill for an act relating to economic development; regulating the use of tax-exempt revenue bonds; amending Minne-

sota Statutes 1990, sections 474A.02, subdivisions 1, 2b, 7, 8, 19, and by adding subdivisions; 474A.04, subdivision 1a; 474A.047, subdivisions 1 and 3; 474A.061, subdivisions 1, 2a, 2b, and 2c; 474A.091, subdivisions 3 and 5; 474A.131, by adding a subdivision; 474A.15; 474A.16; and 474A.17; proposing coding for new law in Minnesota Statutes, chapters 462A and 462C; repealing Minnesota Statutes 1990, sections 474A.048; and 474A.081, subdivisions 1, 2, and 4.

Reported the same back with the following amendments:

Page 7, lines 28 and 29, strike "August" and insert "July"

Page 9, line 36, strike "August" and insert "July"

Page 10, line 2, strike "August" and insert "July"

Page 11, line 10, strike "90 percent of"

Page 12, lines 16, 17 and 31, strike "August" and insert "July"

Page 13, line 19, strike "August" and insert "July"

Page 14, line 5, strike "August" and insert "July"

Page 14, after line 14, insert:

"Sec. 18. Minnesota Statutes 1990, section 474A.061, subdivision 3, is amended to read:

Subd. 3. [ADDITIONAL DEPOSIT.] An issuer which has received an allocation under this section may retain any unused portion of the allocation after the first Tuesday in ~~September~~ August only if the issuer has submitted to the department before the first Tuesday in ~~September~~ August a letter stating its intent to issue obligations pursuant to the allocation before the end of the calendar year or within the time period permitted by federal tax law and a deposit in addition to that provided under subdivision 1, equal to one percent of the amount of allocation to be retained. The Minnesota housing finance agency may retain an unused portion of an allocation after the first Tuesday in ~~September~~ August without submitting an additional deposit.

Sec. 19. Minnesota Statutes 1990, section 474A.061, subdivision 4, is amended to read:

Subd. 4. [RETURN OF ALLOCATION; DEPOSIT REFUND.] (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section within 90 days of allocation or

within the time period permitted by federal tax law, whichever is less, the issuer must notify the department. If the issuer notifies the department or the 90-day period since allocation has expired prior to the last Monday in ~~August~~ July, the amount of allocation is canceled and returned for reallocation through the pool from which it was originally allocated. If the issuer notifies the department or the 90-day period since allocation has expired on or after the last Monday in ~~August~~ July, the amount of allocation is canceled and returned for reallocation through the unified pool. If the issuer notifies the department after the last Monday in November, the amount of allocation is canceled and returned for reallocation to the Minnesota housing finance agency.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section within 90 days of allocation shall receive within 30 days a refund equal to:

(1) one-half of the application deposit for the amount of bonding authority returned within 30 days of receiving allocation;

(2) one-fourth of the application deposit for the amount of bonding authority returned between 31 and 60 days of receiving allocation; and

(3) one-eighth of the application deposit for the amount of bonding authority returned between 61 and 90 days of receiving allocation.

No refund shall be available for allocations returned 90 or more days after receiving the allocation. This subdivision does not apply to the Minnesota housing finance agency.

Sec. 20. Minnesota Statutes 1990, section 474A.091, subdivision 1, is amended to read:

Subdivision 1. [UNIFIED POOL AMOUNT.] On the day after the last Monday in ~~August~~ July any bonding authority remaining unallocated from the manufacturing pool, the housing pool, and the public facilities pool is transferred to the unified pool and must be reallocated as provided in this section.

Sec. 21. Minnesota Statutes 1990, section 474A.091, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, (4) an application deposit in the amount of two percent of the requested allocation, and (5) a public

purpose scoring worksheet for small issue applications. The issuer must pay the application deposit by check. An entitlement issuer may not apply for an allocation for public facility bonds, residential rental project bonds, or mortgage bonds under this section unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

The Minnesota housing finance agency may not apply for an allocation for mortgage bonds under this section until after the last Monday in ~~September~~ August. Notwithstanding the restrictions imposed on unified pool allocations after ~~October~~ September 1 under subdivision 3, paragraph (c)(2), the Minnesota housing finance agency may be awarded allocations for mortgage bonds from the unified pool after ~~October~~ September 1. The Minnesota housing finance agency may apply for and receive an allocation under this section without submitting an application deposit."

Page 14, lines 20 and 36, strike "September" and insert "August"

Page 14, line 26, strike "October" and insert "September"

Page 15, lines 17 and 23, strike "October" and insert "September"

Page 16, line 5, strike "October" and insert "September"

Renumber the remaining sections in sequence

Amend the title as follows:

Page 1, line 7, delete "and" and after "2c" insert ", 3, and 4"

Page 1, line 8, after "subdivisions" insert "1, 2,"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Jacobs from the Committee on Regulated Industries to which was referred:

H. F. No. 878, A bill for an act relating to certain utility customers; providing a cold weather shutoff rule for municipal utilities and

cooperative electric associations; proposing coding for new law in Minnesota Statutes, chapter 216B.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 882, A bill for an act relating to traffic regulations; increasing criminal and civil penalties for littering; amending Minnesota Statutes 1990, sections 169.42, subdivision 5; and 169.421, subdivision 4.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Osthoff from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 883, A bill for an act relating to the state agricultural society; providing some building and contracting exceptions; regulating real estate transactions; amending Minnesota Statutes 1990, sections 37.02 and 37.19.

Reported the same back with the following amendments:

Page 2, after line 23, insert:

"Sec. 3. Minnesota Statutes 1990, section 375.79, is amended to read:

375.79 [EXHIBITS AT STATE FAIR.]

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

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

Sec. 4. [REPEALER.]

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

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 4, after the semicolon insert "authorizing appropriations by counties for certain exhibits and repealing related procedural law;"

Page 1, delete line 5 and insert "1990, sections 37.02; 37.19; and 375.79; repealing Minnesota Statutes 1990, sections 375.80; 375.81; and 375.82."

With the recommendation that when so amended the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 886, A bill for an act relating to retirement; authorizing investment related postretirement adjustments for eligible members of the St. Paul police and firefighters relief associations; amending Minnesota Statutes 1990, sections 69.031, subdivision 5; 69.77, subdivision 2b; 356.216; and 423A.01, subdivision 2; and Laws 1989, chapter 319, article 19, sections 6 and 7, subdivisions 1, and 4, as amended.

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Reported the same back with the following amendments:

Page 11, lines 34 to 36, delete the new language and reinstate the stricken language

Page 12, lines 2 and 3, delete the new language and reinstate the stricken language

Page 12, line 30, strike "of one percent"

Page 13, line 1, strike "of one percent"

Page 13, line 9, after "state" insert "amortization or supplementary amortization"

Page 13, line 10, after "year" insert "under section 423A.02 for the current calendar year"

Page 13, lines 16, 18, 20, and 21, delete the new language and reinstate the stricken language

Page 14, line 2, after the period insert "In addition to the provisions of subdivision 1 and this subdivision that require that the time weighted total rate of return earned by the fund in the most recent fiscal year exceeds by two percent the actual percentage increase in the current monthly salary of a top grade patrol officer or a top grade firefighter in the most recent fiscal year, a relief association in a city of the first class with a population of more than 200,000 but less than 300,000 may pay an annual postretirement payment only if the percent of assets to accrued liability equals or exceeds amounts determined as follows:

(1) The relief association shall certify the percent of assets to accrued liability, based on the actuarial valuation for calendar year 1990, and subtract this percent from 100 percent.

(2) The relief association shall divide the remainder in clause (1) by 19.

(3) For calculations made in 1992, the relief association shall add to the base percent in clause (1), the amount calculated under clause (2).

(4) For calculations made in every year after 1992, the relief association shall add to the amount from the previous year, the amount calculated under clause (2)."

Page 14, line 9, after the period insert "Sections 1 to 7 are not severable. However, a resolution by the St. Paul city council granting approval pursuant to section 645.021 may apply sections 1 to 7 to either a police fund or to a fire fund or both."

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, I., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 890, A bill for an act relating to solid waste; setting supplementary recycling goals for counties; requiring mandatory participation in recycling programs in cities with 5,000 or more population; prohibiting the use of lead, cadmium, mercury, and chromium in packaging material, dye, paint, and fungicides; setting a date certain for cities to require licenses and volume or weight-based fees for solid waste collection; placing a five-year moratorium on new solid waste incinerators; amending Minnesota Statutes 1990, sections 115A.551, by adding a subdivision; 115A.93, subdivision 3, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 115A.

Reported the same back with the following amendments:

Page 1, line 25, delete "40" and insert "30"

Page 2, line 17, before "chromium" insert "hexavalent"

Page 3, after line 10, insert:

"Sec. 7. [LANDFILL MORATORIUM.]

Until July 1, 1994, no person may begin construction or begin operation of a new mixed municipal solid waste disposal facility, except for a facility in the metropolitan area for the disposal of ash from mixed municipal solid waste resource recovery facilities that incinerate waste. Until July 1, 1994, the pollution control agency may not permit the expansion of capacity of any existing disposal facility in the metropolitan area.

Sec. 8. [DAKOTA COUNTY; RESOURCE RECOVERY REIMBURSEMENT.]

\$5,500,000 is hereby appropriated from the general fund to Dakota county in order to reimburse Dakota county for costs incurred to implement a resource recovery facility prohibited by this chapter.

Amend the title as follows:

Page 1, line 10, after the semicolon insert "appropriating money;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 922, A bill for an act relating to crimes; imposing a duty to investigate and render aid when a person is injured in a shooting accident; imposing penalties; proposing coding for new law in Minnesota Statutes, chapter 609.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [609.662] [SHOOTING VICTIM; DUTY TO RENDER AID.]

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, the following terms have the meanings given.

(b) "Shooting accident" is an incident in which a person suffers bodily harm or death as a result of the intentional or unintentional discharge of a firearm.

(c) "Reasonable assistance" means aid appropriate to the circumstances, and includes obtaining or attempting to obtain assistance from a conservation or law enforcement officer, or from medical personnel.

Subd. 2. [DUTY TO RENDER AID.] (a) A person who discharges a firearm and knows or has reason to know that the discharge has caused bodily harm to another person, shall:

(1) immediately investigate the extent of the person's injuries; and

(2) unless the injuries are minor, render immediate reasonable assistance to the injured person.

(b) A person who violates this subdivision is guilty of a crime and may be sentenced as follows:

(1) if the injured person suffered death or great bodily harm as a result of the discharge, to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both;

(2) if the injured person suffered substantial bodily harm as a result of the discharge, to imprisonment for not more than one year and one day or to payment of a fine of not more than \$3,000, or both;

(3) otherwise, to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Subd. 3. [DUTY OF WITNESS.] (a) A person who witnesses the discharge of a firearm and knows or has reason to know that the discharge caused bodily harm to a person shall:

(1) immediately investigate the extent of the injuries; and

(2) unless the injuries are minor, render immediate reasonable assistance to the injured person.

(b) A person who violates this subdivision is guilty of a crime and may be sentenced as follows:

(1) if the defendant was a companion of the person who discharged the firearm at the time of the discharge, to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both;

(2) otherwise, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both.

Subd. 4. [DEFENSE.] It is an affirmative defense to a charge under this section if the defendant proves by a preponderance of the evidence that the defendant failed to investigate or render assistance as required under this section because the defendant reasonably perceived that these actions could not be taken without a significant risk of bodily harm to the defendant or others.

Subd. 5. [PUBLICATION BY DEPARTMENT OF NATURAL RESOURCES.] The commissioner of natural resources shall include a summary of this section in the summary of the fish and game laws published under section 97A.051, subdivision 2.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective August 1, 1991, and applies to crimes committed on or after that date."

With the recommendation that when so amended the bill pass.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 925, A bill for an act relating to taxation; changing the special levy for the cost of certain regional library services; amending Minnesota Statutes 1990, section 275.50, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 134.342, subdivision 2, is amended to read:

Subd. 2. [DETERMINATION OF LEVY LIMITATION.] The levy limitation for a regional library system is equal to the sum of the total maximum amount allowable for operating regional library services for all member cities, towns, and counties within the region subject to the levy limitation under section 275.50, subdivision 5, clause (o). If a member city or town of a regional library system is not subject to the levy limitations under sections 275.50 to 275.56, the commissioner of revenue shall determine a levy limitation for the purposes of this section as if the member were subject to the provisions of section 275.50, subdivision 5, clause (o). The commissioner of revenue shall determine the total maximum amount allowable for the regional library system and shall certify the total amount to the regional library board and to the commissioner of education by August 1 of the levy year. If an unaffiliated city library has joined the regional public library system, the commissioner of revenue shall increase the total maximum amount by two percent."

Delete the title and insert:

"A bill for an act relating to taxation; changing the levy limitation for certain regional public library systems; amending Minnesota Statutes 1990, section 134.342, subdivision 2."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Segal from the Committee on Economic Development to which was referred:

H. F. No. 930, A bill for an act relating to the governor; creating a

division of science and technology; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 4.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 116O.05, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] (a) The primary duties of the corporation shall include:

(1) applied research; and

(2) technology transfer and early stage funding to small manufacturers.

(b) The corporation shall also:

(1) establish programs, activities, and policies that provide technology transfer and applied research and development assistance to individuals, sole proprietorships, partnerships, corporations, other business entities, and nonprofit organizations in the state that are primarily new and existing small and medium-sized businesses in greater Minnesota;

(2) provide or provide for technology-related assistance to individuals, sole proprietorships, partnerships, corporations, other business entities, and nonprofit organizations;

(3) provide financial assistance under section 116O.06 to assist the development of new products, services, or production processes or to assist in bringing new products or services to the marketplace;

(4) provide or provide for research services including on-site research and testing of production techniques and product quality;

(5) establish and operate regional research institutes as provided for in section 116O.08;

(6) make matching research grants for applied research and development to public and private post-secondary education institutes as provided for in section 116O.11;

(7) enter into contracts for establishing formal relationships with public or private research institutes or facilities;

(8) establish the agricultural utilization research institute under section 116O.09; and

(9) not duplicate existing services or activities provided by other public and private organizations but shall build on the existing educational, business, and economic development infrastructure.

Sec. 2. [116O.071] |SCIENCE AND TECHNOLOGY.]

Subdivision 1. |GOVERNOR'S ADVISOR ON SCIENCE AND TECHNOLOGY.] The chair of the board of directors of the Minnesota Technology Development Corporation shall serve as the science and technology advisor to the governor.

Subd. 2. |DUTIES.] The corporation shall:

(1) prepare and deliver to the legislature every January 15 a science and technology annual report that shall contain:

(i) a list of the scientifically and technologically related research and development projects and development activities funded by a grant or loan of state money that provides significant promise for the development of job-creating businesses; and

(ii) an analysis of the efficacy and completeness of a decentralized research peer review process, with special emphasis on whether or not scientifically and technologically related research and development projects in Minnesota have or will result in creating scientifically and technologically related jobs;

(2) keep a current roster of technology intensive businesses in the state;

(3) collect and disseminate information on financial, technical, marketing, management, and other services available to technology intensive small and emerging businesses, including potential sources of debt and equity capital;

(4) review the technological development potential of various regions of the state and cooperate with and make recommendations to the legislature, state agencies, local governments, local technology development agencies, the federal government, private businesses, and individuals for the realization of the development potential; and

(5) sponsor and conduct conferences and studies, collect and disseminate information, and issue periodic reports relating to scientifically and technologically related research and development and education in the state and represent the state at appropriate interstate and national conferences.

Subd. 3. [PEER REVIEW PLANS.] A state agency, board, commission, authority, institution, or other entity that allocates state money by a grant, loan, or contract for scientifically and technologically related research shall establish a peer review system to evaluate the research. The corporation shall recommend guidelines for establishing effective peer review. An agency, board, commission, authority, or institution that funds scientifically and technologically related research shall, at least biennially, present to the corporation or to ad hoc committees a review and evaluation of the peer review process used in that organization.

Subd. 4. [AUTHORITY TO PERFORM REQUESTED EVALUATIONS.] The governor, speaker of the house of representatives, house of representatives minority leader, senate majority leader, senate minority leader, chair of the house of representatives appropriations committee, chair of the senate finance committee, a director, or a member of the legislature considering the introduction or approval of legislation containing funding for scientifically and technologically related research and development may request the corporation to evaluate a loan or grant made or to be made or the proposed legislation for funding scientifically and technologically related research and development to determine (1) whether it complies with the guidelines required by subdivision 3; (2) whether it is technically feasible; and (3) for development proposals, whether the proposal appears to have the potential for economic development. Ad hoc committees may be appointed by the corporation.

Sec. 3. Minnesota Statutes 1990, section 116O.09, subdivision 3, is amended to read:

Subd. 3. [STAFF.] The corporation board of directors shall provide hire staff to for the agricultural utilization research institute and assist in carrying out the duties of the agricultural utilization research institute. Persons employed by the agricultural utilization research institute are not state employees and may participate in state retirement, deferred compensation, insurance, or other plans that apply to state employees generally and are not subject to regulation by the state ethical practices board.

Sec. 4. Minnesota Statutes 1990, section 116O.09, is amended by adding a subdivision to read:

Subd. 6. [BYLAWS.] The board of directors shall adopt bylaws necessary for the conduct of the business of the institute consistent with this section. The corporation must publish bylaws and amendments to the bylaws in the State Register.

Sec. 5. Minnesota Statutes 1990, section 116O.09, is amended by adding a subdivision to read:

Subd. 7. [PLACE OF BUSINESS.] The board shall locate and maintain the institute's place of business within the state.

Sec. 6. Minnesota Statutes 1990, section 116O.09, is amended by adding a subdivision to read:

Subd. 8. [CHAIR.] The board shall annually elect from among its members a chair and other officers necessary for the performance of its duties.

Sec. 7. Minnesota Statutes 1990, section 116O.09, is amended by adding a subdivision to read:

Subd. 9. [MEETINGS.] The board shall meet at least twice each year and may hold additional meetings upon giving notice in accordance with the bylaws of the institute. Board meetings are subject to section 471.705.

Sec. 8. Minnesota Statutes 1990, section 116O.09, is amended by adding a subdivision to read:

Subd. 10. [CONFLICT OF INTEREST.] A director, employee, or officer of the institute may not participate in or vote on a decision of the board relating to an organization in which the director has either a direct or indirect financial interest.

Sec. 9. Minnesota Statutes 1990, section 116O.09, is amended by adding a subdivision to read:

Subd. 11. [NO BENEFIT TO PRIVATE INDIVIDUALS OR CORPORATIONS.] This institute shall not afford pecuniary gain, incidental or otherwise, to any private individual, firm, or corporation, except the payment of reasonable fees for goods and services rendered and approved in accordance with the bylaws of the corporation, and no part of the net income or net earning of the institute shall, directly or indirectly, be distributable to or otherwise inure to the benefit of any individual.

Sec. 10. Minnesota Statutes 1990, section 116O.09, is amended by adding a subdivision to read:

Subd. 12. [FUNDS.] The institute may accept and use gifts, grants, or contributions from any source. Unless otherwise restricted by the terms of a gift or bequest, the board may sell, exchange, or otherwise dispose of and invest or reinvest the money, securities, or other property given or bequested to it. The principal of these funds, the income from them, and all other revenues received by it from any nonstate source must be placed in the depositories the board determines and are subject to expenditure for

the board's purposes. Expenditures of more than \$25,000 must be approved by the full board.

Sec. 11. Minnesota Statutes 1990, section 116O.09, is amended by adding a subdivision to read:

Subd. 13. [ACCOUNTS; AUDITS.] The institute may establish funds and accounts that it finds convenient. The board shall provide for and pay the cost of an independent annual audit of its official books and records by the legislative auditor subject to sections 3.971 and 3.972. A copy of this audit shall be filed with the secretary of state.

For purposes of this section, "institute" means the agricultural research institute established under section 1.

Sec. 12. [116O.16] [ALLOCATION OF LOTTERY PROCEEDS.]

The corporation must allocate a portion of annual lottery proceeds received under section 349A.10, subdivision 5, as follows:

(1) \$4,000,000 to the agricultural utilization institute; and

(2) \$1,200,000 to the natural resource research institute.

Sec. 13. [FUNDING FOR TECHNOLOGY PROGRAMS.]

The corporation must allocate out of corporation funds \$200,000 for the purposes of section 2, \$1,360,000 to the Minnesota Project Innovation Incorporated, and \$1,000,000 to the Minnesota Project Outreach Corporation, to be available for the biennium ending June 30, 1993.

Sec. 14. [INSTRUCTION TO REVISOR.]

The revisor of statutes is instructed to change the term "Greater Minnesota Corporation" and similar terms to "Minnesota Technical Development Center" and similar terms in Minnesota Statutes and Minnesota Rules."

Delete the title and insert:

"A bill for an act relating to economic development; changing the focus of the Greater Minnesota Corporation; requiring the chair of the board of directors to act as science advisor to the governor; changing the duties of the agricultural research utilization institute; providing for an audit; changing the name of the Greater Minnesota Corporation; amending Minnesota Statutes 1990, sections 116O.05, subdivision 2; and 116O.09, subdivision 3, and by

adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 116O.”

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 932, A bill for an act relating to corrections; extending female offender programs to include juveniles adjudicated delinquent; encouraging counties and agencies to develop and implement female offender programs; amending Minnesota Statutes 1990, sections 241.70; 241.71; 241.72; and 241.73.

Reported the same back with the following amendments:

Page 3, line 7, before the period insert “adopted under sections 14.22 to 14.28”

Page 3, line 15, after the period insert “An agency seeking funding for a program to serve female offenders on probation in a community corrections act county shall obtain the endorsement of the county corrections authority before submitting a grant-in-aid application or proposal.”

With the recommendation that when so amended the bill pass.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 937, A bill for an act relating to education; allowing the Wayzata school district to conduct a referendum before November 1991.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Osthoff from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 943, A bill for an act relating to elections; allowing school meetings on certain election days; amending Minnesota Statutes 1990, section 204C.03, subdivision 3.

Reported the same back with the following amendments:

Page 1, line 11, delete "general" and insert "regularly scheduled"

With the recommendation that when so amended the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 954, A bill for an act relating to retirement; public employees retirement association; granting the equivalent of two months maternity leave to a certain St. Louis county employee.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 961, A bill for an act relating to agriculture; extending the farmer-lender mediation act; providing for the assessment of mediation fees; appropriating money; amending Laws 1986, chapter 398, article 1, section 18, as amended; proposing coding for new law in Minnesota Statutes, chapter 583.

Reported the same back with the following amendments:

Page 1, delete sections 1 and 2

Page 1, line 26, delete "Sec. 3." and insert "Section 1."

Page 2, delete section 4

Delete the title and insert:

"A bill for an act relating to agriculture; appropriating money for the farmer-lender mediation program."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 962, A bill for an act relating to human services; requiring the commissioner to develop specialized residential treatment services for children with emotional disturbances for whom there are no appropriate services available in Minnesota; establishing a commission on specialized children's mental health resources; amending Minnesota Statutes 1990, section 245.4882, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 27, delete "COMMISSION" and insert "JOINT COMMITTEE"

Page 2, lines 2, 8, 15, 20, 22, and 24, delete "commission" and insert "joint committee"

Page 2, line 12, after "the" insert "joint"

Page 2, line 21, delete "commission's" and insert "joint committee's"

Amend the title as follows:

Page 1, line 6, delete "commission" and insert "committee"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 999, A bill for an act relating to waters; exempting

certain proceedings by the board of water and soil resources from the administrative procedure act; authorizing appeals to the court of appeals; amending Minnesota Statutes 1990, sections 103B.345, subdivisions 2 and 4; 103D.105, subdivision 1; and 103D.111.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 103B.345, subdivision 2, is amended to read:

Subd. 2. [PETITION FOR HEARING.] A county or other local unit of government may petition for a ~~contested case~~ hearing by the board under this section if:

(1) the interpretation and implementation of a comprehensive water plan is challenged by a local unit of government aggrieved by the plan;

(2) two or more counties disagree about the apportionment of the costs of a project implementing a comprehensive water plan; or

(3) a county and another local unit of government disagree about a change in a local water and related land resources plan or official control recommended by the county under section 103B.325.

Sec. 2. Minnesota Statutes 1990, section 103B.345, subdivision 4, is amended to read:

Subd. 4. [HEARING.] If the aggrieved county or other local unit of government files a petition for a hearing, a hearing must be conducted by the state office of administrative hearings under the ~~contested case procedure of chapter 14~~ board within 60 days of the request. The subject of the hearing may not extend to questions concerning the need for a comprehensive water plan. ~~In the report of the administrative law judge, the fees of the office of administrative hearings and transcript fees must be equally apportioned among the parties to the proceeding.~~ Within 60 days after receiving the report of the administrative law judge the close of the hearing, the board shall, by resolution containing findings of fact and conclusions of law, make a final decision with respect to the issue before it.

Sec. 3. Minnesota Statutes 1990, section 103D.105, subdivision 1, is amended to read:

Subdivision 1. [PROCEDURE.] (a) A rulemaking hearing must be conducted under chapter 14.

(b) A hearing ~~must be conducted as a contested case under chapter 14 if the hearing is:~~

(1) in a proceeding to establish or terminate a watershed district;
~~or~~

~~(2) of an appeal under section 103D.535 must be conducted informally as a public information hearing by the board, or referred by the board to the office of administrative hearings.~~

(c) Notwithstanding chapter 14, other hearings under this chapter, ~~except hearings under paragraphs (a) and (b),~~ shall be conducted by the board under this section. The board may refer the hearing to one or more members of the board or an administrative law judge to hear evidence and make findings of fact and report them to the board.

Sec. 4. Minnesota Statutes 1990, section 103D.111, is amended to read:

103D.111 [APPEAL OF BOARD ORDERS.]

Subdivision 1. [REVIEW OF ESTABLISHMENT AND TERMINATION DECISIONS.] In a proceeding to establish or terminate a watershed district where the board elected ~~not to refer the proceeding to the office of administrative hearings, a local unit of government or 25 or more residents within the area affected by the proceeding may, prior to judicial appeal of the board's decision, demand a contested case hearing to be conducted by the office of administrative hearings. In the report of the administrative law judge, the fees of the office of administrative hearings and transcript fees may be apportioned among the parties and the board. Apportionment must be based on the degree to which the parties and the board prevailed, or caused unnecessary delay or expense. Following receipt of the report of the administrative law judge, the board shall make a final decision in accordance with chapter 14.~~

Subd. 2. [APPEALS OF FINAL BOARD DECISIONS.] A party that is aggrieved by the final decision made by the ~~order of the board~~ may appeal the ~~order decision~~ to the ~~district~~ court of appeals in the manner provided by sections 14.63 to 14.69."

Amend the title as follows:

Page 1, line 4, after "authorizing" insert "a petition for a hearing and"

With the recommendation that when so amended the bill pass.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 1000, A bill for an act relating to farm safety; authorizing a program for training youth in the safe operation of farm equipment; establishing a farm injuries surveillance system; requiring a farm safety specialist; providing for a pilot project of comprehensive farm safety audits; requiring certain safety equipment on farm tractors at time of sale; establishing a research center for agricultural health and safety; requiring certain studies and reports; appropriating money; proposing coding for new law in Minnesota Statutes, chapters 17; 137; and 325F.

Reported the same back with the following amendments:

Page 2, line 3, after "payments" insert "of \$25 per student"

Page 2, delete section 2

Page 2, line 13, after "Minnesota" insert "legislature finds that because the extension service has unique opportunities for delivering health and safety messages to farm families, the" and delete "must" and insert "is urged to"

Page 3, line 16, before the period, insert ", if the tractor was originally equipped with lights"

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 4, delete everything after the semicolon

Page 1, line 5, delete "system;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 1008, A bill for an act relating to vocational rehabilitation; establishing grant programs for special employability and supported education services for persons with serious and persistent mental illness; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 268A.

Reported the same back with the following amendments:

Page 1, delete line 11

Page 1, line 12, delete "SERVICES.]"

Page 1, delete lines 23 to 26

Page 2, delete lines 1 to 13

Amend the title as follows:

Page 1, line 3, delete "and supported"

Page 1, line 4, delete "education"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 1009, A bill for an act relating to natural resources; authorizing additions to and deletions from certain state parks; authorizing nonpark use of a portion of Interstate park; authorizing the sale of certain deleted lands.

Reported the same back with the following amendments:

Page 2, line 21, delete "area is" and insert "areas are"

Page 2, line 22, after "park:" insert:

"(a)"

Page 3, after line 8, insert:

"(b) That part of Government Lot 1 of Section 15, Township 56 North, Range 7 West, described as follows: Beginning at the water line of Lake Superior on the north and south line between Government Lots 1 and 2 of said Section 15; thence North 5 degrees West 7 chains; thence North 61 degrees East 3 chains and 57 links; thence North 47 degrees East 3 chains and 25 links; thence South 30 degrees East to the water line of Lake Superior; thence westerly along said water line to the point of beginning.

(c) The following described area, to be known as the Palisade Valley Unit, also is added to Tettegouche state park: The West Half of Section 16; the South Half, the South Half of the Northwest Quarter, the South Half of the Northeast Quarter and the Northeast Quarter of the Northeast Quarter of Section 17; the South Half, the South Half of the Northeast Quarter, the South Half of the Northwest Quarter and the Northwest Quarter of the Northwest Quarter of Section 18; the West Half and the Northeast Quarter of Section 19; the Northwest Quarter of the Northwest Quarter of Section 20; the Northwest Quarter of Section 30; all in Township 56 North, Range 7 West. All of Sections 13, 24 and 25; Government Lot 6 of Section 12; the East Half of the Northeast Quarter and the East Half of the Southeast Quarter of Section 26; all in Township 56 North, Range 8 West.

Notwithstanding the provisions of section 85.012, subdivision 1, tax-forfeited land located within the Palisade Valley Unit is not withdrawn from sale and transferred from the custody of the county board. The commissioner shall manage the unit as a recreational state park as provided in section 86A.05, subdivision 3, but without major new development such as roads or campgrounds, other than hiking trails and backpack only campsites. In addition to other activities authorized within Tettegouche state park, the following activities are permitted in the Palisade Valley Unit: (a) public hunting, trapping, and fishing; (b) the continued leasing of hunting cabins on tax-forfeited land, but not for more than 40 years after the effective date of this section; (c) the continued use of snowmobiles and all-terrain vehicles on roads and designated trails existing at the time of enactment of this section, including but not limited to, existing routes to Bear and Bean lakes. The commissioner shall promulgate rules for the Palisade Valley Unit that are consistent with this section.

As to all privately owned land added to Tettegouche state park pursuant to additions authorized by this act, the commissioner shall annually pay to Lake county, \$3 per acre, in the same manner and for the same purposes as required under sections 477A.11 to 477A.14 to be paid to a county for acquired natural resources land administered by the commissioner.

The commissioner must establish an advisory committee to provide advice in regard to the planning, development, and operation of Tettegouche state park."

Page 3, after line 21, insert:

"Sec. 3. [FORT SNELLING STATE PARK; USE AND OCCUPANCY OF CERTAIN AREAS FOR NONPARK PURPOSES; EXCLUSION FROM PARK.]

Notwithstanding the provisions of Minnesota Statutes, chapters 85 and 86A, or any other law to the contrary, the commissioner of natural resources, if authorized by the federal government, without penalty, may authorize the United States army or the Minnesota department of military affairs to use, occupy, and maintain without charge by the state, but at no expense to the commissioner, that portion of Fort Snelling state park that is designated in the official records and drawings of the former Veterans Administration Hospital Reserve as "Area J," and being that part of the property conveyed to the state of Minnesota by the United States of America on August 17, 1971, lying east of Taylor Avenue, which contains 35.38 acres, more or less, together with that portion of land conveyed by the same deed that lies west of Taylor Avenue and is commonly referred to as Officers Row, and which contains 10.5 acres, more or less. The use, occupancy, and maintenance may be conditioned upon such terms as the commissioner may prescribe."

Page 3, line 23, delete "3" and insert "4"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Osthoff from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 1014, A bill for an act relating to military affairs; appropriating money to pay a local assessment against a state armory in the city of Anoka.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 1025, A bill for an act relating to retirement; eliminating the additional employer contribution to the teachers retirement association on behalf of employees participating in the individual retirement account plan; amending Minnesota Statutes 1990, section 354B.04, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 354B.04, subdivision 2, is amended to read:

Subd. 2. [EMPLOYER CONTRIBUTIONS.] The employer of persons in covered employment who participate in the plan shall make an employer contribution to the plan in an amount equal to the amount prescribed by section 354.42, subdivision 3; ~~and. The employer shall continue to make an additional employer contribution to the teachers retirement association in an amount equal to the amount prescribed by section 354.42, subdivision 5, for persons~~ hired prior to July 1, 1989.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective for the first payroll period beginning after July 1, 1991."

With the recommendation that when so amended the bill pass.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 1027, A bill for an act relating to human services; the Minnesota equal access to employment opportunities for persons with severe disabilities act; providing for equal employment opportunities for persons with severe disabilities; establishing rights; appropriating money; amending Minnesota Statutes 1990, sections 43A.191, subdivision 2; 120.183; 252.40; 268A.08, subdivision 2; and 268A.09, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 16B and 120.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 1031, A bill for an act relating to human services; providing for clarification and changes in law relating to child support enforcement; amending Minnesota Statutes 1990, sections 257.57, subdivision 2; 270A.04, subdivision 2; 270A.08, subdivision 2; 518.551, subdivision 5, and by adding subdivisions; and 518.64.

Reported the same back with the following amendments:

Page 1, line 25, strike "is not in the" and delete "best"

Page 1, line 26, strike "interest of" and delete "the child or"

Page 6, lines 4, 6, 7, and 10, after "earnings" insert "and income"

Page 6, line 5, delete "In all cases" and insert "When there is a prehearing conference"

Page 6, line 19, after "court" insert "or in accordance with paragraph (c)" and delete "This" and insert "Credible"

Page 6, lines 20 and 21, after "recent" insert "earnings and"

Page 6, after line 23, insert:

"(c) If the court finds that a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of imputed income. Imputed income means the estimated earning ability of a parent based on the parent's prior earnings history, education, and job skills, and on availability of jobs within the community for an individual with the parent's qualifications. For a parent with no previous job history and no higher education or advanced training or who has made reasonable efforts and cannot find suitable employment, the court may take judicial notice of estimated earning ability based on full-time employment of 40 hours per week at the federal minimum wage or the Minnesota minimum wage, whichever is higher. If the parent is physically or mentally incapacitated, it shall be presumed that the parent is not voluntarily unemployed or underemployed."

Page 8, line 22, delete "payments are"

Page 8, delete line 23

Page 8, line 24, delete "enforcement" and insert "public assistance is being furnished or the county attorney is the attorney of record"

Page 10, line 22, delete the second "the" and insert "a"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Segal from the Committee on Economic Development to which was referred:

H. F. No. 1045, A bill for an act relating to state government; authorizing a study to develop models for STARS regions; appropriating money.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 1129, A bill for an act relating to agriculture; regulating genetically engineered plants, pesticides, fertilizers, soil amendments, and plant amendments; imposing a penalty; amending Minnesota Statutes 1990, sections 18B.01, by adding subdivisions; 18C.005, by adding subdivisions; 18C.421; 18C.425, subdivision 6, and by adding a subdivision; 18D.01, subdivisions 1 and 9; 18D.301, subdivisions 1 and 2; 18D.325, subdivisions 1 and 2; 18D.331, subdivisions 1, 2, and 3; proposing coding for new law in Minnesota Statutes, chapters 18B and 18C; proposing coding for new law as Minnesota Statutes, chapter 18F.

Reported the same back with the following amendments:

Page 1, line 29, delete everything after the first "the" and insert "introduction of new genetic material to an organism or the regrouping of an organism's genes using techniques or technology designed by humans. This does not include selective breeding, hybridization, or nondirected mutagenesis."

Page 2, delete lines 1 and 2

Page 2, line 16, delete "UNREASONABLE" and insert "MATERIAL"

Page 2, line 17, delete "unreasonable" and insert "material"

Page 2, line 18, delete "unreasonable" and insert "material"

Page 2, line 36, delete "unreasonable" and insert "material"

Page 3, line 11, delete "unreasonable" and insert "material"

Page 3, line 14, delete "issuance of a permit is not in the public interest or that"

Page 3, line 16, delete "unreasonable" and insert "material"

Page 4, line 5, delete everything after "for" and insert "environmental review subject to the provisions of"

Page 4, line 6, delete everything before "chapter" and after "116D" insert "and rules adopted under it" and after the period insert "The rules must also include provisions requiring concurrent permit review for proposed releases that would require more than one permit under chapter 18B, 18C, or 18F."

Page 4, line 17, delete "substance, or mixture of substances or organisms"

Page 5, line 15, delete "unreasonable" and insert "material"

Page 5, line 28, delete "unreasonable" and insert "material"

Page 5, line 31, delete everything after "that"

Page 5, line 32, delete "in the public interest or that"

Page 5, line 34, delete "unreasonable" and insert "material"

Page 8, line 17, delete "unreasonable" and insert "material"

Page 8, line 33, delete "unreasonable" and insert "material"

Page 9, line 1, delete everything after "that"

Page 9, line 2, delete "public interest or that"

Page 9, line 5, delete "unreasonable" and insert "material"

Page 9, delete section 18

Page 11, delete section 20

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 1132, A bill for an act relating to natural resources; providing for enforcement of sanctions for hunting while under the influence of alcohol or a controlled substance; amending Minnesota Statutes 1990, section 97B.065; proposing coding for new law in Minnesota Statutes, chapter 97B.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 1147, A bill for an act relating to public employment; transferring certain state employees from the unclassified to the classified service; requiring rules for evaluating the performance of arbitrators; establishing deadlines for certain steps in the arbitration process; establishing a procedure for setting the dates for meetings of arbitration panels; amending Minnesota Statutes 1990, sections 11A.07, subdivision 4; 43A.08, subdivisions 1, 1a, and by adding a subdivision; 43A.18, subdivision 4; 43A.37, subdivision 1; 116K.04, subdivision 5; 136A.03; 179A.05, subdivision 6; 179A.16, subdivisions 4, 6, and 7; and 349A.02, subdivision 4; repealing Minnesota Statutes 1990, section 352D.02, subdivision 1b.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

TRANSFER OF UNCLASSIFIED POSITIONS

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

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

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

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

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

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

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

(3) the duties of the position would involve significant discretion

and substantial involvement in the development, interpretation, and implementation of agency policy;

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

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

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

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

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

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

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

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

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

(b) Total compensation for unclassified positions pursuant to under section 43A.08, subdivision 1, clause (i), in the state universities and the community colleges not covered by a collective

bargaining agreement must be determined by the state university board and the state board for community colleges, respectively.

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

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

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

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

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

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

Sec. 6. Minnesota Statutes 1990, section 144A.52, subdivision 1, is amended to read:

Subdivision 1. The office of health facility complaints is hereby

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

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

Sec. 7. Minnesota Statutes 1990, section 196.23, subdivision 1, is amended to read:

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

Sec. 8. Minnesota Statutes 1990, section 240A.02, subdivision 3, is amended to read:

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

Sec. 9. Minnesota Statutes 1990, section 241.01, subdivision 3a, is amended to read:

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

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

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

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

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

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

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

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

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

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

Sec. 10. Minnesota Statutes 1990, section 241.43, subdivision 1, is amended to read:

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

Sec. 11. Minnesota Statutes 1990, section 241.43, subdivision 2, is amended to read:

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

Sec. 12. Minnesota Statutes 1990, section 299A.30, subdivision 1, is amended to read:

Subdivision 1. [OFFICE; ASSISTANT COMMISSIONER.] The office of drug policy is an office in the department of public safety headed by an assistant commissioner appointed by the commissioner to serve in the unclassified service. The assistant commissioner may appoint other employees ~~in the unclassified service.~~ The assistant commissioner shall coordinate the activities of drug program agencies and serve as staff to the drug abuse prevention resource council.

Sec. 13. Minnesota Statutes 1990, section 349A.02, subdivision 4, is amended to read:

Subd. 4. [EMPLOYEES; CLASSIFICATION.] The director may appoint other personnel as ~~are necessary to operate the state lottery. Employees of the division who are not professional employees as defined in section 170A.03, subdivision 13, and employees whose primary responsibilities are in data processing and accounting, are in the classified service. All other employees of the division are in the unclassified service.~~ At least one position in the division must be an attorney position and the director ~~must~~ shall employ in that position an attorney to perform legal services for the division.

Sec. 14. Minnesota Statutes 1990, section 446A.03, subdivision 5, is amended to read:

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

Sec. 15. Laws 1984, chapter 654, article 2, section 152, subdivision 3, is amended to read:

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

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

(c) [EMPLOYEES; CONTRACTS FOR SERVICES.] The commissioner of energy and economic development may employ persons and

contract for services necessary to carry out the functions of the commission. Employees are in the unclassified service and members of the Minnesota State Retirement System.

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

Sec. 16. Laws 1987, chapter 386, article 1, section 11, is amended to read:

[RURAL DEVELOPMENT BOARD COMPLEMENT.]

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

Sec. 17. [UNCLASSIFIED POSITIONS IN DEPARTMENT OF NATURAL RESOURCES.]

Notwithstanding any other law to the contrary, positions in the department of natural resources established under Minnesota Statutes, sections 84.025, subdivision 9 and 84.95, are transferred to the classified service. Incumbents of positions that are transferred to the classified service on the effective date of this section must be moved to the classified service without examination and begin to serve a probationary period in the class.

Sec. 18. [UNCLASSIFIED POSITIONS IN THE COMMUNITY COLLEGE AND STATE UNIVERSITY SYSTEMS.]

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

Sec. 19. [IMPLEMENTATION PLAN.]

The commissioner of employee relations shall, based on a report by the legislative commission on employee relations entitled "The Use of the Unclassified State Civil Service for Non-Managerial Positions," develop an implementation plan to transfer positions

that do not meet the criteria in Minnesota Statutes, section 43A.08, subdivision 1a or 2a, to the classified service. The commissioner must consult with affected appointing authorities, exclusive representatives, and unrepresented employees in preparing the implementation plan. The implementation plan must include, but is not limited to, unclassified positions in the state board of investment and the higher education coordinating board. The plan must include recommendations regarding the impact of the plan on incumbents of positions that would be transferred to the classified service. The implementation plan must be submitted to the legislative commission on employee relations by December 15, 1991.

Sec. 20. [STUDY OF UNCLASSIFIED POSITIONS.]

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

Sec. 21. [CLASSIFICATION OF POSITIONS.]

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

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

(2) manufacturing growth council;

(3) convention facilities commission;

(4) recycling and environmental programs; and

(5) coordination of projects involving foreign business.

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

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

Sec. 22. [TRANSFER OF UNCLASSIFIED POSITIONS TO THE CLASSIFIED SERVICE.]

The commissioner shall transfer unclassified positions described in sections 1 and 5 to 18 that do not meet the criteria set in Minnesota Statutes, section 43A.08, subdivision 1a or 2a, to the classified service. Incumbents of positions that are transferred to the classified service on the effective date of this section must be moved to the classified service without examination and begin to serve a probationary period in the class.

Sec. 23. [RETIREMENT PLANS.]

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

Sec. 24. [REPEALER.]

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

ARTICLE 2

INTEREST ARBITRATION

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

Subd. 6. [ADMINISTRATION OF ARBITRATOR ROSTER.] The

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

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

Subd. 4. [CONSTRUCTION OF ARBITRATION PANEL.] The parties may select persons who are members of the arbitration roster maintained by the board to act as the arbitration panel in their dispute by mutual agreement. In the event of a mutual agreement on the members of the arbitration panel, the commissioner shall advise the board in writing of the selection of the panel members, and the persons selected shall serve as the arbitration panel. If the parties have not mutually agreed upon the panel members by the time the commissioner certifies the matter to the board, the board shall provide the parties to the interest arbitration a list of seven arbitrators. The board shall mail the list of arbitrators to the parties within five working days. The parties shall alternately strike names from the list of arbitrators until only a single arbitrator remains, unless the parties request and mutually agree to utilize a panel of three arbitrators. If the parties are unable to agree on who shall strike the first name, the question must be decided by the flip of a coin. The arbitrator or arbitrators remaining after the striking procedure constitute the arbitration panel.

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

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

The arbitration panel may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any dispute before it. The panel may administer oaths and affidavits and may examine witnesses. Attendance of witnesses and the production of evidence may be required from any place in the state at any hearing. However, the panel's meeting shall be held in the county where the principal

administrative offices of the employer are located, unless another location is selected by agreement of the parties. In case of refusal to obey a subpoena issued under this section, the district court of the state for the county where the proceeding is pending or where the person who refuses to obey is found, or resides, or transacts business shall, on application of the panel, have jurisdiction to issue an order requiring the person to appear before the panel, to produce evidence, or to give testimony. Failure to obey the order may be punished by the court as a contempt.

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

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

The panel shall render its order within ~~ten~~ 30 days from the date that all arbitration proceedings have concluded. ~~However, the panel must issue its order by the last date the employer is required by statute, charter, ordinance, or resolution to submit its tax levy or budget or certify its taxes voted to the appropriate public officer, agency, public body or office, or by November 1, whichever date is earlier. This deadline may be extended only with the approval of the chair of the board. The board shall adopt rules establishing criteria to be followed in determining whether an extension should be granted. The panel's order shall must be for the period stated in the order, except that orders determining contracts for teacher units shall be are effective to the end of the contract period determined by section 179A.20.~~

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

The parties may at any time prior to or after issuance of an order of the arbitration panel, agree upon terms and conditions of employment regardless of the terms and conditions of employment deter-

mined by the order. The parties shall, if so agreeing, execute a written contract or memorandum of contract.

ARTICLE 3 RATIFICATIONS

Section 1. [RATIFICATIONS.]

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

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

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

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

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

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

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

Subd. 8. [AGENCY HEADS.] The salary plan for certain positions listed in Minnesota Statutes, section 15A.081, approved by the

legislative commission on employee relations September 12, 1990, is ratified.

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

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Delete the title and insert:

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

With the recommendation that when so amended the bill pass.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 1177, A bill for an act relating to human services; exempting intermediate care facilities for persons with mental retardation or related conditions from certain additional state human services rules.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [ADVISORY COUNCIL.]

By June 15, 1991, the commissioner of human services shall convene an advisory council to examine the rules governing facilities certified as intermediate care facilities for persons with mental retardation or related conditions under Code of Federal Regulations, title 42, parts 431, 435, 442, and 483. The council shall examine the following rules: Minnesota Rules, parts 9525.0215; 9525.0225; 9525.0235; 9525.0243; 9525.0245; 9525.0255; 9525.0265; 9525.0275; 9525.0285; 9525.0295; 9525.0305; 9525.0315; 9525.0325; 9525.0335; 9525.0345; and 9525.0355. The commissioner shall submit to the legislature, by January 1, 1992, a plan for simplification of rules and regulations governing services to persons with developmental disabilities and related conditions. The plan must provide recommendations and draft legislation. The commissioner shall submit to the legislature an initial interim report by August 15, 1991, and a second interim report by October 15, 1991.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to human services; establishing an advisory council; requiring a plan to simplify rules and regulations governing services to persons with developmental disabilities and related conditions."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Anderson, I., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1179, A bill for an act relating to metropolitan government; providing for an advisory task force on metropolitan planning and development; directing the metropolitan council to conduct a study.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [FULLY DEVELOPED AREA; STUDY.]

The metropolitan council must conduct a study of the development patterns and needs in the council-defined fully developed area. The council must direct its staff to:

(1) examine both the development patterns and the migration patterns in the fully developed area that have occurred in the last 20 years with special attention to household composition;

(2) compare the relative public costs of redevelopment in the fully developed area with the costs of development within the council-defined developing area. This work should include, but is not limited to, transportation and transit, wastewater treatment, public safety services, housing, and education;

(3) examine the changing demographics of the fully developed area and other areas within the metropolitan region, and make projections regarding the economic and social condition of the fully developed area;

(4) examine the anticipated effects of a light rail transit system, a new major airport, and/or expansion of the existing major airport on the economic and social condition of the fully developed area; and

(5) recommend changes that would encourage the economic and social strengthening of the fully developed area.

In conducting its study, the council must use, along with other information, any available data from the 1990 census. The council must present its findings to the legislature by February 15, 1994. The council must also present interim briefings to the legislature on work in progress at least annually between the effective date of this act and the completion of the study.

Sec. 2. [APPLICATION.]

This act applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington."

Delete the title and insert:

"A bill for an act relating to metropolitan government; directing the metropolitan council to conduct a study."

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 1194, A bill for an act relating to retirement; adding a surviving spouse to the board of trustees of the Minneapolis police relief association; amending Laws 1965, chapter 493, section 3, as amended.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

H. F. No. 1197, A bill for an act relating to commerce; franchises; regulating assignments, transfers, and sales; amending Minnesota Statutes 1990, section 80C.14, subdivision 5.

Reported the same back with the following amendments:

Page 1, after line 20, insert:

“Sec. 2. [PURPOSE.]

The purpose of section 1 is to elaborate upon the fundamental policy of the state of Minnesota which ensures that Minnesota residents are able to assign, transfer, or sell franchises free from unreasonable restrictions imposed by franchisors.”

Renumber the remaining section in sequence

With the recommendation that when so amended the bill pass.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 1199, A bill for an act relating to motor vehicles; authorizing the registrar of motor vehicles to prorate the original registration on groups of passenger motor vehicles presented to St. Paul by a lessor; amending Minnesota Statutes 1990, section 168.017, subdivision 3.

Reported the same back with the following amendments:

Page 2, line 1, before the period insert “, or at such other locations as the registrar may designate”

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 1201, A bill for an act relating to local government; permitting police and fire civil service commissions to expand certified lists in certain circumstances; amending Minnesota Statutes 1990, sections 419.06; and 420.07.

Reported the same back with the following amendments:

Page 2, line 34, delete “The rules of the commission may provide that”

Page 3, line 7, delete “lists” and insert “list”

Page 3, line 9, after the period insert “These expanded certification procedures apply only to positions to be filled from the public and do not apply to promotional appointments.”

Page 4, line 24, delete “The rules of the commission may provide that”

Page 4, line 33, delete “lists” and insert “list”

Page 4, line 35, after the period insert “These expanded certification procedures apply only to positions to be filled from the public and do not apply to promotional appointments.”

Page 5, after line 3, insert:

“Sec. 3. EFFECTIVE DATE.”

Sections 1 and 2 are effective the day following final enactment.”

With the recommendation that when so amended the bill pass.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 1223, A bill for an act relating to taxation; allocating revenue from motor vehicle excise tax; proposing an amendment to the Minnesota Constitution, article XIV, to dedicate proceeds of a tax on the purchase price of a motor vehicle to highway and transit purposes; amending Minnesota Statutes 1990, section 297B.09.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. [CONSTITUTIONAL AMENDMENT PROPOSED.]

An amendment to the Minnesota Constitution is proposed to the people. If the amendment is adopted, a new article XIV, section 12, will read:

Sec. 12. The proceeds of a tax levied on the purchase price of motor vehicles must be distributed as follows:

(1) for the biennium ending June 30, 1995, at least 26.25 percent to the highway user tax distribution fund and at least 8.75 percent to a fund exclusively for public transit assistance;

(2) for the biennium ending June 30, 1997, at least 30 percent to the highway user tax distribution fund and at least 10 percent to a fund exclusively for public transit assistance;

(3) for the biennium ending June 30, 1999, at least 33.75 percent to the highway user tax distribution fund and at least 11.25 percent to a fund exclusively for public transit assistance;

(4) for the biennium ending June 30, 2001 and thereafter, at least 37.5 percent to the highway user tax distribution fund and at least 12.5 percent to a fund exclusively for public transit assistance.

Sec. 2. [SUBMISSION TO VOTERS.]

The proposed amendment must be submitted to the people at the 1992 general election. The question submitted must be:

“Shall the Minnesota Constitution be amended to dedicate at a minimum over an eight-year period, from 35 percent to 50 percent of the proceeds from a tax on the purchase price of motor vehicles to

the highway user tax distribution fund and a fund exclusively for public transit assistance?

Yes

No

Sec. 3. Minnesota Statutes 1990, section 297B.09, is amended to read:

297B.09 [ALLOCATION OF REVENUE.]

~~Subdivision 1. [GENERAL FUND SHARE.]~~ (a) Money collected and received under this chapter must be deposited in the state treasury and credited to the general fund. The amounts collected and received shall be credited as provided in this ~~subdivision~~ section, and transferred from the general fund on July 15 and January 15 of each fiscal year. The commissioner of finance must make each transfer based upon the actual receipts of the preceding six calendar months and include the interest earned during that six-month period. The commissioner of finance may establish a quarterly or other schedule providing for more frequent payments to the transit assistance fund if the commissioner determines it is necessary or desirable to provide for the cash flow needs of the recipients of money from the transit assistance fund. Money transferred to the highway user tax distribution fund and the transit assistance fund under paragraphs (b) to (f) must be apportioned as follows: 75 percent must be transferred to the highway user tax distribution fund for apportionment in the same manner and for the same purposes as other money in that fund, and the remaining 25 percent of the money must be transferred to the transit assistance fund to be appropriated to the commissioner of transportation for transit assistance within the state and to the regional transit board.

(b) ~~Twenty-five~~ Thirty percent of the money collected and received under this chapter after June 30, ~~1990~~ 1991, and before July 1, ~~1991~~ 1993, must be transferred to the highway user tax distribution fund and the transit assistance fund ~~for apportionment as follows: 75 percent must be transferred to the highway user tax distribution fund for apportionment in the same manner and for the same purposes as other money in that fund, and the remaining 25 percent of the money must be transferred to the transit assistance fund to be appropriated to the commissioner of transportation for transit assistance within the state and to the regional transit board.~~

(c) ~~Five~~ Thirty-five percent of the money collected and received under this chapter after June 30, ~~1989~~ 1993, and before July 1, ~~1991~~ 1995, must be transferred as follows: ~~75 percent must be transferred to the trunk highway user tax distribution fund and 25 percent must be transferred to the transit assistance fund.~~

(d) ~~Thirty~~ Forty percent of the money collected and received under

this chapter after June 30, ~~1991~~ 1995, and before July 1, 1997, must be transferred as follows: 75 percent must be transferred to the ~~trunk~~ highway user tax distribution fund and 25 percent must be ~~transferred to the transit assistance fund.~~

(e) Forty-five percent of the money collected and received under this chapter after June 30, 1997, and before July 1, 1999, must be transferred to the highway user tax distribution fund and the transit assistance fund.

(f) Fifty percent of the money collected and received under this chapter after June 30, 1999, must be transferred to the highway user tax distribution fund and the transit assistance fund.

(g) ~~The distributions under this subdivision paragraphs (b) to (f) to the highway user tax distribution fund until June 30, 1991, and to the trunk highway fund thereafter, must be reduced by the amount necessary to fund the appropriation under section 41A.09, subdivision 1. For the fiscal years ending June 30, 1988, and June 30, 1989, The commissioner of finance, before making the transfers required on July 15 and January 15 of each year, shall estimate the amount required to fund the appropriation under section 41A.09, subdivision 1, for the six-month period for which the transfer is being made. The commissioner shall then reduce the amount transferred to the highway user tax distribution fund by the amount of that estimate. The commissioner shall reduce the estimate for any six-month period by the amount by which the estimate for the previous six-month period exceeded the amount needed to fund the appropriation under section 41A.09, subdivision 1, for that previous six-month period. If at any time during a six-month period in these fiscal years the amount of reduction in the transfer to the highway user tax distribution fund is insufficient to fund the appropriation under section 41A.09, subdivision 1 for that period, the commissioner shall transfer to the general fund from the highway user tax distribution fund an additional amount sufficient to fund the appropriation for that period, but the additional amount so transferred to the general fund in a six-month period may not exceed the amount transferred to the highway user tax distribution fund for that six-month period.~~

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective July 1, 1991."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 1238, A bill for an act relating to restitution; requiring offenders who have been court-ordered to pay restitution to provide affidavits of financial disclosure to investigating correctional agencies; amending Minnesota Statutes 1990, section 611A.04, by adding a subdivision.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 1240, A bill for an act relating to human services; establishing requirements for home care services and preadmission screenings; clarifying requirements for alternative care; providing for alternative care programs; establishing a senior agenda for independent living; amending Minnesota Statutes 1990, sections 144A.31; 144A.45, subdivision 2; 144A.46, subdivision 2; 256B.04, subdivision 16; 256B.0625, subdivision 7, and by adding subdivisions; 256B.0627; 256B.093; 256B.64; 256D.44, by adding a subdivision; and Laws 1988, chapter 689, article 2, section 256, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 256 and 256B; repealing Minnesota Statutes 1990, sections 144A.31, subdivisions 2 and 3; 256B.0625, subdivisions 6 and 19; 256B.0627, subdivision 3; and 256B.71, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 144A.31, is amended to read:

144A.31 [INTERAGENCY BOARD FOR QUALITY ASSURANCE LONG-TERM CARE PLANNING COMMITTEE.]

Subdivision 1. [INTERAGENCY BOARD LONG-TERM CARE PLANNING COMMITTEE.] The commissioners of health and human services shall establish, by July 1, 1983, an interagency ~~board~~ committee of managerial employees of their respective departments who are knowledgeable and employed in the areas of long-term care, geriatric care, community services for the elderly, long-term care facility inspection, or quality of care assurance. The number of interagency ~~board~~ committee members shall not exceed ~~eight~~ twelve; ~~three~~ four members each to represent the commissioners of

health and human services and one member each to represent the commissioners of state planning and, housing finance, finance, and the chair of the Minnesota board on aging. The board shall identify long-term care issues requiring coordinated interagency policies and shall conduct analyses, coordinate policy development, and make recommendations to the commissioners for effective implementation of these policies. The commissioner of human services and the commissioner of health or their designees shall annually alternate chairing and convening the board committee. The board committee may utilize the expertise and time of other individuals employed by either each department as needed. The board committee may recommend that the commissioners contract for services as needed. The board committee shall meet as often as necessary to accomplish its duties, but at least quarterly. The board committee shall establish procedures, including public hearings, for allowing regular opportunities for input from residents, nursing homes consumers of long-term care services, advocates, trade associations, facility administrators, county agency administrators, and other interested persons.

Subd. 2. [INSPECTIONS.] No later than January 1, 1988, the board shall develop and recommend implementation and enforcement of an effective system to ensure quality of care in each nursing home in the state. Quality of care includes evaluating, using the resident's care plan, whether the resident's ability to function is optimized and should not be measured solely by the number or amount of services provided.

The board shall assist the commissioner of health in developing methods to ensure that inspections and reinspections of nursing homes are conducted with a frequency and in a manner calculated to most effectively and appropriately fulfill its quality assurance responsibilities and achieve the greatest benefit to nursing home residents. The board shall identify and recommend criteria and methods for identifying those nursing homes that present the most serious concerns with respect to resident health, treatment, comfort, safety, and well-being. The commissioner of health shall require a higher frequency and extent of inspections with respect to those nursing homes that present the most serious concerns with respect to resident health, treatment, comfort, safety, and well-being. These concerns include but are not limited to: complaints about care, safety, or rights; situations where previous inspections or reinspections have resulted in correction orders related to care, safety, or rights; instances of frequent change in administration in excess of normal turnover rates; and situations where persons involved in ownership or administration of the nursing home have been convicted of engaging in criminal activity. A nursing home that presents none of these concerns or any other concern or condition recommended by the board and established by the commissioner that poses a risk to resident care, safety, or rights shall be inspected

once every two years for compliance with key requirements as determined by the board.

The board shall develop and recommend to the commissioners mechanisms beyond the inspection process to protect resident care, safety, and rights, including but not limited to coordination with the office of health facility complaints and the nursing home ombudsman program.

Subd. 3. [METHODS FOR DETERMINING RESIDENT CARE NEEDS.] The board shall develop and recommend to the commissioners definitions for levels of care and methods for determining resident care needs for implementation on July 1, 1985, in order to adjust payments for resident care based on the mix of resident needs in a nursing home. The methods for determining resident care needs shall include assessments of ability to perform activities of daily living and assessments of medical and therapeutic needs.

Subd. 2a. [PLANNING AND COORDINATION.] The interagency committee shall identify long-term care issues requiring coordinated interagency policies and shall conduct analyses, coordinate policy development, and make recommendations to the commissioners for effective implementation of these policies. The committee shall refine state long-term goals, establish performance indicators, and develop other methods or measures to evaluate program performance, including client outcomes. The committee shall review the effectiveness of programs in meeting their objectives.

Subd. 2b. [GOALS OF THE COMMITTEE.] The long-term goals of the committee are:

(1) to achieve a broad awareness and use of low-cost home care and other residential alternatives to nursing homes;

(2) to develop a statewide system of information and assistance to enable easy access to long-term care services;

(3) to develop sufficient alternatives to nursing homes to serve the increased number of people needing long-term care; and

(4) to maintain the moratorium on new construction of nursing home beds and to lower the percentage of elderly served in institutional settings.

These goals are designed to create a new community-based care paradigm for long-term care in Minnesota in order to maximize independence of the older adult population, and to ensure cost-effective use of financial and human resources.

Subd. 4. [ENFORCEMENT.] The board committee shall develop

and recommend for implementation effective methods of enforcing quality of care standards. The board committee shall develop and monitor, and the commissioner of human services shall implement, a resident relocation plan that instructs a county in which a nursing home or certified boarding care home is located of procedures to ensure that the needs of residents in nursing homes or certified boarding care homes about to be closed are met. The duties of a county under the relocation plan also apply when residents are to be discharged from a nursing home or certified boarding care home as a result of a change in certification, closure, or loss or termination of the facility's medical assistance provider agreement. The resident relocation plans and county duties required in this subdivision apply to the voluntary or involuntary closure, or reduction in services or size of, an intermediate care facility for the mentally retarded. The relocation plan for intermediate care facilities for the mentally retarded must conform to Minnesota Rules, parts 4655.6810 to 4655.6830, 9525.0015 to 9525.0165, and 9546.0010 to 9546.0060, or their successors. The commissioners of health and human services may waive a portion of existing rules that the commissioners determine does not apply to persons with mental retardation or related conditions. The county shall ensure appropriate placement of residents in licensed and certified facilities or other alternative care such as home health care and foster care placement. In preparing for relocation, the board committee shall ensure that residents and their families or guardians are involved in planning the relocation.

Subd. 5. [REPORTS.] The board committee shall prepare a biennial report and the commissioners of health and human services shall deliver this report to the legislature no later than January 15, 1984, on the board's proposals and progress on implementation of the methods beginning January 31, 1993, listing progress, achievements, and current goals and objectives as required under subdivision 2. The commissioners shall recommend changes in or additions to legislation necessary or desirable to fulfill their responsibilities. The board shall prepare an annual report and the commissioners shall deliver this report annually to the legislature, beginning in January 1985, on the implementation of the provisions of this section.

Subd. 6. [DATA.] The interagency board may committee shall have access to data from the commissioners of health, human services, and public safety housing finance, and state planning for carrying out its duties under this section. The commissioner of health and the commissioner of human services may each have access to data on persons, including data on vendors of services, from the other to carry out the purposes of this section. If the interagency board committee, the commissioner of health, or the commissioner of human services receives data on persons, including data on vendors of services, that is collected, maintained, used or disseminated in an investigation, authorized by statute and relating to enforcement of

rules or law, the ~~board~~ committee or the commissioner shall not disclose that information except:

- (a) pursuant to section 13.05;
- (b) pursuant to statute or valid court order; or
- (c) to a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense.

Data described in this subdivision is classified as public data upon its submission to an administrative law judge or court in an administrative or judicial proceeding.

Subd. 7. [LONG-TERM CARE RESEARCH AND DATABASE.] The interagency long-term care planning committee shall collect and analyze state and national long-term care data and research, including relevant health data and information and research relating to long-term care and social needs, service utilization, costs, and client outcomes. The committee shall make recommendations to state agencies and other public and private agencies for methods of improving coordination of existing data, develop data needed for long-term care research, and promote new research activities. Research and data activities must be designed to:

(1) improve the validity and reliability of existing data and research information;

(2) identify sources of funding and potential uses of funding sources;

(3) evaluate the effectiveness and client outcomes of existing programs; and

(4) identify and plan for future changes in the number, level, and type of services needed by seniors.

Sec. 2. [256.9751] [CONGREGATE HOUSING SERVICES PROJECTS.]

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the following terms have the meanings given them.

(a) [CONGREGATE HOUSING.] "Congregate housing" means federally or locally subsidized housing, designed for the elderly, consisting of private apartments and common areas which can be used for activities and for serving meals.

(b) [CONGREGATE HOUSING SERVICES PROJECTS.] "Congregate housing services project" means a project in which services

are or could be made available to older persons who live in subsidized housing and which helps delay or prevent nursing home placement. To be considered a congregate housing services project, a project must have: (1) an on-site coordinator, and (2) a plan for providing a minimum of one meal per day, for each elderly participant, seven days a week, and for making referrals for other services, including but not limited to housekeeping, laundry, transportation, personal care, and check systems for ensuring the resident's personal safety.

(c) [ON-SITE COORDINATOR.] "On-site coordinator" means a person who works on-site in a building or buildings and who serves as a contact for older persons who need services, support, and assistance in order to delay or prevent nursing home placement.

(d) [CONGREGATE HOUSING SERVICES PROJECT PARTICIPANTS OR PROJECT PARTICIPANTS.] "Congregate housing services project participants" or "project participants" means elderly persons, who are currently residents of, or who are applying for residence in housing sites, and who need support services to remain independent.

Subd. 2. [ADVISORY COMMITTEE.] An advisory committee shall be appointed to advise the Minnesota board on aging on the development and implementation of the congregate housing services projects. The advisory committee shall review procedures and provide advice and technical assistance to the Minnesota board on aging regarding the grant program established under this section. The advisory committee shall consist of not more than 15 people appointed by the Minnesota board on aging, and shall be comprised of representatives from public and nonprofit service and housing providers and consumers from all areas of the state. Members of the advisory committee shall not be compensated for service.

Subd. 3. [GRANT PROGRAM.] The Minnesota board on aging shall establish a congregate housing services grant program which will enable communities to provide on-site coordinators to serve as a contact for older persons who need services and support, and assistance to access services in order to delay or prevent nursing home placement. The board on aging is exempt from the rulemaking requirements of chapter 14 in developing, implementing, and administering this grant program.

Subd. 4. [USE OF GRANT FUNDS.] Grant funds shall be used to develop and fund on-site coordinator positions. Grant funds shall not be used to duplicate existing funds, to modify buildings, or to purchase equipment.

Subd. 5. [GRANT ELIGIBILITY.] A public or nonprofit agency or housing unit may apply for funds to provide a coordinator for congregate housing services to an identified population of frail

elderly persons in a subsidized multi-unit apartment building or buildings in a community. The board shall give preference to applicants that meet the requirements of this section, and that have a common dining site. Local match may be required. State money received may also be used to match federal money allocated for congregate housing services. Grants shall be awarded to urban and rural sites.

Subd. 6. [GRANT APPLICATIONS.] The Minnesota board on aging shall request proposals for grants and shall specify the information and criteria required. Grant applications shall include:

(1) documentation of the need for congregate services so the residents can remain independent;

(2) a description of the resources, such as social services and health services, that will be available in the community to provide the necessary support services;

(3) a description of the target population, as defined in subdivision 1, paragraph (d);

(4) a performance plan that includes written performance objectives, outcomes, timelines, and the procedure the grantee will use to document and measure success in meeting the objectives; and

(5) letters of support from appropriate public and private agencies and organizations, such as area agencies on aging and county human service departments that demonstrate an intent to work with and coordinate with the agency requesting a grant.

Subd. 7. [REPORT.] By January 1, 1993, the Minnesota board on aging shall submit a report to the legislature evaluating the programs. The report must document the project costs and outcomes that helped delay or prevent nursing home placement. The report must describe steps taken for quality assurance and must also include recommendations based on the project findings.

Sec. 3. Minnesota Statutes 1990, section 256B.04, subdivision 16, is amended to read:

Subd. 16. [PERSONAL CARE SERVICES.] (a) The commissioner shall adopt permanent rules to implement, administer, and operate personal care services. The rules must incorporate the standards and requirements adopted by the commissioner of health under section 144A.45 which are applicable to the provision of personal care. Notwithstanding any contrary language in this paragraph, the commissioner of human services and the commissioner of health shall jointly promulgate rules to be applied to the licensure of personal care services provided under the medical assistance pro-

gram. The rules shall consider standards for personal care services that are based on the World Institute on Disability's recommendations regarding personal care services. These rules shall at a minimum consider the standards and requirements adopted by the commissioner of health under section 144A.45, which the commissioner of human services determines are applicable to the provision of personal care services, in addition to other standards or modifications which the commissioner of human services determines are appropriate.

The commissioner of human services shall establish an advisory group including personal care consumers and providers to provide advice regarding which standards or modifications should be adopted. The advisory group membership must include not less than 15 members, of which at least 51 percent must be consumers of personal care services.

The commissioner of human services may contract with the commissioner of health to enforce the jointly promulgated licensure rules for personal care service providers.

Prior to final promulgation of the joint rule the commissioner of human services shall report preliminary findings along with any comments of the advisory group and a plan for monitoring and enforcement by the department of health to the legislature by February 15, 1992.

Limits on the extent of personal care services that may be provided to an individual must be based on the cost-effectiveness of the services in relation to the costs of inpatient hospital care, nursing home care, and other available types of care. The rules must provide, at a minimum:

(1) that agencies be selected to contract with or employ and train staff to provide and supervise the provision of personal care services;

(2) that agencies employ or contract with a qualified applicant that a qualified recipient proposes to the agency as the recipient's choice of assistant;

(3) that agencies bill the medical assistance program for a personal care service by a personal care assistant and supervision by the registered nurse supervising the personal care assistant;

(4) that agencies establish a grievance mechanism; and

(5) that agencies have a quality assurance program.

(b) For personal care assistants under contract with an agency under paragraph (a), the provision of training and supervision by

~~the agency does not create an employment relationship.~~ The commissioner may waive the requirement for the provision of personal care services through an agency in a particular county, when there are less than two agencies providing services in that county.

Sec. 4. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

Subd. 6a. [HOME HEALTH SERVICES.] Home health services are those services specified in Minnesota Rules, part 9505.0290. Medical assistance covers home health services at a recipient's home residence. Medical assistance does not cover home health services at a hospital, nursing facility, intermediate care facility, or a health care facility licensed by the commissioner of health, unless the commissioner has prior authorized skilled nurse visits for less than 90 days for a resident at an intermediate care facility for persons with mental retardation, to prevent an admission to a hospital or nursing facility. Home health services must be provided by a Medicare certified home health agency. All nursing and home health aide services must be provided according to section 256B.0627.

Sec. 5. Minnesota Statutes 1990, section 256B.0625, subdivision 7, is amended to read:

Subd. 7. [PRIVATE DUTY NURSING.] Medical assistance covers private duty nursing services in a recipient's home. Recipients who are authorized to receive private duty nursing services in their home may use approved hours outside of the home during hours when normal life activities take them outside of their home and when, without the provision of private duty nursing, their health and safety would be jeopardized. Medical assistance does not cover private duty nursing services at a hospital, nursing facility, intermediate care facility, or a health care facility licensed by the commissioner of health, except as authorized in section 256B.64 for ventilator dependent recipients in hospitals. Total hours of service and payment allowed for services outside the home cannot exceed that which is otherwise allowed in an in-home setting according to section 256B.0627. All private duty nursing services must be provided according to the limits established under section 256B.0627. Private duty nursing services may not be reimbursed if the nurse is the spouse of the recipient or the parent or foster care provider of a recipient who is under age 18, or the recipient's legal guardian.

Sec. 6. Minnesota Statutes 1990, section 256B.0625, is amended by adding a subdivision to read:

Subd. 19a. [PERSONAL CARE SERVICES.] Medical assistance covers personal care services in a recipient's home. Recipients who can direct their own care, or persons who cannot direct their own

care when accompanied by the responsible party, may use approved hours outside the home when normal life activities take them outside the home and when, without the provision of personal care, their health and safety would be jeopardized. Medical assistance does not cover personal care services at a hospital, nursing facility, intermediate care facility or a health care facility licensed by the commissioner of health, except as authorized in section 256B.64 for ventilator dependent recipients in hospitals. Total hours of service and payment allowed for services outside the home cannot exceed that which is otherwise allowed for personal care services in an in-home setting according to section 256B.0627. All personal care services must be provided according to section 256B.0627. Personal care services may not be reimbursed if the personal care assistant is the spouse of the recipient or the parent of a recipient under age 18, the responsible party, the foster care provider of a recipient who cannot direct their own care or the recipient's legal guardian. Parents of adult children, adult children of the recipient or adult siblings of the recipient may be reimbursed for personal care services if they are granted a waiver under section 256B.0627.

Sec. 7. Minnesota Statutes 1990, section 256B.0627, is amended to read:

256B.0627 [COVERED SERVICE; HOME CARE SERVICES.]

Subdivision 1. [DEFINITION.] "Home care services" means a medically necessary health service, determined by the commissioner as medically necessary, that is ordered by a physician and documented in a care plan of care that is reviewed and revised as medically necessary by the physician at least once every 60 days. Home care services include personal care and nursing supervision of personal care services which is reviewed and revised as medically necessary by the physician at least once every 365 days for the provision of home health services, or private duty nursing, or at least once every 365 days for personal care. Home care services are provided to the recipient at the recipient's residence that is a place other than a hospital or long-term care facility or as specified in section 256B.0625. "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475. "Care plan" means a written description of the services needed which shall include a detailed description of the covered home care services, who is providing the services, frequency of those services, and duration of those services. The care plan shall also include expected outcomes and goals including expected date of goal accomplishment.

Subd. 2. [SERVICES COVERED.] Home care services covered under this section include:

- (1) nursing services under section 256B.0625, subdivision 6a;

(2) private duty nursing services under section 256B.0625, subdivision 7;

(3) home health aide services under section 256B.0625, subdivision 6a;

(4) personal care services under section 256B.0625, subdivision 19a; and

(5) nursing supervision of personal care services under section 256B.0625, subdivision 19a.

~~Subd. 3. [PRIVATE DUTY NURSING SERVICES; WHO MAY PROVIDE.] Private duty nursing services may be provided by a registered nurse or licensed practical nurse who is not the recipient's spouse, legal guardian, or parent of a minor child.~~

~~Subd. 4. [PERSONAL CARE SERVICES.] (a) Personal care services may be provided by a qualified individual who is not the recipient's spouse, legal guardian, or parent of a minor child.~~

~~(b) The personal care services that are eligible for payment are the following:~~

- ~~(1) bowel and bladder care;~~
- ~~(2) skin care to maintain the health of the skin;~~
- ~~(3) range of motion exercises;~~
- ~~(4) respiratory assistance;~~
- ~~(5) transfers;~~
- ~~(6) bathing, grooming, and hairwashing necessary for personal hygiene;~~
- ~~(7) turning and positioning;~~
- ~~(8) assistance with furnishing medication that is normally self-administered;~~
- ~~(9) application and maintenance of prosthetics and orthotics;~~
- ~~(10) cleaning medical equipment;~~
- ~~(11) dressing or undressing;~~
- ~~(12) assistance with food, nutrition, and diet activities;~~

(13) accompanying a recipient to obtain medical diagnosis or treatment;

(14) ~~services provided for the recipient's personal health and safety;~~

~~(15) helping the recipient to complete daily living skills such as personal and oral hygiene and medication schedules;~~

~~(15) supervision and observation that are medically necessary because of the recipient's diagnosis or disability; and~~

(16) incidental household services that are an integral part of a personal care service described in clauses (1) to (15).

~~(e)~~ (b) The personal care services that are not eligible for payment are the following:

(1) ~~personal care services that are not in the care plan of care developed by the supervising registered nurse in consultation with the personal care assistants and the recipient or family the responsible party directing the care of the recipient;~~

(2) services that are not supervised by the registered nurse;

(3) ~~services provided by the recipient's spouse, legal guardian, or parent of a minor child, or foster care provider of a recipient who cannot direct their own care;~~

(4) sterile procedures; ~~and~~

(5) injections of fluids into veins, muscles, or skin;

~~(6) services provided by parents of adult children, adult children or adult siblings unless these relatives meet one of the following hardship criteria and the commissioner waives this requirement:~~

~~(i) the relative resigns from a full-time job to provide personal care for the recipient;~~

~~(ii) the relative goes from a full-time to a part-time job with less compensation to provide personal care for the recipient;~~

~~(iii) the relative takes a leave of absence without pay to provide personal care for the recipient;~~

~~(iv) the relative incurs substantial expenses by providing personal care for the recipient; or~~

(v) because of labor conditions, the relative is needed in order to provide an adequate number of qualified personal care assistants to meet the medical needs of the recipient;

(7) homemaker services that are not an integral part of a personal care services; and

(8) home maintenance, or chore services.

Subd. 5. [LIMITATION ON PAYMENTS.] Medical assistance payments for home care services shall be limited according to paragraphs (a) to (e).

(a) ~~[EXEMPTION FROM PAYMENT LIMITATIONS.]~~ The level, or the number of hours or visits of a specific service, of home health care services to a recipient that began before and is continued without increase on or after December 1987, shall be exempt from the payment limitations of this section, as long as the services are medically necessary.

(b) ~~[LEVEL I HOME CARE.]~~ For all new cases after December 1987, medically necessary home care services up to \$800 may be provided in a calendar month.

If the services in the recipient's home care plan will exceed the \$800 threshold for 30 days or less, the medically necessary services may be provided. A recipient may receive the following amounts of home care services during a calendar year:

(1) a total of six visits, health promotions or health assessments from a nurse under section 256B.0625, subdivision 6a;

(2) a total of 48 visits from a home health aide under section 256B.0625, subdivision 6a; and

(3) a total of ten hours of nursing supervision under section 256B.0625, subdivision 7 or 19a.

All home care services above these limits must receive the commissioner's prior authorization, except when:

(1) the home care services were required to treat an emergency medical condition, that if not immediately treated, could cause a recipient serious physical or mental disability, continuation of severe pain, or death. The provider must request prior authorization no later than five working days after giving the initial service. The provider must be able to substantiate the emergency by documentation such as reports, notes, and admission or discharge histories;

(2) the home care services were provided on or after the date on which the recipient's eligibility began, but before the date on which the recipient was notified that the case was opened. Authorization will be considered if the request is submitted by the provider within 20 working days of the date the recipient was notified that the case was opened; or

(3) a third party payor for home care services has denied or adjusted a payment. Authorization requests must be submitted by the provider within 20 working days of the notice of denial or adjustment. A copy of the notice must be included with the request.

Retroactive authorization requests will be evaluated according to the same criteria applied to prior authorization requests. Implementation of this provision shall begin no later than October 1, 1991.

(c) [LEVEL II HOME CARE.] If the services in the recipient's home care plan exceed \$800 for more than 30 days, a public health nurse from the local preadmission screening team shall determine the recipient's maximum level of home care according to this paragraph. The home care provider shall conduct an assessment and complete a care plan using forms specified by the commissioner. For the recipient to receive, or continue to receive, home care services, the provider must submit evidence necessary for the commissioner to determine the medical necessity of the home care services. The provider shall submit to the commissioner the assessment, the care plan, and other information necessary to determine medical necessity such as diagnostic or testing information, social or medical histories, and hospital or facility discharge summaries.

(1) The public health nurse from the local preadmission screening team shall base the determination of the recipient's maximum level of care on the need and eligibility of the recipient for one of the following placements commissioner, or the commissioner's designee, shall review the assessment, the care plan, and any additional information that is submitted. The commissioner shall prior authorize home care services as follows:

(i) residential facility for persons with mental retardation or related conditions operated under section 256B.501;

(ii) inpatient hospital care for a ventilator-dependent recipient. "Ventilator dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to or has been dependent for at least 30 consecutive days; or

(iii) all other recipients not appropriate for one of the above placements.

(2) If the recipient is eligible under clause (1)(i), the monthly medical assistance reimbursement for home care services shall not exceed the total monthly statewide average payment rate for residential facilities for children or adults with mental retardation or related conditions as appropriate for the recipient's age and level of self-preservation as determined according to Minnesota Rules, parts 9553.0010 to 9553.0080.

(i) All home health services provided by a nurse or a home health aide that exceed the limits established in paragraph (b) shall be prior authorized by the commissioner or the commissioner's designee. Prior authorization shall be based on medical necessity and cost effectiveness when compared with other care options.

(ii) All personal care services shall be prior authorized by the commissioner or the commissioner's designee except for the limits on supervision established in paragraph (b). The amount of personal care services authorized shall be based on the recipient's case mix classification according to section 256B.0911, except that a child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity and the amount of assistance needed is similar to the assistance appropriate for a typical child of the same age. Based on medical necessity, the commissioner may authorize

(1) up to two times the average number of direct care hours provided in nursing facilities for the recipient's case mix level; or

(2) up to three times the average number of direct care hours provided in nursing facilities for recipients who have complex medical needs; or

(3) up to 50 percent of the reimbursement for care provided in a regional treatment center for recipients who have complex behaviors.

The number of direct care hours shall be determined according to annual cost reports which are submitted to the department by nursing facilities each year. The average number of direct care hours, as established by May 1, shall be incorporated into the home care limits on July 1 each year.

The case mix level shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner by the personal care provider on forms specified by the commissioner. The forms shall be a combination of current assessment tools developed under sections 256B.0911 and 256B.501 with an addition for seizure activity that will assess the frequency and severity of seizure activity and with adjustments and additions to reflect the needs and conditions of children and non-elderly adults

who need home care. The commissioner shall use the advisory group established in section 256B.04, subdivision 16, to develop the new assessment tools.

A recipient shall qualify as having complex medical needs if they require:

- (1) daily tube feedings;
- (2) daily parenteral therapy;
- (3) wound or decubiti care;
- (4) postural drainage, percussion, nebulizer treatments, suctioning, tracheotomy care, oxygen, mechanical ventilation;
- (5) catheterization; or
- (6) ostomy care.

A recipient shall qualify as having complex behavior if they exhibit on a daily basis the following:

- (1) self-injurious behavior;
- (2) unusual or repetitive habits;
- (3) withdrawal behavior;
- (4) hurtful to others;
- (5) socially or offensive behavior;
- (6) destruction of property; or
- (7) needs constant supervision one to one for self preservation.

The complex behaviors in clauses (1) to (7) have the meanings developed under section 256B.501.

(iii) All private duty nursing services shall be prior authorized by the commissioner or the commissioner's designee. Prior authorization for private duty nursing services shall be based on medical necessity and cost effectiveness when compared with alternative care options. The commissioner may authorize medically necessary private duty nursing services when:

- (1) the recipient requires more individual and continuous care than can be provided during a nurse visit; or

(2) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

The commissioner may authorize up to 16 hours per day of private duty nursing services.

(3) (iv) If the recipient is eligible under clause (1)(ii) ventilator dependent, the monthly medical assistance reimbursement authorization for home care services shall not exceed the monthly cost of care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this clause, home care services means all services provided in the home that would be included in the payment for care at the long-term hospital. "Ventilator dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to or has been dependent for at least 30 consecutive days.

(4) If the recipient is not eligible under either clause (1)(i) or (1)(ii), the monthly medical assistance reimbursement for home care services shall not exceed the total monthly statewide average payment for the case mix classification most appropriate to the recipient. The case mix classification is established under section 256B.431.

(5) The determination of the recipient's maximum level of home care by the public health nurse is called a home care cost assessment. The home care cost assessment must be requested by the home care provider before the end of the first 30 days of provided service and must be conducted by the public health nurse within ten working days following request.

(6) A home care provider shall request a new home care cost assessment when the needs of the individual have changed enough to require that a revised care plan be implemented that will increase costs beyond what was approved by the previous home care cost assessment and the change is anticipated to last for more than 30 days. The home care provider must request the home care cost assessment before the end of the first 30 days of provided service. Whenever a home care cost assessment is completed, the public health nurse that completes the home care cost assessment, in consultation with the home care provider, The commissioner or the commissioner's designee shall determine the time period for which a home care cost assessment prior authorization shall remain valid. If the recipient continues to require home care services beyond the limited duration of the home care cost assessment prior authorization, the home care provider must request a reassessment through the home care cost assessment new prior authorization through the process described above. Under no circumstances shall a home care cost assessment prior authorization be valid for more than 12 months.

(7) Reimbursement for the home care cost assessment shall be made through the Medicaid administrative authority. The state shall pay the nonfederal share. The commissioner or the commissioner's designee shall determine the medical necessity of home care services, the level of caregiver according to subdivision 2, and the institutional comparison according to subdivision 5, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, the care plan, the recipient's age, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

(d) [LEVEL III HOME CARE.] If the home care provider determines that the recipient's needs exceed the amount approved for the appropriate level of care as determined in paragraph (c), the home care provider may refer the case to the department for a level III determination. Based on the client needs, physician orders, diagnosis, condition, and plan of care, the department may give prior approval for care that exceeds level II described in paragraph (c). The amount approved shall not exceed the maximum cost for the appropriate level of care as determined in paragraph (c), clause (1), which will be the maximum ICF/MR rate for intermediate care facilities for persons with mental retardation or related conditions, or the maximum nursing home case mix payment, or the highest hospital cost for the state.

The department has 30 days from receipt of the request to complete the level III determination prior authorization, during which time it may approve the higher level while reviewing the case a temporary level of home care service. Authorization under this authority for a temporary level of home care services is limited to the time specified by the commissioner.

Case reviews or approval of home care services in levels II and III may result in assignment of a case manager.

(e) (d) [PRIOR APPROVAL AUTHORIZATION REQUIRED IN FOSTER CARE SETTING.] Any Home care service services provided in an adult or child foster care setting must receive prior approval authorization by the department according to the limits established in paragraph (b).

The commissioner may not authorize:

(1) home care services that are the responsibility of the foster care provider under the terms of the foster care placement agreement and administrative rules;

(2) personal care services when the foster care license holder is also the personal care provider or personal care assistant unless the recipient can direct the recipient's own care;

(3) personal care services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant;

(4) home care services when the number of foster care residents is greater than four; or

(5) home care services when combined with foster care payments, less an amount for room, board, clothing and personal needs, that exceed the total amount that medical assistance would pay for the recipient's care in a medical institution.

Subd. 6. [RECOVERY OF EXCESSIVE PAYMENTS.] The commissioner shall seek monetary recovery from providers of payments made for services which exceed the limits established in this section.

Sec. 8. [256B.0628] [PRIOR AUTHORIZATION AND REVIEW OF HOME CARE SERVICES.]

Subdivision 1. [STATE COORDINATION.] The commissioner shall supervise the coordination of the prior authorization and review of home care services that are reimbursed by medical assistance.

Subd. 2. [CONTRACTOR DUTIES.] (a) The commissioner may contract with qualified registered nurses, or qualified agencies, to provide home care prior authorization and review services for medical assistance recipients who are receiving home care services.

(b) Reimbursement for the prior authorization function shall be made through the medical assistance administrative authority. The state shall pay the nonfederal share. The contractor must:

(1) assess the recipient's individual need for services required to be cared for safely in the community;

(2) assure that a care plan that meets the recipient's needs is developed by the appropriate agency or individual;

(3) assure cost-effectiveness of medical assistance home care services;

(4) recommend to the commissioner the approval or denial of the use of medical assistance funds to pay for home care services when home care services exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;

(5) reassess the recipient's need for and level of home care services at a frequency determined by the commissioner; and

(6) conduct on-site assessments when determined necessary by the commissioner.

(c) In addition, the contractor may be requested by the commissioner to:

(1) review care plans and reimbursement data for utilization of services that exceed community-based standards for home care, inappropriate home care services, home care services that do not meet quality of care standards, or unauthorized services and make appropriate referrals to the commissioner or other appropriate entities based on the findings;

(2) assist the recipient in obtaining services necessary to allow the recipient to remain safely in or return to the community;

(3) coordinate home care services with other medical assistance services under section 256B.0625;

(4) assist the recipient with problems related to the provision of home care services; and

(5) assure the quality of home care services.

(d) For the purposes of this section, "home care services" means medical assistance services defined under section 256B.0625, subdivisions 6a, 7, and 19a.

Sec. 9. [256B.0911] [NURSING HOME PREADMISSION SCREENING.]

Subdivision 1. [PURPOSE AND GOAL.] The purpose of the preadmission screening program is to prevent or delay certified nursing facility placements by assessing applicants and residents and offering cost-effective alternatives appropriate for the person's needs. Further, the goal of the program is to contain costs associated with unnecessary certified nursing facility admissions. The commissioners of human services and health shall seek to maximize use of available federal and state funds and establish the broadest program possible within the funding available.

Subd. 2. [PERSONS REQUIRED TO BE SCREENED; EXEMPTIONS.] All applicants to Medicaid certified nursing facilities must be screened prior to admission, regardless of income, assets, or funding sources, except the following:

(1) patients who, having entered acute care facilities from certified nursing facilities, are returning to a certified nursing facility;

(2) residents transferred from other certified nursing facilities;

(3) individuals whose length of stay is expected to be 30 days or less based on a physician's certification, if the facility notifies the screening team prior to admission and provides an update to the screening team on the 30th day after admission;

(4) individuals who have a contractual right to have their nursing facility care paid for indefinitely by the veteran's administration; or

(5) individuals who are screened by another state within three months before admission to a certified nursing facility.

Regardless of the exemptions in clauses (2) to (4), persons who have a diagnosis or possible diagnosis of mental illness, mental retardation, or a related condition must be screened before admission unless the admission prior to screening is authorized by the local mental health authority or the local developmental disabilities case manager.

Persons transferred from an acute care facility to a certified nursing facility may be admitted to the nursing facility before screening, if authorized by the screening team; however, the person must be screened within ten working days after the admission.

Other persons who are not applicants to nursing facilities must be screened if a request is made for a screening.

Subd. 3. [PERSONS RESPONSIBLE FOR CONDUCTING THE PREADMISSION SCREENING.] (a) A local screening team shall be established by the county agency and the county public health nursing service of the local board of health. Each local screening team shall be composed of a social worker and a public health nurse from their respective county agencies. Two or more counties may collaborate to establish a joint local screening team or teams.

(b) Both members of the team must conduct the screening. However, individuals who are being transferred from an acute care facility to a certified nursing facility may be screened by only one member of the screening team in consultation with the other member.

(c) In assessing a person's needs, each screening team shall have a physician available for consultation and shall consider the assessment of the individual's attending physician, if any. The individual's physician shall be included on the screening team if the physician chooses to participate. Other personnel may be included on the team as deemed appropriate by the county agencies.

If a person who has been screened must be reassessed to assign a case mix classification because admission to a nursing facility occurs later than the time allowed by rule following the initial

screening and assessment, the reassessment may be completed by the public health nurse member of the screening team.

Subd. 4. [RESPONSIBILITIES OF THE COUNTY AGENCY AND THE SCREENING TEAM.] (a) The county agency shall:

(1) provide information and education to the general public regarding availability of the preadmission screening program;

(2) accept referrals from individuals, families, human service and health professionals, and hospital and nursing facility personnel;

(3) assess the health, psychological, and social needs of referred individuals and identify services needed to maintain these persons in the least restrictive environments;

(4) assess active treatment needs in cooperation with:

(i) a qualified mental health professional for persons with a primary or secondary diagnosis of mental illness; and

(ii) a qualified mental retardation professional for persons with a primary or secondary diagnosis of mental retardation or related conditions. For purposes of this clause, a qualified mental retardation professional must meet the standards for a qualified mental retardation professional in Code of Federal Regulations, title 42, section 483.430;

(5) make recommendations for individuals screened regarding cost-effective community services which are available to the individual;

(6) develop an individual's community care plan and provide follow-up services as needed; and

(7) prepare and submit reports that may be required by the commissioner of human services.

The county agency may determine in cooperation with the local board of health that the public health nursing agency of the local board of health is the lead agency which is responsible for all of the activities above except clause (4).

(b) The screening team shall document that the most cost-effective alternatives available were offered to the individual or the individual's legal representative.

The screening shall be conducted within ten working days after the date of referral or, for those approved for transfer from an acute care facility to a certified nursing facility, within ten working days

after admission to the nursing facility. For persons who are eligible for medical assistance or who would be eligible within 180 days of admission to a nursing facility and who are screened after nursing facility admission, the nursing facility must include one or both of the screening team members in the discharge planning process for those individuals who the team has determined have discharge potential. The screening team must ensure a smooth transition and follow-up for the individual's return to the community.

Local screening teams shall cooperate with other public and private agencies in the community, in order to offer a variety of cost-effective services to the disabled and elderly. The screening team shall encourage the use of volunteers from families, religious organizations, social clubs, and similar civic and service organizations to provide services.

Subd. 5. [SIMPLIFICATION OF FORMS.] The commissioner shall minimize the number of forms required in the preadmission screening process and shall limit the screening document to items necessary for care plan approval, reimbursement, program planning, evaluation, and policy development.

Subd. 6. [REIMBURSEMENT FOR PREADMISSION SCREENING.] (a) The total screening cost for each county must be paid monthly by certified nursing facilities in the county. The monthly amount to be paid by each nursing facility for each fiscal year must be determined by dividing the county's estimate of the total annual cost of screenings allowed in the county for the following rate year by 12 to determine the monthly cost estimate and allocating the monthly cost estimate to each nursing facility based on the number of licensed beds in the nursing facility.

(b) The rate allowed for a screening where two team members are present shall be the actual costs up to \$195. The rate allowed for a screening where only one team member is present shall be the actual costs up to \$117. Annually on July 1, the commissioner shall adjust the rate up to the percentage change forecast in the fourth quarter of the prior calendar year by the Home Health Agency Market Basket of Operating Costs, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc.

(c) The monthly cost estimate for each certified nursing facility must be submitted to the nursing facility and the state by the county no later than February 15 of each year for inclusion in the nursing facility's payment rate on the following rate year. The commissioner shall include the reported annual estimated cost of screenings for each nursing facility as an operating cost of that nursing facility in accordance with section 256B.431, subdivision 2b, paragraph (g).

(d) If in more than ten percent of the total number of screenings

performed by a county in a fiscal year for all individuals regardless of payment source, the screening timelines were not met because a county was late in screening the individual, the county is solely responsible for paying the cost of those delayed screenings that exceed ten percent.

(e) Notwithstanding section 256B.0641, overpayments attributable to payment of the screening costs under the medical assistance program may not be recovered from a facility.

(f) The commissioner of human services shall amend the Minnesota medical assistance plan to include reimbursement for the local screening teams.

Subd. 7. [REIMBURSEMENT FOR CERTIFIED NURSING FACILITIES.] Medical assistance reimbursement for nursing facilities shall be authorized for a medical assistance recipient only if a preadmission screening has been conducted or the local county agency has authorized an exemption. Medical assistance reimbursement for nursing facilities shall not be provided for any recipient who the local screening team has determined does not meet the level of care criteria for nursing facility placement.

An individual has a choice and makes the final decision between nursing facility placement and community placement after the screening team's recommendation. However, the local county mental health authority or the local mental retardation authority under Public Law Numbers 100-203 and 101-508 may prohibit admission to a nursing facility, if the individual does not meet the nursing facility level of care criteria or does need active treatment as defined in Public Law Numbers 100-203 and 101-508.

Appeals from the screening team's recommendation or the county agency's final decision shall be made according to section 256.045, subdivision 3.

Sec. 10. [256B.0913] [ALTERNATIVE CARE PROGRAM.]

Subdivision 1. [PURPOSE AND GOALS.] The purpose of the alternative care program is to provide funding for or access to home and community-based services for frail elderly persons, in order to limit unnecessary nursing facility placements. The program is designed to support frail elderly persons in their desire to remain in the community as independently and as long as possible and to support informal caregivers in their efforts to provide care for frail elderly people. Further, the goals of the program are:

(1) to contain medical assistance expenditures by providing care in the community at a cost the same or less than nursing facility costs; and

(2) to maintain the moratorium on new construction of nursing home beds.

Subd. 2. [ELIGIBILITY FOR SERVICES.] Alternative care services are available to all frail older Minnesotans. This includes:

(1) persons who are receiving medical assistance and served under the medical assistance program or the Medicaid waiver program;

(2) persons who would be eligible for medical assistance within 180 days of admission to a nursing facility and served under subdivisions 4 to 13; and

(3) persons who are paying for their services out-of-pocket.

Subd. 3. [ELIGIBILITY FOR FUNDING FOR SERVICES FOR MEDICAL ASSISTANCE RECIPIENTS.] Funding for services for persons who are eligible for medical assistance is available under section 256B.0627, governing home care services, or 256B.0915, governing the Medicaid waiver for home and community-based services.

Subd. 4. [ELIGIBILITY FOR FUNDING FOR SERVICES FOR NONMEDICAL ASSISTANCE RECIPIENTS.] (a) Funding for services under the alternative care program is available to persons who meet the following criteria:

(1) the person has been screened by the county screening team or, if previously screened and served under the alternative care program, assessed by the local county social worker or public health nurse;

(2) the person is age 65 or older;

(3) the person would be eligible for medical assistance within 180 days of admission to a nursing facility;

(4) the screening team would recommend nursing facility admission or continued stay for the person if alternative care services were not available;

(5) the person needs services that are not available at that time in the county through other county, state, or federal funding sources; and

(6) the cost of the alternative care services funded by the program for this person does not exceed 80 percent of the total average medical assistance payment for nursing facility care at the individual's case mix classification.

(b) Individuals who meet the criteria in paragraph (a) and who have been approved for alternative care funding, are called 180-day eligible clients.

(c) The average payment for nursing facility care shall be the statewide monthly average nursing facility rate effective July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing facility residents who are age 65 or older, and who are medical assistance recipients in the month of March of the previous fiscal year. The monthly limit for an individual alternative care client shall be 80 percent of the statewide average medical assistance payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. This monthly limit does not prohibit the 180-day eligible client from paying for additional services needed or desired.

(d) In determining the total costs of alternative care services for one month, the costs of all services funded by the alternative care program, including supplies and equipment, must be included.

(e) Alternative care funding under this subdivision is not available for a person who is a medical assistance recipient or who would be eligible for medical assistance without a spend-down if the person applied, unless authorized by the commissioner.

(f) Alternative care funding is not available for a person who resides in a licensed nursing home or board and care home.

Subd. 5. [SERVICES COVERED UNDER ALTERNATIVE CARE.] (a) Alternative care funding may be used for payment of costs of:

- (1) adult foster care;
- (2) adult day care;
- (3) home health aide;
- (4) homemaker services;
- (5) personal care;
- (6) case management;
- (7) respite care;
- (8) assisted living; and
- (9) care-related supplies and equipment.

(b) The county agency may use up to ten percent of the annual allocation of alternative care funding for payment of costs of meals delivered to the home, transportation, skilled nursing, companion services, nutrition services, and training for direct informal caregivers. These services must comply with applicable standards or rules. The commissioner shall review the cost of the added services to ensure that the county's average cost per client does not increase more than the approved inflation rate over the previous fiscal year due to the addition of these services. The commissioner shall determine the impact on alternative care costs of allowing these additional services to be provided and shall report the findings to the legislature by February 15, 1993, including any recommendations regarding provision of the additional services.

(c) The county agency must ensure that the funds are used only to supplement and not supplant services available through other public assistance or services programs.

(d) These services must be provided by a licensed home care agency, a home health agency certified for reimbursement under Titles XVIII and XIX of the Social Security Act, or by persons employed by or contracted with the county agency or the public health nursing agency of the local board of health.

(e) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board.

(f) Personal care services may be provided by a personal care provider organization. A county agency may contract with a relative of the client to provide personal care services, but must ensure nursing supervision. Covered personal care services defined in section 256B.0627, subdivision 4, must meet applicable standards in Minnesota Rules, part 9505.0335.

(g) Costs for supplies and equipment that exceed \$150 per item per month must have prior approval from the commissioner.

(h) For the purposes of this section, "assisted living" refers to supportive services provided by a single vendor to two or more alternative care grant clients who reside in the same apartment building of ten or more units. These services may include care coordination, the costs of preparing one or more nutritionally balanced meals per day, general oversight, and other supportive services which the vendor is licensed to provide according to sections 144A.43 to 144A.49, and which would otherwise be available to individual alternative care grant clients. Reimbursement from the lead agency shall be made to the vendor as a monthly capitated rate negotiated with the county agency. The capitated rate shall not exceed the state share of the average monthly medical assistance nursing facility payment rate of the case mix resident class to which the 180-day eligible client would be assigned under Minnesota

Rules, parts 9549.0050 to 9549.0059. The capitated rate may not cover rent and direct food costs. A person's eligibility to reside in the building must not be contingent on the person's acceptance or use of the assisted living services. Assisted living services as defined in this section shall not be authorized in boarding and lodging establishments licensed according to sections 157.01 to 157.031.

(i) For purposes of this section, companion services are defined as nonmedical care, supervision and oversight, provided to a functionally impaired adult. Companions may assist the individual with such tasks as meal preparation, laundry and shopping, but do not perform these activities as discrete services. The provision of companion services does not entail hands-on medical care. Providers may also perform light housekeeping tasks which are incidental to the care and supervision of the recipient. This service must be approved by the case manager as part of the care plan. Companion services must be provided by individuals or nonprofit organizations who are under contract with the local agency to provide the service. Any person related to the waiver recipient by blood, marriage or adoption cannot be reimbursed under this service. Persons providing companion services will be monitored by the case manager.

(j) For purposes of this section, training for direct informal caregivers is defined as a classroom or home course of instruction which may include: transfer and lifting skills, nutrition, personal and physical cares, home safety in a home environment, stress reduction and management, behavioral management, long-term care decision making, care coordination and family dynamics. The training is provided to an informal unpaid caregiver of a 180-day eligible client which enables the caregiver to deliver care in a home setting with high levels of quality. The training must be approved by the case manager as part of the individual care plan. Individuals, agencies, and educational facilities which provide caregiver training and education will be monitored by the case manager.

Subd. 6. [ALTERNATIVE CARE PROGRAM ADMINISTRATION.] The alternative care program is administered by the county agency. This agency is the lead agency responsible for the local administration of the alternative care program as described in this section. However, it may contract with the public health nursing service to be the lead agency.

Subd. 7. [CASE MANAGEMENT.] The lead agency shall appoint a social worker from the county agency or a registered nurse from the county public health nursing service of the local board of health to be the case manager for any person receiving services funded by the alternative care program. The case manager must ensure the health and safety of the individual client and is responsible for the cost effectiveness of the alternative care individual care plan.

Subd. 8. [REQUIREMENTS FOR INDIVIDUAL CARE PLAN.]

The case manager shall ensure that a plan of care is developed and implemented for each 180-day eligible client and that a client's service needs and eligibility are reassessed at least every six months. The plan shall include any services prescribed by the individual's attending physician as necessary and follow-up services as necessary. In developing the individual's care plan, the case manager shall include the use of volunteers from families and neighbors, religious organizations, social clubs, and civic and service organizations to support the formal home care services. The lead agency shall provide documentation to the commissioner verifying that the individual's alternative care is not available at that time through any other public assistance or service program. The lead agency shall provide documentation in each individual's plan of care and to the commissioner that the most cost-effective alternatives available have been offered to the individual and that the individual was free to choose among available qualified providers, both public and private.

Subd. 9. [CONTRACTING PROVISIONS FOR PROVIDERS.] The lead agency shall document to the commissioner that the agency made reasonable efforts to inform potential providers of the anticipated need for services under the alternative care program, including a minimum of 14 days' written advance notice of the opportunity to be selected as a service provider and an annual public meeting with providers to explain and review the criteria for selection. The lead agency shall also document to the commissioner that the agency allowed potential providers an opportunity to be selected to contract with the county agency. Funds reimbursed to counties under this subdivision are subject to audit by the commissioner for fiscal and utilization control.

The lead agency must select providers for contracts or agreements using the following criteria and other criteria established by the county:

- (1) the need for the particular services offered by the provider;
- (2) the population to be served, including the number of clients, the length of time services will be provided, and the medical condition of clients;
- (3) the geographic area to be served;
- (4) quality assurance methods, including appropriate licensure, certification, or standards, and supervision of employees when needed;
- (5) rates for each service and unit of service exclusive of county administrative costs;

(6) evaluation of services previously delivered by the provider; and

(7) contract or agreement conditions, including billing requirements, cancellation, and indemnification.

The county must evaluate its own agency services under the criteria established for other providers. The county shall provide a written statement of the reasons for not selecting providers.

Subd. 10. [ALLOCATION FORMULA.] (a) The alternative care appropriation for fiscal years 1992 and beyond shall cover only 180-day eligible clients.

(b) Prior to July 1 of each year, the commissioner shall allocate to county agencies the state funds available for alternative care for persons eligible under subdivision 2. The allocation for fiscal year 1992 shall be calculated using a base that is adjusted to exclude the medical assistance share of alternative care expenditures. The adjusted base is calculated by multiplying each county's allocation for fiscal year 1991 by the percentage of county alternative care expenditures for 180-day eligible clients. The percentage is determined based on expenditures for services rendered from April 1, 1990, through March 31, 1991, to the extent claims have been submitted by June 1, 1991.

(c) If the county expenditures for 180-day eligible clients are 95 percent or more of its adjusted base allocation, the allocation for the next fiscal year is 100 percent of the adjusted base, plus inflation to the extent that inflation is included in the state budget.

(d) If the county expenditures for 180-day eligible clients are less than 95 percent of its adjusted base allocation, the allocation for the next fiscal year is the adjusted base allocation less the amount of unspent funds below the 95 percent level.

(e) A county under paragraph (d) may receive an increased allocation if annualized service costs for the month of May for 180-day eligible clients are greater than the allocation otherwise determined. A county may apply for this increase by reporting projected expenditures for May to the commissioner by June 1. The amount of the allocation shall not exceed the amount calculated in paragraph (c). The projected expenditures for May must be based on actual 180-day eligible client caseload and the individual cost of clients' care plans. If a county does not report its expenditures for May, the amount in paragraph (d) shall be used.

(f) Calculations for paragraphs (c) and (d) are to be made as follows: for each county, the determination of expenditures shall be based on payments for services rendered from April 1 through

March 31 in the base year, to the extent that claims have been submitted by June 1 of that year.

Subd. 11. [TARGETED FUNDING.] (a) The purpose of targeted funding is to make additional money available to counties with the greatest need. Targeted funds are not intended to be distributed equitably among all counties, but rather, allocated to those with long-term care strategies that meet state goals.

(b) The funds available for targeted funding shall be the total appropriation for each fiscal year minus county allocations determined under subdivision 9 as adjusted for any inflation increases provided in appropriations for the biennium.

(c) Of the remaining targeted funds:

(1) 20 percent shall be reserved for special projects as described in section 256B.0917;

(2) 60 percent shall be reserved to supplement the alternative care grants program and shall be distributed to counties that apply for them according to the following criteria:

(i) Counties shall be ranked from high to low according to their need for long-term care services by multiplying the statewide utilization rate of licensed nursing homes and boarding care homes times the projected numerical change in the county's population 85 years old and over for the period 1990 to 2000, and then dividing by the number of licensed nursing home and boarding care home beds in the county. For the purposes of this section, population counts and projections shall be based on the state demographer's data and the count of licensed nursing home beds and boarding care home beds shall be the count found in the most recently published edition of the health care facilities directory of the department of health. For the purposes of this section, "utilization rate" means the proportion of persons 65 years of age and older in a county who are residing in a licensed nursing home or boarding care home according to the most recent information available from the department of health.

(ii) The projected number of additional nursing home and boarding care home beds that would be needed in each county in the absence of an alternative care program shall be calculated by multiplying the utilization rate times the projected numerical change in the county's population 85 years of age and older for the period 1990 to 2000.

(iii) All targeted funds available under this clause shall be allocated to counties by multiplying one-eighth times the number of beds projected in item (ii) times the statewide average cost of one alternative care grant client for the most recent full year for which

complete cost data is available, beginning with the top-ranked county as found in item (i) and continuing down the list of counties in rank order until the funds are exhausted; and

(3) 20 percent shall be distributed to counties that propose innovative, cost-effective projects to divert community residents from nursing home placement or to relocate nursing home residents to community living. Projects must contribute to the state's overall goals and objectives for long-term care.

(d) Counties that would receive targeted funds according to paragraph (c), clause (2), must demonstrate to the commissioner's satisfaction that the funds would be appropriately spent by showing how the funds would be used to further the state's alternative care goals as described in subdivision 1, and that the county has the administrative and service delivery capability to use them. If the commissioner does not approve a county's application for targeted funds, the funds shall be reallocated to the next ranking county according to paragraph (c), clause (2), that has not yet received funds. Counties that receive such reallocated funds must comply with this section.

(e) The commissioner shall request applications by June 1 each year, for county agencies to apply for targeted funds. The counties selected for targeted funds shall be notified of the amount of their additional funding by August 1 of each year. Targeted funds allocated to a county agency in one year shall be treated as part of the county's base allocation for that year in determining allocations for subsequent years. No reallocations between counties shall be made.

(f) The allocation for each year after fiscal year 1992 shall be determined using the previous fiscal year's allocation, including any targeted funds, as the base and then applying the criteria under subdivision 9, paragraphs (c) to (f), to the current year's expenditures.

Subd. 12. [CLIENT PREMIUMS.] A premium is required for all 180-day eligible clients. The commissioner shall establish a premium schedule based on the client's income and assets, to help pay for the cost of participating in the program. The schedule is not subject to chapter 14. The commissioner shall publish the schedule and any later changes in the State Register and allow a period of 20 working days from the publication date for interested persons to comment before adopting the schedule in final form.

Subd. 13. [COUNTY ALTERNATIVE CARE BIENNIAL PLAN.] The commissioner shall establish by rule, in accordance with chapter 14, procedures for the submittal and approval of a biennial county plan for the administration of the alternative care program and the coordination with other planning processes for the older

adult. In addition to the procedures in rule, this county biennial plan shall also include:

(1) information on the administration of the preadmission screening program;

(2) information on the administration of the home and community-based services waiver under section 256B.0915;

(3) an application for targeted funds under subdivision 10; and

(4) an optional notice of intent to apply to participate in the long-term care projects under section 256B.0917.

Subd. 14. [REIMBURSEMENT AND RATE ADJUSTMENTS.] Reimbursement for expenditures for the alternative care services shall be through the invoice processing procedures of the department's Medicaid management information system (MMIS), only with the approval of the client's case manager. To receive reimbursement, the county or vendor must submit invoices within 90 days following the month of service. The county agency and its vendors under contract shall not be reimbursed for services which exceed the county allocation.

The commissioner shall reduce the county's reimbursement by the amount of the premium due from each individual as reported by the preadmission screening team at the case opening and by the case manager at each six-month reassessment.

Beginning July 1, 1991, the state will reimburse counties, up to the limits of state appropriations, according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who would be eligible for medical assistance within 180 days of admission to a nursing home.

Annually on July 1, the commissioner must adjust the rates allowed for alternative care services by the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set.

Sec. 11. [256B.0915] [MEDICAID WAIVER FOR HOME AND COMMUNITY-BASED SERVICES.]

Subdivision 1. [AUTHORITY.] The commissioner is authorized to

apply for a home and community-based services waiver for the elderly, authorized under section 1915(c) of the Social Security Act, in order to obtain federal financial participation to expand the availability of services for persons who are eligible for medical assistance. The commissioner may apply for additional waivers or pursue other federal financial participation which is advantageous to the state for funding home care services for the frail elderly who are eligible for medical assistance. The provision of waived services to medical assistance recipients must comply with the criteria approved in the waiver.

Subd. 2. [SPOUSAL IMPOVERISHMENT POLICIES.] The commissioner shall seek to amend the federal waiver and the medical assistance state plan to allow spousal impoverishment criteria as authorized in Code of Federal Regulations, title 42, section 435.726(1924), and as implemented in sections 256B.0575, 256B.058, and 256B.059 to be applied to persons who are served on the home and community-based services waiver.

Subd. 3. [LIMITS OF CASES, RATES, REIMBURSEMENT, AND FORECASTING.] (a) The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

(b) The monthly limit for the cost of waived services to an individual waiver client shall be the statewide average payment rate of the case mix resident class to which the waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059. The statewide average payment rate is calculated by determining the statewide monthly average nursing home rate effective July 1 of the fiscal year in which the cost is incurred, less the statewide average monthly income of nursing home residents who are age 65 or older, and who are medical assistance recipients in the month of March of the previous state fiscal year.

(c) The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waived services, including extended medical supplies and equipment; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

Medical assistance funding for skilled nursing services, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

(d) Expenditures for extended medical supplies and equipment that cost over \$150 per month must have the commissioner's prior approval.

(e) Annually on July 1, the commissioner must adjust the rates allowed for services by the forecasted percentage change in the Home Health Agency Market Basket of Operating Costs, for the fiscal year beginning July 1, compared to the previous fiscal year, unless otherwise adjusted by statute. The Home Health Agency Market Basket of Operating Costs is published by Data Resources, Inc. The forecast to be used is the one published for the calendar quarter beginning January 1, six months prior to the beginning of the fiscal year for which rates are set.

(f) Reimbursement for the medical assistance recipients under the approved waiver shall be made from the medical assistance account through the invoice processing procedures of the department's Medicaid management information system (MMIS), only with the approval of the client's case manager. The budget for the state share of the Medicaid expenditures shall be forecasted with the medical assistance budget, and shall be consistent with the approved waiver.

(g) Beginning July 1, 1991, the state shall reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who are receiving medical assistance.

Sec. 12. [256B.0917] [SENIORS AGENDA FOR INDEPENDENT LIVING (SAIL) PROJECTS FOR A NEW LONG-TERM CARE STRATEGY.]

Subdivision 1. [PURPOSE, MISSION, GOALS, AND OBJECTIVES.] (a) The purpose of implementing SAIL projects under this section is to demonstrate a new cooperative strategy for the long-term care system in the state of Minnesota. The projects are part of the initial biennial plan for a 20-year strategy. The mission of the 20-year strategy is to create a new community-based care paradigm for long-term care in Minnesota in order to maximize independence of the older adult population, and to ensure cost-effective use of financial and human resources. The goals for the 20-year strategy are to:

(1) achieve a broad awareness and use of low-cost home care and other residential alternatives to nursing homes;

(2) develop a statewide system of information and assistance to enable easy access to long-term care services;

(3) develop sufficient alternatives to nursing homes to serve the increased number of people needing long-term care; and

(4) maintain the moratorium on new construction of nursing home beds and to lower the percentage of elderly served in institutional settings.

(b) The objective for the fiscal years 1992 and 1993 biennial plan is to implement at least four but not more than six projects in anticipation of a statewide program. These projects will begin the process of implementing: (1) a coordinated planning and administrative process; (2) a refocused function of the preadmission screening program; (3) the development of additional home, community, and residential alternatives to nursing homes; (4) a program to support the informal caregivers for elderly persons; and (5) programs to strengthen the use of volunteers. This is done in conjunction with an expanded role of the interagency long-term care planning committee as described in section 144A.31. The services offered through these projects will be available to those who have their own funds to pay for services, as well as to persons who are eligible for medical assistance and to persons who are 180-day eligible clients to the extent authorized in this section.

Subd. 2. [DESIGN OF SAIL PROJECTS; LOCAL LONG-TERM CARE COORDINATING TEAM.] (a) The commissioner of human services shall establish SAIL projects in four to six counties or groups of counties to demonstrate the feasibility and cost-effectiveness of a local long-term care strategy that is consistent with the state's long-term care goals identified in subdivision 1. The commissioner shall publish a notice in the State Register announcing the availability of project funding and giving instructions for making an application. The instructions for the application shall identify the amount of funding available for project components.

(b) To be selected for the project, the county social service agencies, public health nursing service agencies, local boards of health, and the area agencies on aging in a geographic area must establish a local long-term care coordinating team which is responsible for:

(1) developing a local long-term care strategy consistent with state goals and objectives;

(2) submitting an application to be selected as a project;

(3) coordinating planning for funds to provide services to elderly persons, including funds received under Title III of the Social Security Act, Community Social Services Act, Title XX of the Social Security Act and the Local Public Health Act;

(4) ensuring efficient services provision and nonduplication of funding; and

(5) designating a local lead agency and cooperating agencies to implement the local strategy. For purposes of this section, the local lead agency shall be a county agency, a public health nursing service under the local board of health, or an area agency on aging. The lead agency receives and manages the project funds from the state and is responsible for the implementation of the local strategy. If selected as a project, the local long-term care coordinating team must evaluate the success of the local long-term care strategy in meeting state measures of performance and results as established in the contract.

(c) The local long-term care coordinating team may include in its membership other units of government which provide funding for services to the frail elderly. The team must cooperate with consumers and other public and private agencies, including nursing homes, in the geographic area in order to develop and offer a variety of cost-effective services to the elderly and their caregivers.

(d) The local long-term care coordinating team shall apply to be selected as a project. Once the team is selected as a project, the commissioner of human services shall contract with the lead agency for the project and shall provide additional administrative funds for implementing the provisions of the contract, within the appropriation available for this purpose.

(e) Projects shall be selected according to the following conditions.

(1) No project may be selected unless it demonstrates that:

(i) the objectives of the local project will help to achieve the state's long-term care goals as defined in subdivision 1;

(ii) in the case of a project submitted jointly by several counties, all of the participating counties are contiguous;

(iii) there is a designated local lead agency that is empowered to make contracts with the state and local vendors on behalf of all participants;

(iv) the project proposal demonstrates that the local cooperating agencies have the ability to perform the project as described and that the implementation of the project has a reasonable chance of achieving its objectives;

(v) the project will serve an area that covers at least five counties or contains at least 2,500 persons who are 85 years of age or older, according to the projections of the state demographer or the census if the data is more recent; and

(vi) the local coordinating team documents efforts of cooperation

with consumers and other agencies and organizations, both public and private, in planning for service delivery.

(2) If only two projects are selected, at least one of them must be from a metropolitan statistical area as determined by the United States Census Bureau; if three or four projects are selected, at least one but not more than two projects must be from a metropolitan statistical area; and if more than four projects are selected, at least two but not more than three projects must be from a metropolitan statistical area.

(3) Counties or groups of counties that submit a proposal for a project shall be assigned to types defined by institutional utilization rate and population growth rate in the following manner:

(i) Each county or group of counties shall be measured by the utilization rate of nursing homes and boarding care homes and by the projected growth rate of its population aged 85 and over between 1990 and 2000. For the purposes of this section, "utilization rate" means the proportion of the seniors aged 65 or older in the county or group of counties who reside in a licensed nursing home or boarding care home as determined by the most recent census of residents available from the department of health and the population estimates of the state demographer or the census, whichever is more recent. The "projected growth rate" is the rate of change in the county or group of counties of the population group aged 85 or older between 1990 and 2000 according to the projections of the state demographer.

(ii) The institutional utilization rate of a county or group of counties shall be converted to a category by assigning a "high utilization" category if the rate is above the median rate of all counties, and a "low utilization" category otherwise. The projected growth rate of a county or group of counties shall be converted to a category by assigning a score of "high growth" category if the rate is above the median rate of all counties, and a "low growth" category otherwise.

(iii) Types of areas shall be defined by the four combinations of the scores defined in item (ii): type 1 is low utilization - high growth, type 2 is high utilization - high growth, type 3 is high utilization - low growth, and type 4 is low utilization - low growth. Each county or group of counties making a proposal shall be assigned to one of these types.

(4) Projects shall be selected from each of the types in the order that the types are listed in item (iii), with available funding allocated to projects until it is exhausted, with no more than 30 percent of available funding allocated to any one project. Available funding includes state administrative funds which have been appropriated for screening functions in subdivision 4, paragraph (b),

clause (3) and for service developers and incentive grants in subdivision 5, paragraphs (b) and (c).

(5) If more than one county or group of counties within one of the types defined by paragraph (3) proposes a special project that meets all of the other conditions in paragraphs (1) and (2), the project that demonstrates the most cost-effective proposals in terms of the number of nursing home placements that can be expected to be diverted or converted to alternative care services per unit of cost shall be selected.

Subd. 3. [LOCAL LONG-TERM CARE STRATEGY.] The local long-term care strategy must list performance outcomes and indicators which meet the state's objectives. The local strategy must provide for:

(1) accessible information, assessment, and preadmission screening activities as described in subdivision 4;

(2) an application for expansion of alternative care targeted funds under section 256B.0913, for serving 180-day eligible clients, including those who are relocated from nursing homes; and

(3) the development of additional services such as adult family foster care homes; family adult day care; assisted living projects and congregate housing service projects in apartment buildings; expanded home care services for evenings and weekends; expanded volunteer services; and caregiver support and respite care projects.

The county or groups of counties selected for the projects shall be required to comply with federal regulations, alternative care funding policies in section 256B.0913, and the federal waiver programs' policies in section 256B.0915. The requirements for preadmission screening as defined in section 256B.0911, subdivisions 1 to 6, are waived for those counties selected as part of a long-term care strategy project. For persons who are eligible for medical assistance or who are 180-day eligible clients and who are screened after nursing facility admission, the nursing facility must include a screener in the discharge planning process for those individuals who the screener has determined have discharge potential. The agency responsible for the screening function in subdivision 4 must ensure a smooth transition and follow-up for the individual's return to the community. Requirements for an access, screening, and assessment function replace the preadmission screening requirements and are defined in subdivision 4. Requirements for the service development and service provision are defined in subdivision 5.

Subd. 4. [ACCESSIBLE INFORMATION, SCREENING, AND ASSESSMENT FUNCTION.] (a) The projects selected by and under contract with the commissioner shall establish an accessible information, screening, and assessment function for persons who need

assistance and information regarding long-term care. This accessible information, screening, and assessment activity shall include information and referral, early intervention, follow-up contacts, telephone triage as defined in paragraph (e), home visits, assessments, preadmission screening, and relocation case management for the frail elderly and their caregivers in the area served by the county or counties. The purpose is to assure that information and help is provided to elderly persons and their families in a timely fashion, when they are making decisions about long-term care. These functions may be split among various agencies, but must be coordinated by the local long-term care coordinating team.

(b) Accessible information, screening, and assessment functions shall be reimbursed from the following sources of funding as follows:

(1) The screenings of all persons entering nursing homes shall be reimbursed by the nursing homes in the counties of the project, through the same policy that is in place in fiscal year 1992 as established in section 256B.0911. The amount a nursing home pays to the county agency is that amount identified and approved in the February 15, 1991, estimated number of screenings and associated expenditures. This amount remains the same for fiscal year 1993.

(2) The level I screenings and the level II assessments required by Public Law Numbers 100-203 and 101-508 (OBRA) for persons with mental illness, mental retardation, or related conditions, are reimbursed through administrative funds with 75 percent federal funds and 25 percent state funds, as allowed by federal regulations and established in the contract.

(3) Additional state administrative funds shall be available for the access, screening, and assessment activities that are not reimbursed under clauses (1) and (2). This amount shall not exceed the amount authorized in the guidelines and in instructions for the application and must be within the amount appropriated for this activity.

The amounts available under paragraphs (1) to (3) shall be available to the county or counties involved in the project to cover staff salaries and expenses to provide the services in this subdivision. The lead agency shall employ, or contract with other agencies to employ, within the limits of available funding, sufficient personnel to provide the services listed in this subdivision.

(c) Any information and referral functions funded by other sources, such as Title III and Title XX of the Social Security Act and the Community Social Services Act, shall be considered by the local long-term care coordinating team in establishing this function to avoid duplication and to assure access to information for persons needing help and information regarding long-term care.

(d) The staffing for the screening and assessment function must include, but is not limited to, a county social worker and a county public health nurse. The social worker and public health nurse are responsible for all assessments that are required to be completed by a professional. However, only one of these professionals is required to be present for the assessment.

(e) All persons entering a Medicaid certified nursing home or boarding care home must be screened through an assessment process, although the decision to conduct a face-to-face interview is left with the county social worker and the county public health nurse. All applicants to nursing homes must be screened and approved for admission by the county social worker or the county public health nurse named by the lead agency or the agencies which are under contract with the lead agency to manage the access, screening, and assessment functions. For applicants who have a diagnosis of mental illness, mental retardation, or a related condition, and are subject to the provisions of Public Law Numbers 100-203 and 101-508, their admission must be approved by the local mental health authority or the local developmental disabilities case manager. The commissioner shall develop instructions and assessment forms for telephone triage and on-site screenings to assure that federal regulations and waiver provisions are met. For purposes of this section, the term "telephone triage" refers to a telephone or face-to-face consultation between health care and social service professionals during which the clients' circumstances are reviewed and the county agency professional sorts the individual into categories: (1) needs no screening, (2) needs an immediate screening, or (3) needs a screening after admission to a nursing home or after a return home. The county agency professional shall authorize admission to a nursing home according to the provisions in section 256B.0911, subdivision 7.

(f) The requirements for case mix assessments by a preadmission screening team may be waived and the nursing home shall complete the case mix assessments which are not conducted by the county public health nurse according to the procedures established under Minnesota Rules, part 9549.0059. The appropriate county or the lead agency is responsible for distributing the quality assurance and review form for all new applicants to nursing homes.

(g) The lead agency or the agencies under contract with the lead agency which are responsible for the accessible information, screening, and assessment function must complete the forms and reports required by the commissioner as specified in the contract.

Subd. 5. [SERVICE DEVELOPMENT AND SERVICE DELIVERY.] In addition to the access, screening, and assessment activity, each local strategy may include provisions for the following:

(a) expansion of alternative care to serve an increased caseload,

over the fiscal year 1991 average caseload, of at least 100 persons each year who are assessed prior to nursing home admission and persons who are relocated from nursing homes, which results in a reduction of the medical assistance nursing home caseload;

(b) the addition of a full-time staff person who is responsible to develop the following services and recruit providers as established in the contract:

(1) additional adult family foster care homes;

(2) family adult day care providers as defined in section 256B.0919, subdivision 2;

(3) an assisted living program in an apartment;

(4) a congregate housing service project in a subsidized housing project; and

(5) the expansion of evening and weekend coverage of home care services as deemed necessary by the local strategic plan;

(c) small incentive grants to new adult family care providers for renovations needed to meet licensure requirements;

(d) a plan to apply for a congregate housing service project as identified in section 256.9751, authorized by the Minnesota board on aging, to the extent that funds are available;

(e) a plan to divert new applicants to nursing homes and to relocate a targeted population from nursing homes, using the individual's own resources or the funding available for services;

(f) one or more caregiver support and respite care projects, as described in subdivision 6; and

(g) an expansion of local volunteer efforts and the organization of a local committee in a selected community for the purpose of developing a community care manager program. For purposes of this paragraph, a community care manager program is a community-based project which hires a registered nurse or social worker to coordinate the volunteers and services for the frail older residents within a neighborhood or community. The project must demonstrate the support of local community organizations, churches, and service agencies.

The expansion of alternative care clients under paragraph (a) shall be accomplished with the funds provided under section 256B.0913, and includes the allocation of targeted funds. The funding for all participating counties must be coordinated by the

local long-term care coordinating team and must be part of the local long-term care strategy. Each county retains responsibility for reimbursement as defined in section 256B.0913, subdivision 12. All other requirements for the alternative care program must be met unless an exception is provided in this section. The commissioner may establish by contract a reimbursement mechanism for alternative care that does not require invoice processing through the medical assistance management information system (MMIS). The commissioner and local agencies must assure that the same client and reimbursement data is obtained as is available under MMIS.

The administration of these components is the responsibility of the agencies selected by the local coordinating team and under contract with the local lead agency. However, administrative funds for paragraphs (b) to (e) and grant funds for paragraphs (f) and (g) shall be granted to the local lead agency. The funding available for each component is based on the plan submitted and the amount negotiated in the contract.

Subd. 6. [STATEWIDE CAREGIVER SUPPORT AND RESPITE CARE RESOURCE CENTER; CAREGIVER SUPPORT AND RESPITE CARE PROJECTS.] (a) The commissioner shall establish and maintain a statewide resource center for caregiver support and respite care. The resource center shall:

(1) provide information, technical assistance, and training statewide to county agencies and organizations on direct service models of caregiver support and respite care services;

(2) identify and address issues, concerns, and gaps in the statewide network for caregiver support and respite care;

(3) maintain a statewide caregiver support and respite care directory;

(4) educate caregivers on the availability and use of caregiver and respite care services;

(5) promote and expand caregiver training and support groups using existing networks when possible; and

(6) apply for and manage grants related to caregiver support and respite care.

(b) The commissioner shall establish up to 36 projects to expand the respite care network in the state and to support caregivers in their responsibilities for care. The purpose of each project shall be to:

(1) establish a local coordinated network of volunteer and paid respite workers;

(2) coordinate assignment of respite workers to clients and care receivers and assure the health and safety of the client; and

(3) provide training for caregivers and ensure that support groups are available in the community.

(c) The caregiver support and respite care funds shall be available to the four to six local long-term care strategy projects designated in subdivisions 1 to 5.

(d) The commissioner shall publish a notice in the state register to solicit proposals from public or private nonprofit agencies for the projects not included in the four to six local long-term care strategy projects defined in subdivision 2. A county agency may, alone or in combination with other county agencies, apply for caregiver support and respite care project funds. A public or nonprofit agency may apply for project funds if the agency has a letter of agreement with the county or counties in which services will be developed, stating the intention of the county or counties to coordinate their activities with the agency requesting a grant.

(e) The commissioner shall select grantees based on the following criteria:

(1) the ability of the proposal to demonstrate need in the area served, as evidenced by a community needs assessment or other demographic data;

(2) the ability of the proposal to clearly describe how the project will achieve the purpose defined in paragraph (b);

(3) the ability of the proposal to reach underserved populations;

(4) the ability of the proposal to demonstrate community commitment to the project, as evidenced by letters of support and cooperation as well as formation of a community task force;

(5) the ability of the proposal to clearly describe the process for recruiting, training, and retraining volunteers; and

(6) the inclusion in the proposal of the plan to promote the project in the community, including outreach to persons needing the services.

(f) Funds for all projects under this subdivision may be used to:

(1) hire a coordinator to develop a coordinated network of volunteer and paid respite care services and assign workers to clients;

(2) recruit and train volunteer providers;

- (3) train caregivers;
- (4) ensure the development of support groups for caregivers;
- (5) advertise the availability of the caregiver support and respite care project; and
- (6) purchase equipment to maintain a system of assigning workers to clients.
- (g) Project funds may not be used to supplant existing funding sources.

(h) An advisory committee shall be appointed to advise the caregiver support project on the development and implementation of the caregiver support and respite care services projects. The advisory committee shall review procedures and provide advice and technical assistance to the caregiver support project regarding the grant program established under this section. The advisory committee shall consist of not more than 12 people appointed by the commissioner and shall be comprised of representatives from public and private agencies, service providers and consumers from all areas of the state. Members of the advisory committee shall not be compensated for service.

Subd. 7. [EVALUATION AND EXPANSION.] The commissioner shall evaluate the success of the projects against the objective stated in subdivision 1, paragraph (b), and recommend to the legislature the continuation or expansion of the long-term care strategy by February 15, 1993.

Subd. 8. [PUBLIC AWARENESS CAMPAIGN.] The commissioner, with assistance from the commissioner of health and with the advice of the long-term care planning committee, shall contract for a public awareness campaign to educate the general public, seniors, consumers, caregivers, and professionals about the aging process, the long-term care system, and alternatives available including alternative care and residential alternatives. Particular emphasis will be given to informing consumers on how to access the alternatives and obtain information on the long-term care system. The commissioner shall pursue the development of new names for preadmission screening, alternative care, and foster care.

Sec. 13. [256B.0919] [ADULT FOSTER CARE AND FAMILY ADULT DAY CARE.]

Subdivision 1. [ADULT FOSTER CARE LICENSURE CAPACITY.] Notwithstanding Minnesota Rules, part 9555.6165, an adult foster care license holder may care for five adults age 60 years or older who do not have serious and persistent mental illness or a

developmental disability. The license holder under this section shall not be a corporate business which operates more than two facilities.

Subd. 2. [ADULT FOSTER CARE; FAMILY ADULT DAY CARE.] An adult foster care license holder may also provide family adult day care for adults age 60 years or older who do not have serious and persistent mental illness or a developmental disability. The maximum combined license capacity for adult foster care and family adult day care is five adults. A separate license is not required to provide family adult day care under this subdivision. Foster care homes providing services to five adults shall not be subject to licensure by the commissioner of health under the provisions of chapter 144, 144A, 157, or any other law requiring facility licensure by the commissioner of health.

Subd. 3. [COUNTY CERTIFICATION OF PERSONS PROVIDING ADULT FOSTER CARE TO RELATED PERSONS.] A person exempt from licensure under section 245A.03, subdivision 2, who provides adult foster care to a related individual age 65 and older, and who meets the requirements in Minnesota Rules, parts 9555.5105 to 9555.6265, may be certified by the county to provide adult foster care. A person certified by the county to provide adult foster care may be reimbursed for services provided and eligible for funding under sections 256B.0913 and 256B.0915, if the relative would suffer a financial hardship as a result of providing care. For purposes of this subdivision, financial hardship refers to a situation in which a relative incurs a substantial reduction in income because he or she resigns from a full-time job or takes a leave of absence without pay from a full-time job to care for the client.

Sec. 14. Minnesota Statutes 1990, section 256B.093, is amended to read:

256B.093 [SERVICES FOR PERSONS WITH TRAUMATIC BRAIN INJURIES.]

Subdivision 1. [STATE COORDINATOR.] The commissioner of human services shall designate a full-time position within the long-term care management division of the department of human services to supervise and coordinate services for persons with traumatic brain injuries.

An advisory committee shall be established to provide recommendations to the department regarding program and service needs of persons with traumatic brain injuries.

Subd. 2. [ELIGIBILITY.] The commissioner may contract with qualified agencies or persons employ staff to provide statewide case management services to medical assistance recipients who are at risk of institutionalization and meet one of the following criteria: (a) The person has a who have traumatic brain injury.

(b) The person is receiving home care services or is in an institution and has a discharge plan requiring the provision of home care services and meets one of the following criteria:

(1) the person suffers from a brain abnormality or degenerative brain disease resulting in significant destruction of brain tissue and loss of brain function that requires extensive services over an extended period of time;

(2) the person is unable to direct the person's own care;

(3) the person has medical home care costs that exceed thresholds established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;

(4) the person is eligible for medical assistance under the option for certain disabled children in section 134 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA);

(5) the person receives home care from two or more providers who are unable to effectively coordinate the services; or

(6) the person has received or will receive home care services for longer than six months.

Subd. 3. [CASE MANAGEMENT DUTIES.] The department shall fund the case management ~~contracts~~ under this subdivision using medical assistance administrative funds. The contractor must Case management duties include:

(1) ~~assess~~ assessing the person's individual needs for services required to prevent institutionalization;

(2) ~~assure~~ assuring that a care plan that ~~meets~~ addresses the person's needs is developed, implemented, and monitored on an ongoing basis by the appropriate agency or individual;

(3) ~~assist~~ assisting the person in obtaining services necessary to allow the person to remain in the community;

(4) ~~coordinate~~ coordinating home care services with other medical assistance services under section 256B.0625;

(5) ~~assure~~ assuring appropriate, accessible, and cost effectiveness of effective medical assistance services;

(6) ~~make recommendations~~ recommending to the commissioner ~~on~~ the approval or denial of the use of medical assistance funds to pay for home care services when home care services exceed thresholds

established by the commissioner under Minnesota Rules, parts 9505.0170 to 9505.0475;

(7) ~~assist~~ assisting the person with problems related to the provision of home care services;

(8) ~~assure~~ assuring the quality of home care services; and

(9) ~~reassess~~ reassessing the person's need for and level of home care services at a frequency determined by the commissioner; and

(10) recommending to the commissioner the approval or denial of medical assistance funds for out-of-state placements for traumatic brain injury services.

Subd. 4. [DEFINITIONS.] For purposes of this section, the following definitions apply:

(a) "Traumatic brain injury" means a sudden insult or damage to the brain or its coverings, not of a degenerative or congenital nature. The insult or damage may produce an altered state of consciousness ~~or and may result in~~ a decrease in ~~mental~~, cognitive, behavioral, emotional, or physical functioning resulting in partial or total disability.

(b) "Home care services" means medical assistance home care services defined under section 256B.0625, subdivisions 6 6a, 7, and ~~19~~ 19a.

Sec. 15. Minnesota Statutes 1990, section 256B.64, is amended to read:

256B.64 [ATTENDANTS TO VENTILATOR-DEPENDENT RECIPIENTS.]

A ventilator-dependent recipient of medical assistance who has been receiving the services of a private duty nurse or personal care assistant in the recipient's home may continue to have a private duty nurse or personal care assistant present upon admission to a hospital licensed under chapter 144. The personal care assistant or private duty nurse shall perform only the services of communicator or interpreter for the ventilator-dependent patient during a transition period of up to 120 hours to assure adequate training of the hospital staff to communicate with the patient and to understand the unique comfort, safety, and personal care needs of the patient. The personal care assistant or private duty nurse may offer nonbinding advice to the health care professionals in charge of the ventilator-dependent patient's care and treatment on matters pertaining to the comfort and safety of the patient. ~~After the 120 hour transition period, an assessment may be made by the ventilator-dependent~~

patient, the attending physician, and the patient's primary care nurse to determine whether continued services of communicator or interpreter for the patient by the private duty nurse or personal care assistant are necessary and appropriate for the patient's needs. If continued service is necessary and appropriate, the physician must certify this need to the commissioner of human services in order for payments to continue. Within 36 hours of the end of the 120-hour transition period, an assessment may be made by the ventilator-dependent recipient, the attending physician, and the hospital staff caring for the recipient. If additional communicator or interpreter services are medically necessary, the hospital must contact the commissioner 24 hours prior to the end of the 120-hour transition period and submit the assessment information to the commissioner. The commissioner shall review the request and determine if it is medically necessary to continue the interpreter services or if the hospital staff has had sufficient opportunity to adequately determine the needs of the patient. The commissioner shall determine if continued service is necessary and appropriate and whether or not payments shall continue. The commissioner may not authorize services beyond the limits of the available appropriations for this section. The commissioner may adopt rules necessary to implement this section. Reimbursement under this section must be at the payment rate and in a manner consistent with the payment rate and manner used in reimbursing these providers for home care services for the ventilator-dependent recipient under the medical assistance program.

Sec. 16. Minnesota Statutes 1990, section 256D.44, is amended by adding a subdivision to read:

Subd. 7. [RATE LIMITATION; WAIVERED SERVICES ELIGIBILITY.] If a current negotiated rate for a foster care placement is for an individual who is eligible for the home and community-based services waiver for the elderly, the negotiated rate must include only the room and board portion of the rate. The room and board portion of the negotiated rate is an amount equal to the difference between the medical assistance income limit for a single disabled or aged adult minus the amount of the medical assistance personal needs allowance for persons residing in a nursing facility.

Sec. 17. Laws 1988, chapter 689, article 2, section 256, subdivision 1, is amended to read:

Subdivision 1. [SELECTION OF PROJECTS.] The commissioner of human services shall establish pilot projects to demonstrate the feasibility and cost-effectiveness of alternatives to nursing home care that involve providing coordinated alternative care grant services for all eligible residents in an identified apartment building or complex or other congregate residential setting. The commissioner shall solicit proposals from counties and shall select up to four counties to participate, including at least one metropolitan county

and one county in greater Minnesota. The commissioner shall select counties for participation based on the extent to which a proposed project is likely to:

- (1) meet the needs of low-income, frail elderly;
- (2) enable clients to live as independently as possible;
- (3) result in cost-savings by reducing the per person cost of alternative care grant services through the efficiencies of coordinated services; and
- (4) facilitate the discharge of elderly persons from nursing homes to less restrictive settings or delay their entry into nursing homes.

Participating counties shall use existing alternative care grant allocations to pay for pilot project services. The counties must contract with a medical assistance-certified home care agency to coordinate and deliver services and must demonstrate to the commissioner that quality assurance and auditing systems have been established. Notwithstanding Minnesota Statutes, section 256B.091, and rules of the commissioner of human services relating to the alternative care grants program, the commissioner may authorize pilot projects to use a monthly pre-capitated rates rate up to 60 percent of the monthly average nursing facility payment rate as defined in Minnesota Statutes, section 256B.0913; to provide expanded services such as chore services, activities, and meal planning, preparation, and serving; and to waive freedom of choice of vendor to the extent necessary to allow one vendor to provide services to all eligible persons in a residence or building. The commissioner may apply for a waiver of federal requirements as necessary to implement the pilot projects.

Sec. 18. [APPROPRIATION.]

\$..... is appropriated from the general fund to the Minnesota board on aging for the biennium ending June 30, 1993, for the congregate housing services demonstration projects in section 2.

Sec. 19. [REPEALER.]

Minnesota Statutes 1990, sections 144A.31, subdivisions 2 and 3; 256B.0625, subdivisions 6 and 19; 256B.0627, subdivision 3; 256B.091; and 256B.71, subdivision 5, are repealed."

Delete the title and insert:

"A bill for an act relating to human services; establishing requirements for home care services and preadmission screenings; clarify-

ing requirements for alternative care; providing for alternative care programs; establishing a senior agenda for independent living; appropriating money; amending Minnesota Statutes 1990, sections 144A.31; 256B.04, subdivision 16; 256B.0625, subdivision 7, and by adding subdivisions; 256B.0627; 256B.093; 256B.64; and 256D.44, by adding a subdivision; Laws 1988, chapter 689, article 2, section 256, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 256 and 256B; repealing Minnesota Statutes 1990, sections 144A.31, subdivisions 2 and 3; 256B.0625, subdivisions 6 and 19; 256B.0627, subdivision 3; 256B.091; and 256B.71, subdivision 5."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Segal from the Committee on Economic Development to which was referred:

H. F. No. 1262, A bill for an act relating to economic development; establishing a business development and preservation program delivered by certain nonprofit organizations; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116J.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

H. F. No. 1264, A bill for an act relating to weights and measures; adopting weights and measures standards recommended by the United States Department of Commerce, National Institute of Standards and Technology; defining the responsibilities, duties, and powers of the division of weights and measures; providing that the division have a director; amending Minnesota Statutes 1990, sections 239.01; 239.02; 239.05; 239.09; proposing coding for new law in Minnesota Statutes, chapter 239; repealing Minnesota Statutes 1990, sections 239.07; 239.08; and 239.37.

Reported the same back with the following amendments:

Page 7, line 20, delete "director" and insert "department"

Page 7, after line 36, insert:

"This section is not intended to conflict with the bulk sale requirements of the department of agriculture. If a conflict occurs, the laws and rules of the department of agriculture govern."

Page 8, line 13, delete "packaged"

Page 8, line 14, delete "food" and insert "packaging"

With the recommendation that when so amended the bill pass.

The report was adopted.

Segal from the Committee on Economic Development to which was referred:

H. F. No. 1269, A bill for an act relating to local government; increasing the amount the city of Minneapolis may loan to expand small businesses; amending Laws 1988, chapter 594, section 6.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 1278, A bill for an act relating to state government; abolishing the state planning agency; transferring certain of its powers and duties; amending Minnesota Statutes 1990, sections 3.885, subdivisions 3 and 6; 15A.081, subdivision 1; 17.49, subdivision 1; 62D.122; 62J.02, subdivisions 2 and 3; 103B.311, subdivision 7; 103B.315, subdivision 5; 103F.761, subdivision 1; 103H.101, subdivision 4; 103H.175, subdivisions 1 and 2; 115A.072, subdivision 1; 116C.03, subdivisions 2, 4, and 5; 116C.712, subdivisions 3 and 5; 124C.03, subdivisions 2, 3, 8, 9, 10, 12, 14, 15, and 16; 126A.02, subdivisions 1 and 2; 126A.03; 144.70, subdivision 2; 144A.071, subdivision 5; 145.926, subdivisions 1, 4, 5, 7, and 8; 145A.02, subdivision 16; 145A.09, subdivision 6; 214.141; 256H.25, subdivision 1; 268.361, subdivision 3; 275.14; 275.51, subdivision 6; 275.54, subdivision 3; 299A.30, subdivision 2; 299A.31, subdivision 1; 299A.40, subdivision 4; 368.01, subdivision 1a; 373.40, subdivision 1; 402.045; 462.384, subdivision 7; 462.396, subdivision 2; 466A.05, subdivision 1; 469.203, subdivision 4; 469.207, subdivisions 1 and 2; 473.156, subdivision 1; 477A.011, subdivisions 3 and 3a; 477A.014, subdivision 4; 504.34, subdivisions 5 and 6; proposing coding for new law in Minnesota Statutes, chapters 4 and 16B;

repealing Minnesota Statutes 1990, sections 40A.02, subdivision 2; 40A.08; 116K.01 to 116K.14; 144.861; and 144.874.

Reported the same back with the following amendments:

Page 22, line 28, delete "administration" and insert "education"

Page 23, line 3, strike "17-member" and insert "16-member"

Page 23, line 4, reinstate "the"

Page 23, line 5, delete "administration" and strike the semicolon

Page 23, line 21, delete "administration" and insert "education"

Page 23, line 25, delete "administration" and insert "education"

Page 24, line 32, delete "human services" and insert "education"

Page 24, line 33, strike "commissioners" and insert "commissioner"

Page 24, line 34, reinstate "human services" and delete "health" and strike "and education"

Page 25, line 8, delete "human services" and insert "education"

Page 25, line 31, delete "human services" and insert "education"

Page 26, line 35, delete "human services" and insert "education"

Page 27, line 13, delete "human services" and insert "education"

Page 42, after line 25, insert:

"Sec. 69. [TRANSFERS.]

(a) All powers and duties of the state planning agency relating to developmental disability and the developmental disability council are transferred to the commissioner of administration.

(b) The authority of the state planning agency to conduct a timber harvesting generic environmental impact statement is transferred to the commissioner of administration.

(c) Authority of the state planning agency to administer state and federal grants and other state and federal programs is assigned to

the commissioner of administration, to the extent not otherwise assigned by sections 1 to 69 or other law.

Sec. 70. [EFFECT OF TRANSFERS.]

Minnesota Statutes, section 15.039, subdivisions 1 to 6, applies to transfers under sections 1 to 70. Section 15.039, subdivision 7, does not apply. Complement transfers are as follows:

(1) Twenty-nine general fund positions associated with the state demographer, the land management information center, the developmental disability council and the environmental quality board are transferred from the state planning agency to the department of administration. All other general fund complement positions in the state planning agency are abolished.

(2) Positions in the state planning agency funded by a fund other than the general fund are transferred according to Minnesota Statutes, section 15.039, subdivision 7, to the agency to which responsibilities are transferred by sections 1 to 70.

This section does not abrogate or modify any rights enjoyed by affected employees under the managerial or commissioner's plan under Minnesota Statutes, section 43A.18, or the terms of an agreement between an exclusive representative of state employees and the state."

Page 42, line 26, delete "69." and insert "71."

Page 42, line 30, after "144.874" insert ", subdivision 7"

Amend the title as follows:

Page 1, line 28, before the period insert ", subdivision 7"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Osthoff from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 1320, A bill for an act relating to gaming; providing for a committee to negotiate tribal-state compacts regulating certain gaming on Indian lands, and to make recommendations to the governor; repealing expired provisions of law relating to negotiating

tribal-state compacts; amending Minnesota Statutes 1990, section 3.9221, subdivision 2; repealing Minnesota Statutes 1990, section 3.9221, subdivision 3.

Reported the same back with the following amendments:

Page 1, line 24, delete everything after "(1)" and insert "the governor who shall serve as chair of the committee;"

Page 2, lines 7 and 8, delete "appointed" and insert "appointing"

Page 2, after line 14, insert:

"Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

With the recommendation that when so amended the bill pass.

The report was adopted.

Segal from the Committee on Economic Development to which was referred:

H. F. No. 1322, A bill for an act relating to economic development; creating a small business incubator program; appropriating money for a pilot project; proposing coding for new law in Minnesota Statutes, chapter 116J.

Reported the same back with the following amendments:

Page 4, after line 20, insert:

"No funds shall be released for the purposes of sections 1 and 2 until the commissioner of trade and economic development has reviewed the services and determined that they do not duplicate other state programs."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Segal from the Committee on Economic Development to which was referred:

H. F. No. 1326, A bill for an act relating to economic development; providing a preference for certain areas for grants-in-aid for recreational betterment; amending Minnesota Statutes 1990, section 116J.406, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 116J.980, is amended by adding a subdivision to read:

Subd. 4. [PREFERENCE FOR OUTDOOR RECREATION GRANTS.] In awarding grants under the outdoor recreation grant program, the commissioner shall give special consideration to proposed outdoor recreation projects for which particular need has been demonstrated by the applicant based on, but not limited to, the following factors:

(1) low to moderate income status of persons living adjacent to or most likely to make use of the proposed facility;

(2) lack of adequate transportation or access to existing outdoor recreation facilities by those most likely to use the proposed facility;

(3) the need for outdoor recreation facilities designed to accommodate handicapped persons and other special populations that would be met by the proposed facility;

(4) the overall inadequacy or lack of outdoor recreation facilities within the area to be served by the proposed project;

(5) the need for acquisition of land in fully developed areas with limited opportunities for recreation facility development; and

(6) a high population of school aged children in the area to be served by the proposed outdoor recreation facility and a lack of appropriate recreation facilities for children.

The commissioner shall incorporate into the annual project ranking process a procedure for awarding additional ranking points to those project applications which demonstrate a special need based on the above or similar factors."

Delete the title and insert:

"A bill for an act relating to economic development; providing a preference for outdoor recreation grants; amending Minnesota Statutes 1990, section 116J.980, by adding a subdivision."

With the recommendation that when so amended the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 1387, A bill for an act relating to public buildings; requiring that legislative hearing rooms and the house and senate chambers be fitted with devices to aid the hearing-impaired; appropriating money; amending Minnesota Statutes 1990, section 16B.61, by adding a subdivision.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 1389, A bill for an act relating to animal health; abolishing mandatory anaplasmosis testing; repealing Minnesota Statutes 1990, section 35.251.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [MANDATORY ANAPLASMOSIS TESTING; REPORT.]

(a) The board of animal health must study the feasibility and consequences of eliminating mandatory anaplasmosis testing of breeding cattle entering Minnesota.

(b) Not later than March 1, 1992, the board of animal health must report to the agriculture committees of the Minnesota senate and house of representatives on the findings of the study in paragraph (a) and recommendations for changes in statute or rule.

Delete the title and insert:

"A bill for an act relating to animal health; requiring a study of the feasibility of abolishing mandatory anaplasmosis testing."

With the recommendation that when so amended the bill pass.

The report was adopted.

Osthoff from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 1392, A bill for an act relating to horse racing; authorizing the commission to adopt rules governing affirmative action plan goals and economic opportunity contract goals; amending Minnesota Statutes 1990, sections 240.06, subdivision 1; 240.07, subdivision 1; 240.19; and 240.23.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 1405, A bill for an act relating to charitable organizations; changing distribution requirements for charitable organizations; amending Minnesota Statutes 1990, section 309.501, subdivision 1.

Reported the same back with the following amendments:

Page 1, line 23, after "campaign" insert "income and"

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

H. F. No. 1415, A bill for an act relating to commerce; real estate brokers; clarifying exceptions to licensing requirements; amending Minnesota Statutes 1990, section 82.18.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 1419, A bill for an act relating to human services; developmental disabilities; designating the use of funds; clarifying the definition of related conditions; clarifying requirements for case management; establishing requirements for services and programs; requiring admission review teams for admissions to intermediate care facilities for persons with mental retardation or related conditions; amending Minnesota Statutes 1990, sections 246.18, subdivision 4, and by adding a subdivision; 252.27, subdivision 1a; 252.275; 252.28, subdivisions 1, 3, and by adding a subdivision; 252.32; and 256B.092; proposing coding for new law in Minnesota Statutes, chapter 256B; repealing Minnesota Statutes 1990, section 252.275, subdivision 2.

Reported the same back with the following amendments:

Page 2, lines 25 to 27, reinstate the stricken language and delete the new language

Page 3, line 11, strike "assist counties"

Page 3, strike lines 12 and 13

Page 3, line 14, strike "including nursing homes," and insert "provide support"

Page 3, line 15, before the period insert "to live as independently as possible in the community. An objective of the program is to reduce unnecessary use of intermediate care facilities for persons with mental retardation or related conditions and home and community-based services"

Page 3, line 19, after "one-time" insert "living"

Page 3, line 20, delete "to" and insert "a home for"

Page 3, line 21, delete "the person's own home"

Page 9, line 27, delete "a" and after the comma insert "nurturing,"

Page 9, line 28, delete "relationship with nurturing parents" and insert "relationships"

Page 10, line 3, delete everything after "networks"

Page 10, delete lines 4 and 5

Page 10, line 6, delete everything before the period

Page 10, line 20, after "grants" insert ", except in cases where extreme hardship is demonstrated"

Page 10, line 21, delete "trend in" and insert "projected change in the average value in the United States Department of Labor, Bureau of Labor Statistics consumer price index (all urban) for that year"

Page 10, line 22, delete everything before the period

Page 10, line 30, delete "recommended" and after "grant" insert "requested by the family"

Page 10, line 31, delete "support grant" and strike "will be used" and insert "family intends to use the support grant and recommendations of the county"

Page 11, line 34, after the period insert "During fiscal year 1992 and 1993, the maximum monthly grant awarded to families who are eligible for medical assistance shall be \$200, except in cases where extreme hardship is demonstrated."

Page 16, line 34, before the period insert ", including forms developed for interagency planning such as transition and individual family service plans"

Page 19, line 16, after the semicolon insert "and"

Page 19, delete lines 17 to 19

Page 19, line 20, delete "(3)" and insert "(2)"

Page 20, line 5, strike "state"

Page 20, line 6, strike "hospital" and insert "regional treatment center"

Page 20, line 12, strike "nor"

Page 35, line 6, delete "provider" and insert "providers"

Page 35, after line 8, insert:

"Sec. 11. Minnesota Statutes 1990, section 256I.05, is amended by adding a subdivision to read:

Subd. 10. [FOSTER CARE.] Beginning July 1, 1992, the negotiated rate of a residence licensed as a foster home is limited to the rate set for room and board costs provided the foster home is not the license holder's primary residence, or the license holder is not the primary caregiver to persons receiving services in the negotiated rate residence, and federal funding is available to pay for the cost of other necessary services. For the purpose of this section, room and board costs mean costs of providing food and shelter for eligible persons, and includes the directly identifiable costs of:

- (1) normal and special diet, food preparation and food services;
- (2) providing linen, bedding, laundering, and laundry supplies;
- (3) housekeeping, including cleaning and lavatory supplies;
- (4) maintenance and operation of the residence and grounds, including fuel, utilities, supplies, and equipment;
- (5) the allocation of salaries related to these areas; and
- (6) the lease or mortgage payment, property tax and insurance, furnishings and appliances.

Sec. 12. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall delete references to "individual habilitation plan" which appear in Minnesota Statutes, chapters 252 and 252A, and sections 120.17 and 256.045."

Re number the sections in sequence

Amend the title accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 1428, A bill for an act relating to the environment; conforming permit fee requirements to the federal Clean Air Act; amending Minnesota Statutes 1990, section 116.07, subdivision 4d.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

H. F. No. 1432, A bill for an act relating to taxation; property; changing the commercial use requirements of certain seasonal recreational property; amending Minnesota Statutes 1990, section 273.13, subdivisions 22 and 25.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Begich from the Committee on Labor-Management Relations to which was referred:

H. F. No. 1433, A bill for an act relating to employment; modifying the family leave law; amending Minnesota Statutes 1990, sections 181.940, subdivision 2; and 181.9413.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 1438, A bill for an act relating to the provision of mental health services and the regulation of unlicensed mental health practitioners; eliminating the office of social work and mental health boards; sunsetting the board of unlicensed mental health service providers; providing for an autonomous board of social work; providing for an autonomous board of marriage and family therapy; establishing the office of mental health practice; providing additional disciplinary remedies to the board of social work and the

board of marriage and family therapy; appropriating money; amending Minnesota Statutes 1990, sections 144.335, subdivision 1; 148B.01, subdivision 7; 148B.03; 148B.04, subdivisions 3 and 4; 148B.05; 148B.06; 148B.07; 148B.08; 148B.09; 148B.11; 148B.12; 148B.13; 148B.15; 148B.17; 148B.18, subdivision 10; 148B.33, subdivision 1; 148B.38, subdivision 3; and 214.04, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 148B; repealing Minnesota Statutes 1990, sections 148B.01, subdivisions 2, 5, and 6; 148B.02; 148B.16; 148B.171; 148B.40; 148B.41; 148B.42; 148B.43; 148B.44; 148B.45; 148B.46; 148B.47; and 148B.48.

Reported the same back with the following amendments:

Pages 11 to 14, delete subdivisions 1 to 5

Pages 15 to 17, delete subdivisions 9, 10, and 11

Page 24, delete subdivision 6

Page 25, line 13, delete "Any person who knowingly or"

Page 25, delete lines 14 to 18

Page 25, line 19, delete "disregard for its truth or falsity."

Pages 26 and 27, delete subdivision 2

Page 32, delete subdivision 2

Page 34, after line 3, insert:

"Subd. 6. [PUBLIC EMPLOYEES.] Notwithstanding subdivision 1, the commissioner must not take disciplinary action against an employee of the state or a political subdivision of the state. If, after an investigation conducted in compliance with and with the authority granted under sections 148B.60 to 148B.72, the commissioner determines that the employee violated a provision or provisions of this chapter, the commissioner shall report to the employee's employer the commissioner's findings and the actions the commissioner recommends that the employer take. The commissioner's recommendations are not binding on the employer."

Pages 34 and 35, delete section 31

Renumber the subdivisions and sections in order

Correct internal references

Amend the title accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Anderson, I., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1455, A bill for an act relating to the Minneapolis park and recreation board; providing for two members appointed by the Minneapolis park and recreation board on the Minneapolis reapportionment commission; establishing standards for park board redistricting.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

H. F. No. 1459, A bill for an act relating to motor vehicles; providing for certain indemnities in lease agreements; proposing coding for new law in Minnesota Statutes, chapter 168.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 1464, A bill for an act relating to education; clarifying post-secondary systems' mission statements; requiring joint administrative appointments for certain technical and community colleges; establishing a post-secondary funding task force; proposing coding for new law in Minnesota Statutes, chapter 135A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. [135A.052] [POST-SECONDARY MISSIONS.]

Subdivision 1. [STATEMENT OF MISSIONS.] The legislature recognizes each public post-secondary system to have a distinctive mission within the overall provision of public higher education in the state. These are as follows:

(1) the technical college system shall offer vocational training and education to prepare students for skilled occupations that do not require a baccalaureate degree;

(2) the community college system shall offer academic and remedial instruction at the lower division level for students transferring to baccalaureate institutions and for those seeking associate degrees;

(3) the state university system shall offer undergraduate and graduate instruction through the master's degree in the liberal arts and sciences and professional education; and

(4) the University of Minnesota shall offer undergraduate, graduate, and professional instruction through the doctoral degree, and shall be the primary state supported academic agency for research.

Subd. 2. [IMPLEMENTATION.] Each post-secondary system shall review and redesign its programs and courses in accordance with the mission stated in subdivision 1, unless exceptional geographic or financial circumstances exist that necessitate retaining a program that is beyond a system's mission. The higher education advisory council shall review program offerings within each system to ensure the elimination or transfer of existing program offerings that are inconsistent with the stated mission. The council shall also review any exceptional circumstances cited as a justification for retaining programs that are beyond a system's mission.

Sec. 2. [135A.50] [JOINT ADMINISTRATIVE APPOINTMENTS.]

Subdivision 1. [APPOINTMENTS.] To improve the efficient delivery of services to students and to reduce unnecessary administrative expenditures, each technical college and community college, located in the same or nearby communities, as provided in Laws 1983, chapter 258, section 64, subdivision 1, except those in which both of the cooperating institutions had a full-year equivalent enrollment or average daily membership of at least 2,000 in academic year 1989-1990, must consolidate all personnel at the level of presidents, vice-presidents, deans, and other managers and professionals in academic and academic support programs in community colleges and all personnel in similar positions at technical colleges by July 1, 1992. This consolidation of personnel is not intended to apply to any instructional staff. Personnel involved in the consolidated functions are joint employees of the state board of technical colleges and the state board for community colleges.

Subd. 2. [PROCESS.] The two systems, through the office of intersystem cooperation, shall negotiate the selection of a president and the designation of the authority to whom that president reports for each affected pair of campuses. The negotiation must, to the extent possible, equitably distribute the presidencies between the two systems. The systems shall report the results of their negotiation and their recommendations to the appropriations and finance committees by January 15, 1992.

Sec. 3. [TASK FORCE ON POST-SECONDARY FUNDING FORMULA.]

Subdivision 1. [MEMBERSHIP.] A task force on post-secondary funding is established. The task force shall consist of 13 members as follows: two members of the house of representatives and one citizen member to be appointed by the speaker, two members of the senate and one citizen member to be appointed by the subcommittee on committees of the committee of rules and administration, the head of each public post-secondary system, the commissioner of finance, and two citizen members to be appointed by the governor. The task force shall elect a chair and other officers as it deems necessary.

The task force shall be compensated as provided in Minnesota Statutes, section 15.059, subdivision 6.

Subd. 2. [CHARGE.] The task force shall be charged with developing an alternative funding formula for post-secondary education. The formula shall create incentives for quality post-secondary education while maintaining access for students. The task force must develop a formula that can be funded within the projected constraints of the state budget in the coming decade.

Subd. 3. [REPORT.] The task force shall report its recommendations to the appropriations and finance committees of the legislature by February 1, 1992.

Subd. 4. [EXPIRATION.] The task force shall expire on June 30, 1992."

Delete the title and insert:

"A bill for an act relating to education; clarifying post-secondary systems' mission statements; requiring joint administrative appointments for certain technical and community colleges; establishing a post-secondary funding task force; proposing coding for new law in Minnesota Statutes, chapter 135A."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 1475, A bill for an act relating to education; requiring post-secondary governing boards to report on cultural diversity.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

H. F. No. 1492, A bill for an act relating to commerce; real estate appraisers; amending Minnesota Statutes 1990, sections 82B.02, subdivisions 8 and 12; 82B.05, subdivision 1; 82B.11; 82B.13, subdivision 1, and by adding subdivisions; 82B.14; 82B.15, subdivision 3; 82B.17; 82B.18; and 82B.19, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 82B; repealing Minnesota Statutes 1990, sections 82B.05, subdivision 2; 82B.13, subdivision 2; and 82B.225.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 82B.02, subdivision 8, is amended to read:

Subd. 8. ~~[LICENSED REAL ESTATE APPRAISER.]~~ "Licensed Real estate appraiser" means a person who develops and communicates real estate appraisals and who holds a current, valid license issued for licensed appraisal level I or II under this chapter; ~~including an appraiser employed by a state agency.~~

Sec. 2. Minnesota Statutes 1990, section 82B.02, subdivision 12, is amended to read:

Subd. 12. [STANDARDS OF PROFESSIONAL PRACTICE.] "Standards of professional practice" means the uniform standards of professional appraisal practice ~~adopted by~~ of the Appraisers Standards Board of the Appraisal Foundation in effect as of January 1,

1989 1991, or other version of these standards the commissioner may by order designate.

Sec. 3. Minnesota Statutes 1990, section 82B.05, subdivision 1, is amended to read:

Subdivision 1. [~~CREATION MEMBERS.~~] The real estate appraiser advisory board consists of 15 members appointed by the commissioner of commerce. Three Four of the members must be public members, four must be consumers of appraisal services, and eight seven must be licensed real estate appraisers of whom not less than two members shall be level II. ~~Mere membership in an organization does not make a person the organization's representative on the board~~ residential appraisers and not less than two members shall be general appraisers.

Sec. 4. Minnesota Statutes 1990, section 82B.11, is amended to read:

82B.11 [CLASSES OF LICENSE.]

Subdivision 1. [GENERALLY.] There are ~~two~~ five classes of license for licensed real estate appraisers.

Subd. 2. [~~LEVEL I STATE REAL PROPERTY APPRAISER.~~] ~~The licensed level I residential~~ When a net income capitalization analysis is not required by the uniform standards of professional appraisal practice, a state real estate property appraiser is a person meeting the requirements for licensing relating to the appraisal of may appraise residential real property or agricultural acreage when a net income capitalization analysis is not required by the uniform standards of professional appraisal practice property.

Subd. 3. [~~LEVEL II FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER.~~] ~~The licensed level II real estate appraiser is a person meeting the requirements for licensing relating to the appraisal of all types of real property~~ A federal residential real property appraiser may appraise noncomplex one to four residential units having a transaction value less than \$1,000,000 and complex one to four residential units having a transaction value less than \$250,000.

Subd. 4. [CERTIFIED FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER.] A certified federal residential real property appraiser may appraise one to four residential units without regard to transaction value or complexity.

Subd. 5. [CERTIFIED FEDERAL GENERAL REAL PROPERTY APPRAISER.] A certified federal general real property appraiser may appraise all types of real property.

Subd. 6. [TEMPORARY PRACTICE.] The commissioner shall issue a license for temporary practice as a real estate appraiser under subdivision 3, 4, or 5 to a person certified or licensed by another state if:

(1) the property to be appraised is part of a federally-related transaction and the person is licensed to appraise property limited to the same transaction value or complexity provided in subdivision 3, 4, or 5;

(2) the appraiser's business is of a temporary nature; and

(3) the appraiser registers with the commissioner to obtain a temporary license prior to conducting appraisals within the state.

Sec. 5. Minnesota Statutes 1990, section 82B.13, subdivision 1, is amended to read:

Subdivision 1. [LEVEL I CLASSIFICATION STATE REAL PROPERTY APPRAISER OR FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER.] As a prerequisite to taking the examination for licensing as a licensed level I state real estate property appraiser or federal residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 75 classroom hours of courses. The courses must consist of 60 hours of general real estate appraisal principles and 15 hours related to standards of professional appraisal practice and the provisions of this chapter.

Sec. 6. Minnesota Statutes 1990, section 82B.13, is amended by adding a subdivision to read:

Subd. 4. [CERTIFIED FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER.] As a prerequisite to taking the examination for licensing as a certified federal residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 165 classroom hours of courses, including 15 hours related to the standards of professional appraisal practice and the provisions of this chapter, with particular emphasis on the appraisal of one to four unit residential properties.

Sec. 7. Minnesota Statutes 1990, section 82B.13, is amended by adding a subdivision to read:

Subd. 5. [CERTIFIED FEDERAL GENERAL REAL PROPERTY APPRAISER.] As a prerequisite to taking the examination for licensing as a certified federal general real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 165 classroom

hours of courses, including 15 hours related to the standards of professional appraisal practice and the provisions of this chapter, with particular emphasis on the appraisal of nonresidential properties.

Sec. 8. Minnesota Statutes 1990, section 82B.14, is amended to read:

82B.14 [EXPERIENCE REQUIREMENT.]

(a) An original A license as a level II licensed real estate appraiser under section 82B.11, subdivision 3, 4, or 5, may not be issued to a person who does not have the equivalent of two years of experience in real property appraisal supported by adequate written reports or file memoranda. This experience, or the equivalent of this experience, must be acquired within a period of five years immediately preceding the filing of the application for licensing.

(b) Each applicant for license as a level II licensed real estate appraiser under section 82B.11, subdivision 3, 4, or 5, shall give under oath a detailed listing of the real estate appraisal reports or file memoranda for each year for which experience is claimed by the applicant. Upon request, the applicant shall make available to the commissioner for examination, a sample of appraisal reports that the applicant has prepared in the course of appraisal practice.

Sec. 9. Minnesota Statutes 1990, section 82B.15, subdivision 3, is amended to read:

Subd. 3. [PROCEDURE.] Service of process under this section may be made by filing a copy of the process with the commissioner or a representative, but is not effective unless: under the provisions of section 45.028.

(1) the plaintiff, who may be the commissioner in an action or proceeding started by the commissioner, sends notice of the service and a copy of the process by certified mail to the defendant or respondent at the address as shown by the records at the office of the commissioner in the case of service made on the commissioner as attorney by appointment under subdivision 1, and at the defendant's or respondent's last known address in the case of service on the commissioner as attorney by appointment under subdivision 2; and

(2) the plaintiff's affidavit of compliance with this subdivision is filed in the action or proceeding on or before the return day of the process, if any, or within any additional time the court or administrative law judge allows.

Sec. 10. Minnesota Statutes 1990, section 82B.17, is amended to read:

82B.17 [LICENSE DESIGNATION.]

When a licensed real estate appraiser uses the designation real estate appraiser or ~~licensed real estate appraiser~~ similar terms in an appraisal report or in a contract or other instrument used by the license holder in conducting real property appraisal activities or in advertisements, the appraiser shall place ~~the person's~~ their license number adjacent to or immediately below the designation used and indicate the class of license held.

Sec. 11. Minnesota Statutes 1990, section 82B.18, is amended to read:

82B.18 [USE OF TERM.]

The term "~~licensed~~ real estate appraiser" may only be used to refer to individuals who hold ~~the a~~ a license under this chapter. The term may not be used following or immediately in connection with the name or signature of a firm, partnership, corporation, or group; or in a manner that might cause it to be interpreted as referring to a firm, partnership, corporation, group, or anyone other than an individual holder of the license.

No license may be issued under this chapter to a corporation, partnership, firm, or group. This does not prevent a licensed real estate appraiser from signing an appraisal report on behalf of a corporation, partnership, firm, or group practice.

Sec. 12. Minnesota Statutes 1990, section 82B.19, subdivision 3, is amended to read:

Subd. 3. [REINSTATEMENTS.] ~~On or after September 1, 1991,~~ A license as a real estate appraiser that has been revoked as a result of disciplinary action by the commissioner may not be reinstated unless the applicant presents evidence of completion of the continuing education required by this chapter. This requirement may not be imposed upon an applicant for reinstatement who has been required to successfully complete the examination for licensed real estate appraiser as a condition to reinstatement of a license.

Sec. 13. [82B.221] [TRANSITION PERIOD PROVISIONS.]

(a) The commissioner may issue a license as provided under section 82B.11, subdivision 3, 4, or 5, to a person who satisfies the requirements of sections 82B.10, 82B.12, and 82B.13, but has not satisfied the requirement of section 82B.14, provided the person provides evidence satisfactory to the commissioner that they have acquired the equivalent of two years of experience in real property appraisal by September 1, 1993.

(b) The commissioner may issue a license as provided under section 82B.11, subdivision 3, 4, or 5, to a person who has satisfied the requirements of sections 82B.10, 82B.12, and 82B.14, but who has not satisfied the requirements of section 82B.13, provided the person provides evidence satisfactory to the commissioner of completion of the appropriate licensing prerequisite education by September 1, 1993.

(c) Failure to meet the requirements of paragraph (a) or (b) of this section shall be grounds for revocation of a real estate appraiser's license.

Sec. 14. [82B.23] [FEDERAL CERTIFICATION.]

Subdivision 1. [REQUIREMENT.] The commissioner shall certify and transmit to the appraisal subcommittee established pursuant to the Federal Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law Number 100-73, the names of those licensees who have satisfied the requirements for certification established by the appraisal subcommittee and to collect and transmit any required fees.

Subd. 2. [PUBLICATION OF FEDERAL CERTIFICATION CRITERIA.] The commissioner shall file the federal certification criteria with the revisor of statutes for publication in Minnesota Rules. The revisor has the same editorial power over these criteria as the revisor has for rules adopted pursuant to chapter 14.

Sec. 15. [EXISTING LICENSES.]

Licenses issued pursuant to chapter 82B before the effective date of this act remain valid and in effect until September 1, 1991. A licensee who satisfies the examination or education requirements of section 82B.225 no later than August 31, 1991, is eligible for licensure under section 82B.11, subdivision 2.

Sec. 16. [FEDERAL RESIDENTIAL REAL PROPERTY APPRAISER TRANSITIONAL PREEXAMINATION EDUCATION REQUIREMENT.]

Prior to January 1, 1994, as a prerequisite to taking the examination for licensing as a certified federal residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 105 classroom hours of courses, including 15 hours related to the standards of professional appraisal practice and the provisions of this chapter, with particular emphasis on the appraisal of one- to four-unit residential properties.

Sec. 17. [REPEALER.]

Minnesota Statutes 1990, sections 82B.05, subdivision 2; 82B.13, subdivision 2; and 82B.225, are repealed the day after final enactment.

Sec. 18. [EFFECTIVE DATE.]

This act is effective the day after final enactment."

With the recommendation that when so amended the bill pass.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 1493, A bill for an act relating to human services; establishing a prescription drug discount program for eligible senior citizens; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 256.

Reported the same back with the following amendments:

Page 1, line 7, delete "256.937" and insert "16B.90"

Page 2, line 1, delete "human services" and insert "administration"

Page 2, line 14, delete "ESTABLISHMENT" and insert "CONTRACT" and delete "human"

Page 2, delete line 15

Page 2, line 16, delete the comma and after "shall" insert "contract with an organization to"

Page 2, line 17, after the period insert "The contract shall be awarded to an organization that is actively involved in: (1) accumulating and disseminating information to improve the practice of pharmacy; (2) promoting cooperation between pharmacists; (3) encouraging advancement towards high practical standards in pharmacy; and (4) encouraging the safe and proper dispensing, sale, and administration of drugs and medicines."

Page 2, line 18, after "commissioner" and insert "of administration, with assistance from the commissioner of human services,"

Page 2, line 20, delete "commissioner" and insert "organization under contract"

Page 2, line 22, delete everything after "plan" and insert a comma

Page 2, line 27, delete everything after "administration"

Page 2, line 28, delete everything before "shall"

Page 2, lines 31 and 32, delete "commissioner of human services" and insert "organization under contract"

Page 3, line 5, delete "commissioners" and insert "commissioner"

Page 3, line 6, delete "and human services"

Page 3, line 8, delete "human services" and insert "administration"

Page 3, line 11, delete "human services" and insert "administration"

Page 3, line 13, delete "commissioner of human services" and insert "organization under contract"

Page 3, line 16, delete "department of human services" and insert "organization"

Page 3, line 20, delete "of human services"

Page 3, line 24, delete "commissioner of human services" and insert "organization under contract"

Page 3, lines 25 and 26, delete ", minus an amount to cover administrative costs,"

Page 3, line 27, delete "human services" and insert "administration"

Amend the title as follows:

Page 1, line 5, delete "256" and insert "16B"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Osthoff from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 1509, A bill for an act relating to water resources; allowing certain land to be used as a veterans cemetery under certain circumstances; amending Minnesota Statutes 1990, section 103F.369, subdivision 2, and by adding a subdivision.

Reported the same back with the following amendments:

Page 2, line 27, before the period insert "or an appropriate liner as approved by the Mississippi Headwaters Board"

Page 2, after line 27, insert:

"Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Segal from the Committee on Economic Development to which was referred:

H. F. No. 1521, A bill for an act relating to economic development; creating a legislature advisory commission on quasi-governmental agencies including public corporations and public nonprofit corporations; appropriating money.

Reported the same back with the following amendments:

Page 1, line 7, delete "COMMISSION" and insert "JOINT COMMITTEE"

Page 1, line 10, before "legislative" insert "joint" and delete "commission" and insert "committee"

Page 1, line 16, delete "commission" and insert "joint committee"

Page 2, lines 7 and 28, delete "commission" and insert "joint committee"

Page 3, delete lines 10 to 16

Page 3, line 17, delete "6" and insert "5" and delete "commission" and insert "joint committee"

Page 3, delete section 2

Page 3, line 23, delete "3" and insert "2"

Amend the title as follows:

Page 1, line 2, after "a" insert "joint"

Page 1, line 3, delete "legislature" and insert "legislative" and delete "commission" and insert "committee"

Page 1, line 5, delete "; appropriating money"

With the recommendation that when so amended the bill pass.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

H. F. No. 1528, A bill for an act relating to occupations and professions; barber registration; clarifying registration requirements for barbers, apprentices, and instructors; expanding causes for discipline; providing for summary suspension; amending Minnesota Statutes 1990, sections 154.01; 154.03; 154.04; 154.05; 154.06; 154.065, subdivisions 2 and 4; 154.07, subdivisions 1, 3, 5, 6, and by adding a subdivision; 154.09; 154.10; 154.11; 154.12; 154.14; 154.15; 154.16; 154.18; and 154.22; proposing coding for new law in Minnesota Statutes, chapter 154; repealing Minnesota Statutes 1990, sections 154.065, subdivisions 1, 3, 5, 7, and 8; 154.07, subdivision 2; 154.085; 154.13; and 154.17.

Reported the same back with the following amendments:

Page 7, line 7, delete "\$50,000" and insert "\$25,000"

With the recommendation that when so amended the bill pass.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 1529, A bill for an act relating to education; authorizing a land exchange between the city of St. Cloud and St. Cloud State University.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 1533, A bill for an act relating to retirement; judges retirement fund; modifying the procedures for the payment of social security and retirement fund contributions; appropriating money to the supreme court for the payment of social security and retirement fund employer contributions; amending Minnesota Statutes 1990, sections 355.392, subdivisions 2 and 3; and 490.123, subdivision 1.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 1536, A bill for an act relating to the city of St. Cloud; authorizing the commissioner of administration to sell certain surplus lands to the city.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 1541, A bill for an act relating to education; adding a requirement for licensure of teachers of hearing impaired students; proposing coding for new law in Minnesota Statutes, chapter 125.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

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

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 1569, A bill for an act relating to state property; authorizing the rental of state land for public purposes under certain conditions; authorizing lease-purchase agreements and leases with option to buy; amending Minnesota Statutes 1990, section 16B.24, subdivisions 5 and 6.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Reding from the Committee on Governmental Operations to which was referred:

H. F. No. 1584, A bill for an act relating to retirement; the Minnesota state retirement system; the public employees retirement association; the Minneapolis teachers retirement fund association; the Minneapolis employees retirement fund; making various changes reflecting benefits, administration, and investment practices; amending Minnesota Statutes 1990, sections 11A.24, subdivision 1; 352.01, subdivisions 2b, 11, 13, and by adding a subdivision; 352.113, subdivision 1; 352.12, subdivision 1; 352.22, subdivision 3; 352C.033; 353.01, subdivisions 2b, 6, 10, 16, and 20; 353.27, subdivisions 4, 7, 12, 12a, and by adding subdivisions; 353.28, subdivision 6; 353.29, subdivision 4; 353.31, subdivision 1; 353.34, subdivision 1; 353.46, subdivision 4; 353.64, by adding a subdivision; 353A.01, subdivision 1; 353A.02, subdivision 16, and by adding a subdivision;

353A.03; 353A.06; 353A.08, subdivision 1; 353C.06, subdivision 3; 353C.07, subdivision 1; 353C.08, subdivision 2; 353C.09; 353D.01, subdivision 2; 353D.02; 353D.04; 353D.05, subdivision 2; 353D.07, subdivisions 2 and 3; 353D.12, subdivision 1; 356.371, subdivision 3; 356.71; 356.86, subdivisions 2 and 4; 356.87; 422A.03, subdivision 1; 422A.05, subdivision 2c; 422A.09, subdivision 3; 422A.13, subdivision 2; 422A.16, subdivisions 1 and 3; 490.124, subdivision 11; Laws 1990, chapter 570, article 8, section 14, subdivision 1; and repealing Minnesota Statutes 1990, sections 353.33, subdivision 5a; and 353C.07, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 353.01, subdivision 2b, is amended to read:

Subd. 2b. [EXCLUDED EMPLOYEES.] The following persons are excluded from the meaning of "public employee":

(1) persons who are employed for professional services where the service is incidental to regular professional duties, determined on the basis that compensation for the service amounts to no more than 25 percent of the person's total annual gross earnings for all professional duties;

(2) election officers;

(3) independent contractors and their employees;

(4) patient and inmate personnel who perform services in charitable, penal, or correctional institutions of a governmental subdivision;

(5) members of boards and commissions who serve a governmental subdivision intermittently unless their position on the board or commission is the result of public employment within the same governmental unit;

(6) employees who are hired for a period of less than six consecutive months but not those employees who are hired for an unlimited period but are serving a probationary period. If the period of employment is extended beyond the six-month period and the employee earns more than \$425 from one governmental subdivision in any one calendar month, the department head shall report the employee for membership and require employee deductions be made on behalf of the employee in accordance with under section 353.27, subdivision 4. Membership eligibility of an employee who holds

concurrent temporary employment of six months or less and non-temporary positions in one governmental subdivision must be determined by the salary of each position. Membership eligibility of an employee who holds nontemporary positions in one governmental subdivision must be determined by the total salary of all positions;

(7) appointed and elected employees whose actual compensation from one governmental subdivision does not exceed \$425 per month, or whose annual compensation from one governmental subdivision is stipulated in advance, in writing, to be not more than \$5,100 per calendar year or per school year for school employees for employment expected to be of a full year's duration or more than the prorated portion of \$5,100 per employment period for employment expected to be of less than a full year's duration, except that members continue their membership until termination of public service as defined in subdivision 11a. Membership eligibility of an employee who holds concurrent part-time positions under this clause must be determined by the total salary of all such positions in one governmental subdivision. If compensation from one governmental subdivision to an employee under this paragraph exceeds \$5,100 per calendar year or school year after being stipulated in advance not to exceed that amount, the stipulation is no longer valid and contributions must be made on behalf of the employee in accordance with section 353.27, subdivision 12, from the month in which the employee's earnings first exceeded \$425;

(8) persons who first occupy an elected office after July 1, 1988, the compensation for which does not exceed \$425 per month;

(9) emergency employees who are employed by reason of work caused by fire, flood, storm, or similar disaster;

(10) employees who by virtue of their employment in one governmental subdivision are required by law to be a member of and to contribute to any of the plans or funds administered by the Minnesota state retirement system, the teachers retirement association, the Duluth teachers retirement fund association, the Minneapolis teachers retirement association, the St. Paul teachers retirement fund association, the Minneapolis employees retirement fund, or any police or firefighters relief association governed by section 69.77 that has not consolidated with the public employees police and fire fund, or any police or firefighters relief association that has consolidated with the public employees retirement association but whose members have not elected coverage by the public employees police and fire fund as provided in sections 353A.01 to 353A.10. This clause must not be construed to prevent a person from being a member of and contributing to the public employees retirement association and also belonging to and contributing to another public pension fund for other service occurring during the same period of time. A person who meets the definition of "public employee" in subdivision 2 by virtue of other service occurring during the same period of time

shall become a member of the association unless contributions are made to another public retirement fund on the salary based on the other service or to the teachers retirement association by a teacher as defined in section 354.05, subdivision 2;

(11) police matrons who are employed in a police department of a city who are transferred to the jurisdiction of a joint city and county detention and corrections authority;

(12) persons who are excluded from coverage under the federal old age, survivors, disability, and health insurance program for the performance of service as specified in United States Code, title 42, section 410(a)(8)(A), as amended through January 1, 1987, if no irrevocable election of coverage has been made under section 3121(r) of the Internal Revenue Code of 1954, as amended;

(13) full-time students who are enrolled and are regularly attending classes at an accredited school, college, or university and who are not employed full time by a governmental subdivision;

(14) resident physicians, medical interns, and pharmacist residents and interns who are serving in a degree or residency program in public hospitals and students who are serving in an internship or residency program sponsored by an accredited educational institution;

(15) appointed or elected officers who are paid entirely on a fee basis and who were not members on June 30, 1971;

(16) persons who hold a part-time adult supplementary technical college license who render part-time teaching service in a technical college;

(17) persons exempt from licensure under section 125.031;

(18) persons employed by the Minneapolis community development agency;

(19) except as provided in section 353.86, volunteer ambulance service personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance service personnel may still qualify as public employees under subdivision 2 and may be members of the public employees retirement association and participants in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment service other than service as volunteer ambulance service personnel; and

(20) except as provided in section 353.87, volunteer firefighters, as defined in subdivision 36, engaging in activities undertaken as part

of volunteer firefighter duties; provided that a person who is a volunteer firefighter may still qualify as a public employee under subdivision 2 and may be a member of the public employees retirement association and a participant in the public employees retirement fund or the public employees police and fire fund on the basis of compensation received from public employment activities other than those as a volunteer firefighter.

Sec. 2. Minnesota Statutes 1990, section 353.01, subdivision 6, is amended to read:

Subd. 6. [GOVERNMENTAL SUBDIVISION.] "Governmental subdivision" means a county, city, town, school district within this state, or a department or unit of state government, or any public body whose revenues are derived from taxation, fees, assessments or from other sources, but does not mean any municipal housing and redevelopment authority organized under the provisions of sections 469.001 to 469.047; or any port authority organized pursuant to under sections 469.048 to 469.068; or any hospital district organized or reorganized prior to July 1, 1975, pursuant to under sections 447.31 to 447.37. A hospital district organized or reorganized on or after July 1, 1975, whose employees are not enrolled and participating in the association, may elect to be excluded from the definition of governmental subdivision for purposes of this chapter. To be excluded, the hospital district must notify the association in writing of its intent to be excluded.

Sec. 3. Minnesota Statutes 1990, section 353.01, subdivision 10, is amended to read:

Subd. 10. [SALARY.] (a) "Salary" means the periodical compensation of a public employee, before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs, and also means "wages" and includes net income from fees. Fees paid to district court reporters are not considered a salary. Lump sum Unused annual or lump sum sick leave payments, in lump-sum or periodic payments, are not salary. Severance payments, workers' compensation payments, and all payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage, are not deemed to be salary. Before the time that all sick leave has been used, amounts paid to an employee under a disability insurance policy or program where the employer paid the premiums are considered salary, and, after all sick leave has been used, the payment is not considered salary. Workers' compensation payments are not considered salary.

(b) Except as provided in sections 353.86 or 353.87, compensation of any kind paid to volunteer ambulance service personnel or volunteer firefighters, as defined in subdivisions 35 and 36, is not considered salary.

(c) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees police and fire fund retirement association and who has elected coverage by under the public employees police and fire fund benefit plan as provided in under section 353A.08 following the consolidation, "salary" means the rate of salary upon which member contributions to the special fund of the relief association were made prior to the effective date of the consolidation as specified by law and by bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure and the actual periodical compensation of the public employee after the effective date of the consolidation.

Sec. 4. Minnesota Statutes 1990, section 353.01, subdivision 15, is amended to read:

Subd. 15. [DEPENDENT CHILD.] "Dependent child" means a natural or adopted child of a deceased member; ~~provided such child who is unmarried, and~~ under the age of 18, or age 18 to 21 and a ~~full-time student in an accredited school, university, or college, and~~ in either case unmarried and dependent for more than one-half of support upon the member at the time of death and for not less than 90 days before the time of death; ~~provided, that the child of a deceased member who at the time of death was receiving total and permanent disability benefits under section 353.33, is deemed dependent if dependent upon the decedent for more than one-half of support during the 90 days before the decedent's becoming totally and permanently disabled 23, so long as the child submits evidence of full-time enrollment in an accredited educational institution.~~ "Dependent child" also includes a child of the member conceived during the member's lifetime and born after the member's death. It also means a dependent child who is the subject of adoption proceedings filed by a member, and who within two years after death of the member, by judgment and decree duly entered, is adjudged to be the adopted child of the deceased member; subject, however, to the qualifying conditions of age and dependency ~~in under this subdivision.~~ The dependency of the child dates from the decree of adoption. "Dependent child" also includes a child age 18 to 21 23 who was ~~attending an accredited school, university, or college full time, had submitted evidence of full-time enrollment in an accredited educational institution but was determined to be medically unable to continue school on a full-time basis.~~ The board of trustees shall adopt written procedures to make determinations regarding eligibility based on a student being medically unable to continue school, and may not continue a benefit for medical reasons for a period greater than one year.

Sec. 5. Minnesota Statutes 1990, section 353.01, subdivision 16, is amended to read:

Subd. 16. [ALLOWABLE SERVICE.] (a) "Allowable service"

means service during years of actual membership in the course of which employee contributions were made, periods covered by payments in lieu of salary deductions ~~made as provided in~~ under section 353.35, and service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect.

(b) "Allowable service" also means a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund.

(c) "Allowable service" also means a period of authorized leave of absence without pay that does not exceed one year, and during or for which a member obtained credit by payments to the fund made in place of salary deductions, provided that the payments are made in an amount or amounts based on the member's average salary on which deductions were paid for the last six months of public service, or for that portion of the last six months while the member was in public service, to apply to the period in either case immediately preceding commencement of the leave of absence; ~~provided, however, that~~. If the employee elects to pay employee contributions for the period of any leave of absence without pay, or for any portion of the leave, the employee shall also, as a condition to the exercise of the election, pay to the fund an amount equivalent to both the required employer and additional employer contributions for the employee. The payment must be made within one year from the date the leave of absence terminates. The employer by appropriate action of its governing body, made a part of its official records, before the date of the first payment of the employee contribution, may certify to the association in writing that it will cause to be paid the employer and additional employer contributions from the proceeds of a tax levy made under section 353.28. Payments under this paragraph must include interest at the rate of six percent a year from the date of the termination of the leave of absence to the date payment is made.

(d) "Allowable service" also means a period during which a member is on an authorized sick leave of absence, without pay limited to one year, an authorized temporary layoff, or a maternity, paternity, or adoption leave. The association will grant a maximum of two months service credit for a maternity, paternity, or adoption leave upon documentation from the member's governmental subdivision. A member on personal leave of absence who provides the association with a birth certificate or other evidence of birth or adoption during the personal leave time period will be granted up to two months of service credit.

(e) "Allowable service" also means a period during which a member is on an authorized leave of absence to enter military service, provided that the member returns to public service upon

discharge from military service under section 192.262 and pays into the fund employee contributions based upon the employee's salary at the date of return from military service. Payment must be made within five years of the date of discharge from the military service. The amount of these contributions must be in accord with the contribution rates and salary limitations, if any, in effect during the leave, plus interest at six percent a year compounded annually from the date of return to public service to the date payment is made. ~~In such cases~~ The matching employer contribution and additional employer contribution ~~provided in~~ under section 353.27, subdivisions 3 and 3a, must be paid by the department employing the member upon return to public service, ~~and if the member makes the employee contributions.~~ The governmental subdivision involved may appropriate money for those payments. A member may not receive credit for a voluntary extension of military service at the instance of the member beyond the initial period of enlistment, induction, or call to active duty.

(f) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the community corrections act, chapter 401, and transferred into county service under section 401.04, "allowable service" means combined years of allowable service as defined in paragraphs (a) to (e) and section 352.01, subdivision 11.

(g) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the public employees police and fire fund, and who has elected coverage by the public employees police and fire fund benefit plan as provided in section 353A.08 following the consolidation, "applicable service" is a period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on law and on bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure.

Sec. 6. Minnesota Statutes 1990, section 353.01, subdivision 20, is amended to read:

Subd. 20. [SURVIVING SPOUSE.] "Surviving spouse" means the ~~unmarried~~ spouse of a deceased member who was legally married to the member at the time of death, or at the time the member became totally and permanently disabled.

Sec. 7. Minnesota Statutes 1990, section 353.03, subdivision 1, is amended to read:

Subdivision 1. [MANAGEMENT; COMPOSITION; ELECTION.] The management of the public employees retirement fund is vested in a board of trustees consisting of the state auditor and ~~eight~~ nine members. The governor shall appoint ~~five~~ six trustees to four-year terms, one of whom shall be designated to represent school boards,

one to represent cities, one to represent counties, one who is a member of the police and fire fund, one who is a retired annuitant, and one who is a public member knowledgeable in pension matters. The membership of the association shall elect three trustees for terms of four years. Trustees elected by the membership of the association must be public employees and members of the association. For seven days beginning October 1 of each year preceding a year in which an election is held, the association shall accept at its office filings in person or by mail of candidates for the board of trustees. A candidate shall submit at the time of filing a nominating petition signed by 25 or more members of the fund. No name may be withdrawn from nomination by the nominee after October 15. At the request of a candidate for an elected position on the board of trustees, the board shall mail a statement of up to 300 words prepared by the candidate to all persons eligible to vote in the election of the candidate. The board may adopt policies to govern form and length of these statements, timing of mailings, and deadlines for submitting materials to be mailed. These policies must be approved by the secretary of state. The secretary of state shall resolve disputes between the board and a candidate concerning application of these policies to a particular statement. A candidate who:

(1) receives contributions or makes expenditures in excess of \$100; or

(2) has given implicit or explicit consent for any other person to receive contributions or make expenditures in excess of \$100 for the purpose of bringing about the candidate's election, shall file a report with the ethical practices board disclosing the source and amount of all contributions to the candidate's campaign. The ethical practices board shall prescribe forms governing these disclosures. Expenditures and contributions have the meaning defined in section 10A.01. These terms do not include the mailing made by the association board on behalf of the candidate. A candidate shall file a report within 30 days from the day that the results of the election are announced. The ethical practices board shall maintain these reports and make them available for public inspection in the same manner as the board maintains and makes available other reports filed with it. By January 10 of each year in which elections are to be held the board shall distribute by mail to the members ballots listing the candidates. No member may vote for more than one candidate for each board position to be filled. A ballot indicating a vote for more than one person for any position is void. No special marking may be used on the ballot to indicate incumbents. The last day for mailing ballots to the fund is January 31. Terms expire on January 31 of the fourth year, and positions are vacant until newly elected members are qualified. The ballot envelopes must be so designed and the ballots counted in a manner that ensures that each vote is secret.

The secretary of state shall supervise the elections. The board of

trustees and the executive director shall undertake their activities consistent with chapter 356A.

Sec. 8. Minnesota Statutes 1990, section 353.27, subdivision 4, is amended to read:

Subd. 4. [EMPLOYERS REPORTING REQUIREMENTS; CONTRIBUTIONS; MEMBER STATUS.] (a) The head of each department is hereby directed to cause employee contributions to be deducted shall deduct employee contributions from the salary of each member and to issue or approve one voucher payable to the state treasurer for the aggregate amount so deducted from such salaries, and at the same time to issue or approve one voucher warrant for the aggregate amount of the employee contributions, the employer contributions and the additional employer contributions for the same period of employment as that covered by the employee contributions, and to cause the same to be received not later than within 20 calendar days thereafter in the office of the association. The head of each department shall, for each pay period in which employee contributions are deducted, submit to the association a salary deduction report, in the form prescribed by the executive director, showing (a) the legal names and the association membership numbers, listed in alphabetical order, of all members; (b) the legal names of all new public employees and the effective dates of appointment; (c) the amount of each salary deduction; (d) the amount of salary from which each deduction was made; (e) effective dates of all member terminations of public service on account of members and if such terminations were caused by death or retirement, there shall be inserted after such date accompanied by the applicable status code as set by the association for those terminations caused by death or retirement; (f) effective dates of all temporary layoffs and leaves of absence and if such leaves are sick leaves, there shall be inserted after such date accompanied by the applicable status code as set by the association; and (g) the beginning and ending dates of the payroll period covered and the date of actual payment. Additionally, Reports of contributions shall must be accompanied by a membership enrollment form for each new employee in the form prescribed by the executive director, and it shall be the responsibility of department heads to obtain such. The enrollment forms from new employees to must be collected by the employer and submitted to the association within 30 days following the date of employment. The employers employer shall furnish such additional reports on magnetic media or on other form of report forms as may be requested by the association executive director.

(b) Notwithstanding paragraph (a), the association may provide for less frequent reporting and payments for small employers.

Sec. 9. Minnesota Statutes 1990, section 353.27, is amended by adding a subdivision to read:

Subd. 5. [WRONGFUL DISCHARGE SETTLEMENT PAYMENTS.] Notwithstanding section 353.01, subdivision 10, employee deductions and employer contributions and additional employer contributions must be made on the gross salary of wrongful discharge settlement payments before subtracting unemployment compensation, workers' compensation, or wages from other sources.

Sec. 10. Minnesota Statutes 1990, section 353.27, subdivision 7, is amended to read:

Subd. 7. [ADJUSTMENT FOR ERRONEOUS RECEIPTS OR DISBURSEMENTS.] (a) [ERRONEOUS DEDUCTIONS TAKEN IN ERROR.] Deductions taken in error by the employer from the salary of an employee for the retirement fund and transmitted to the association must be refunded to the employee calculated in accordance with under section 353.34, subdivision 2; and. The employer contribution and the additional employer contribution, if any, for the erroneous employee contribution must be refunded to the employer, provided; ~~however, that the association and the state social security agency may make proper adjustments of money taken as employee and employer deductions, and provided further that the refund of deductions taken in error has been made within three calendar years of the calendar year in which the initial erroneous deduction taken in error was received by the association; except for erroneous deductions of. A refund of deductions taken in error from sick leave, vacation pay, workers' compensation, and severance pay, which may be made at any time. If the refund of deductions taken in error has not been made within three calendar years of the calendar year in which the initial erroneous deduction taken in error was received by the association, the erroneous contributions are considered valid, and the years of allowable service attributable to the erroneous deductions taken in error must be credited to the member in accordance with~~ under section 353.01, subdivision 16; ~~and~~. Notwithstanding a law to the contrary, the employee may continue to be a member until termination of public service.

(b) [ERRONEOUS DISBURSEMENT.] In the event a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or check returned to the funds of the department making the payment, a refund of the sum deducted, or a portion of it that is required to adjust the deductions, must be made to the department or institution.

Sec. 11. Minnesota Statutes 1990, section 353.27, is amended by adding a subdivision to read:

Subd. 7b. [OVERPAYMENTS TO MEMBERS.] In the event of an overpayment to a member, the executive director shall recover the overpayment by suspending or reducing the payment of a retirement annuity, refund, disability benefit, survivor benefit, or op-

tional annuity under this chapter until all outstanding money has been recovered.

Sec. 12. Minnesota Statutes 1990, section 353.27, subdivision 12, is amended to read:

Subd. 12. [OMITTED SALARY DEDUCTIONS; OBLIGATIONS.]

(a) In the case of omission of required deductions from salary of an employee, the department head shall immediately, upon discovery, report the employee for membership and require employee deductions ~~be made in accordance with~~ under subdivision 4. Omitted employee deductions due for the 60-day period preceding ~~enrollment~~ membership must be deducted upon receipt of billing from the association from the employee's next salary payment and remitted to the association. The employer shall pay any remaining omitted employee deductions ~~past due~~ and any omitted employer contributions, plus cumulative interest at the rate of six percent a year, compounded annually, from the date or dates each omitted employee contribution was first payable. ~~Any amount due from the employer must be paid from the proceeds of a tax levy made under section 353.28 or from other funds available to the employer.~~

(b) An employer shall not hold an employee liable for omitted employee deductions ~~due for more than the 60-day period preceding enrollment beyond the pay period that covers the 60th day preceding membership~~ nor attempt to recover from the employee those employee deductions paid by the employer. ~~Neither an employer nor an employee is responsible to pay~~ Omitted deductions not paid by the employee constitute a liability of the employer that failed to deduct the omitted deductions from the employee's salary. The employer shall make payment with interest at the rate of six percent compounded annually. Omitted employee deductions ~~when are no longer due~~ if an employee terminates public service before making payment of omitted employee deductions to the association, but the employer remains liable to pay omitted employer contributions plus interest at the rate of six percent compounded annually from the date the contributions were first payable. ~~This subdivision has both retroactive and prospective application, and the governmental subdivision is liable retroactively and prospectively for all amounts due under it.~~

(c) The association may not commence action for the recovery of omitted employee deductions and employer contributions after the expiration of three calendar years after the calendar year in which the contributions and deductions were omitted. No payment may be made or accepted unless the association has already commenced action for recovery of omitted deductions. An action for recovery commences on the date of the mailing of any written correspondence from the association requesting information from the governmental subdivision upon which to determine whether or not omitted deductions occurred.

Sec. 13. Minnesota Statutes 1990, section 353.27, subdivision 12a, is amended to read:

Subd. 12a. ~~A member who was employed and met the eligibility requirements for participation in the association before July 1, 1973, terminated employee who has a period of employment in which previously omitted employer contributions were made under subdivision 12 but for whom no, or only partial, omitted employee contributions have been made, or a member who had prior coverage in the association for which previously omitted employer contributions were made under subdivision 12 but who terminated service before required omitted employee contributions deductions could be withheld from salary, may pay the omitted employee contributions deductions for the period on which omitted employer contributions were previously paid plus interest at the rate of six percent compounded annually. The statute of limitations for payment of omitted deductions in subdivision 12 applies. A terminated employee may pay the omitted employee deductions plus interest within six months of an initial notification from the association of eligibility to pay those omitted deductions. If a terminated employee is reemployed in a position covered under a public pension fund under section 356.30, subdivision 3, and elects to pay omitted employee deductions, payment must be made no later than six months after a subsequent termination of public service.~~

Sec. 14. Minnesota Statutes 1990, section 353.27, is amended by adding a subdivision to read:

Subd. 12b. If deductions were omitted from salary adjustments or final salary of a terminated employee, the employer shall pay the employer and employer additional contributions plus interest on both and the employee shall pay the employee deductions.

Sec. 15. Minnesota Statutes 1990, section 353.28, subdivision 6, is amended to read:

Subd. 6. If the governmental subdivision fails to pay amounts due under ~~this chapter~~ chapters 353, 353A, 353B, 353C, and 353D or fails to make payments of excess police state aid to the public employees police and fire fund under section 69.031, subdivision 5, the executive director shall certify those amounts to the governmental subdivision for payment. If the governmental subdivision fails to remit the sum so due in a timely fashion, the executive director shall certify amounts to the county auditor for collection. The county auditor shall collect such amounts out of the revenue of the governmental subdivision, or shall add them to the levy of the governmental subdivision and make payment directly to the association. This tax shall be levied, collected, and apportioned in the manner other taxes are levied, collected, and apportioned.

Sec. 16. Minnesota Statutes 1990, section 353.29, subdivision 4, is amended to read:

Subd. 4. [APPLICATION FOR ANNUITY.] Application for a retirement annuity may be made by a member or by a person authorized to act on behalf of the member. Every application for retirement ~~shall~~ must be made in writing on a form prescribed by the executive director and ~~shall~~ must be substantiated by written proof of the member's age and identity. ~~No~~ The notarized signature of a member's spouse on a retirement annuity application acknowledging the member's annuity selection meets the notice requirement to the spouse under section 356.371, subdivision 3. An application for a retirement annuity may be considered is not complete until all necessary supporting documents are received by the executive director.

Sec. 17. Minnesota Statutes 1990, section 353.31, subdivision 1, is amended to read:

Subdivision 1. [BENEFITS FOR SURVIVING SPOUSE AND DEPENDENT CHILDREN; BEFORE RETIREMENT.] Upon the death of a basic member before retirement or upon the death of a basic member who was disabled and receiving disability benefits ~~pursuant to~~ under section 353.33 at the time of death who has had at least 18 months of credited allowable service, the surviving spouse and dependent child or children of the member, as defined in section 353.01, subdivisions 15 and 20, ~~shall be~~ are entitled to receive the monthly benefit provided below:

- | | |
|--------------------------|--|
| (a) Surviving spouse | 50 percent of the member's monthly average salary in effect over the last full six months of allowable service preceding the month in which death occurred |
| (b) Each dependent child | 10 percent of the member's monthly average salary in effect over the last full six months of allowable service preceding the month in which death occurred |

Subd. 1a. [MAXIMUM FAMILY BENEFIT.] Payments for the benefit of ~~any~~ a dependent child or children, as defined in section 353.01, subdivision 15, ~~shall~~ must be made to the surviving parent, or if ~~there be none~~, to the legal guardian of the child. The maximum monthly benefit for a family ~~shall~~ must not exceed \$1,000 an amount equal to 70 percent of the member's specified average monthly salary, and the minimum benefit per for a family shall including a 100 percent joint and survivor annuity under subdivision 1b, must not be less than 50 percent of the basic member's specified average monthly salary; subject to the aforementioned maximum. The surviving spouse benefit shall terminate upon the remarriage of the spouse; and the dependent children's benefit shall be reduced pro tanto when any child is no longer dependent.

~~Any survivor of a basic member whose average salary was less than \$75 per month shall not be entitled to the benefits provided in this subdivision.~~

Subd. 1b. [JOINT AND SURVIVOR OPTION.] (a) Prior to payment of any survivor a surviving spouse benefit pursuant to this under subdivision 1, in lieu of that benefit, the surviving dependent spouse may elect to receive the 100 percent joint and survivor optional annuity provided pursuant to under section 353.32, subdivision 1a, rather than a surviving spouse benefit.

(b) If there is a dependent child or children, and the 100 percent joint and survivor optional annuity for the surviving spouse, when added to the dependent children's benefit under subdivisions 1 and 1a, exceeds an amount equal to 70 percent of the member's specified average monthly salary, the 100 percent joint and survivor annuity under section 353.32, subdivision 1a, must be reduced by the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount under subdivision 1a.

(c) The 100 percent joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement fund adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Subd. 1c. [COORDINATED MEMBERS.] Except for any benefits provided pursuant to under section 353.32, subdivisions 1 and 1a, there are no survivor benefits are payable to the surviving spouse or dependent children of a deceased coordinated member.

Sec. 18. Minnesota Statutes 1990, section 353.32, subdivision 1a, is amended to read:

Subd. 1a. [SURVIVING SPOUSE OPTIONAL ANNUITY.] If a member or former member who has attained at least age 50 and has credit for not less than three years of allowable service or who has credit for not less than 30 years of allowable service, regardless of age attained, dies before the annuity or disability benefit begins to accrue in accordance with section 353.29, subdivision 7, or 353.33, subdivision 2, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, instead of a refund with interest provided in under subdivision 1, or survivor surviving spouse benefits otherwise payable under section 353.31, an annuity equal to the 100 percent joint and survivor annuity that the member could have qualified for had the member terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity must be computed as

~~provided in under sections 353.29, subdivisions 2 and 3; and 353.30, subdivisions 1, 1a, 1b, 1c, and 5; and 353.31, subdivision 3. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment may accrue beyond the end of the month in which entitlement to the annuity has terminated. An amount equal to any excess of the accumulated contributions that were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of the deceased member. A member may specify in writing that this subdivision does not apply and that payment may be made only to the designated beneficiary as otherwise provided by this chapter.~~

Sec. 19. Minnesota Statutes 1990, section 353.33, subdivision 3a, is amended to read:

Subd. 3a. [OPTIONAL ANNUITY ELECTION.] A disabled member may elect to receive the normal disability benefit or an optional annuity ~~as provided in under section 353.30, subdivision 3. The election of an optional annuity shall~~ must be made prior to the commencement of payment of the disability benefit. The optional annuity ~~shall~~ must begin to accrue on the same date as provided for the disability benefit.

(1) If a person who is not the spouse of a member is named as beneficiary of the joint and survivor optional annuity, the person is eligible to receive the annuity only if the spouse, on the disability application form prescribed by the executive director, permanently waives the surviving spouse benefits under sections 353.31, subdivision 1, and 353.32, subdivision 1a. If the spouse of the member refuses to permanently waive the surviving spouse coverage, the selection of a person other than the spouse of the member as a joint annuitant is invalid.

(2) If the spouse of the member permanently waives survivor coverage, the dependent children, if any, continue to be eligible for survivor benefits under section 353.31, subdivision 1, including the minimum benefit in section 353.31, subdivision 1a. The designated optional annuity beneficiary may draw the monthly benefit; however, the amount payable to the dependent child or children and joint annuitant must not exceed the 70 percent maximum family benefit under section 353.31, subdivision 1a. If the maximum is exceeded, the benefit of the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount.

(3) If the spouse is named as the beneficiary of the joint and survivor optional annuity, the spouse may draw the monthly benefits; however, the amount payable to the dependent child or

children and the joint annuitant must not exceed the 70 percent maximum family benefit under section 353.31, subdivision 1a. If the maximum is exceeded, each dependent child will receive ten percent of the member's specified average monthly salary, and the benefit to the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount. The joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Sec. 20. Minnesota Statutes 1990, section 353.34, subdivision 1, is amended to read:

Subdivision 1. [REFUND OR DEFERRED ANNUITY.] Any A member who ceases to be a public employee by reason of termination of public service, or who is on a continuous layoff for more than 120 calendar days, ~~shall be~~ is entitled to a refund of accumulated employee deductions ~~as provided in~~ under subdivision 2, or to a deferred annuity ~~as provided in~~ under subdivision 3. An active member of a fund enumerated in section 356.30, subdivision 3, clause (7), (8), or (14), who terminates public service in any of those funds and becomes a member of another fund enumerated in those clauses may receive a refund of employee contributions plus ~~five~~ six percent interest compounded annually from the fund in which the member terminated service. Application for a refund may not be made prior to the date of termination of public service, or the expiration of 120 days of layoff; ~~and~~. A refund ~~shall~~ must be paid within 120 days following receipt of the application; ~~provided unless~~ the applicant has ~~not~~ again become a public employee required to be covered by the association.

Sec. 21. Minnesota Statutes 1990, section 353.46, subdivision 4, is amended to read:

Subd. 4. Except as provided in section 353.84, the rights of a survivor of a former member, where such former member died prior to June 30, 1973, must be determined by the law in effect when such former member died even though a benefit is not payable until after June 30, 1973. If the survivor is also eligible to receive a retirement annuity from the association, the survivor is eligible to receive both benefits even upon remarriage.

Sec. 22. Minnesota Statutes 1990, section 353.64, is amended by adding a subdivision to read:

Subd. 5. A member of the police and fire fund continues to be a member of that fund if transferred to a different position with associated police or fire department functions in the same department or a related department in the same governmental subdivision

provided the governing body sends a copy of a resolution to that effect to the association.

Sec. 23. Minnesota Statutes 1990, section 353.656, subdivision 1a, is amended to read:

Subd. 1a. [OPTIONAL ANNUITY ELECTION.] A disabled member of the police and fire fund may elect to receive the normal disability benefit or an optional annuity as provided in section 353.30, subdivision 3. The election of an optional annuity shall be made prior to commencement of payment of the disability benefit. The optional annuity shall begin to accrue on the same date as provided for the disability benefit.

(1) If the person who is not the spouse of the member is named as beneficiary of the joint and survivor optional annuity, the person is eligible to receive the annuity only if the spouse, on the disability application form prescribed by the executive director, permanently waives the surviving spouse benefits under section 353.657, subdivisions 2 and 2a. If the spouse of the member refuses to permanently waive the surviving spouse coverage, the selection of a person other than the spouse of the member as a joint annuitant is invalid.

(2) If the spouse of the member permanently waives survivor coverage, the dependent child or children, if any, continue to be eligible for survivor benefits, including the minimum benefit under section 353.657, subdivision 3. The designated optional annuity beneficiary may draw the monthly benefit; however, the amount payable to the dependent child or children and joint annuitant must not exceed the 70 percent maximum family benefit under section 353.657, subdivision 3. If the maximum is exceeded, the benefit of the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount.

(3) If the spouse is named as the beneficiary of the joint and survivor optional annuity, the spouse may draw the monthly benefit; however, the amount payable to the dependent child or children and the joint annuitant must not exceed the 70 percent maximum family benefit under section 353.657, subdivision 3. If the maximum is exceeded, each dependent child will receive ten percent of the member's specified average monthly salary, and the benefit to the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount. The joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Sec. 24. Minnesota Statutes 1990, section 353.657, is amended to read:

353.657 [SURVIVOR BENEFITS.]

Subdivision 1. In the event any member of the police and fire fund dies from any cause before retirement or after becoming disabled and receiving disability benefits if ~~no optional annuity form was elected under section 353.656, subdivision 1a,~~ the association shall grant survivor benefits to a surviving spouse ~~who had the same legal residence as the member at the time of death, as defined in section 353.01, subdivision 20, and who was married to the member for a period of at least one year, except that if death occurs in the line of duty no time limit is required; and.~~ The association shall also grant survivor benefits to a dependent child or children, unmarried and under the age of 18 years as defined in section 353.01, subdivision 15. The spouse and child or children are entitled to monthly benefits as provided in the following subdivisions.

Subd. 2. The spouse, for life ~~or until remarriage,~~ shall receive a monthly benefit equal to 50 percent of the member's average full-time monthly salary rate as a police officer or firefighter in effect over the last six months of allowable service preceding the month in which death occurred.

Subd. 2a. [DEATH WHILE ELIGIBLE SURVIVOR BENEFIT.] If a member or former member who has attained the age of at least 50 years and has credit for not less than three years allowable service or who has credit for at least 30 years of allowable service, regardless of age attained, dies before public service has terminated, or if an employee who has filed a valid application for an annuity or disability benefit prior to termination of public service dies before the annuity or benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive a death while eligible survivor benefit. ~~The benefit shall be in lieu may be elected instead of a refund with interest provided in under section 353.32, subdivision 1, or survivor surviving spouse benefits otherwise payable pursuant to under subdivisions 1 and 2.~~ The benefit must be an annuity equal to the 100 percent joint and survivor annuity which the member could have qualified for on the date of death, computed as provided in sections 353.651, subdivisions 2 and 3, and 353.30, subdivision 3. If there is a dependent child or children, and the 100 percent joint and survivor optional annuity for the surviving spouse, when added to the benefit of the dependent child or children under subdivision 3, exceeds an amount equal to 70 percent of the member's specified average monthly salary, the 100 percent joint and survivor annuity must be reduced by the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount under subdivision 3. The 100 percent joint and survivor optional annuity must be restored to the surviving spouse, plus applicable

postretirement fund adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment shall accrue beyond the end of the month in which entitlement to such annuity has terminated. An amount equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse shall be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of such deceased member. Any member may request in writing that this subdivision not apply and that payment be made only to the designated beneficiary, as otherwise provided by this chapter. For a member who is employed as a full-time firefighter by the department of military affairs of the state of Minnesota, allowable service as a full-time state military affairs department firefighter credited by the Minnesota state retirement system may be used in meeting the minimum allowable service requirement of this subdivision.

Subd. 3. ~~Each A dependent child, until the child reaches the age of 18 years as defined in section 353.01, subdivision 15, shall receive a monthly benefit equal to ten percent of the member's average full-time monthly salary rate as a police officer or firefighter in effect over the last six months of allowable service preceding the month in which death occurred. A dependent child shall receive this benefit until age 23, so long as the child submits evidence of full-time enrollment in an accredited post-secondary educational institution for at least five of the 12 months immediately preceding the month for which benefits are sought. Payments for the benefit of any qualified a dependent child shall must be made to the surviving parent, or if there be none, to the legal guardian of the child or to any adult person with whom the child may at the time be living, provided only that the parent or other person to whom any amount is to be paid shall have advised advises the board in writing that the amount will be held or used in trust for the benefit of the child. The maximum monthly benefit for any one family shall must not exceed an amount equal to 70 percent of the member's specified average monthly salary, and the minimum benefit per family shall, including the joint and survivor optional annuity under subdivision 2a, and section 353.656, subdivision 1a, must not be less than 50 percent of the member's specified average monthly salary.~~

Subd. 4. If the member shall die under circumstances which entitle a surviving spouse and dependent children to receive benefits under the workers' compensation law, the amounts so received by them shall not be deducted from the benefits payable under this section.

Sec. 25. Minnesota Statutes 1990, section 353A.01, subdivision 1, is amended to read:

Subdivision 1. [VOLUNTARY CONSOLIDATION AUTHORIZED.] It is the intent and policy of the legislature in sections 353A.01 to 353A.10 to authorize, on a voluntary elective basis, any local police or salaried firefighters relief association and the respective municipality to effect the consolidation of the local relief association ~~into~~ with the public employees ~~police and fire fund retirement association~~ established by chapter 353.

Sec. 26. Minnesota Statutes 1990, section 353A.02, subdivision 16, is amended to read:

Subd. 16. [LOCAL RELIEF ASSOCIATION CONSOLIDATION ACCOUNTS.] "Local relief association consolidation accounts" means the special accounts ~~created within consolidated with the fund by public employees retirement association under~~ sections 353.65, subdivision 1, and 353A.09, subdivision 1.

Sec. 27. Minnesota Statutes 1990, section 353A.02, is amended by adding a subdivision to read:

Subd. 24a. [PUBLIC EMPLOYEES RETIREMENT ASSOCIATION.] "Public employees retirement association" means the retirement system that administers the public employees police and fire fund and the local relief association consolidated accounts.

Sec. 28. Minnesota Statutes 1990, section 353A.03, is amended to read:

353A.03 [VOLUNTARY CONSOLIDATION OPTION.]

Notwithstanding any provision of law to the contrary, any local police or firefighters relief association, as defined in section 353A.02, subdivision 15, may consolidate with the public employees ~~police and fire fund retirement association~~ as provided in sections 353A.01 to 353A.10.

Sec. 29. Minnesota Statutes 1990, section 353A.06, is amended to read:

353A.06 [FINALIZATION OF CONSOLIDATION.]

Upon the completion of the applicable actions preliminary to consolidation finalization under section 353A.05, each entity shall report the result of those actions to the relief association and to the municipality. Upon final approval by the municipality ~~as provided in~~ under section 353A.04, subdivision 8, the consolidation of the relief association with the public ~~employee police and fire fund~~ shall be

employees retirement association is scheduled to occur. The consolidation ~~shall be~~ is effective as of the date established for consolidation by the board of the public employees retirement association. The effect of the consolidation ~~shall be as provided in~~ is governed under sections 353A.07 to 353A.09.

Sec. 30. Minnesota Statutes 1990, section 353A.08, subdivision 1, is amended to read:

Subdivision 1. [ELECTION OF COVERAGE BY CURRENT RETIREES.] ~~Any~~ A person who is receiving a service pension, disability benefit, or survivorship benefit ~~shall have the option is eligible to elect to have~~ benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan or to retain benefit coverage provided under the relief association benefit plan in effect on the effective date of the consolidation. The relevant provisions of the public employees police and fire fund benefit plan for the person electing that benefit coverage shall be limited to participation in the Minnesota postretirement investment fund for any future postretirement adjustments in the amount of the benefit or pension payable as of the effective date of the consolidation, the date as of which pension or benefit payments are to be paid and the termination of a survivor or disability benefit or suspension of a retirement annuity before the death of the person. The survivorship benefit payable on behalf of any service pension or disability benefit recipient who elects benefit coverage provided under the relevant provisions of the public employees police and fire fund benefit plan ~~shall must~~ be calculated under the relief association benefit plan in effect on the effective date of the consolidation and ~~shall be~~ is subject to participation in the Minnesota postretirement investment fund for any future postretirement adjustments in the amount of the survivorship benefit payable.

By electing the public employees police and fire fund benefit plan, ~~any~~ a current service pension or disability benefit recipient who, as of the first January 1 occurring after the effective date of consolidation, has been receiving the pension or benefit for at least ~~18 months~~ one month as of the current June 30, or any survivor benefit recipient who, as of the first January 1 occurring after the effective date of consolidation, has been receiving the benefit on the person's own behalf or in combination with a prior applicable service pension or disability benefit for at least ~~18 months~~ shall be entitled one full month as of the current June 30 is eligible to receive ~~any~~ a partial adjustment payable from the Minnesota postretirement investment fund under section 11A.18, subdivision 9, as of the first January 1 occurring after the effective date of consolidation.

The election by any pension or benefit recipient ~~shall must~~ be made on or before the deadline established by the board of the public employees retirement association; ~~which shall be established in a manner which~~ that recognizes the number of persons eligible to

make the election and the anticipated time required to conduct any required benefit counseling.

Sec. 31. Minnesota Statutes 1990, section 353C.06, subdivision 3, is amended to read:

Subd. 3. [ANNUITY AMOUNT.] The average salary as defined in subdivision 2, multiplied by two percent for each year of allowable service for the first ten years and 2.5 percent for each additional year of allowable service, and pro rata for completed months less than a full year, determines the amount of the normal annuity. If a person has earned allowable service in the public employees retirement association or the public employees police and fire fund ~~for performing services other than those of a local government correctional employee prior to participation under this chapter~~, the annuity representing such service must be computed in accordance with the ~~coordinated~~ formula under sections 353.29 and 353.30 or 353.651, whichever applies.

Sec. 32. Minnesota Statutes 1990, section 353C.07, subdivision 1, is amended to read:

Subdivision 1. [AUGMENTATION FOR PRIOR SERVICE BENEFITS.] Unless prior service has been transferred or unless a combined service annuity under section 356.30 has been elected, an employee who becomes a local government correctional employee after being a member of the public employees retirement association or the public employees police and fire fund is covered under section 353.71, subdivision 2, with respect to that prior service. An employee who becomes a member of the public employees retirement association or the public employees police and fire fund after being a local government correctional employee is also covered under section 353.71, subdivision 2, with respect to that prior service, unless calculated under section 356.30.

Sec. 33. Minnesota Statutes 1990, section 353C.08, subdivision 2, is amended to read:

Subd. 2. [NONDUTY DISABILITY QUALIFICATION REQUIREMENTS.] A local government correctional employee who ~~after not less than five years has at least one year of covered service, and who~~, before reaching the age of 55, becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, is entitled to a disability benefit based on covered service. The disability benefit must be computed in the same manner as an annuity under section 353C.06, subdivision 3, and as though the employee had at least ten years of covered correctional service.

Sec. 34. Minnesota Statutes 1990, section 353C.09, is amended to read:

353C.09 [SURVIVING SPOUSE OPTIONAL ANNUITY.]

If a member or former member of the local government correctional service retirement plan has attained the age of at least 50 years and has credit for not less than ~~ten~~ three years of allowable service, or who has credit for not less than 30 years of allowable service, regardless of age attained, dies before the annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse may elect to receive, in lieu of a refund with interest provided in section 353.32, subdivision 1, an annuity equal to the 100 percent joint and survivor annuity for which the member could have qualified had the member terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity must be computed on the ~~coordinated formula as provided in formulas under~~ sections 353.29, subdivisions 2 and 3, and 353.30, subdivisions 1, 1a, 1b, and 1c. Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred annuity payable under this subdivision. No payment may accrue beyond the end of the month in which entitlement to the annuity has terminated. An amount equal to any excess of the accumulated contributions that were credited to the account of the deceased employee over and above the total of the annuities paid and payable to the surviving spouse must be paid to the deceased member's last designated beneficiary or, if none, to the legal representative of the estate of the deceased member. A member may specify in writing that this subdivision does not apply and that payment must be made only to the designated beneficiary, as otherwise provided by this chapter.

Sec. 35. Minnesota Statutes 1990, section 353D.01, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY.] (a) Except as provided in section 353D.11, eligibility to participate in the ~~retirement defined contribution~~ plan is open to an elected local government official of a governmental subdivision who elects to participate in the plan and who is not a member of the public employees retirement association within the meaning of section 353.01, subdivision 7, and. The service of an elected local government official on an additional board, commission, or committee, even if part of the official's elected position, is not covered service under this plan. Eligibility to participate in the defined contribution plan terminates when the participant ceases to be an elected local government official. For purposes of this chapter, an elected local government official does not include an elected county sheriff.

(b) Eligibility to participate is open to basic and advanced life support emergency medical service personnel employed by or providing services for any public ambulance service or privately oper-

ated ambulance service that receives an operating subsidy from a governmental entity that elects to participate. For purposes of this chapter, an elected local government official includes a person appointed to fill a vacancy in an elective office. Elected local government official does not include an elected county sheriff.

(c) Except as provided in section 353D.11, elected local government officials and first response personnel and emergency medical service personnel who are currently covered by a public or private pension plan because of their employment or provision of services are not eligible to participate in the plan.

Sec. 36. Minnesota Statutes 1990, section 353D.02, is amended to read:

353D.02 [ELECTION OF COVERAGE.]

(a) Eligible elected local government officials may elect to participate in the defined contribution plan after being elected or appointed to a public office by filing an membership application to participate on a form prescribed by the executive director of the association authorizing contributions to be deducted from the elected official's salary. Participation begins on the first day of the month after the application is received in the association's office or on the date when the term of office commences, whichever date is later. pay period for which the contributions were deducted or, if pay period coverage dates are not provided, the date on which the membership application or contributions are received in the office of the association, whichever is received first, provided further that the membership application is received by the association within 60 days of the receipt of the contributions. If the membership application is not received, the elected official is not a participant in the plan and may request a refund under section 353D.04, subdivision 2. An election to participate in the plan is irrevocable during incumbency in office.

(b) Each public ambulance service or privately operated ambulance service that receives an operating subsidy from a governmental entity with eligible personnel may elect to participate in the plan. If a service elects to participate, its eligible personnel may elect to participate or to decline to participate. An individual's election must be made within 30 days of the service's election to participate or 30 days of the date on which the individual was employed by the service or began to provide service for it, whichever date is later. An election by a service or an individual is irrevocable.

Sec. 37. Minnesota Statutes 1990, section 353D.04, is amended to read:

353D.04 [CONTRIBUTIONS ~~TO PLAN~~ AND DEDUCTIONS IN ERROR.]

Subdivision 1. [CONTRIBUTIONS.] (a) Contributions made by or on behalf of a participating elected local government official must be remitted to the public employees retirement association at least ~~monthly~~ and ~~must~~ be credited to the individual account established for the participating officer.

(b) Ambulance service contributions must be remitted on a regular periodic basis to the association together with any member contributions paid or withheld. Those contributions must be credited to the individual account of each participating member.

Subd. 2. [DEDUCTIONS IN ERROR.] Deductions taken totally or partially in error by the employer from the salary of an elected official and contributions made by the employer may be refunded upon request to the elected official and the employer.

(a) In the case of a total refund, the association shall refund the value of an elected official's account, including investment earnings, the accumulated employee deductions, accumulated employer contributions, less administrative expenses under section 353D.05, subdivision 3.

(b) In the case of a partial refund, the association shall refund the amount of the actual error, without interest, less the administrative expenses under section 353D.05, subdivision 3, from the employer share.

Sec. 38. Minnesota Statutes 1990, section 353D.05, subdivision 2, is amended to read:

Subd. 2. [INVESTMENT OPTIONS.] (a) ~~An individual~~ A participant may elect to purchase shares in the income share account, the growth share account, the money market account, the bond market account, the guaranteed return account, or the common stock index account established by section 11A.17, or a combination of those accounts. The participant may elect to purchase shares in a combination of those accounts by specifying the percentage of contributions to be used to purchase shares in each of the accounts.

(b) ~~Twice in a calendar year,~~ A participant may indicate in writing a choice of options for subsequent purchases of shares. After a choice is made, until the participant makes a different written indication, the executive director of the association shall purchase shares in the supplemental investment fund or funds specified by the participant. If no initial option is indicated by a participant or the specifications made by the participant exceed 100 percent to be invested in more than one account, the executive director shall invest all contributions made by or on behalf of a participant in the income share account. If the specifications are less than 100 percent, the executive director shall invest the remaining percentage in the income share account. A choice of investment options is effective no later than the

first pay date occurring more than 30 days after receipt of the written choice of options.

(c) One month before the start of a new guaranteed investment contract, a participant may elect to transfer all or a portion of the participant's shares previously purchased in the income share, growth share, common stock index, bond market, or money market accounts to the new guaranteed investment contract in the guaranteed return account. ~~If a partial transfer is made, a minimum of \$200 must be transferred and a minimum balance of \$200 must remain in the previously selected investment options.~~ Upon expiration of a guaranteed investment contract, the participant's shares attributable to that contract must be transferred to a new guaranteed investment contract unless the executive director is otherwise directed by the participant. Shares in the guaranteed return account may not be withdrawn from the fund or transferred to another account until the guaranteed investment contract has expired, unless the participant qualifies for a benefit payment under section 353D.07.

(d) ~~Twice in a calendar year,~~ A participant or former participant may also change the investment options selected for all or a portion of the individual's previously purchased shares in accounts other than the guaranteed return account. ~~If a partial transfer of previously purchased shares is selected, a minimum of \$200 must be transferred and a minimum balance of \$200 must remain in the previously selected investment option.~~ A change under this paragraph is effective as soon as cash flow to an account permits, but not later than six months from the requested change.

Sec. 39. Minnesota Statutes 1990, section 353D.07, subdivision 2, is amended to read:

Subd. 2. [PAYMENT OF BENEFITS.] Withdrawal of or a retirement benefit based on individual participant contributions and employer contributions plus accrued investment income is payable immediately upon the death or termination of a participant ~~for a period that exceeds 30 days.~~ No investment options or transfers of all or a portion of the deceased elected official's shares in the income share, growth share, common stock index, bond market, money market, or guaranteed investment accounts shall be made following death or termination of the participant. An application by or on behalf of the participant must be filed before any payment of benefits may be made.

Sec. 40. Minnesota Statutes 1990, section 353D.07, subdivision 3, is amended to read:

Subd. 3. [FORM OF BENEFIT.] A retirement benefit is payable in a lump sum equal to the value of a participant's account at the date of retirement and may be rolled over into another qualified plan at

the option of the participant. As an alternative to a ~~lump sum~~ lump-sum distribution, the participant may choose to have the association ~~use transfer~~ transfer the total account value ~~to for the purchase~~ of an annuity payable at a designated age from to an insurance company of the participant's choice that is licensed to do business in the state.

Sec. 41. Minnesota Statutes 1990, section 353D.12, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY; CONTRIBUTIONS.] An elected local government official who participates in the defined contribution plan under this chapter may make contributions to the plan for the service as an elected public officer rendered before ~~May 9, 1990~~ June 30, 1991, that was not covered by a public or private employer contributory pension plan, including a plan administered by the public employees retirement association under chapter 353. The association shall not accept contributions for prior service after the elected official ceases to hold elected office.

Sec. 42. Laws 1990, chapter 570, article 8, section 14, subdivision 1, is amended to read:

Subdivision 1. [ENTITLEMENT.] An elected public officer who participates in the public employees retirement association defined benefit plan under Minnesota Statutes, chapter 353, may purchase service credit from the association for all or any portion of prior uncredited service as an elected public officer when the officer could have been, but was not, a member of the association on account of failure to exercise the membership option under Minnesota Statutes, section 353.01, subdivision 7. The purchase of prior service credit ceases when the elected official no longer holds an elected office.

Sec. 43. Minnesota Statutes 1990, section 356.371, subdivision 3, is amended to read:

Subd. 3. [REQUIREMENT OF NOTICE TO MEMBER'S SPOUSE.] If a public pension fund provides optional retirement annuity forms which include a joint and survivor optional retirement annuity form potentially applicable to the surviving spouse of a member, the ~~chief administrative officer~~ executive director of the public pension fund shall send a copy of the written statement required by subdivision 2 to the spouse of the member before the member's election of an optional retirement annuity.

Following the election of a retirement annuity by the member, a copy of the completed retirement annuity application and retirement annuity beneficiary form, if applicable, must be sent by the public pension fund to the spouse of the retiring member. A signed acknowledgment must be required from the spouse confirming

receipt of a copy of the completed retirement annuity application and retirement annuity beneficiary form unless the spouse's signature confirming the receipt is on the annuity application form. If the required signed acknowledgment is not received from the spouse within 30 days, the public pension fund must send another copy of the completed retirement annuity application and retirement annuity beneficiary form, if applicable, to the spouse by certified mail with restricted delivery.

Sec. 44. Minnesota Statutes 1990, section 356.86, subdivision 2, is amended to read:

Subd. 2. [AMOUNT OF POSTRETIREMENT ADJUSTMENT; PAYMENT.] (a) For any person receiving an annuity or benefit on November 30, 1989, and entitled to receive a postretirement adjustment under subdivision 1, the postretirement adjustment is a lump sum payment calculated under paragraph (b) or (c).

(b) For coordinated plan annuity or benefit recipients, the postretirement adjustment in 1989 is \$25 for each full year of allowable service credited to the person by the respective retirement fund. In 1990 and each following year, the postretirement adjustment is the amount payable in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.

(c) For basic plan annuity or benefit recipients, the postretirement adjustment in 1989 is the greater of:

(1) \$25 for each full year of allowable service credited to the person by the respective retirement fund; or

(2) the difference between:

(i) the product of \$400 times the number of full years of allowable service credited to the person by the respective retirement fund; and

(ii) the sum of the benefits payable to the person from any Minnesota public employee pension plan, and cash benefits payable to the person from the Social Security Administration.

In 1990 and each following year, each eligible basic plan annuity or benefit recipient shall receive the amount received in the preceding year increased by the same percentage applied to regular annuities paid from the postretirement fund or, for the retirement funds specified in subdivision 3, clauses (6), (7), and (8), by the same percentage applied under the articles of incorporation and bylaws of these funds.

(d) The postretirement adjustment provided for in this section is payable for those persons receiving an annuity or benefit on November 30, 1989, on December 1, 1989. In subsequent years, the adjustment must be paid on December 1 to those persons receiving an annuity or benefit on the preceding November 30. A person who is eligible may elect to participate in an optional annuity or benefit receipt schedule under subdivision 4. This section does not authorize the payment of a postretirement adjustment to an estate if the annuity or benefit recipient dies before the November 30 eligibility date. Notwithstanding section 356.18, the postretirement adjustment provided for in this section must be paid automatically unless the intended recipient files a written notice with the retirement fund requesting that the postretirement adjustment not be paid or returns the amount of adjustment to the retirement fund. Written notice of the waiver of the postretirement adjustment is irrevocable for the year during which it was made.

Sec. 45. Minnesota Statutes 1990, section 356.86, subdivision 4, is amended to read:

Subd. 4. [OPTIONAL POSTRETIREMENT ADJUSTMENT PAYMENT SCHEDULE.] Basic plan annuity or benefit recipients receiving adjustments under subdivision 2, paragraph (c), clause (2), and whose adjustment exceeds 20 percent of their Minnesota plan annuity or benefit may elect to have the amount of the adjustment paid in equal monthly amounts instead of receiving a lump sum payment on December 1, 1989. Selection of this ~~option~~ optional payment schedule must be made by the recipient in writing on forms prepared by the retirement association. This ~~option~~ optional payment schedule may be revoked by the recipient in writing prior to the November 1 preceding the December 1 lump sum distribution. Upon the death of the annuity or benefit recipient, any remaining unpaid monthly amounts shall be paid to the surviving spouse, or if no spouse survives, to the annuity or benefit recipient's beneficiary or estate.

Sec. 46. Minnesota Statutes 1990, section 356.87, is amended to read:

356.87 [HEALTH INSURANCE WITHHOLDING.]

The Upon authorization of a person entitled to receive a retirement annuity, disability benefit or survivor benefit, the executive director of a public pension fund listed in section 356.20, subdivision 2, shall, upon authorization of a person entitled to receive benefits, withhold health insurance premium amounts from the pension benefits retirement annuity, disability benefit or survivor benefit, and pay the premium amounts to the public employees insurance plan. The public employees insurance plan shall reimburse a public pension fund for the administrative expense of withholding the

premium amounts and shall assume liability for the failure of a public pension fund to properly withhold the premium amounts.

Sec. 47. [TERMINATION OF MEMBERSHIP.]

Subdivision 1. [ELIGIBILITY.] Notwithstanding the limitations in Minnesota Statutes, section 353D.02, a member of the public employees defined contribution plan, who was born on September 22, 1948, and has been employed by independent school district No. 701 from 1984 to the present, may revoke participation in the defined contribution plan that began on October 1, 1990.

Subd. 2. [RETURN OF CONTRIBUTIONS.] The employee contributions shall be returned to the eligible individual in subdivision 1. The remaining value in the former participant's account, if any, shall be remitted to the association.

Sec. 48. [REPEALER.]

Minnesota Statutes, sections 353.33, subdivision 5a, and 353C.07, subdivision 2, are repealed.

Sec. 49. [EFFECTIVE DATE.]

Sections 1 to 3, 5, 8 to 16, 20 to 22, 25 to 28, and 30 to 46 are effective July 1, 1991.

Section 17 is retroactive effective July 1, 1991.

Section 29 is effective retroactive to December 31, 1990.

Sections 4, 6, 7, 18, 19, 23, and 24 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to retirement; the public employees retirement association; making various changes reflecting benefits, administration, and investment practices; amending Minnesota Statutes 1990, sections 353.01, subdivisions 2b, 6, 10, 15, 16, and 20; 353.03, subdivision 1; 353.27, subdivisions 4, 7, 12, 12a, and by adding subdivisions; 353.28, subdivision 6; 353.29, subdivision 4; 353.31, subdivision 1; 353.32, subdivision 1a; 353.33, subdivision 3a; 353.34, subdivision 1; 353.64, by adding a subdivision; 353.656, subdivision 1a; 353.657; 353A.01, subdivision 1; 353A.02, subdivision 16, and by adding a subdivision; 353A.03; 353A.06; 353A.08, subdivision 1; 353C.06, subdivision 3; 353C.07, subdivision 1; 353C.08, subdivision 2; 353C.09; 353D.01, subdivision 2; 353D.02; 353D.04; 353D.05, subdivision 2; 353D.07, subdivisions 2 and 3;

353D.12, subdivision 1; 356.371, subdivision 3; 356.86, subdivisions 2 and 4; 356.87; Laws 1990, chapter 570, article 8, section 14, subdivision 1; and repealing Minnesota Statutes 1990, sections 353.33, subdivision 5a; and 353C.07, subdivision 2.”

With the recommendation that when so amended the bill pass.

The report was adopted.

Welle from the Committee on Health and Human Services to which was referred:

H. F. No. 1592, A bill for an act relating to health; requiring home care providers to advise persons receiving home care services of certain rights; amending Minnesota Statutes 1990, section 144A.44, subdivision 1.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

S. F. No. 224, A bill for an act relating to the public defender; limiting entitlement to appellate representation by the state public defender to the first direct appeal of a conviction; amending Minnesota Statutes 1990, sections 590.05; 611.14; 611.18; and 611.25, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1990, section 590.05, is amended to read:

590.05 [INDIGENT PETITIONERS.]

A person financially unable to obtain counsel who desires to pursue the remedy provided in section 590.01 is entitled to be represented may apply for representation by the state public defender. The state public defender shall be appointed to represent such person pursuant to under the applicable provisions of Minnesota Statutes 1965, sections 611.14 to 611.29, if the person has not already had a direct appeal of the conviction. The state public defender may represent, without charge, all other persons pursuing

a postconviction remedy under section 590.01, who are financially unable to obtain counsel.

Sec. 2. Minnesota Statutes 1990, section 611.14, is amended to read:

611.14 [RIGHT TO REPRESENTATION BY PUBLIC DEFENDER.]

The following persons who are financially unable to obtain counsel, ~~shall be~~ are entitled to be represented by a public defender:

~~(a)~~ (1) a person charged with a felony or gross misdemeanor, including a person charged ~~pursuant to~~ under sections 629.01 to 629.29;

~~(b)~~ (2) a person appealing from a conviction of a felony or gross misdemeanor, or a person convicted of a felony or gross misdemeanor who is pursuing a postconviction proceeding, ~~after the time for appeal from the judgment has expired and who has not already had a direct appeal of the conviction;~~

~~(c)~~ (3) a person who is entitled to be represented by counsel ~~pursuant to the provisions of~~ under section 609.14, subdivision 2;

~~(d)~~ (4) a minor who is entitled to be represented by counsel ~~pursuant to the provisions of~~ under section 260.155, subdivision 2, if the judge of the juvenile court concerned has requested and received the approval of a majority of the district court judges of the judicial district to utilize the services of the public defender in such cases, and approval of the compensation on a monthly, hourly, or per diem basis to be paid for such services ~~pursuant to~~ under section 260.251, subdivision 2, clause (e); or

~~(e)~~ (5) a person, entitled by law to be represented by counsel, charged with an offense within the trial jurisdiction of a municipal, county, or probate court, if the trial judge or a majority of the trial judges of the court concerned have requested and received approval of a majority of the district court judges of the judicial district to utilize the services of the public defender in such cases and approval of the compensation on a monthly, hourly, or per diem basis to be paid for such services by the county or municipality within the court's jurisdiction.

Sec. 3. Minnesota Statutes 1990, section 611.18, is amended to read:

611.18 [APPOINTMENT OF PUBLIC DEFENDER.]

If it appears to a court that a person requesting the appointment

of counsel satisfies the requirements of this chapter, the court shall order the appropriate public defender to represent the person at all further stages of the proceeding through appeal, if any. For ~~those persons~~ a person appealing from a conviction, or a person pursuing a post conviction proceeding, ~~after the time for appeal has expired~~ and who has not already had a direct appeal of the conviction, the state public defender shall be appointed. For ~~all other persons~~ a person covered by section 611.14, clause (1), a district public defender shall be appointed to represent ~~them~~ that person. If (a) conflicting interests exist, (b) the district public defender for any other reason is unable to act, or (c) the interests of justice require, the state public defender may be ordered to represent a person. When the state public defender is directed by a court to represent a defendant or other person, the state public defender may assign the representation to any district public defender. If at any stage of the proceedings, including an appeal, the court finds that the defendant is financially unable to pay counsel whom the defendant had retained, the court may appoint the appropriate public defender to represent the defendant, as provided in this section. Prior to any court appearance, a public defender may represent a person accused of violating the law, who appears to be financially unable to obtain counsel, and shall continue to represent the person unless it is subsequently determined that the person is financially able to obtain counsel. The representation may be made available at the discretion of the public defender, upon the request of the person or someone on the person's behalf. Any law enforcement officer may notify the public defender of the arrest of any such person.

Sec. 4. Minnesota Statutes 1990, section 611.25, subdivision 1, is amended to read:

Subdivision 1. [REPRESENTATION.] The state public defender shall represent, without charge, a defendant or other person appealing from a conviction ~~or pursuing a postconviction proceeding after the time for appeal has expired when the state public defender is directed to do so by a judge of the district court, of the court of appeals or of the supreme court of a felony or gross misdemeanor.~~ The state public defender shall represent, without charge, a person convicted of a felony or gross misdemeanor who is pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction. The state public defender may represent, without charge, all other persons pursuing a postconviction remedy under section 590.01, who are financially unable to obtain counsel. The state public defender shall represent any other person, who is financially unable to obtain counsel, when directed to do so by the supreme court or the court of appeals, except that the state public defender shall not represent a person in any action or proceeding in which a party is seeking a monetary judgment, recovery or award. When requested by a district public defender or appointed counsel, the state public defender may assist the district public defender, appointed counsel, or an organization designated in section 611.216

in the performance of duties, including trial representation in matters involving legal conflicts of interest or other special circumstances, and assistance with legal research and brief preparation. When the state public defender is directed by a court to represent a defendant or other person, the state public defender may, ~~with the court's approval,~~ assign the representation to any district public defender.

Sec. 5. Minnesota Statutes 1990, section 643.29, subdivision 1, is amended to read:

Subdivision 1. ["GOOD CONDUCT" ALLOWANCE.] Any person sentenced for a term to any county jail, workhouse, or correctional work farm, whether the term is part of an executed sentence or as a condition of probation, shall diminish the term of the sentence five days for each month, commencing on the day of arrival, during which the person has not violated any rule or discipline of the place wherein the person is incarcerated and, if required to labor, has labored with diligence and fidelity."

Delete the title and insert:

"A bill for an act relating to the public defender; providing who is eligible to be represented by the public defender; authorizing good conduct reduction of sentence for persons serving terms in local correctional facilities as a condition of probation; amending Minnesota Statutes 1990, sections 590.05; 611.14; 611.18; 611.25, subdivision 1; and 643.29, subdivision 1."

With the recommendation that when so amended the bill pass.

The report was adopted.

Skoglund from the Committee on Financial Institutions and Insurance to which was referred:

S. F. No. 231, A bill for an act relating to insurance; accident and health; defining full-time students for purposes of dependent coverage; proposing coding for new law in Minnesota Statutes, chapter 62A.

Reported the same back with the following amendments:

Page 1, line 8, delete "An" and insert "If an" and delete "that"

Page 1, line 10, delete "if they are" and insert "based on" and delete "students and otherwise" and insert "student status"

Page 1, line 11, delete everything before "must" and insert "the insurer" and delete "treat as a" and insert "include in its definition of" and before "any" insert a comma

Page 1, line 14, delete "if" and insert "so long as"

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

Long moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

REPORTS OF STANDING COMMITTEES, Continued

Simoneau from the Committee on Appropriations to which was referred:

H. F. No. 1422, A bill for an act relating to workers' compensation; regulating benefits and insurance; establishing a permanent commission on workers' compensation; providing penalties; appropriating money; amending Minnesota Statutes 1990, sections 79.252, by adding a subdivision; 176.011, subdivisions 3, 11a, and 18; 176.101, subdivisions 1, 2, and 3f; 176.102, subdivisions 1, 2, 3, 3a, 4, 6, 9, and 11; 176.111, subdivision 18; 176.135, subdivisions 1, 6, and 7; 176.136, subdivisions 1, 2, and by adding subdivisions; 176.645, subdivisions 1 and 2; 176.83, subdivisions 5, 6, and by adding a subdivision; 176A.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 175 and 176; repealing Minnesota Statutes 1990, sections 175.007; and 176.136, subdivision 5.

Reported the same back with the following amendments:

Page 29, delete lines 25 to 31 and insert:

“Beginning January 1, 1992, the cost to the commissioner of labor and industry of administering the workers’ compensation system and the cost of the workers’ compensation division of the office of administrative hearings under this chapter shall be appropriated from the general fund.”

Page 29, delete lines 33 to 36

Page 30, delete line 1 and insert:

“\$5,419,500 for fiscal year 1992 and \$11,229,000 for fiscal year 1993 are appropriated from the general fund to the commissioner of labor and industry for the purpose of administering the workers’ compensation system for the period January 1, 1992 to June 30, 1993.

\$1,729,000 for fiscal year 1992 and \$3,617,000 for fiscal year 1993 are appropriated from the general fund to the office of administrative hearings for the purpose of administering the workers’ compensation division for the period January 1, 1992 to June 30, 1993.

If the appropriation for either year is insufficient, the appropriation from the other year is available for the biennium ending June 30, 1993.”

Page 30, delete section 5

Page 30, line 28, delete everything after the period

Page 30, line 29, delete “1992.” and delete “6” and insert “5”

Page 33, line 24, delete “must be charged to” and insert “shall be appropriated from”

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

With the recommendation that when so amended the bill pass.

MINORITY REPORT

April 15, 1991

We, the undersigned, being a minority of the Committee on Appropriations, recommend that H. F. No. 1422 do pass with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

SCOPE OF COVERAGE/LIABILITY

Section 1. Minnesota Statutes 1990, section 176.011, subdivision 11a, is amended to read:

Subd. 11a. [FAMILY FARM.] "Family farm" means any farm operation which (1) pays or is obligated to pay less than ~~\$8,000~~ \$20,000 in cash wages, exclusive of machine hire, to farm laborers for services rendered during the preceding calendar year, and (2) has total liability and medical payment coverage equal to \$200,000 and \$5,000, respectively, under a farm liability insurance policy. For purposes of this subdivision, farm laborer does not include any spouse, parent or child, regardless of age, of a farmer employed by the farmer, or any executive officer of a family farm corporation as defined in section 500.24, subdivision 2, or any spouse, parent or child, regardless of age, of such an officer employed by that family farm corporation, or other farmers in the same community or members of their families exchanging work with the employer. Notwithstanding any law to the contrary, a farm laborer shall not be considered as an independent contractor for the purposes of this chapter; provided that a commercial baler or commercial thresher shall be considered an independent contractor.

Sec. 2. Minnesota Statutes 1990, section 176.041, subdivision 1a, is amended to read:

Subd. 1a. [ELECTION OF COVERAGE.] The persons, partnerships and corporations described in this subdivision may elect to provide the insurance coverage required by this chapter.

(a) An owner or owners of a business or farm may elect coverage for themselves.

(b) A partnership owning a business or farm may elect coverage for any partner.

(c) A family farm corporation as defined in section 500.24, subdivision 2, clause (c), may elect coverage for any executive officer.

(d) A closely held corporation which had less than 22,880 hours of payroll in the previous calendar year may elect coverage for any executive officer if that executive officer is also an owner of at least 25 percent of the stock of the corporation.

(e) A person, partnership, or corporation that receives the services of a voluntary uncompensated worker who is not required to be covered under this chapter may elect to provide coverage for that worker.

(f) A person, partnership, or corporation hiring an independent contractor, as defined by rules adopted by the commissioner, may elect to provide coverage for that independent contractor. A person, partnership, or corporation may charge the independent contractor a fee for providing the coverage only if the independent contractor (1) elects in writing to be covered, (2) is issued an endorsement setting forth the terms of the coverage, the name of the independent contractors, and the fee and how it is calculated.

The persons, partnerships, and corporations described in this subdivision may also elect coverage for an employee who is a spouse, parent, or child, regardless of age, of an owner, partner, or executive officer, who is eligible for coverage under this subdivision. Coverage may be elected for a spouse, parent, or child whether or not coverage is elected for the related owner, partner, or executive director and whether or not the person, partnership, or corporation employs any other person to perform a service for hire. Any person for whom coverage is elected pursuant to this subdivision shall be included within the meaning of the term employee for the purposes of this chapter.

Notice of election of coverage or of termination of election under this subdivision shall be provided in writing to the insurer. Coverage or termination of coverage is effective the day following receipt of notice by the insurer or at a subsequent date if so indicated in the notice. The insurance policy shall be endorsed to indicate the names of those persons for whom coverage has been elected or terminated under this subdivision. An election of coverage under this subdivision shall continue in effect as long as a policy or renewal policy of the same insurer is in effect.

Nothing in this subdivision shall be construed to limit the responsibilities of owners, partnerships, or corporations to provide coverage for their employees, if any, as required under this chapter.

Sec. 3. Minnesota Statutes 1990, section 176.183, subdivision 1, is amended to read:

Subdivision 1. When any employee sustains an injury arising out of and in the course of employment while in the employ of an employer, other than the state or its political subdivisions, not

insured or self-insured as provided for in this chapter, the employee or the employee's dependents shall nevertheless receive benefits as provided for in this chapter from the special compensation fund, and the commissioner has a cause of action against the employer for reimbursement for all moneys paid out or to be paid out, and, in the discretion of the court, as punitive damages an additional amount not exceeding 50 60 percent of all moneys paid out or to be paid out. As used in this subdivision, "employer" includes officers of corporations who have legal control, either individually or jointly with another or others, of the payment of wages. An action to recover the moneys shall be instituted unless the commissioner determines that no recovery is possible. All moneys recovered shall be deposited in the general fund. There shall be no payment from the special compensation fund if there is liability for the injury under the provisions of section 176.215, by an insurer or self-insurer.

Sec. 4. Minnesota Statutes 1990, section 176.215, is amended by adding a subdivision to read:

Subd. 1a. [EXCLUSIVE REMEDY.] The liability of a general contractor, intermediate contractor, or subcontractor who pays compensation pursuant to subdivision 1, to an injured individual who is not an employee of the general contractor, intermediate contractor, or subcontractor is exclusive and in the place of any other liability to the individual, the individual's personal representative, surviving spouse, parent, any child, dependent, next of kin, or other person entitled to recover damages on account of the individual's injury or death.

Sec. 5. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1992. Sections 2 to 4 are effective the day following final enactment.

ARTICLE 2

COMPENSATION BENEFITS

Section 1. Minnesota Statutes 1990, section 176.011, subdivision 3, is amended to read:

Subd. 3. [DAILY WAGE.] "Daily wage" means the daily wage of the employee in the employment engaged in at the time of injury but does not include tips and gratuities paid directly to an employee by a customer of the employer and not accounted for by the employee to the employer. If the amount of the daily wage received or to be received by the employee in the employment engaged in at the time of injury was irregular or difficult to determine, or if the employment was part time, the daily wage shall be computed by dividing the total amount the employee actually earned in such employment

in the last 26 weeks, by the total number of days in which the employee actually performed any of the duties of such employment, provided further, that in the case of the construction industry, mining industry, or other industry where the hours of work are affected by seasonal conditions, the weekly wage shall not be less than five times the daily wage. Where board or allowances other than tips and gratuities are made to an employee in addition to wages as a part of the wage contract they are deemed a part of earnings and computed at their value to the employee. In the case of persons performing services for municipal corporations in the case of emergency, then the normal working day shall be considered and computed as eight hours, and in cases where such services are performed gratis or without fixed compensation the daily wage of the person injured shall, for the purpose of calculating compensation payable under this chapter, be taken to be the usual going wage paid for similar services in municipalities where such services are performed by paid employees. If, at the time of injury, the employee was regularly employed by two or more employers, the employee's earnings in all such employments shall be included in the computation of daily wage. Holiday pay and vacation pay shall not be included in the calculation of daily wage.

Sec. 2. Minnesota Statutes 1990, section 176.011, subdivision 18, is amended to read:

Subd. 18. [WEEKLY WAGE.] "Weekly wage" is arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved. *If the employee normally works less than five days per week or works an irregular number of days per week, the number of days normally worked shall be computed by dividing the total number of days in which the employee actually performed any of the duties of employment in the last 26 weeks by the number of weeks in which the employee actually performed such duties, provided that the weekly wage for part time employment during a period of seasonal or temporary layoff shall be computed on the number of days and fractional days normally worked in the business of the employer for the employment involved.* If, at the time of the injury, the employee was regularly employed by two or more employers, the employee's days of work for all such employments shall be included in the computation of weekly wage. Occasional overtime is not to be considered in computing the weekly wage, but if overtime is regular or frequent throughout the year it shall be taken into consideration. Holiday pay and vacation pay shall not be included in the calculation of weekly wage. The maximum weekly compensation payable to an employee, or to the employee's dependents in the event of death, shall not exceed $66 \frac{2}{3}$ 80 percent of the product of the daily wage times the number of days normally worked employee's after-tax weekly wage, provided that the compensation payable for permanent partial disability under section 176.101, subdivision 3, and for permanent total disability under section 176.101, subdi-

vision 4, or death under section 176.111, shall not be computed on less than the number of hours normally worked in the employment or industry in which the injury was sustained, subject also to such maximums as are specifically otherwise provided.

Sec. 3. Minnesota Statutes 1990, section 176.011, is amended by adding a subdivision to read:

Subd. 18a. [AFTER-TAX WEEKLY WAGE.] "After-tax weekly wage" means the weekly wage reduced by the amounts required to be withheld by the Federal Insurance Contributions Act, United States Code, title 16, sections 3101 to 3126, but without regard to the yearly maximum, and by state and federal income tax laws using as the number of allowances the number of exemptions that the employee is entitled to under federal law for the employee and the employee's dependents and without additional allowances. The after-tax weekly wage must be determined as of the date of injury, and changes in dependents after that date may not be considered.

Sec. 4. Minnesota Statutes 1990, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of compensation at the time and in the manner prescribed by this chapter without the necessity of any agreement or any order of the division. Except for medical, burial, and other nonperiodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by section 176.101, subdivision 3. If doubt exists as to the eventual permanent partial disability, payment for the ~~economic recovery compensation or impairment compensation, whichever is due, pursuant to section 176.101,~~ shall be ~~then~~ made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. Prior to or at the time of commencement of the payment of ~~economic recovery compensation or lump sum or periodic payment of impairment permanent partial disability compensation,~~ the employee and employer shall be furnished with a copy of the medical report upon which the payment is based and all other medical reports which the insurer has that indicate a permanent partial disability rating, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. ~~Economic recovery compensation or impairment compensation pursuant to section 176.101 is payable in~~

addition to but not concurrently with compensation for temporary total disability but is payable pursuant to section 176.101. Impairment compensation is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101. Economic recovery compensation or impairment compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total disability, and no credit shall be taken for payment of economic recovery compensation or impairment compensation against liability for temporary total or future permanent total disability. Liability on the part of an employer or the insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and compensation is payable accordingly, subject to section 176.101. Economic recovery compensation or impairment compensation is payable for functional loss of use or impairment of function, permanent in nature, and payment therefore shall be separate, distinct, and in addition to payment for any other compensation, subject to section 176.101. The right to receive temporary total, temporary partial, or permanent total disability payments vests in the injured employee or the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained and the right is not abrogated by the employee's death prior to the making of the payment.

The right to receive economic recovery compensation or impairment permanent partial compensation vests in an injured employee or in the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained, provided that the employee lives for at least 30 days beyond the date of the injury. Upon the death of an employee who is receiving economic recovery compensation or impairment compensation, further compensation is payable pursuant to section 176.101. Impairment compensation is payable under this paragraph if vesting has occurred, the employee dies prior to reaching maximum medical improvement, and the requirements and conditions under section 176.101, subdivision 3e, are not met.

Disability ratings for permanent partial disability shall be based on objective medical evidence. The right is not abrogated by the employee's death prior to the making of the payment.

Sec. 5. Minnesota Statutes 1990, section 176.061, subdivision 10, is amended to read:

Subd. 10. [INDEMNITY.] Notwithstanding the provisions of chapter 65B or any other law to the contrary, an employer has a right of indemnity for any compensation paid or payable pursuant to this chapter, including temporary total compensation, temporary partial compensation, permanent partial disability, economic recovery com-

~~ensation, impairment compensation, medical compensation, rehabilitation, death, and permanent total compensation.~~

Sec. 6. Minnesota Statutes 1990, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] (a) For an injury producing temporary total disability, the compensation is ~~66-2/3~~ 80 percent of the after-tax weekly wage at the time of injury.

~~(1) provided that~~ (b) During the year commencing on October 1, 1979 1991, and each year thereafter, commencing on October 1, the maximum weekly compensation payable is 105 percent of the statewide average weekly wage for the period ending December 31, of the preceding year.

~~(2) (c) The minimum weekly compensation benefits for temporary total disability shall be not less than 50 payable is 20 percent of the statewide average weekly wage or the injured employee's actual after-tax weekly wage, whichever is less. In no case shall a weekly benefit be less than 20 percent of the statewide average weekly wage.~~

~~Subject to subdivisions 3a to 3u this~~ (d) Temporary total compensation shall be paid during the period of disability; ~~payment to be made at the intervals when the wage was payable, as nearly as may be, and shall cease whenever any one of the following occurs:~~

(1) the disability ends;

(2) the employee returns to work;

(3) the employee retires by withdrawing from the labor market;

(4) the employee fails to diligently search for appropriate work;

(5) the employee refuses an offer of work that is consistent with a plan of rehabilitation filed with the commissioner which meets the requirements of section 176.102, subdivision 1, or, if no plan has been filed, the employee refuses an offer of work that the employee can do in the employee's physical condition; or

(6) 90 days pass after the employee has reached maximum medical improvement, except as provided in section 176.102, subdivision 11, paragraph (b).

(e) For purposes of this subdivision, the 90-day period after maximum medical improvement commences on the earlier of:

(1) the date that the employee receives a written medical report indicating that the employee has reached maximum medical improvement; or

(2) the date that the employer or insurer serves the report on the employee and the employee's attorney, if any, and files a copy with the division.

(f) Once temporary total disability compensation has ceased under paragraph (d), clause (1), (2), (3), or (4), it may be recommenced prior to 90 days after maximum medical improvement only as follows:

(1) if temporary total disability compensation ceased under paragraph (d), clause (1), it may be recommenced if the employee again becomes disabled as a result of the work-related injury;

(2) if temporary total disability compensation ceased under paragraph (d), clause (2), it may be recommenced if the employee is laid off or terminated for reasons other than misconduct or is medically unable to continue at the job;

(3) if temporary total disability compensation ceased under paragraph (d), clause (3), but the employee subsequently returned to work, it may be recommenced in accordance with paragraph (f), clause (2); or

(4) if temporary total disability compensation ceased under paragraph (d), clause (4), it may be recommenced if the employee begins diligently searching for appropriate work. Temporary total disability compensation recommenced under this paragraph is subject to cessation under paragraph (d).

Recommenced temporary total disability compensation may not be paid beyond 90 days after the employee reaches maximum medical improvement, except as provided under section 176.102, subdivision 11, paragraph (b).

(g) Once temporary total disability compensation has ceased under paragraph (d), clauses (5) and (6), it may not be recommenced at a later date except as provided under section 176.102, subdivision 11, paragraph (b).

Sec. 7. Minnesota Statutes 1990, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] (a) In all cases of temporary partial disability the compensation shall be ~~66-2/3 percent of the difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition.~~ 80 percent of the difference

between the after-tax weekly wage of the employee at the time of injury and the after-tax weekly wage the employee is able to earn in the employee's partially disabled condition.

(b) This Temporary partial compensation shall be paid during the period of disability except as provided in this section; payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation equal to the statewide average weekly wage: when the employee is working, earning less than the employee's weekly wage at the time of the injury, and the reduction in the wage the employee is able to earn in the employee's partially disabled condition is due to the injury. Except as provided in section 176.102, subdivision 11, paragraph (b), temporary partial compensation may not be paid after the employee has returned to work for 156 weeks, including weeks in which the employee has no wage loss, or after 350 weeks after the date of injury, whichever occurs first.

(c) Temporary partial compensation may not exceed the maximum rate for temporary total compensation and must be reduced to the extent that the wage the employee is able to earn in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 300 percent of the statewide average weekly wage.

Sec. 8. Minnesota Statutes 1990, section 176.101, is amended by adding a subdivision to read:

Subd. 3. [PERMANENT PARTIAL DISABILITY.] (a) Compensation for permanent partial disability is as provided in this subdivision. Permanent partial disability must be rated as a percentage of the whole body in accordance with rules adopted by the commissioner under section 176.105. The percentage determined pursuant to the rules must be multiplied by the corresponding amount in the following table:

<u>Percent of Disability</u>	<u>Amount</u>
0-25	\$ 75,000
26-30	80,000
31-35	85,000
36-40	90,000
41-45	95,000
46-50	100,000
51-55	120,000
56-60	140,000
61-65	160,000
66-70	180,000
71-75	200,000
76-80	240,000
81-85	280,000

<u>86-90</u>	<u>320,000</u>
<u>91-95</u>	<u>360,000</u>
<u>96-100</u>	<u>400,000</u>

An employee may not receive compensation for more than a 100 percent disability of the whole body, even if the employee sustains disability to two or more body parts.

(b) Permanent partial disability is payable upon cessation of temporary total disability under subdivision 1. If the employee is not working, the compensation is payable in installments at the same intervals and in the same amount as the initial temporary total disability rate. If the employee returns to work, the remaining compensation is payable in a lump sum 30 days after the employee returned to work, provided the employment has not been substantially interrupted by the injury for any part of the 30 days and the employee is still employed at the job at the end of the period. Permanent partial disability is not payable while temporary total compensation is being paid. Permanent partial disability is payable to permanently totally disabled employees in a lump sum at the time the disability can be ascertained.

Sec. 9. Minnesota Statutes 1990, section 176.101, subdivision 4, is amended to read:

Subd. 4. [PERMANENT TOTAL DISABILITY.] For permanent total disability, as defined in subdivision 5, the compensation shall be ~~66 2/3~~ 80 percent of the daily after-tax weekly wage at the time of the injury, subject to ~~a maximum weekly compensation equal to the maximum weekly compensation for a temporary total disability and a minimum weekly compensation equal to the minimum weekly compensation rates for a temporary total disability.~~ This compensation shall be paid during the permanent total disability of the injured employee but after a total of \$25,000 of weekly compensation has been paid, the amount of the weekly compensation benefits being paid by the employer shall be reduced by the amount of any disability benefits being paid by any government disability benefit program ~~if the disability benefits are occasioned by the same injury or injuries which give rise to payments under this subdivision.~~ This reduction shall also apply to any old age and survivor insurance benefits. Permanent total disability payments shall cease at retirement. Payments shall be made at the intervals when the wage was payable, as nearly as may be. In case an employee who is permanently and totally disabled becomes an inmate of a public institution, no compensation shall be payable during the period of confinement in the institution, unless there is wholly dependent on the employee for support some person named in section 176.111, subdivision 1, 2 or 3, in which case the compensation provided for in section 176.111, during the period of confinement, shall be paid for the benefit of the dependent person during dependency. The depen-

gency of this person shall be determined as though the employee were deceased.

Sec. 10. Minnesota Statutes 1990, section 176.101, subdivision 5, is amended to read:

Subd. 5. [TOTAL DISABILITY DEFINITION.] (a) For purposes of subdivision 4, permanent total disability means only:

(1) the total and permanent loss of the sight of both eyes, the loss of both arms at the shoulder, the loss of both legs so close to the hips that no effective artificial members can be used, complete and permanent paralysis, total and permanent loss of mental faculties; or

(2) any other injury which totally and permanently incapacitates the employee from working at an occupation which brings the employee an income ~~constitutes total disability~~.

(b) For purposes of paragraph (a), clause (2), "totally and permanently incapacitated" means that the employee's physical disability, in combination with the employee's age, education and training, and experience, causes the employee to be unable to secure anything more than sporadic employment resulting in an insubstantial income. Local labor market conditions may not be considered in making the total and permanent incapacitation determination.

Sec. 11. Minnesota Statutes 1990, section 176.101, subdivision 6, is amended to read:

Subd. 6. [MINORS.] If any employee entitled to the benefits of this chapter is a minor or is an apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total or a compensable permanent partial disability, for the purpose of computing the compensation to which the employee is entitled for the injury, the compensation rate for temporary total, temporary partial, a permanent total disability or economic recovery compensation shall be 105 percent of the state-wide average weekly wage.

Sec. 12. Minnesota Statutes 1990, section 176.101, is amended by adding a subdivision to read:

Subd. 9. [MOVING EXPENSES.] An injured employee who has reached maximum medical improvement and who is unable to find suitable gainful employment consistent with the individual's physical disability, in combination with the individual's age, education and training, and experience, due to local labor market conditions is eligible to receive up to \$5,000 for moving expenses, provided:

(1) 90 days have passed after the individual has reached maximum medical improvement;

(2) the individual has actually moved in order to take a new job which constitutes suitable gainful employment; and

(3) the new job is located at a distance greater than 35 miles from the individual's current residence.

Sec. 13. Minnesota Statutes 1990, section 176.102, subdivision 11, is amended to read:

Subd. 11. [RETRAINING; COMPENSATION.] (a) Retraining is limited to 156 weeks. An employee who has been approved for retraining may petition ~~the commissioner~~ for additional compensation not to exceed 25 percent of the compensation otherwise payable. If the commissioner or compensation judge determines that this additional compensation is warranted due to unusual or unique circumstances of the employee's retraining plan, the commissioner or compensation judge may award additional compensation in an amount ~~the commissioner determines is appropriate~~, not to exceed the employee's request. This additional compensation shall cease at any time the commissioner or compensation judge determines the special circumstances are no longer present.

(b) If the employee is not working during a retraining plan that has been specifically approved under this section, temporary total compensation is payable for up to 90 days after the end of the retraining plan; except that, payment during the 90-day period is subject to cessation in accordance with section 176.101, subdivision 1, paragraph (d), clauses (1) to (5). If the employee is working during the retraining plan but earning less than at the time of injury, temporary partial compensation is payable at the rate of 80 percent of the difference between the employee's after-tax weekly wage at the time of injury and the after-tax weekly wage the employee is able to earn in the employee's partially disabled condition, subject to the maximum rate for temporary total compensation. Temporary partial compensation is not subject to either the 156-week or the 350-week limitation provided by section 176.101, subdivision 2, during the retraining plan, but is subject to those limitations before and after the plan.

(c) Retraining may not be approved if the employee has refused suitable gainful employment, as defined by rule.

Sec. 14. Minnesota Statutes 1990, section 176.105, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE; RULES.] (a) The commissioner of labor and industry shall by rule establish a schedule of degrees of

disability resulting from different kinds of injuries. Disability ratings under the schedule for permanent partial disability must be based on objective medical evidence. The commissioner, in consultation with the medical services review board, shall periodically review the rules adopted under this paragraph to determine whether any injuries omitted from the schedule should be compensable and amend the rules accordingly.

(b) No permanent partial disability compensation shall be payable except in accordance with the disability ratings established under this subdivision. The schedule may provide that minor impairments receive a zero rating.

Sec. 15. Minnesota Statutes 1990, section 176.105, subdivision 4, is amended to read:

Subd. 4. [LEGISLATIVE INTENT; RULES; LOSS OF MORE THAN ONE BODY PART.] (a) For the purpose of establishing a disability schedule pursuant to clause (b), the legislature declares its intent that the commissioner establish a disability schedule which, assuming the same number and distribution of severity of injuries, the aggregate total of impairment compensation and economic recovery compensation benefits under section 176.101, subdivisions 3a to 3u be approximately equal to the total aggregate amount payable for permanent partial disabilities under section 176.101, subdivision 3, provided, however, that awards for specific injuries under the proposed schedule need not be the same as they were for the same injuries under the schedule pursuant to section 176.101, subdivision 3. The schedule shall be determined by sound actuarial evaluation and shall be based on the benefit level which exists on January 1, 1983.

(b) The commissioner shall by rulemaking adopt procedures setting forth rules for the evaluation and rating of functional disability and the schedule for permanent partial disability and to determine the percentage of loss of function of a part of the body based on the body as a whole, including internal organs, described in section 176.101, subdivision 3, and any other body part not listed in section 176.101, subdivision 3, which the commissioner deems appropriate.

The rules shall promote objectivity and consistency in the evaluation of permanent functional impairment due to personal injury and in the assignment of a numerical rating to the functional impairment.

Prior to adoption of rules the commissioner shall conduct an analysis of the current permanent partial disability schedule for the purpose of determining the number and distribution of permanent partial disabilities and the average compensation for various permanent partial disabilities. The commissioner shall consider setting

the compensation under the proposed schedule for the most serious conditions higher in comparison to the current schedule and shall consider decreasing awards for minor conditions in comparison to the current schedule.

The commissioner may consider, among other factors, and shall not be limited to the following factors in developing rules for the evaluation and rating of functional disability and the schedule for permanent partial disability benefits:

(1) the workability and simplicity of the procedures with respect to the evaluation of functional disability;

(2) the consistency of the procedures with accepted medical standards;

(3) rules, guidelines, and schedules that exist in other states that are related to the evaluation of permanent partial disability or to a schedule of benefits for functional disability provided that the commissioner is not bound by the degree of disability in these sources but shall adjust the relative degree of disability to conform to the expressed intent of clause (a);

(4) rules, guidelines, and schedules that have been developed by associations of health care providers or organizations provided that the commissioner is not bound by the degree of disability in these sources but shall adjust the relative degree of disability to conform to the expressed intent of clause (a);

(5) the effect the rules may have on reducing litigation;

(6) the treatment of preexisting disabilities with respect to the evaluation of permanent functional disability provided that any preexisting disabilities must be objectively determined by medical evidence; and

(7) symptomatology and loss of function and use of the injured member.

The factors in paragraphs (1) to (7) shall not be used in any individual or specific workers' compensation claim under this chapter but shall be used only in the adoption of rules pursuant to this section.

Nothing listed in paragraphs (1) to (7) shall be used to dispute or challenge a disability rating given to a part of the body so long as the whole schedule conforms with the expressed intent of clause (a).

(c) If an employee suffers a permanent functional disability of more than one body part due to a personal injury incurred in a single

occurrence, the percent of the whole body which is permanently partially disabled shall be determined by the following formula so as to ensure that the percentage for all functional disability combined does not exceed the total for the whole body:

$$A + B (1 - A)$$

where: A is the greater percentage whole body loss of the first body part; and B is the lesser percentage whole body loss otherwise payable for the second body part. $A + B (1 - A)$ is equivalent to $A + B - AB$.

For permanent partial disabilities to three body parts due to a single occurrence or as the result of an occupational disease, the above formula shall be applied, providing that A equals the result obtained from application of the formula to the first two body parts and B equals the percentage for the third body part. For permanent partial disability to four or more body parts incurred as described above, A equals the result obtained from the prior application of the formula, and B equals the percentage for the fourth body part or more in arithmetic progressions.

Sec. 16. Minnesota Statutes 1990, section 176.111, subdivision 6, is amended to read:

Subd. 6. [SPOUSE, NO DEPENDENT CHILD.] If the deceased employee leaves a dependent surviving spouse and no dependent child, there shall be paid to the spouse weekly workers' compensation benefits at 50 85 percent of the after-tax weekly wage at the time of the injury for a period of ten years, including adjustments as provided in section 176.645.

Sec. 17. Minnesota Statutes 1990, section 176.111, subdivision 7, is amended to read:

Subd. 7. [SPOUSE, ONE DEPENDENT CHILD.] If the deceased employee leaves a surviving spouse and one dependent child, there shall be paid to the surviving spouse for the benefit of the spouse and child 60 85 percent of the daily after-tax weekly wage at the time of the injury of the deceased until the child is no longer a dependent as defined in subdivision 1. At that time there shall be paid to the dependent surviving spouse weekly benefits at a the same rate which is 16-2/3 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent, for a period of ten years, including adjustments as provided in section 176.645.

Sec. 18. Minnesota Statutes 1990, section 176.111, subdivision 8, is amended to read:

Subd. 8. [SPOUSE, TWO DEPENDENT CHILDREN.] If the deceased employee leaves a surviving spouse and two dependent children, there shall be paid to the surviving spouse for the benefit of the spouse and children ~~66-2/3~~ 85 percent of the ~~daily~~ after-tax weekly wage at the time of the injury of the deceased until the last dependent child is no longer dependent. At that time the dependent surviving spouse shall be paid weekly benefits at a ~~the same rate which is 25 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent,~~ for a period of ten years, adjusted according to section 176.645.

Sec. 19. Minnesota Statutes 1990, section 176.111, subdivision 12, is amended to read:

Subd. 12. [ORPHANS.] If the deceased employee leaves a dependent orphan, there shall be paid ~~55~~ 85 percent of the after-tax weekly wage at the time of the injury of the deceased, for two or more orphans there shall be paid ~~66-2/3~~ 85 percent of the wages after-tax weekly wage.

Sec. 20. Minnesota Statutes 1990, section 176.111, subdivision 14, is amended to read:

Subd. 14. [PARENTS.] If the deceased employee ~~leave~~ leaves no surviving spouse or child entitled to any payment under this chapter, but leaves both parents wholly dependent on the deceased, there shall be paid to such parents jointly ~~45~~ 85 percent of the after-tax weekly wage at the time of the injury of the deceased. In case of the death of either of the wholly dependent parents the survivor shall receive ~~35~~ 85 percent of the after-tax weekly wage thereafter. If the deceased employee ~~leave~~ leaves one parent wholly dependent on the deceased, there shall be paid to such parent ~~35~~ 85 percent of the after-tax weekly wage at the time of the injury of the deceased employee. The compensation payments under this section shall not exceed the actual contributions made by the deceased employee to the support of the employee's parents for a reasonable time immediately prior to the injury which caused the death of the deceased employee.

Sec. 21. Minnesota Statutes 1990, section 176.111, subdivision 15, is amended to read:

Subd. 15. [REMOTE DEPENDENTS.] If the deceased employee leaves no surviving spouse or child or parent entitled to any payment under this chapter, but leaves a grandparent, grandchild, brother, sister, mother-in-law, or father-in-law wholly dependent on the employee for support, there shall be paid to such dependent, if but one, ~~30~~ 45 percent of the after-tax weekly wage at the time of injury of the deceased, or if more than one, ~~35~~ 50 percent of the after-tax

weekly wage at the time of the injury of the deceased, divided among them share and share alike.

Sec. 22. Minnesota Statutes 1990, section 176.111, subdivision 18, is amended to read:

Subd. 18. [BURIAL EXPENSE.] In all cases where death results to an employee from a personal injury arising out of and in the course of employment, the employer shall pay the expense of burial, not exceeding in amount ~~\$2,500~~ \$8,000. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, its reasonable value shall be determined and approved by the commissioner, a compensation judge, or workers' compensation court of appeals, in cases upon appeal, before payment, after reasonable notice to interested parties as is required by the commissioner. If the deceased leaves no dependents, no compensation is payable, except as provided by this chapter.

Sec. 23. Minnesota Statutes 1990, section 176.111, subdivision 20, is amended to read:

Subd. 20. [ACTUAL DEPENDENTS, COMPENSATION.] Actual dependents are entitled to take compensation in the order named in subdivision 3 during dependency until ~~66-2/3~~ 85 percent of the after-tax weekly wage of the deceased at the time of injury is exhausted. The total weekly compensation to be paid to full actual dependents of a deceased employee shall not exceed in the aggregate an amount equal to the maximum weekly compensation for a temporary total disability.

Sec. 24. Minnesota Statutes 1990, section 176.111, subdivision 21, is amended to read:

Subd. 21. [DEATH, BENEFITS; COORDINATION WITH GOVERNMENTAL SURVIVOR BENEFITS.] The following provision shall apply to any dependent entitled to receive weekly compensation benefits under this section as the result of the death of an employee, and who is also receiving or entitled to receive benefits under any government survivor program:

The combined total of weekly government survivor benefits and workers' compensation death benefits provided under this section shall not exceed 100 percent of the after-tax weekly wage being earned by the deceased employee at the time of the injury causing death; provided, however, that no state workers' compensation death benefit shall be paid for any week in which the survivor benefits paid under the federal program, by themselves, exceed 100 percent of such weekly wage provided, however, the workers' compensation benefits payable to a dependent surviving spouse shall not be reduced on account of any governmental survivor benefits payable to

decendent's children if the support of the children is not the responsibility of the dependent surviving spouse.

For the purposes of this subdivision "dependent" means dependent surviving spouse together with all dependent children and any other dependents. For the purposes of this subdivision, mother's or father's insurance benefits received pursuant to United States Code, title 42, section 402(g), are benefits under a government survivor program.

Sec. 25. Minnesota Statutes 1990, section 176.131, subdivision 8, is amended to read:

Subd. 8. [DEFINITIONS.] As used in this section, the following terms have the meanings given them:

"Physical impairment" means any physical or mental condition that is permanent in nature, whether congenital or due to injury, disease or surgery and which is or is likely to be a hindrance or obstacle to obtaining employment, except that physical impairment is limited to the following:

- (a) epilepsy,
- (b) diabetes,
- (c) hemophilia,
- (d) cardiac disease, provided that objective medical evidence substantiates at least the minimum permanent partial disability listed in the workers' compensation permanent partial disability schedule,
- (e) partial or entire absence of thumb, finger, hand, foot, arm, or leg,
- (f) lack of sight in one or both eyes or vision in either eye not correctable to 20/40,
- (g) residual disability from poliomyelitis,
- (h) cerebral palsy,
- (i) multiple sclerosis,
- (j) Parkinson's disease,
- (k) cerebral vascular accident,
- (l) chronic osteomyelitis,

- (m) muscular dystrophy,
- (n) thrombophlebitis,
- (o) brain tumors,
- (p) Pott's disease,
- (q) seizures,
- (r) cancer of the bone,
- (s) leukemia,
- (t) mental retardation or other related conditions,

(u) any other physical impairment resulting in a disability rating of at least ~~ten~~ 25 percent of the whole body if the physical impairment were evaluated according to standards used in workers' compensation proceedings, and

(v) any other physical impairments of a permanent nature which the commissioner may by rule prescribe.

"Compensation" has the meaning defined in section 176.011.

"Employer" includes insurer.

"Disability" means, unless otherwise indicated, any condition causing either temporary total, temporary partial, permanent total, permanent partial, death, medical expense, or rehabilitation.

"Mental retardation" means significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior that require supervision and protection for the person's welfare or the public welfare.

"Other related conditions" means severe chronic disabilities that are (i) attributable to cerebral palsy, epilepsy, autism, or any other condition, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment or services similar to those required for persons with mental retardation; (ii) likely to continue indefinitely; and (iii) result in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, or capacity for independent living.

Sec. 26. Minnesota Statutes 1990, section 176.131, is amended by adding a subdivision to read:

Subd. 13. [APPLICABLE LAW.] The right to reimbursement under this section is governed by the law in effect on the date of the subsequent injury.

Sec. 27. Minnesota Statutes 1990, section 176.132, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE RECIPIENTS.] (a) An employee who has suffered personal injury prior to October 1, 1983 for which benefits are payable under section 176.101 and who has been totally disabled for more than 104 weeks shall be eligible for supplementary benefits as prescribed in this section after 104 weeks have elapsed and for the remainder of the total disablement. Regardless of the number of weeks of total disability, no totally disabled person is ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, ~~except as provided by clause (b),~~ provided that all periods of disability are caused by the same injury.

(b) An employee who has suffered personal injury after October 1, 1983, and before October 1, 1987, is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of total disability, no person who is receiving temporary total compensation shall be ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

(c) An employee who has suffered a personal injury after October 1, 1987, and is permanently totally disabled as defined in section 176.101, subdivisions 4 and 5, is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of total disability, no person who is receiving permanent total compensation shall be ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

Sec. 28. Minnesota Statutes 1990, section 176.132, subdivision 2, is amended to read:

Subd. 2. [AMOUNT.] (a) The supplementary benefit payable under this section subdivision 1, paragraphs (a) and (b), shall be the difference between the amount the employee receives on or after January 1, 1976, under section 176.101, subdivision 1 or 4, and 65 percent of the statewide average weekly wage as computed annually.

The supplementary benefit payable under subdivision 1, paragraph (c), shall be the difference between:

(1) the amount the employee receives on or after October 1, 1991, under section 176.101, subdivision 4; plus the amount of disability benefits being paid under any government disability benefit program, provided those benefits are a result of the same injury or injuries giving rise to payments under section 176.101, subdivision 4; plus the amount of any federal old age and survivors insurance benefits; and

(2) 50 percent of the statewide average weekly wage, as computed annually.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or 65 50 percent of the statewide average weekly wage as computed annually, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section. Attorney's fees shall be allowed in settlements of claims for supplementary benefits in accordance with this chapter.

(d) In the event an eligible recipient under subdivision 1, paragraph (a) or (b), is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and 65 percent of the statewide average weekly wage as computed annually.

(e) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent. If the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provisions of United States Code, title 42, section 424a(d), this reduction shall not apply.

(f) Notwithstanding any other provision in this subdivision to the contrary, if the ~~individual~~ eligible recipient does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provision of United States Code, title 42, section 424a(d), the calculation of supplementary benefits payable to the individual shall be as provided under this section in Minnesota Statutes ~~1988~~ 1990.

Sec. 29. Minnesota Statutes 1990, section 176.132, subdivision 3, is amended to read:

Subd. 3. [PAYMENT.] The payment of supplementary benefits shall be the responsibility of the employer or insurer currently paying total disability benefits under subdivision 1, paragraph (a) or (b), or currently paying permanent total disability benefits under subdivision 1, paragraph (c), or any other payer of such benefits. When the eligible individual is not currently receiving benefits because the total paid has reached the maximum prescribed by law the employer and insurer shall, nevertheless, pay the supplementary benefits that are prescribed by law. The employer or insurer paying the supplementary benefit shall have the right of full reimbursement from the special compensation fund for the amount of such benefits paid.

Sec. 30. [176.178] [FRAUD.]

Any person who, with intent to defraud, receives workers' compensation benefits to which the person is not entitled by knowingly misrepresenting, misstating, or failing to disclose any material fact is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3.

Sec. 31. Minnesota Statutes 1990, section 176.179, is amended to read:

176.179 [PAYMENTS OF COMPENSATION RECEIVED IN GOOD FAITH RECOVERY OF OVERPAYMENTS.]

Notwithstanding section 176.521, subdivision 3, or any other provision of this chapter to the contrary, except as provided in this section, no lump sum or weekly payment, or settlement, which is voluntarily paid to an injured employee or the survivors of a deceased employee in apparent or seeming accordance with the provisions of this chapter by an employer or insurer, or is paid pursuant to an order of the workers' compensation division, a compensation judge, or court of appeals relative to a claim by an injured employee or the employee's survivors, and received in good faith by the employee or the employee's survivors shall be refunded to the paying employer or insurer in the event that it is subsequently determined that the payment was made under a mistake in fact or law by the employer or insurer. When the payments have been made

to a person who is entitled to receive further payments of compensation for the same injury, the mistaken compensation may be taken as a full credit against future lump sum benefit entitlement and as a partial credit against future weekly benefits. The credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits, death benefits, or weekly payments of ~~economic recovery or impairment~~ permanent partial compensation shall not exceed 20 percent of the amount that would otherwise be payable.

Where the commissioner or compensation judge determines that the mistaken compensation was not received in good faith, the commissioner or compensation judge may order reimbursement of the compensation or order a credit for the compensation against any future monetary benefits from the same injury. The credit may be up to 100 percent of the amount of monetary benefits otherwise payable. For purposes of this section, a payment is not received in good faith if it is obtained through fraud, or if the employee knew or should have known that the compensation was paid under mistake of fact or law, and the employee has not refunded the mistaken compensation.

A credit may not be applied against medical expenses due or payable.

Sec. 32. Minnesota Statutes, section 176.221, subdivision 6a, is amended to read:

Subd. 6a. ~~[MEDICAL, REHABILITATION, ECONOMIC RECOVERY, AND IMPAIRMENT PERMANENT PARTIAL COMPENSATION.]~~ The penalties provided by this section apply in cases where payment for treatment under section 176.135, rehabilitation expenses under section 176.102, subdivisions 9 and 11, ~~economic recovery compensation or impairment permanent partial compensation~~ are not made in a timely manner as required by law or by rule adopted by the commissioner.

Sec. 33. Minnesota Statutes 1990, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2 and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, of the year previ-

ous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on October 1, ~~1977~~ 1991 or thereafter under this section shall exceed ~~six~~ four percent a year. In those instances where the adjustment under the formula of this section would exceed this maximum the increase shall be deemed to be ~~six~~ four percent.

Sec. 34. Minnesota Statutes 1990, section 176.645, subdivision 2, is amended to read:

Subd. 2. [TIME OF FIRST ADJUSTMENT.] For injuries occurring on or after October 1, 1981, the initial adjustment made pursuant to subdivision 1 ~~shall be~~ is deferred until the first anniversary of the date of the injury. For injuries occurring on or after October 1, 1991, the initial adjustment under subdivision 1 is deferred until the third anniversary of the date of injury.

Sec. 35. Minnesota Statutes 1990, section 176.66, subdivision 11, is amended to read:

Subd. 11. [AMOUNT OF COMPENSATION.] The compensation for an occupational disease is ~~66-2/3~~ 80 percent of the employee's after-tax weekly wage on the date of injury subject to a maximum compensation equal to the maximum compensation in effect on the date of last exposure. The employee shall be eligible for supplementary benefits notwithstanding the provisions of section 176.132, after four years have elapsed since the date of last significant exposure to the hazard of the occupational disease if that employee's weekly compensation rate is less than the current supplementary benefit rate.

Sec. 36. Minnesota Statutes 1990, section 268.08, subdivision 3, is amended to read:

Subd. 3. [NOT ELIGIBLE.] An individual shall not be eligible to receive benefits for any week with respect to which the individual is receiving, has received, or has filed a claim for remuneration in an amount equal to or in excess of the individual's weekly benefit amount in the form of:

(1) termination, severance, or dismissal payment or wages in lieu of notice whether legally required or not; provided that if a termination, severance, or dismissal payment is made in a lump sum, the employer may allocate such lump sum payment over a period equal to the lump sum divided by the employee's regular pay while employed by such employer; provided any such payment shall be applied for a period immediately following the last day of work but not to exceed 28 calendar days; or

(2) vacation allowance paid directly by the employer for a period of requested vacation, including vacation periods assigned by the employer under the provisions of a collective bargaining agreement, or uniform vacation shutdown; or

(3) compensation for loss of wages under the workers' compensation law of this state or any other state or under a similar law of the United States, or under other insurance or fund established and paid for by the employer except that this does not apply to an individual who is receiving temporary partial compensation pursuant to section 176.101, subdivision 3k 2; or

(4) 50 percent of the pension payments from any fund, annuity or insurance maintained or contributed to by a base period employer including the armed forces of the United States if the employee contributed to the fund, annuity or insurance and all of the pension payments if the employee did not contribute to the fund, annuity or insurance; or

(5) 50 percent of a primary insurance benefit under title II of the Social Security Act, as amended, or similar old age benefits under any act of congress or this state or any other state.

Provided, that if such remuneration is less than the benefits which would otherwise be due under sections 268.03 to 268.231, the individual shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration; provided, further, that if the appropriate agency of such other state or the federal government finally determines that the individual is not entitled to such benefits, this provision shall not apply. If the computation of reduced benefits, required by this subdivision, is not a whole dollar amount, it shall be rounded down to the next lower dollar amount.

Sec. 37. Minnesota Statutes 1990, section 353.33, subdivision 5, is amended to read:

Subd. 5. [BENEFITS PAID UNDER WORKERS' COMPENSATION LAW.] Disability benefits paid shall be coordinated with any amounts received or receivable under workers' compensation law, such as temporary total, permanent total, temporary partial, or permanent partial; ~~or economic recovery compensation~~ benefits, in either periodic or lump sum payments from the employer under applicable workers' compensation laws, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disabiltant. If the total of the single life annuity actuarial equivalent disability benefit and the workers' compensation benefit exceeds: (1) the salary the disabled member received as of the date of the disability or (2) the salary currently payable for the same employment position or an employment position substantially similar to the one the person held as of the date of the disability,

whichever is greater, the disability benefit must be reduced to that amount which, when added to the workers' compensation benefits, does not exceed the greater of the salaries described in clauses (1) and (2).

Sec. 38. [176.90] [AFTER-TAX CALCULATION.]

For purposes of sections 176.011, subdivisions 18 and 18a; 176.101, subdivisions 1, 2, 3, and 4; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 20, and 21; and 176.66, the commissioner shall publish by September 1 of each year tables or formulas for determining the after-tax weekly wage to take effect the following October 1. The tables or formulas must be based on the applicable federal income tax and social security laws and state income tax laws in effect on the preceding April 1. These tables or formulas are conclusive for the purposes of converting the weekly wage into after-tax weekly wage. The commissioner may contract with the department of revenue or any other person or organization in order to adopt the tables or formulas. The adoption of the tables or formulas is exempt from the administrative rulemaking provisions of chapter 14.

Sec. 39. [REPEALER.]

Minnesota Statutes 1990, sections 176.011, subdivision 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u; and 176.111, subdivision 8a, are repealed.

Sec. 40. [EFFECTIVE DATE.]

This article is effective October 1, 1991; except that; section 14, paragraph (b), is retroactively effective to January 1, 1984.

ARTICLE 3

LEGAL, REHABILITATION, MEDICAL PROVIDERS/BENEFITS

Section 1. Minnesota Statutes 1990, section 175.007, is amended to read:

175.007 [ADVISORY COUNCIL ON WORKERS' COMPENSATION; CREATION.]

Subdivision 1. The commissioner shall appoint an advisory council on workers' compensation, which consists of five representatives of employers and five representatives of employees; ~~five nonvoting members representing the general public; two persons who have received or are currently receiving workers' compensation benefits under chapter 176 and the chairs of the rehabilitation review panel and the medical services review board. The council may consult with~~

any party it desires. The commissioner shall appoint as nonvoting members three representatives of insurers, one representative of medical doctors, one representative of hospitals, two legislators from the house of representatives, and two legislators from the senate. The commissioner shall be a nonvoting member and is the chairperson. The terms and removal of members shall be as provided in section 15.059. The council expires as provided in section 15.059, subdivision 5.

Subd. 2. The advisory council shall study and present to the legislature and the governor, on or before November 15 of each even numbered year, its findings relative to the costs, methods of financing, and the formula to be used to provide supplementary compensation to workers who have been determined permanently and totally disabled prior to July 1, 1969, and its findings relative to alterations in the scheduled benefits for permanent partially disabled, and other aspects of the workers' compensation act. The council shall also study and present to the legislature and the governor on or before November 15 of 1981 and by November 15 of each even-numbered year thereafter a report on the financial, administrative and personnel needs of the workers' compensation division. advise the department in carrying out the purposes of chapter 176. The council shall submit its recommendations with respect to amendments to chapter 176 to each regular session of the legislature and shall report its views upon any pending bill relating to chapter 176 to the proper legislative committee. At the request of the chairpersons of the senate and house committees that hear workers' compensation matters, the department shall schedule a meeting of the council with the members of the committees to discuss matters of legislative concern arising under chapter 176.

Sec. 2. Minnesota Statutes 1990, section 176.011, subdivision 27, is amended to read:

Subd. 27. [ADMINISTRATIVE CONFERENCE.] An "administrative conference" is a meeting conducted by a commissioner's designee where parties can discuss on an expedited basis and in an informal setting their viewpoints concerning disputed issues arising under section ~~176.102, 176.103, 176.135, 176.136, or 176.239.~~ If the parties are unable to resolve the dispute, the commissioner's designee shall issue an administrative decision under that section ~~176.106 or 176.239.~~

Sec. 3. Minnesota Statutes 1990, section 176.081, subdivision 1, is amended to read:

Subdivision 1. [APPROVAL.] (a) A fee for legal services of 25 percent of the first \$4,000 of compensation awarded to the employee and 20 percent of the next ~~\$27,500~~ \$70,000 of compensation awarded to the employee is permissible and does not require approval by the commissioner, compensation judge, or any other party except as

provided in clause (b) paragraph (d). All fees must be calculated according to the formula under this subdivision or earned in hourly fees for representation at dispute resolution conferences under section 176.239. Hourly fees must be determined according to the criteria set forth under subdivision 5.

(b) Fees for legal services related to the same injury are cumulative and may not exceed \$15,000, except as provided under subdivision 2. No other attorney fees for any proceeding under this chapter are allowed.

(c) If the employer or the insurer or the defendant is given written notice of claims for legal services or disbursements, the claim shall be a lien against the amount paid or payable as compensation. In no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be based solely upon genuinely disputed claims or portions of claims, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan. Fees for administrative conferences under section 176.239 shall be determined on an hourly basis, according to the criteria in subdivision 5.

(b) (d) An attorney who is claiming legal fees under this section for representing an employee in a workers' compensation matter shall file a statement of attorney's attorney fees with the commissioner, compensation judge before whom the matter was heard, or workers' compensation court of appeals on cases before the court. A copy of the signed retainer agreement shall also be filed. The employee and insurer shall receive a copy of the statement. The statement shall be on a form prescribed by the commissioner, shall report the number of hours spent on the case, and shall clearly and conspicuously state that the employee or insurer has ten calendar days to object to the attorney fees requested. If no objection is timely made by the employee or insurer, the amount requested shall be conclusively presumed reasonable providing the amount does not exceed the limitation in subdivision 1. The commissioner, compensation judge, or court of appeals shall issue an order granting the fees and the amount requested shall be awarded to the party requesting the fee. If a timely objection is filed, or the fee is determined on an hourly basis, the commissioner, compensation judge, or court of appeals shall review the matter and make a determination based on the criteria in subdivision 5. If no timely objection is made by an employer or insurer, reimbursement under subdivision 7 shall be made if the statement of fees requested this reimbursement.

Sec. 4. Minnesota Statutes 1990, section 176.081, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] An application for attorney fees in excess of the amount authorized in subdivision 1 shall be made to the commissioner, compensation judge, or district judge, before

whom the matter was heard. An appeal of a decision by the commissioner, a compensation judge, or district court judge on additional fees may be made to the workers' compensation court of appeals. The application shall set forth the fee requested ~~and, the number of hours spent on the case,~~ the basis for the request, and whether or not a hearing is requested. The application, with affidavit of service upon the employee, shall be filed by the attorney requesting the fee. If a hearing is requested by an interested party, a hearing shall be set with notice of the hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.

Sec. 5. Minnesota Statutes 1990, section 176.081, subdivision 3, is amended to read:

Subd. 3. [REVIEW.] ~~An employee who~~ A party that is dissatisfied with its attorney fees; may file an application for review by the workers' compensation court of appeals. ~~Such~~ The application shall state the basis for the need of review and whether or not a hearing is requested. A copy of ~~such~~ the application shall be served upon the ~~party's attorney for the employee~~ by the court administrator and if a hearing is requested by either party, the matter shall be set for hearing. The notice of hearing shall be served upon known interested parties. ~~The attorney for the employee shall be served with a notice of the hearing.~~ The workers' compensation court of appeals shall have the authority to raise the question of the issue of the attorney fees at any time upon its own motion and shall have continuing jurisdiction over attorney fees.

Sec. 6. Minnesota Statutes 1990, section 176.102, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] (a) This section only applies to vocational rehabilitation of injured employees and their spouses as provided under subdivision 1a. Physical rehabilitation of injured employees is considered treatment subject to section 176.135.

(b) Rehabilitation is intended to restore the injured employee, ~~through physical and vocational rehabilitation,~~ so the employee may return to a job related to the employee's former employment or to a job in another work area which produces an economic status as close as possible to that the employee would have enjoyed without disability. Rehabilitation to a job with a higher economic status than would have occurred without disability is permitted if it can be demonstrated that this rehabilitation is necessary to increase the likelihood of reemployment. Economic status is to be measured not only by opportunity for immediate income but also by opportunity for future income.

Sec. 7. Minnesota Statutes 1990, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner shall hire a director of rehabilitation services in the classified service. The commissioner shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services and shall by rule, subject to chapter 14, establish a fee schedule or otherwise limit fees charged by qualified rehabilitation consultants and vendors. By March 1, 1993, the commissioner shall report to the legislature on the status of the commission's monitoring of rehabilitation services. The commissioner may hire qualified personnel to assist in the commissioner's duties under this section and may delegate the duties and performance.

Sec. 8. Minnesota Statutes 1990, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review panel composed of the commissioner or a designee, who shall serve as an ex officio member, and ~~two three~~ three members ~~each from who shall represent both employers, and insurers, rehabilitation, and medicine,~~ one member representing chiropractors, ~~and four one~~ member representing medical doctors, three members representing labor, two members representing rehabilitation vendors, and five members representing qualified rehabilitation consultants. The members shall be appointed by the commissioner and shall serve four-year terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chair. The panel shall review and make a determination with respect to appeals from orders of the commissioner regarding certification approval of qualified rehabilitation consultants and vendors. The hearings are de novo and initiated by the panel under the contested case procedures of chapter 14, and are appealable to the workers' compensation court of appeals in the manner provided by section 176.421.

Sec. 9. Minnesota Statutes 1990, section 176.102, subdivision 3a, is amended to read:

Subd. 3a. [DISCIPLINARY ACTIONS.] The panel has authority to discipline qualified rehabilitation consultants and vendors and may impose a penalty of up to \$1,000 per violation, and may suspend or revoke certification. Complaints against registered qualified rehabilitation consultants and vendors shall be made to the commissioner who shall investigate all complaints. If the investigation indicates a violation of this chapter or rules adopted under this chapter, the commissioner may initiate a contested case proceeding under the provisions of chapter 14. In these cases, the rehabilitation review panel shall make the final decision following receipt of the

report of an administrative law judge. The decision of the panel is appealable to the workers' compensation court of appeals in the manner provided by section 176.421. The panel shall continuously study rehabilitation services and delivery, develop and recommend rehabilitation rules to the commissioner, and assist the commissioner in accomplishing public education.

The commissioner may appoint alternates for one-year terms to serve as a member when a member is unavailable. The number of alternates shall not exceed one labor member, one employer or insurer member, and one member representing medicine, chiropractic, or rehabilitation.

Sec. 10. Minnesota Statutes 1990, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] (a) An employer or insurer shall provide rehabilitation consultation by a qualified rehabilitation consultant or by another person permitted by rule to provide consultation to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation shall be made within five days after the employee has 30 days of lost work time due to the injury. The lost work time in either case may be intermittent lost work time. If an employer or insurer has medical information at any time prior to the time specified in this subdivision that the employee will be unable to return to the job the employee held at the time of the injury rehabilitation consultation shall be provided immediately after receipt of this information.

For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time. A rehabilitation consultation must be provided by the employer to an injured employee upon request of the employee, the employer, or the commissioner. If a rehabilitation consultation is requested, the employer shall provide a qualified rehabilitation consultant. If the injured employee objects to the employer's selection, the employee may select a qualified rehabilitation consultant of the employee's own choosing within 30 days following the first in-person contact between the employee and the original qualified rehabilitation consultant. If the consultation indicates that rehabilitation services are appropriate under subdivision 1, the employer shall provide the services. If the consultation indicates that rehabilitation services are not appropriate under subdivision 1, the employer shall notify the employee of this determination within 14 days after the consultation.

(b) In order to assist the commissioner in determining whether or not to request rehabilitation consultation for an injured employee, an employer shall notify the commissioner whenever the employee's temporary total disability will likely exceed 13 weeks. The notification must be made within 90 days from the date of the injury or when the likelihood of at least a 13-week disability can be determined, whichever is earlier, and must include a current physician's report.

(c) The qualified rehabilitation consultant appointed by the employer or insurer shall disclose in writing at the first meeting or written communication with the employee any ownership interest or affiliation between the firm which employs the qualified rehabilitation consultant and the employer, insurer, adjusting or servicing company, including the nature and extent of the affiliation or interest.

The consultant shall also disclose to all parties any affiliation, business referral or other arrangement between the consultant or the firm employing the consultant and any other party to, attorney, or health care provider involved in the case ; including any attorneys, doctors, or chiropractors.

If the employee objects to the employer's selection of a qualified rehabilitation consultant, the employee shall notify the employer and the commissioner in writing of the objection. The notification shall include the name, address, and telephone number of the qualified rehabilitation consultant chosen by the employee to provide rehabilitation consultation.

(d) After the initial provision or selection of a qualified rehabilitation consultant as provided under paragraph (a), the employee may choose request a different qualified rehabilitation consultant as follows:

(1) once during the first 60 days following the first in-person contact between the employee and the original consultant;

(2) once after the 60-day period referred to in clause (1); and

(3) subsequent requests which shall be determined granted or denied by the commissioner or compensation judge according to the best interests of the parties.

(e) The employee and employer shall enter into a program if one is prescribed in develop a rehabilitation plan within 30 days of the rehabilitation consultation if the qualified rehabilitation consultant determines that rehabilitation is appropriate. A copy of the plan, including a target date for return to work, shall be submitted to the commissioner within 15 days after the plan has been developed.

~~(b) (f) If the employer does not provide rehabilitation consultation, or the employee does not select a qualified rehabilitation consultant, as required by this section provided in paragraph (a), the commissioner or compensation judge shall notify the employer that if the employer fails to appoint provide, or the employee fails to select, whichever is applicable, a qualified rehabilitation consultant or other persons as permitted by clause (a) within 15 days to conduct a rehabilitation consultation, the commissioner or compensation judge shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner or compensation judge determines the consultation is not required.~~

(e) (g) In developing a rehabilitation plan consideration shall be given to the employee's qualifications, including but not limited to age, education, previous work history, interest, transferable skills, and present and future labor market conditions.

~~(d) (h) The commissioner or compensation judge may waive rehabilitation services under this section if the commissioner or compensation judge is satisfied that the employee will return to work in the near future or that rehabilitation services will not be useful in returning an employee to work.~~

Sec. 11. Minnesota Statutes 1990, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner or a compensation judge shall determine eligibility for rehabilitation services and shall review, approve, modify, or reject rehabilitation plans developed under subdivision 4. The commissioner or a compensation judge shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivisions 9 and 11 to which an employee is entitled. A plan that is not completed within eight months or after \$4,000 has been paid in rehabilitation benefits must be specifically approved by the commissioner. This approval may not be waived by the parties.

Sec. 12. Minnesota Statutes 1990, section 176.102, subdivision 7, is amended to read:

Subd. 7. [PLAN IMPLEMENTATION; REPORTS.] (a) Upon request by the commissioner, insurer, employer or employee, medical and rehabilitation reports shall be made by the provider of the medical and rehabilitation service to the commissioner, insurer, employer, or employee.

(b) If a rehabilitation plan has not already been filed under

subdivision 4, an employer shall report to the commissioner after 90 days and before 120 days from the date of the injury, as to what rehabilitation consultation and services have been provided to the injured employee or why rehabilitation consultation and services have not been provided.

Sec. 13. Minnesota Statutes 1990, section 176.102, subdivision 9, is amended to read:

Subd. 9. [PLAN, COSTS.] An employer is liable for the following rehabilitation expenses under this section:

- (a) Cost of rehabilitation evaluation and preparation of a plan;
- (b) Cost of all rehabilitation services and supplies necessary for implementation of the plan;
- (c) Reasonable cost of tuition, books, travel, and custodial day care; and, in addition, reasonable costs of board and lodging when rehabilitation requires residence away from the employee's customary residence;
- (d) Reasonable costs of travel and custodial day care during the job interview process;
- (e) Reasonable cost for moving expenses of the employee and family if a job is found in a geographic area beyond reasonable commuting distance after a diligent search within the present community. Relocation shall not be paid more than once during any rehabilitation program, and relocation shall not be required if the new job is located within the same standard metropolitan statistical area as the employee's job at the time of injury. An employee shall not be required to relocate and a refusal to relocate shall not result in a suspension or termination of compensation under this chapter; and
- (f) Any other expense agreed to be paid.

Charges for services provided by a rehabilitation consultant or vendor must be submitted on a billing form prescribed by the commissioner. No payment for the services shall be made until the charges are submitted on the prescribed form.

Sec. 14. [176.107] [MEDICAL AND REHABILITATION DISPUTES.]

Any dispute for benefits under section 176.102, 176.103, 176.135, or 176.136 may be referred to the mediation services section of the department for consideration. All health care providers, qualified rehabilitation consultants, intervenors or potential intervenors, or

any other third parties who have or may have an interest in the resolution of the dispute must be notified of the proceeding and requested to be in attendance. Any agreement by the parties who attend the hearing or appear by telephone conference is binding on any other party who had notice and did not participate in the hearing.

Sec. 15. Minnesota Statutes 1990, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, PSYCHOLOGICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] (a) The employer shall furnish any medical, psychological, ~~chiropractic~~, podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. ~~This treatment shall include treatments necessary to physical rehabilitation. An employer may fulfill its obligation under this section by utilizing a certified managed care plan as provided in this chapter.~~

(b) The employer shall pay for the reasonable value of nursing services provided by a member of the employee's family in cases of permanent total disability.

(c) Exposure to rabies is an injury and an employer shall furnish preventative treatment to employees exposed to rabies.

(d) The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches, or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of the employer's inability or refusal seasonably to do so provide the items required to be provided under this paragraph, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing the same, including costs of copies of any medical records or medical reports that are in existence, obtained from health care providers, and that directly relate to the items for which payment is sought under this chapter, limited to the charges allowed by subdivision 7, and attorney fees incurred by the employee. No action to recover the cost of copies may be brought until the commissioner adopts a schedule of reasonable charges under subdivision 7. Attorney's fees shall be determined on an hourly basis according to the criteria in section 176.081, subdivision 5. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability.

~~(b)~~ (e) Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with sections 176.106 and section 176.305 and to issue orders approving mediated settlements in accordance with section 176.107.

Sec. 16. Minnesota Statutes 1990, section 176.135, subdivision 1a, is amended to read:

Subd. 1a. [NONEMERGENCY SURGERY; SECOND SURGICAL OPINION.] The employer is required to furnish surgical treatment pursuant to subdivision 1 when the surgery is reasonably required to cure and relieve the effects of the personal injury or occupational disease. An employee may not be compelled to undergo surgery. If an employee desires a second opinion on the necessity of the surgery, the employer shall pay the costs of obtaining the second opinion. Except in cases of emergency surgery, the employer or insurer may require the employee to obtain a second opinion on the necessity of the surgery, at the expense of the employer, before the employee undergoes surgery. Failure to obtain a second surgical opinion, if required by the employer or insurer, shall not be reason for nonpayment of the charges for the surgery. ~~The employer is required to pay the reasonable value of the surgery,~~ unless the commissioner or compensation judge determines that the surgery is not reasonably required.

Sec. 17. Minnesota Statutes 1990, section 176.135, subdivision 5, is amended to read:

Subd. 5. [OCCUPATIONAL DISEASE MEDICAL ELIGIBILITY.] Notwithstanding section 176.66, an employee who has contracted an occupational disease is eligible to receive compensation under this section even if the employee is not disabled from earning full wages at the work at which the employee was last employed.

Payment of compensation under this section shall be made by the employer and insurer on the date of the employee's last exposure to the hazard of the occupational disease. Reimbursement for medical benefits paid under this subdivision or subdivision 1a is allowed from the employer and insurer liable under section 176.66, subdivision 10, only in the case of disablement.

Sec. 18. Minnesota Statutes 1990, section 176.135, subdivision 6, is amended to read:

Subd. 6. [COMMENCEMENT OF PAYMENT.] As soon as reasonably possible, and no later than 30 calendar days after receiving the bill, the employer or insurer shall pay the charge or any portion of the charge which is not denied, or deny all or a part of the charge on the basis of excessiveness or noncompensability, or specify the additional data needed, with written notification to the employee

and the provider, explaining the basis for denial. All or part of a charge must be denied if any of the following conditions exist:

- (1) the injury or condition is not compensable under this chapter;
- (2) the charge or service is excessive under this section or section 176.136;
- (3) the provider is not enrolled with or certified by the department in accordance with rules adopted under section 176.183;
- (4) the charges are not submitted on the prescribed billing form; or
- (5) additional medical records or reports are required under subdivision 7 to substantiate the nature of the charge and its relationship to the work injury.

If payment is denied under clause (3), (4), or (5), the employer or insurer shall reconsider the charges in accordance with this subdivision within 30 calendar days after receiving additional medical data, a prescribed billing form, or documentation of enrollment or certification as a provider.

Sec. 19. Minnesota Statutes 1990, section 176.135, subdivision 7, is amended to read:

Subd. 7. [MEDICAL BILLS AND RECORDS.] Health care providers shall submit to the insurer an itemized statement of charges on a billing form prescribed by the commissioner. ~~Health care providers other than hospitals shall also submit copies of medical records or reports that substantiate the nature of the charge and its relationship to the work injury; provided, however, that hospitals must submit any copies of records or reports requested under subdivision 6.~~ Health care providers may charge for copies of any records or reports that are in existence and directly relate to the items for which payment is sought under this chapter. ~~Charges for copies provided under this subdivision shall be reasonable.~~ The commissioner shall adopt a schedule of reasonable charges by ~~emergency rules rule.~~

A health care provider shall not collect, attempt to collect, refer a bill for collection, or commence an action for collection against the employee, employer, or any other party until the information required by this section has been furnished.

Sec. 20. [176.1351] [MANAGED CARE.]

Subdivision 1. [APPLICATION.] Any health care provider, health care providers, or business entities providing health care services may make written application to the commissioner to become

certified to provide managed care to injured workers for injuries and diseases compensable under this chapter. Each application for certification shall be accompanied by a reasonable fee prescribed by the commissioner. A certificate is valid for the period the commissioner prescribes unless revoked or suspended. Application for certification shall be made in the form and manner and shall set forth information regarding the proposed plan for providing services as the commissioner may prescribe. The information shall include, but not be limited to:

(a) a list of the names of all health care providers who will provide services under the managed care plan, together with appropriate evidence of compliance with any licensing or certification requirements for those providers to practice in this state;

(b) a description of the places and manner of providing services under the plan;

(c) a description of the places and manner of providing other related optional services the applicants wish to provide; and

(d) satisfactory evidence of ability to comply with any financial requirements to ensure delivery of service in accordance with the plan which the commissioner may prescribe.

Subd. 2. [CERTIFICATION.] The commissioner shall certify a health care provider, health care providers, or business entities providing health care services to provide managed care under a plan if the commissioner finds that the plan:

(a) proposes to provide services that meet quality, continuity, and other treatment standards prescribed by the commissioner and will provide all medical and health care services that may be required by this chapter in a manner that is timely, effective, and convenient for the worker;

(b) provides appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service;

(c) provides adequate methods of peer review, utilization review, and dispute resolution to prevent inappropriate or not medically necessary treatment, to exclude participation in the plan those individuals who violate these treatment standards and to provide for the resolution of such medical disputes as the commissioner considers appropriate;

(d) provides a program for early return to work for injured workers involving, where appropriate, cooperative efforts by the workers, the employer, and the managed care organizations to

promote workplace health and safety consultative and other services;

(e) provides a timely and accurate method of reporting to the commissioner necessary information regarding medical and health care service cost and utilization to enable the commissioner to determine the effectiveness of the plan;

(f) authorizes workers to receive compensable medical treatment from a health care provider who is not a member of the managed care organization, but who maintains the worker's medical records and with whom the worker has a documented history of treatment, if that health care provider agrees to refer the worker to the managed care organization for any specialized treatment, including physical therapy, to be furnished by another provider that the worker may require and if that health care provider agrees to comply with all the rules, terms, and conditions regarding services performed by the managed care organization. Nothing in this paragraph is intended to limit the worker's right to change health care providers prior to the filing of a workers' compensation claim; and

(g) complies with any other requirement the commissioner determines is necessary to provide quality medical services and health care to injured workers.

Subd. 3. [REVOCATION, SUSPENSION, AND REFUSAL TO CERTIFY.] The commissioner shall refuse to certify or shall revoke or suspend the certification of any health care provider or group of medical service providers to provide managed care if the commissioner finds that the plan for providing medical or health care services fails to meet the requirements of this section, or service under the plan is not being provided in accordance with the terms of a certified plan.

Subd. 4. [REVIEW.] (a) Utilization review, quality assurance and peer review activities pursuant to this section and authorization of medical services to be provided by other than an attending physician pursuant to this chapter shall be subject to review by the commissioner or the commissioner's designated representatives. Data generated by or received in connection with these activities, including written reports, notes or records of any such activities, or of the commissioner's review shall be confidential, and shall not be disclosed except as considered necessary by the commissioner in the administration of this section. The commissioner may report professional misconduct to an appropriate licensing board.

(b) No data generated by utilization review, quality assurance or peer review activities pursuant to this section or the commissioner's review thereof shall be used in any action, suit or proceeding except

to the extent considered necessary by the commissioner in the administration of this chapter.

(c) A person participating in utilization review, quality assurance or peer review activities pursuant to this section shall not be examined as to any communication made in the course of such activities or the findings thereof, nor shall any person be subject to an action for civil damages for affirmative actions taken or statements made in good faith.

(d) No person who participates in forming managed care plans, collectively negotiating fees or otherwise solicits or enters into contracts in a good faith effort to provide medical or health care services according to the provisions of this section shall be examined or subject to administrative or civil liability regarding any such participation except pursuant to the commissioner's active supervision of such activities and the managed care organization. Before engaging in such activities, the person shall provide notice of intent to the commissioner on a prescribed form.

(e) The provisions of this section shall not affect the confidentiality or admission in evidence of a claimant's medical treatment records.

Subd. 5. [RULES.] The commissioner in cooperation with the commissioners of the department of health, department of commerce, and department of human services, shall adopt such rules as may be necessary to carry out the provisions of this section.

Sec. 21. Minnesota Statutes 1990, section 176.136, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE.] (a) The commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups.

(b) The procedures established by the commissioner shall must limit, in accordance with subdivisions 1a and 1b, the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135, based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing. The procedures established by the commissioner for determining whether or not the charge for a health service is excessive shall must be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures shall must

incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees.

Sec. 22. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1a. [RELATIVE VALUE FEE SCHEDULE.] The liability of an employer for services included in the medical fee schedule is limited to the maximum fee allowed by the schedule in effect on the date of the medical service, or the provider's actual fee, whichever is lower. The medical fee schedule effective on October 1, 1990, shall remain in effect until the commissioner adopts a new schedule by permanent rule, but shall remain in effect no later than June 1, 1993. The commissioner shall adopt permanent rules regulating fees, except fees limited by subdivision 1b, by implementing a relative value fee schedule to be effective on October 1, 1992, or as soon thereafter as possible. The conversion factors for the relative value fee schedule shall reasonably reflect a 15 percent overall reduction from 1991 charges, based on a sample of the most common services billed in the first six months of 1991 that is large enough to be statistically valid.

After permanent rules have been adopted to implement this section, the conversion factors must be adjusted annually on October 1, by the percentage change in the statewide average weekly wage as set forth in section 176.645, subdivision 1. The commissioner shall annually give notice in the State Register of the adjusted conversion factors. This notice shall be in lieu of the requirements of chapter 14.

Sec. 23. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1b. [LIMITATION OF LIABILITY.] (a) The liability of the employer for treatment, articles, and supplies provided to an employee while an inpatient or outpatient at a hospital or an outpatient at a same-day surgical facility or emergency room shall be limited to 85 percent of the amount charged.

(b) For the services rendered under paragraph (a) by a hospital with 100 or fewer licensed acute care beds, the liability of employers shall be the actual hospital charges.

(c) The liability of the employer for the treatment, articles, and supplies that are not limited by subdivision 1a or paragraph (a) shall be limited to the provider's actual charge, or the charges that prevail in the same community for similar treatment, articles, and supplies furnished to an injured person when paid for by the injured

person, whichever is lower. On this basis, the commissioner or compensation judge may determine the reasonable value of all treatment, services, and supplies, and the liability of the employer is limited to that amount.

Sec. 24. Minnesota Statutes 1990, section 176.136, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVE FEES.] If the employer or insurer determines that the charge for a health service or medical service is excessive, no payment in excess of the reasonable charge for that service shall be made under this chapter nor may the provider collect or attempt to collect from the injured employee or any other insurer or government amounts in excess of the amount payable under this chapter unless the commissioner, compensation judge, or court of appeals determines otherwise. In such a case, the health care provider may initiate an action under this chapter for recovery of the amounts deemed excessive by the employer or insurer, but the employer or insurer shall have the burden of proving excessiveness.

A charge for a health service or medical service is excessive if it:

(1) exceeds the maximum permissible charge pursuant to subdivision 1 or section 176.135, subdivision 1a;

(2) is for a service provided at a level, duration, or frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards;

(3) is for a service that is outside the scope of practice of the particular provider or is not generally recognized within the particular profession of the provider as of therapeutic value for the specific injury or condition treated; or

(4) is otherwise deemed excessive or inappropriate pursuant to rules adopted pursuant to this chapter.

Where the sole issue in dispute is whether medical fees are excessive, the only parties to the proceeding shall be the health care provider and employer or insurer. The rights of an employee shall not be affected by a determination under this subdivision.

Sec. 25. Minnesota Statutes 1990, section 176.305, subdivision 1, is amended to read:

Subdivision 1. [HEARINGS ON PETITIONS.] The petitioner shall serve a copy of the petition on each adverse party personally or by first class mail. The original petition shall then be filed with the commissioner together with an appropriate affidavit of service. When any petition has been filed with the workers' compensation

division, the commissioner shall, within ten days, refer the matter presented by the petition for a settlement conference under this section, ~~for an administrative~~ a mediation conference under section ~~176.106~~ 176.107, or for hearing to the office.

Sec. 26. Minnesota Statutes 1990, section 176.351, subdivision 2a, is amended to read:

Subd. 2a. [SUBPOENAS NOT PERMITTED.] A member of the rehabilitation review panel or medical services board or an employee of the department who has conducted an administrative, mediation, or settlement conference, or hearing under section ~~176.106~~ 176.107 or 176.239, shall not be subpoenaed to testify regarding the conference, hearing, or concerning a mediation session. A member of the rehabilitation review panel, medical services board, or an employee of the department may be required to answer written interrogatories limited to the following questions:

(a) Were all statutory and administrative procedural rules adhered to in reaching the decision?

(b) If the answer to question (a) is no, what deviations took place?

(c) Did the person making the decision consider all the information presented prior to rendering a decision?

(d) Did the person making the decision rely on information outside of the information presented at the conference or hearing in making the decision?

(e) If the answer to question (d) is yes, what other information was relied upon in making the decision?

In addition, for a hearing with a compensation judge and with the consent of the compensation judge, an employee of the department who conducted an administrative conference, hearing, or mediation session, may be requested to answer written interrogatories relating to statements made by a party at the prior proceeding. These interrogatories shall be limited to affirming or denying that specific statements were made by a party.

Sec. 27. Minnesota Statutes 1990, section 176.421, subdivision 7, is amended to read:

Subd. 7. [RECORD OF PROCEEDINGS.] At the division's own expense, the commissioner shall make a complete record of all proceedings before the commissioner and shall provide a stenographer or an audio magnetic recording device to make the record of the proceedings.

The commissioner shall furnish a transcript of these proceedings to any person who requests it and who pays a reasonable charge which shall be set by the commissioner. Upon a showing of cause, the commissioner may direct that a transcript be prepared without expense to the person requesting the transcript, in which case the cost of the transcript shall be paid by the division. Transcript fees received under this subdivision shall be paid to the workers' compensation division account in the state treasury and shall be annually appropriated to the division for the sole purpose of providing a record and transcripts as provided in this subdivision. This subdivision does not apply to any administrative conference or other proceeding before the commissioner which may be heard de novo in another proceeding including but not limited to proceedings under section ~~176.106~~ 176.107 or 176.239.

Sec. 28. Minnesota Statutes 1990, section 176.442, is amended to read:

176.442 [APPEALS FROM DECISIONS OF COMMISSIONER.]

Except for a commissioner's decision which may be heard de novo in another proceeding including but not limited to a decision from an administrative conference under section ~~176.102, 176.103, 176.106, 176.239~~, or a summary decision under section 176.305, any decision or determination of the commissioner affecting a right, privilege, benefit, or duty which is imposed or conferred under this chapter is subject to review by the workers' compensation court of appeals. A person aggrieved by the determination may appeal to the workers' compensation court of appeals by filing a notice of appeal with the commissioner in the same manner and within the same time as if the appeal were from an order or decision of a compensation judge to the workers' compensation court of appeals.

Sec. 29. Minnesota Statutes 1990, section 176.82, is amended to read:

176.82 [ACTION FOR CIVIL DAMAGES FOR OBSTRUCTING EMPLOYEE SEEKING BENEFITS.]

Subdivision 1. [GENERALLY.] Any person discharging or threatening to discharge an employee for seeking workers' compensation benefits or in any manner intentionally obstructing an employee seeking workers' compensation benefits is liable in a civil action for damages incurred by the employee including any diminution in workers' compensation benefits caused by a violation of this section including costs and reasonable attorney fees, and for punitive damages not to exceed three times the amount of any compensation benefit to which the employee is entitled. Damages awarded under this section shall not be offset by any workers' compensation benefits to which the employee is entitled.

Subd. 2. [REFUSAL TO REHIRE.] Any employer who without reasonable cause refuses to rehire an employee who is injured in the course of employment, where suitable employment is available within the employee's physical and mental limitations, upon order of the department and in addition to other benefits, has exclusive liability to pay to the employee the wages lost during the period of the refusal, not exceeding six months wages or a maximum of \$15,000. In determining the availability of suitable employment, the continuance in business of the employer shall be considered and any written rules promulgated by the employer with respect to seniority or the provisions of any collective bargaining agreement with respect to seniority shall govern.

Sec. 30. Minnesota Statutes 1990, section 176.83, subdivision 5, is amended to read:

Subd. 5. [EXCESSIVE MEDICAL SERVICES.] In consultation with the medical services review board or the rehabilitation review panel, rules establishing standards and procedures for determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the payer that the level, frequency or cost of a procedure or service of a provider is excessive according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer, and the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program unless the commissioner or compensation judge determines at a hearing or administrative conference that the level, frequency, or cost was not excessive in which case the insurer, self-insurer, or group self-insurer shall make the payment deemed reasonable.

A health or rehabilitation provider who is determined by the rehabilitation review panel or medical services review board, after hearing, to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under this chapter. A prohibition imposed on a provider under this subdivision may be grounds for revocation or suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing certifying body.

The rules adopted under this subdivision shall require insurers,

self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this clause.

Sec. 31. Minnesota Statutes 1990, section 176.83, is amended by adding a subdivision to read:

Subd. 5a. [REPORTING.] Rules requiring insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this section and chapter 176.

Sec. 32. Minnesota Statutes 1990, section 176.83, subdivision 6, is amended to read:

Subd. 6. [CERTIFICATION OF MEDICAL PROVIDERS.] Rules establishing procedures and standards for the certification or enrollment of physicians, chiropractors, osteopaths, podiatrists, and other health care providers, which may include hospitals and other business entities providing health care services, in order to assure the coordination of treatment, rehabilitation, and other services and requirements of chapter 176 for carrying out the purposes and intent of this chapter.

After the rules for provider enrollment have been promulgated, a provider must be enrolled in accordance with the rules to receive payment for services rendered under section 176.135. An unenrolled provider may not receive payment or attempt to collect from any source, including the employee, any insurer or self-insured employer, the special compensation fund, or any government program. Retroactive enrollment must be permitted pursuant to guidelines established by rule. A list of currently enrolled providers must be given to all self-insured employers and insurers. The list must be made available to others upon request.

Sec. 33. [REPEALER.]

Minnesota Statutes 1990, sections 176.106; 176.135, subdivision 3; and 176.136, subdivision 5, are repealed.

Sec. 34. [EFFECTIVE DATE.]

This article is effective October 1, 1991; except that section 1 is effective January 1, 1992.

ARTICLE 4

COURTS/JURISDICTION

Section 1. Minnesota Statutes 1990, section 15A.083, subdivision 7, is amended to read:

Subd. 7. [WORKERS' COMPENSATION COURT OF APPEALS AND COMPENSATION JUDGES.] Salaries of judges of the workers' compensation court of appeals are the same as the salary for district judges as set under section 15A.082, subdivision 3. Salaries of compensation judges are ~~75~~ 80 percent of the salary of district court judges. The chief workers' compensation settlement judge at the department of labor and industry may be paid an annual salary that is up to five percent greater than the salary of workers' compensation settlement judges at the department of labor and industry. The assistant chief administrative law judge for workers' compensation at the office of administrative hearings shall be paid in conformity with the salary provisions of the managerial plan under section 43A.18, but the minimum salary shall be equal to the salary of a compensation judge.

Sec. 2. Minnesota Statutes 1990, section 176.061, is amended by adding a subdivision to read:

Subd. 6a. [JURISDICTION.] Notwithstanding section 573.02 or any other law to the contrary, the commissioner or compensation judge has jurisdiction to order the distribution of proceeds in accordance with subdivision 6 in all cases except where the district court has awarded a specific amount in satisfaction of the employer's subrogation interest or has specifically denied the employer's subrogation interest.

Sec. 3. [176.2615] [SMALL CLAIMS COURT.]

Subdivision 1. [PURPOSE.] There is established in the department of labor and industry a small claims court, to be presided over by settlement judges for the purpose of settling small claims.

Subd. 2. [ELIGIBILITY.] The claim is eligible for determination in the small claims court if referred by the commissioner or if all parties agree to submit to its jurisdiction; and

(1) the claim is for rehabilitation benefits only under section 176.102 or medical benefits only under section 176.135; or

(2) the claim in its total amount does not equal more than \$5,000; and

(3) where the claim is for apportionment or for contribution or reimbursement, no counterclaim in excess of \$5,000 is asserted.

Subd. 3. [TESTIMONY; EXHIBITS.] At the hearing a settlement judge shall hear the testimony of the parties and consider any exhibits offered by them and may also hear any witnesses introduced by either party.

Subd. 4. [APPEARANCE OF PARTIES.] A party may appear on the party's own behalf without an attorney, or may retain and be represented by a duly admitted attorney who may participate in the hearing to the extent and in the manner that the settlement judge considers helpful. Attorney fees awarded under this subdivision are included in the overall limit allowed under section 176.081, subdivision 1.

Subd. 5. [EVIDENCE ADMISSIBLE.] At the hearing the settlement judge shall receive evidence admissible under the rules of evidence. In addition, in the interest of justice and summary determination of issues before the court, the settlement judge may receive, in the judge's discretion, evidence not otherwise admissible. The settlement judge, on the judge's own motion, may receive into evidence any documents which have been filed with the department.

Subd. 6. [SETTLEMENT.] A settlement judge may attempt to conciliate the parties. If the parties agree on a settlement, the judge shall issue an order in accordance with that settlement.

Subd. 7. [DETERMINATION.] If the parties do not agree to a settlement, the settlement judge shall summarily hear and determine the issues and issue an order in accordance with section 176.305, subdivision 1a. Any determination by a settlement judge is not res judicata with respect to any other proceeding between or among the parties under this chapter, nor may it be considered as evidence in any other proceeding.

Subd. 8. [COSTS.] The prevailing party is entitled to costs and disbursements as in any other workers' compensation case.

Sec. 4. Minnesota Statutes 1990, section 176.461, is amended to read:

176.461 [SETTING ASIDE AWARD.]

Except when a writ of certiorari has been issued by the supreme court and the matter is still pending in that court or if as a matter of law the determination of the supreme court cannot be subsequently modified, the workers' compensation court of appeals, for cause, at any time after an award, upon application of either party and not less than five working days after written notice to all interested parties, may set the award aside and grant a new hearing and refer the matter for a determination on its merits to the chief administrative law judge for assignment to a compensation judge, who shall make findings of fact, conclusions of law, and an order of award or disallowance of compensation or other order based on the pleadings and the evidence produced and as required by the provisions of this chapter or rules adopted under it.

As used in this section, the phrase "for cause" is limited to the following grounds:

(1) a mutual mistake of fact that was not discoverable at the time of the award;

(2) newly discovered evidence that was not discoverable at the time of the award;

(3) fraud; or

(4) a substantial change in medical condition since the time of the award that was clearly not anticipated and could not reasonably have been anticipated at the time of the award.

Sec. 5. Minnesota Statutes 1990, section 480A.06, subdivision 3, is amended to read:

Subd. 3. [CERTIORARI REVIEW.] The court of appeals shall have jurisdiction to issue writs of certiorari to all agencies, public corporations and public officials, except the tax court ~~and the workers' compensation court of appeals~~. The court of appeals shall have jurisdiction to review decisions of the commissioner of jobs and training, pursuant to section 268.10.

Sec. 6. Minnesota Statutes 1990, section 480A.06, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATIVE REVIEW.] The court of appeals shall have jurisdiction to review on the record: the validity of administrative rules, as provided in sections 14.44 and 14.45; ~~and;~~ the decisions of administrative agencies in contested cases, as provided in sections 14.63 to 14.69; and workers' compensation cases and peace officer death benefits cases, as provided under chapters 176 and 176A.

Sec. 7. [TRANSFER OF JURISDICTION AND PERSONNEL.]

The jurisdiction of the workers' compensation court of appeals, as provided under Minnesota Statutes, section 175A.01, subdivision 5, is transferred to the court of appeals. All contracts, books, plans, papers, records, and property of every description of the workers' compensation court of appeals relating to its transferred responsibilities and within its jurisdiction or control are transferred to the court of appeals; except that all case files are transferred to the clerk of the appellate courts. All classified employees and staff attorneys of the workers' compensation court of appeals must be given preference in the employment of personnel required to staff the increased caseload of the court of appeals as a result of transfer of jurisdiction under this section.

Sec. 8. |INCREASED JUDGES.|

The number of judges on the court of appeals as of January 1, 1992, shall be increased by five.

Sec. 9. |INSTRUCTION TO REVISOR.|

In every instance in Minnesota Statutes in which the term "workers' compensation court of appeals" appears, the revisor of statutes shall change that reference to the "court of appeals."

Sec. 10. |REAPPROPRIATION.|

\$..... is reappropriated from the special compensation fund, as a result of the savings to that fund in fiscal years 1992 and 1993 due to the abolition of the workers' compensation court of appeals, to the court of appeals for the purposes of this article.

Sec. 11. |REPEALER.|

Minnesota Statutes 1990, sections 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; and 175A.10, are repealed.

Sec. 12. |EFFECTIVE DATE.|

This article is effective January 1, 1992; except that section 1 is effective July 1, 1991.

ARTICLE 5

WORKERS' COMPENSATION INSURANCE

Section 1. Minnesota Statutes 1990, section 79.095, is amended to read:

79.095 |APPOINTMENT OF ACTUARY.|

The commissioner shall may employ the services of a casualty ~~actuary~~ actuaries experienced in ~~worker's~~ workers' compensation whose duties shall include but not be limited to investigation of complaints by insured parties relative to rates, rate classifications, or discriminatory practices of an insurer. The salary of the an actuary employed pursuant to this section is not subject to the provisions of section 43A.17, subdivision 1.

Sec. 2. Minnesota Statutes 1990, section 79.251, subdivision 1, is amended to read:

Subdivision 1. [ASSIGNED RISK PLAN; PARTICIPATION.] (1) An assigned risk plan review board is created for the purposes of review of the operation of section 79.252 and this section. The state fund mutual insurance company and all insurers authorized to write workers' compensation and employers' liability insurance in this state shall participate in a plan providing for the equitable apportionment of insurance coverage to employers who have been rejected for insurance coverage by a licensed insurer in the manner set forth in section 79.252.

Subd. 1a. [BOARD OF GOVERNORS.] (1) The operation of the assigned risk plan is subject to the supervision of the board of governors of the plan. The board shall have all the usual powers and authorities necessary for the discharge of its duties under this section and may contract with individuals in discharge of those duties.

(2) The board shall consist of six members to be appointed by the commissioner of commerce. Three members shall be insureds holding policies or contracts. One member shall be an insured holding a policy or contract of coverage issued pursuant to subdivision 4. Two Five members shall be insurers pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b). The commissioner shall be the sixth member and shall vote.

Initial appointments to the board shall be made by September January 1, 1981 1992, and terms shall be for three years duration. Removal, the filling of vacancies and compensation of the members other than the commissioner shall be as provided in section 15.059.

(3) The assigned risk plan review board shall audit the reserves established (a) for individual cases arising under policies and contracts of coverage issued under subdivision 4 and (b) for the total book of business issued under subdivision 4.

(4) The assigned risk plan review board shall monitor the operations of section 79.252 and this section and shall periodically make recommendations to the commissioner, and to the governor and legislature when appropriate, for improvement in the operation of those sections prepare a plan of operation for the assigned risk plan subject to the approval of the commissioner. The policy forms, rates, merit rating, rating plans, and classification and rating systems of the assigned risk plan shall be those filed for use by the Minnesota workers' compensation insurers rating association, and approved by the commissioner, subject to the requirements of this chapter.

The board shall meet quarterly, or more frequently if necessary, to review plan enrollment, plan administration, rate adequacy, loss ratios, and reserving practices. No later than June 30 of each year, the board shall file an annual report with the legislature and the workers' compensation insurers association. The report must be

signed by each member of the board. The report must include an actuarial evaluation of the plan by a fellow of the casualty actuarial society who shall be retained and paid by the board.

(5) All insurers and self-insurance administrators issuing policies or contracts under subdivision 4 shall pay to the commissioner a .25 percent assessment on premiums for policies and contracts of coverage issued under subdivision 4 for the purpose of defraying the costs of the assigned risk plan review board. Proceeds of the assessment shall be deposited in the state treasury and credited to the general fund.

(6) The assigned risk plan and the assigned risk plan review board of governors shall not be deemed a state agency.

Sec. 3. Minnesota Statutes 1990, section 79.251, subdivision 2, is amended to read:

Subd. 2. [APPROPRIATE MERIT RATING PLAN.] The board of governors, subject to approval by the commissioner of commerce, shall develop an appropriate merit rating plan which shall be applicable to all nonexperience rated insureds holding policies or contracts of coverage issued pursuant to subdivision 4, and to the insurers or self-insurance administrators issuing those policies or contracts. The plan shall must provide a maximum merit credit or debit adjustment equal to ten percent of earned premium. The actual adjustment may vary with insured's loss experience.

Sec. 4. Minnesota Statutes 1990, section 79.251, subdivision 3, is amended to read:

Subd. 3. [RATES.] Insureds served by the assigned risk plan shall be charged premiums based upon a rating plan, including a merit rating plan adopted by the commissioner by rule. (a) The commissioner board of governors shall annually, not later than January 1 of each year, establish the file with the commissioner a schedule of rates applicable to for use in determining premiums charged employers in the assigned risk plan business at least 30 days prior to their effective date. Assigned risk premiums shall rates must not be lower than rates generally charged by insurers for the business. The commissioner shall fix the compensation received by the agent of record. The establishment of the assigned risk plan rates and agent fees are not subject to chapter 14.

(b) The rates filed by the board shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within 30 days after the filing is made. In disapproving a filing made pursuant to this section, the commissioner shall have the same authority, and follow the same procedure, as in disapproving a filing pursuant to section 79.58.

(c) The board shall fix the compensation received by the agent of record. Agent compensation shall be established at a level that is neither an incentive nor a disincentive to place an employer in the assigned risk plan. The establishment of the assigned risk plan rates and agent fees are not subject to chapter 14.

Sec. 5. Minnesota Statutes 1990, section 79.251, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATION.] ~~The commissioner~~ board of governors shall enter into service contracts as necessary or beneficial for accomplishing the purposes of the assigned risk plan. Services related to the administration of policies or contracts of coverage shall be performed by one or more qualified insurance companies licensed pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b), or self-insurance administrators licensed pursuant to section 176.181, subdivision 2, clause (2), paragraph (a). A qualified insurer or self-insurance administrator shall possess sufficient financial, professional, administrative, and personnel resources to provide the services contemplated in the contract. Services related to assignments, data management, assessment collection, and other services shall be performed by a licensed data service organization. The cost of those services is an obligation of the assigned risk plan.

Each insurer or self-insured administrator who performs services pursuant to this subdivision shall be required to report loss experience data to the Minnesota workers' compensation insurers association in accordance with the statistical plan and rules of the organization as approved by the commissioner, and shall keep a record of the premium and losses paid under each workers' compensation policy written in Minnesota in the form required by the commissioner.

Sec. 6. Minnesota Statutes 1990, section 79.251, subdivision 5, is amended to read:

Subd. 5. [ASSESSMENTS.] ~~The commissioner shall~~ assess All insurers licensed pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b), shall be assessed an amount sufficient to fully fund the obligations of the assigned risk plan, if the commissioner determines that the assets of the assigned risk plan are insufficient to meet its obligations annual report of the board of governors reveals a deficit in the plan. The assessment must be made within 30 days of the date the annual report of the board is filed. The assessment of each insurer shall be in a proportion equal to the proportion which the amount of compensation insurance written in this state during the preceding calendar year by that insurer bears to the total compensation insurance written in this state during the preceding calendar year by all licensed insurers.

Sec. 7. Minnesota Statutes 1990, section 79.252, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] The purpose of the assigned risk plan is to provide workers' compensation coverage to employers rejected by a two nonaffiliated licensed insurance company companies, pursuant to subdivision 2. One of these two rejections must come from the insurance company that most recently provided workers' compensation coverage to the employer, unless the employer had no previous coverage. Each rejection must be in writing and must be obtained within 60 days before the date of application to the assigned risk plan. In addition, the rejections must also show the name of the insurance company and the representative contacted.

Sec. 8. Minnesota Statutes 1990, section 79.252, subdivision 3, is amended to read:

Subd. 3. [COVERAGE.] (a) Policies and contracts of coverage issued pursuant to section 79.251, subdivision 4, shall contain the usual and customary provisions of workers' compensation insurance policies, and shall be deemed to meet the mandatory workers' compensation insurance requirements of section 176.181, subdivision 2.

(b) Policies issued by the assigned risk plan pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The board of governors may apply for and obtain any licensure required in any other state to issue that coverage.

Sec. 9. Minnesota Statutes 1990, section 79.252, subdivision 5, is amended to read:

Subd. 5. [RULES.] The commissioner may adopt rules, including ~~emergency~~ temporary rules, as may be necessary to implement section 79.251 and this section.

Sec. 10. Minnesota Statutes 1990, section 79.55, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVENESS.] ~~No premium is excessive in a competitive market. In the absence of a competitive market,~~ Premiums are excessive if the expected underwriting profit, together with expected income from invested reserves for the market in question, that would accrue to an insurer would be unreasonably high in relation to the risk undertaken by the insurer in transacting the business.

Sec. 11. Minnesota Statutes 1990, section 79.56, is amended by adding a subdivision to read:

Subd. 5. [RATE REGULATION.] (a) Whenever an insurer files a change in its existing rate level or rating plan, the commissioner may hold a hearing to determine if the rate level or rating plan is excessive, inadequate, or unfairly discriminatory. The hearing must be conducted pursuant to chapter 14. The commissioner shall give notice of intent to hold a hearing within 90 days of the filing of the change. It is the responsibility of the insurer to show that the rate level or rating plan is not excessive, inadequate, or unfairly discriminatory. The rate level or rating plan is effective unless it is determined as a result of the hearing that the rate level or rating plan is excessive, inadequate, or unfairly discriminatory. Upon such a finding, the rate level or rating plan is retroactively rescinded and any premiums collected under it must be refunded. This subdivision does not apply to any changes resulting from assessments for the assigned risk plan, reinsurance association, guarantee fund, special compensation fund, or statutory benefit level changes to sections 176.101, subdivisions 1, 2, and 4, 176.111, 176.132, and 176.645 as a result of annual adjustments in the statewide average weekly wage. The disapproval of a rate level or rating plan under this subdivision must be done in the same manner as under section 70A.11, except that the standards of section 79.55 apply.

(b) Notwithstanding paragraph (a), if the commissioner of labor and industry petitions the commissioner for a hearing pursuant to this subdivision, the commissioner must hold a hearing if the commissioner of labor and industry certifies that the hearing is necessary because a decision of the supreme court or enactment of a statute has effected a substantial change in the basis upon which the existing rate levels or rating plan was filed. The commissioner of labor and industry must make a prima facie showing that law change has effected a substantial change in the basis upon which the existing rate levels or rating plan was filed.

(c) Notwithstanding paragraph (a), the commissioner may hold a hearing if the commissioner determines that the hearing is necessary because of circumstances which result in a substantial change in the basis upon which the existing rate levels or rating plan was filed. The commissioner must make a prima facie showing that the circumstances resulted in a substantial change in the basis upon which the existing rate levels or rating plan was filed.

Sec. 12. [79.565] [PARTICIPATION.]

An employer, or person representing a group of employers, that will be directly affected by a change in an insurer's existing rate level or rating plan filed under section 79.56, subdivision 5, and the commissioner of labor and industry, must be allowed to participate in any hearing under that subdivision challenging the change in

rate level or rating plan as being excessive, inadequate, or unfairly discriminatory.

Sec. 13. Minnesota Statutes 1990, section 79.58, subdivision 2, is amended to read:

Subd. 2. [RATING PLANS.] The commissioner may disapprove a rating plan of a data service organization if, after a hearing conducted pursuant to chapter 14, the commissioner finds that it is excessive, inadequate, or unfairly discriminatory. The rating plan is effective until disapproved. It is the responsibility of the data service organization to show that the rating plan is not excessive, inadequate, or unfairly discriminatory. Any order of disapproval shall require the data service organization to use an alternative rating plan until approval of a rating plan by the commissioner. The commissioner shall not approve any rating plan based upon any data other than Minnesota data, except that other data may be utilized as a supplement to Minnesota data when the commissioner determines that an exceptional case requires such data to establish the statistical credibility of an occupational classification.

Sec. 14. Minnesota Statutes 1990, section 79.61, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED ACTIVITY.] Any data service organization shall perform the following activities:

(a) File statistical plans, including classification definitions, amendments to the plans, and definitions, with the commissioner for approval, and assign each compensation risk written by its members to its approved classification for reporting purposes;

(b) Establish requirements for data reporting and monitoring methods to maintain a high quality data base;

(c) Prepare and distribute a periodic report, in a form prescribed by the commissioner, on ratemaking including, but not limited to the following elements:

(i) development factors and alternative derivations;

(ii) trend factors and alternative derivations and applications;

(iii) pure premium relativities for the approved classification system for which data are reported, provided that the relativities for insureds engaged in similar occupations and presenting substantially similar risks shall, if different, differ by at least ten percent; and

(iv) an evaluation of the effects of changes in law on loss data.

The report shall also include explicit discussion and explanation of methodology, alternatives examined, assumptions adopted, and areas of judgment and reasoning supporting judgments entered into, and the effect of various combinations of these elements on indications for modification of an overall pure premium rate level change. The pure premium relativities and rate level indications shall not include a loading for expenses or profit and no expense or profit data or recommendations relating to expense or profit shall be included in the report or collected by a data service organization;

(d) Collect, compile, summarize, and distribute data from members or other sources pursuant to a statistical plan approved by the commissioner;

(e) Prepare merit rating plan and calculate any variable factors necessary for utilization of the plan. Such a plan may be used by any of its members, at the option of the member provided that the application of a plan shall not result in rates that are unfairly discriminatory;

(f) Provide loss data specific to an insured to the insured at a reasonable cost;

(g) Distribute information to an insured or interested party that is filed with the commissioner and is open to public inspection; and

(h) Assess its members for operating expenses on a fair and equitable basis;

(i) Separate the incurred but unreported losses of its members;

(j) Separate paid and outstanding losses of its members;

(k) Provide information indicating cases in which its members have established a reserve in excess of \$50,000;

(l) File information based solely on Minnesota data concerning its members' premium income, indemnity, and medical benefits paid.

Sec. 15. [79.65] [DATA SERVICE ORGANIZATIONS; COVERAGE.]

Subdivision 1. [EXAMINATION BY COMMISSIONER.] Data service organizations are subject to all the provisions of this chapter. The commissioner or an authorized representative of the commissioner may visit the rating association at any reasonable time and examine, audit, or evaluate the rating association's operations, records, and practices. For purposes of this section, "authorized representative of the commissioner" includes employees of the departments of commerce or labor and industry or other parties

retained by the commissioner. An examination under this section may be done of any member of data service organizations for purposes of workers' compensation insurance regulation.

Subd. 2. [COSTS AND EXPENSES.] The commissioner may order and the data service organization shall pay the costs and expenses of any examination, audit, or evaluation conducted pursuant to subdivision 1. If no order is issued, a sum sufficient to pay these costs and expenses is appropriated from the special compensation fund to the commissioner of commerce.

Sec. 16. [79.70] [INVESTIGATIONS AND SUBPOENAS.]

Subdivision 1. [GENERAL POWERS.] In connection with the administration of this chapter, the commissioner of commerce may:

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate this chapter or any rule or order under this chapter, or to aid in the enforcement of this chapter, or in the prescribing of rules or forms under this chapter;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the administration of this chapter;

(4) conduct investigations and hold hearings for the purpose of compiling information with a view to recommending changes in this chapter to the legislature;

(5) examine the books, accounts, records, and files of every licensee under this chapter and of every person who is engaged in any activity regulated under this chapter; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner; and

(7) require any person subject to this chapter to report all sales or transactions that are regulated under this chapter. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other

governmental agencies unless otherwise ordered by a court of competent jurisdiction.

Subd. 2. [POWER TO COMPEL PRODUCTION OF EVIDENCE.] For the purpose of any investigation, hearing, or proceeding under this chapter, the commissioner or a designated representative may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner considers relevant or material to the inquiry.

Subd. 3. [COURT ORDERS.] In case of a refusal to appear or a refusal to obey a subpoena issued to any person, the district court, upon application by the commissioner, may issue to any person an order directing that person to appear before the commissioner, or the officer designated by the commissioner, to produce documentary evidence if so ordered or to give evidence relating to the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

Subd. 4. [SCOPE OF PRIVILEGE.] No person is excused from attending and testifying or from producing any document or record before the commissioner, or from obedience to the subpoena of the commissioner or any officer designated by the commissioner or in a proceeding instituted by the commissioner, on the ground that the testimony or evidence required may tend to incriminate that person or subject that person to a penalty or forfeiture. No person may be prosecuted or subjected to a penalty or forfeiture for a transaction, matter, or thing concerning which the person is compelled, after claiming the privilege against self-incrimination, to testify or produce documentary or other evidence except that the individual is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

Subd. 5. [LEGAL ACTIONS; INJUNCTIONS; CEASE AND DESIST ORDERS.] (a) Whenever it appears to the commissioner that any person has engaged in or is about to engage in any act or practice constituting a violation of this chapter, or any rule or order adopted under this chapter, the commissioner has the powers indicated under paragraphs (b) and (c).

(b) The commissioner may bring an action in the name of the state in the district court of the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter, or any rule or order adopted or issued under this chapter, or the commissioner may refer the matter to the attorney general or the county attorney of the appropriate county. Upon a proper showing, a permanent or temporary injunction, restraining order, or other appropriate relief must be granted.

(c) The commissioner may issue and serve an order requiring a person to cease and desist from violations of this chapter, or any rule or order adopted or issued under this chapter. The order must give reasonable notice of the rights of the person to request a hearing and must state the reasons for the entry of the order. A hearing must be held not later than seven days after the request for the hearing is received by the commissioner. Within 20 days after receiving the administrative law judge's report, the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. If no hearing is requested within 30 days of service of the order, the order will become final and will remain in effect until it is modified or vacated by the commissioner. Unless otherwise provided, all hearings must be conducted in accordance with chapter 14. If a person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default, and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted under this paragraph.

Subd. 6. [VIOLATIONS AND PENALTIES.] The commissioner may impose a civil penalty not to exceed \$2,000 per violation upon a person who violates this chapter, unless a different penalty is specified under this chapter.

Subd. 7. [ACTIONS AGAINST LICENSEES.] In addition to any other actions authorized by this section, the commissioner may, by order, deny, suspend, or revoke the authority or license of a person subject to this chapter, or censure that person if the commissioner finds that the order is in the public interest or the person has violated this chapter.

Subd. 8. [POWERS ADDITIONAL.] The powers contained in subdivisions 1 to 8 are in addition to all other powers of the commissioner.

Sec. 17. [79.75] [ACCESS TO INSURER.]

The commissioner, or the designated person, shall have free access during normal business hours to all books, records, securities, documents, and any or all papers relating to the property, assets, business, and affairs of any company, applicant, association, or person that may be examined pursuant to this chapter for the purpose of ascertaining, appraising, and evaluating the assets, conditions, affairs, operations, ability to fulfill obligations, and compliance with all the provisions of law of the company or person insofar as any of the above pertain to the business of insurance of a person, organization, or corporation transacting, having transacted, or being organized to transact business in this state. Every company or person being examined including officers, directors, and agents,

shall provide to the commissioner or the designated person convenient and free access at all reasonable hours at its office to all books, records, securities, documents, and any or all papers relating to the property, assets, business, and affairs of the company or person. The officers, directors, and agents of the company or person shall facilitate the examination and aid in the examination so far as it is in their power to do so.

Sec. 18. Minnesota Statutes 1990, section 176A.03, is amended by adding a subdivision to read:

Subd. 3. [COVERAGE OUTSIDE STATE.] Policies issued by the fund pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The fund may apply for and obtain any licensure required in any other state in order to issue the coverage.

Sec. 19. Minnesota Statutes 1990, section 221.141, subdivision 1, is amended to read:

Subdivision 1. [FINANCIAL RESPONSIBILITY OF CERTAIN CARRIERS.] No motor carrier and no interstate carrier shall operate a vehicle until it has obtained and has in effect the minimum amount of financial responsibility required by this section. Policies of insurance, surety bonds, other types of security, and endorsements must be continuously in effect and must remain in effect until canceled. Before providing transportation, the motor carrier or interstate carrier shall secure and cause to be filed with the commissioner and maintain in full effect, both a certificate of insurance in a form required by the commissioner, evidencing public liability insurance in the amount prescribed, and acceptable evidences of compliance with the workers' compensation insurance coverage requirements of section 176.181, subdivision 2, by providing the name of the insurance company, the policy number, and the dates of coverage, or the permit to self-insure. The insurance must cover injuries and damage to persons or property resulting from the operation or use of motor vehicles, regardless of whether each vehicle is specifically described in the policy. This insurance does not apply to injuries or death to the employees of the motor carrier or to property being transported by the carrier. The commissioner shall require cargo insurance for certificated carriers, except those carrying passengers exclusively. The commissioner may require a permit carrier to file cargo insurance when the commissioner deems necessary to protect the users of the service.

Sec. 20. [NOTICE OF INTENT TO CHALLENGE RATE LEVEL CHANGE.]

Notwithstanding Minnesota Statutes, section 79.56, subdivision 5, the commissioner shall have an additional 90 days to give notice

of intent to hold a hearing pursuant to that section. This section applies only to challenges to an insurer's change in existing rate levels or rating plan filed between the date the 1992 report required under section 79.60 is approved by the commissioner of commerce and six months thereafter.

Sec. 21. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in articles 1 to 4 and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of rates in effect on October 1, 1991, must be reduced by 17 percent and applied by the insurer to all policies issued, renewed, or outstanding on or after that date. An insurer may not adjust its filed rating plan to recoup the 17 percent mandated rate reduction under this section. The reduction must be computed on the basis of a 17 percent premium reduction prorated to the expiration of that policy. An insurer shall provide a written notice by November 1, 1991, to all employers having an outstanding policy with the insurer as of October 1, 1991, that reads as follows: "As a result of the changes in the workers' compensation insurance system enacted by the 1991 legislature, you are entitled to a credit or refund to your current premium in an amount of \$..... which reflects a 17 percent mandated premium reduction prorated to the expiration of your policy."

(b) No rate increases may be filed between April 1, 1991 and January 1, 1992.

(c) The commissioner of labor and industry shall survey Minnesota employers to determine if the mandated workers' compensation insurance rate reductions required under this section have been implemented by insurers, both as to amount and in a manner that is uniform and nondiscriminatory between employers having similar risks with respect to a particular occupational classification. The commissioner shall present a report detailing the findings and conclusions to the legislature by March 1, 1992.

Sec. 22. [ADJUSTMENT.]

Within 60 days of final enactment of this legislation, the board shall determine whether any adjustment in the assigned risk rates in effect as of the date of enactment are required by this section.

Sec. 23. [REPEALER.]

Minnesota Statutes 1990, sections 79.54, 79.57, and 79.58, subdivision 1, are repealed.

Sec. 24. [EFFECTIVE DATE.]

This article is effective January 1, 1992; except that, section 21, paragraphs (a) and (c), are effective October 1, 1991; and section 21, paragraph (b), is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to workers' compensation; regulating benefits, providers, dispute resolution, and insurance; appropriating money; imposing penalties; amending Minnesota Statutes 1990, sections 15A.083, subdivision 7; 79.095; 79.251, subdivisions 1, 2, 3, 4, and 5; 79.252, subdivisions 1, 3, and 5; 79.55, subdivision 2; 79.56, by adding a subdivision; 79.58, subdivision 2; 79.61, subdivision 1; 175.007; 176.011, subdivisions 3, 11a, 18, 27, and by adding a subdivision; 176.021, subdivision 3; 176.041, subdivision 1a; 176.061, subdivision 10, and by adding a subdivision; 176.081, subdivisions 1, 2, and 3; 176.101, subdivisions 1, 2, 4, 5, 6, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 3a, 4, 6, 7, 9, and 11; 176.105, subdivisions 1 and 4; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 18, 20, and 21; 176.131, subdivision 8, and by adding a subdivision; 176.132, subdivisions 1, 2, and 3; 176.135, subdivisions 1, 1a, 5, 6, and 7; 176.136, subdivisions 1, 2, and by adding subdivisions; 176.179; 176.183, subdivision 1; 176.215, by adding a subdivision; 176.221, subdivision 6a; 176.305, subdivision 1; 176.351, subdivision 2a; 176.421, subdivision 7; 176.442; 176.461; 176.645, subdivisions 1 and 2; 176.66, subdivision 11; 176.82; 176.83, subdivisions 5, 6, and by adding a subdivision; 176A.03, by adding a subdivision; 221.141, subdivision 1; 268.08, subdivision 3; 353.33, subdivision 5; and 480A.06, subdivisions 3 and 4; proposing coding for new law in Minnesota Statutes, chapters 79; and 176; repealing Minnesota Statutes 1990, sections 79.54; 79.57; 79.58, subdivision 1; 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; 175A.10; 176.011, subdivision 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u; 176.106; 176.111, subdivision 8a; 176.135, subdivision 3; and 176.136, subdivision 5."

Signed: Stanius; Johnson, V.; Gruenes; Frerichs; Haukoos; Bishop; Morrison and Limmer.

Stanius moved that the Minority Report on H. F. No. 1422 be substituted for the Majority Report and that the Minority Report be now adopted.

A roll call was requested and properly seconded.

CALL OF THE HOUSE

On the motion of Stanius and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Abrams	Frederick	Kinkel	Olsen, S.	Segal
Anderson, I.	Frerichs	Knickerbocker	Olson, E.	Simoneau
Anderson, R.	Garcia	Koppendrayner	Olson, K.	Skoglund
Anderson, R. H.	Girard	Krinkie	Omann	Smith
Battaglia	Goodno	Krueger	Onnen	Solberg
Bauerly	Greenfield	Lasley	Orenstein	Sparby
Beard	Gruenes	Leppik	Orfield	Stanius
Begich	Gutknecht	Lieder	Osthoff	Steensma
Bertram	Hanson	Limmer	Ostrom	Sviggum
Bettermann	Hartle	Long	Ozment	Swenson
Bishop	Hasskamp	Lourey	Pauly	Thompson
Blatz	Haukoos	Lynch	Pellow	Tompkins
Bodahl	Hausman	Macklin	Pelowski	Trimble
Boo	Heir	Mariani	Peterson	Tunheim
Brown	Henry	Marsh	Pugh	Uphus
Carlson	Hufnagle	McEachern	Reding	Valento
Carruthers	Hugoson	McGuire	Rice	Vellenga
Clark	Jacobs	McPherson	Rodosovich	Wagenius
Dauner	Janezich	Milbert	Rukavina	Waltman
Davids	Jefferson	Morrison	Runbeck	Weaver
Dempsey	Johnson, A.	Murphy	Sarna	Wejcman
Dille	Johnson, R.	Nelson, S.	Schafer	Wenzel
Dorn	Johnson, V.	Newinski	Scheid	Winter
Erhardt	Kahn	O'Connor	Schreiber	Spk. Vanasek
Farrell	Kelso	Ogren	Seaberg	

Long moved that further proceedings of the roll call be dispensed with and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

Long moved that the Minority Report on H. F. No. 1422 be laid on the table.

A roll call was requested and properly seconded.

POINT OF ORDER

Sviggum raised a point of order pursuant to section 331 of "Mason's Manual of Legislative Procedure" relating to the application of the motion to lay on the table. The Speaker ruled the point of order not well taken.

The question recurred on the Long motion and the roll was called.

Long moved that those not voting be excused from voting. The motion prevailed.

There were 76 yeas and 56 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Greenfield	Lieder	Orfield	Sparby
Battaglia	Hanson	Long	Osthoff	Steensma
Bauerly	Hasskamp	Lourey	Pelowski	Thompson
Beard	Hausman	Mariani	Peterson	Trimble
Begich	Jacobs	McEachern	Pugh	Tunheim
Bertram	Janezich	McGuire	Reding	Vellenga
Bodahl	Jaros	Milbert	Rest	Wagenius
Brown	Jefferson	Munger	Rice	Wejman
Carlson	Johnson, A.	Murphy	Rodosovich	Welle
Carruthers	Johnson, R.	Nelson, K.	Rukavina	Wenzel
Clark	Kahn	Nelson, S.	Sarna	Winter
Cooper	Kalis	O'Connor	Scheid	Spk. Vanasek
Dawkins	Kelso	Ogren	Segal	
Dorn	Kinkel	Olson, E.	Simoneau	
Farrell	Krueger	Olson, K.	Skoglund	
Garcia	Lasley	Orenstein	Solberg	

Those who voted in the negative were:

Abrams	Frerichs	Johnson, V.	Olsen, S.	Stanisus
Anderson, R.	Girard	Knickerbocker	Omann	Svigum
Anderson, R. H.	Goodno	Koppendrayer	Onnen	Swenson
Bettermann	Gruenes	Krinkie	Ostrom	Tompkins
Bishop	Gutknecht	Leppik	Ozment	Uphus
Blatz	Hartle	Limmer	Pauly	Valento
Boo	Haukoos	Lynch	Pellow	Waltman
Davids	Heir	Macklin	Runbeck	Weaver
Dempsey	Henry	Marsh	Schafer	
Dille	Hufnagle	McPherson	Schreiber	
Erhardt	Hugoson	Morrison	Seaberg	
Frederick	Jennings	Newinski	Smith	

The motion prevailed and the Minority Report on H. F. No. 1422 was laid on the table.

The question recurred on the adoption of the Majority Report from the Committee on Appropriations relating to H. F. No. 1422.

A roll call was requested and properly seconded.

Stanisus moved that the Majority Report from the Committee on Appropriations relating to H. F. No. 1422 be laid on the table.

A roll call was requested and properly seconded.

The question was taken on the Stanisus motion and the roll was called.

Long moved that those not voting be excused from voting. The motion prevailed.

There were 56 yeas and 76 nays as follows:

Those who voted in the affirmative were:

Abrams	Ferichs	Johnson, V.	Olsen, S.	Stanius
Anderson, R. H.	Girard	Knickerbocker	Omman	Sviggum
Bertram	Goodno	Koppendrayer	Onnen	Swenson
Bettermann	Gruenes	Krinkie	Ostrom	Tompkins
Bishop	Gutknecht	Leppik	Ozment	Uphus
Blatz	Hartle	Limmer	Pauly	Valento
Boo	Haukoos	Lynch	Pellow	Waltman
Davids	Heir	Macklin	Runbeck	Weaver
Dempsey	Henry	Marsh	Schafer	
Dille	Hufnagle	McPherson	Schreiber	
Erhardt	Hugoson	Morrison	Seaberg	
Frederick	Jennings	Newinski	Smith	

Those who voted in the negative were:

Anderson, I.	Greenfield	Lieder	Orfield	Sparby
Anderson, R.	Hanson	Long	Osthoff	Steensma
Battaglia	Hasskamp	Lourey	Pelowski	Thompson
Bauerly	Hausman	Mariani	Peterson	Trimble
Beard	Jacobs	McEachern	Pugh	Tunheim
Begich	Janezich	McGuire	Reding	Vellenga
Bodahl	Jaros	Milbert	Rest	Wagenius
Brown	Jefferson	Munger	Rice	Wejzman
Carlson	Johnson, A.	Murphy	Rodosovich	Welle
Carruthers	Johnson, R.	Nelson, K.	Rukavina	Wenzel
Clark	Kahn	Nelson, S.	Sarna	Winter
Cooper	Kalis	O'Connor	Scheid	Spk. Vanasek
Dawkins	Kelso	Ogren	Segal	
Dorn	Kinkel	Olson, E.	Simoneau	
Farrell	Krueger	Olson, K.	Skoglund	
Garcia	Lasley	Orenstein	Solberg	

The motion did not prevail.

The question recurred on the adoption of the Majority Report from the Committee on Appropriations relating to H. F. No. 1422.

A roll call was requested and properly seconded.

The question was taken on the adoption of the Majority Report on H. F. No. 1422 and the roll was called.

Long moved that those not voting be excused from voting. The motion prevailed.

There were 77 yeas and 56 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Farrell	Krueger	Olson, K.	Solberg
Anderson, R.	Garcia	Lasley	Orenstein	Sparby
Battaglia	Greenfield	Lieder	Orfield	Steensma
Bauerly	Hanson	Long	Osthoff	Thompson
Beard	Hasskamp	Lourey	Peterson	Trimble
Begich	Hausman	Mariani	Pugh	Tunheim
Bertram	Jacobs	McEachern	Reding	Vellenga
Bodahl	Janezich	McGuire	Rest	Wagenius
Brown	Jaros	Milbert	Rice	Wejman
Carlson	Jefferson	Munger	Rodosovich	Welle
Carruthers	Johnson, A.	Murphy	Rukavina	Wenzel
Clark	Johnson, R.	Nelson, K.	Sarna	Winter
Cooper	Kahn	Nelson, S.	Scheid	Spk. Vanasek
Dauner	Kalis	O'Connor	Segal	
Dawkins	Kelso	Ogren	Simoneau	
Dorn	Kinkel	Olson, E.	Skoglund	

Those who voted in the negative were:

Abrams	Girard	Knickerbocker	Omann	Stanius
Anderson, R. H.	Goodno	Koppendrayner	Onnen	Sviggum
Bettermann	Gruenes	Krinkie	Ostrom	Swenson
Bishop	Gutknecht	Leppik	Ozment	Tompkins
Blatz	Hartle	Limmer	Pauly	Uphus
Boo	Haukoos	Lynch	Pellow	Valento
Davids	Heir	Macklin	Pelowski	Waltman
Dempsey	Henry	Marsh	Runbeck	Weaver
Dille	Hufnagle	McPherson	Schafer	
Erhardt	Hugoson	Morrison	Schreiber	
Frederick	Jennings	Newinski	Seaberg	
Frerichs	Johnson, V.	Olsen, S.	Smith	

The Majority Report on H. F. No. 1422 was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 20, 49, 67, 121, 124, 143, 165, 181, 228, 313, 317, 470, 474, 530, 571, 647, 664, 684, 688, 693, 747, 766, 786, 806, 878, 882, 883, 886, 922, 932, 943, 954, 999, 1025, 1132, 1147, 1179, 1194, 1197, 1201, 1238, 1264, 1269, 1320, 1326, 1389, 1392, 1405, 1415, 1422, 1433, 1455, 1459, 1475, 1492, 1509, 1521, 1528, 1529, 1536, 1541, 1551, 1584 and 1592 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 391, 224 and 231 were read for the second time.

CALL OF THE HOUSE LIFTED

Long moved that the call of the House be dispensed with. The motion prevailed and it was so ordered.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Rodosovich and Lieder introduced:

H. F. No. 1600, A bill for an act relating to gambling; allowing euchre to be played; amending Minnesota Statutes 1990, sections 609.75, subdivisions 1 and 3; and 609.761, by adding a subdivision.

The bill was read for the first time and referred to the Committee on General Legislation, Veterans Affairs and Gaming.

Trimble and Farrell introduced:

H. F. No. 1601, A bill for an act relating to housing; modifying certain annual housing impact reporting and replacement housing requirements; amending Minnesota Statutes 1990, sections 504.33, subdivision 2; 504.34, subdivision 1; and 504.35.

The bill was read for the first time and referred to the Committee on Housing.

Milbert introduced:

H. F. No. 1602, A bill for an act relating to claims; appropriating money for payment of a claim for Keith Hennes.

The bill was read for the first time and referred to the Committee on Appropriations.

Dempsey introduced:

H. F. No. 1603, A bill for an act relating to public safety; providing for revocation of driver's licenses and permits, motor vehicle registration certificates, and motor vehicle certificates of title when persons pay for issuance of these documents with bad checks; proposing coding for new law in Minnesota Statutes, chapter 299A.

The bill was read for the first time and referred to the Committee on Transportation.

Stanisus, Swenson, Krinkie, Newinski and McGuire introduced:

H. F. No. 1604, A bill for an act relating to education; authorizing construction at Northeast Metro Technical College.

The bill was read for the first time and referred to the Committee on Education.

Ozment, Stanisus, Tompkins and Solberg introduced:

H. F. No. 1605, A bill for an act relating to crime; requiring mandatory HIV antibody testing when a person has been convicted of criminal sexual conduct; proposing coding for new law in Minnesota Statutes, chapter 609.

The bill was read for the first time and referred to the Committee on Judiciary.

Johnson, A., and Ogren introduced:

H. F. No. 1606, A resolution memorializing the President and Congress to condemn the use of Soviet military force in the Baltic Republics and support the Baltic Republics for their self-determination.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Hasskamp, Rukavina, Ogren, Kinkel and Anderson, R., introduced:

H. F. No. 1607, A bill for an act relating to taxation; sales tax; modifying the accelerated payment of June sales tax liability; amending Minnesota Statutes 1990, section 289A.60, subdivision 15.

The bill was read for the first time and referred to the Committee on Taxes.

Garcia, Wagenius, Orenstein, Skoglund and Vellenga introduced:

H. F. No. 1608, A bill for an act relating to metropolitan government; providing for certain noise control measures at the Minneapolis-St. Paul International Airport; amending Minnesota Statutes 1990, section 473.608, by adding subdivisions.

The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs.

Pellow; Morrison; Anderson, I.; Sarna and Johnson, V., introduced:

H. F. No. 1609, A bill for an act relating to the city of New Brighton; permitting the city to acquire granular carbon without a bond.

The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs.

Pugh, Carruthers, Weaver, Rest and Olsen, S., introduced:

H. F. No. 1610, A bill for an act relating to creditors' remedies; making clarifying and technical changes to garnishment and execution laws; amending Minnesota Statutes 1990, sections 550.136, subdivisions 3 and 10; 551.06, subdivisions 3 and 10; 571.75, subdivision 2; and 571.922.

The bill was read for the first time and referred to the Committee on Judiciary.

Nelson, S.; Anderson, R.; Brown; Knickerbocker and Dauner introduced:

H. F. No. 1611, A bill for an act relating to game and fish; repealing the requirement that deer licenses be accompanied by applications for absentee ballots; repealing Minnesota Statutes 1990, section 97A.485, subdivision 1a.

The bill was read for the first time and referred to the Committee on General Legislation, Veterans Affairs and Gaming.

Schafer introduced:

H. F. No. 1612, A bill for an act relating to taxation; property; allowing a special levy for McLeod county; providing for a levy limit base adjustment for McLeod county.

The bill was read for the first time and referred to the Committee on Taxes.

Carruthers introduced:

H. F. No. 1613, A bill for an act relating to commerce; removing or modifying certain bond requirements; amending Minnesota Statutes 1990, sections 6.26; 10.38; 46.08, subdivision 1; 84.01, subdivision 4; 115A.06, subdivision 12; 116.03, subdivision 4; 233.08; 234.06; 241.08, subdivision 1; 246.15, subdivision 1; 257.05, subdivision 1; 280.27; 281.38; 299C.08; 299D.01, subdivision 4; 299D.03, subdivision 1; 340A.316; 375.03; 386.06; 388.01; 390.05; 398.10; 473.375, subdivision 5; 480.09, subdivision 2; 480.11, subdivision 1; and 488A.20, subdivision 2; repealing Minnesota Statutes 1990, sections 60B.08; 84.081, subdivision 2; 160.24, subdivision 5; 166.04; 196.02, subdivision 2; 234.07; 246.03; 340A.302, subdivision 4; 383A.20, subdivision 8; and 514.52.

The bill was read for the first time and referred to the Committee on Commerce.

Vellenga, Greenfield, Onnen, Gruenes and Jefferson introduced:

H. F. No. 1614, A bill for an act relating to the prevention of child abuse and neglect; authorizing the commissioner of state planning to award grants for programs designed to prevent child abuse and neglect; authorizing the commissioner of health to award grants for programs to prevent child abuse and neglect; establishing a bonus incentive for counties to provide family-based services; amending Minnesota Statutes 1990, section 256F.05, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 116K and 145.

The bill was read for the first time and referred to the Committee on Judiciary.

Kalis introduced:

H. F. No. 1615, A bill for an act relating to education; allowing certain fund transfers.

The bill was read for the first time and referred to the Committee on Education.

Wagenius and Rest introduced:

H. F. No. 1616, A bill for an act relating to crimes; missing children; repealing restrictions on felony prosecutions for taking, detaining, or failing to return a child; repealing Minnesota Statutes 1990, section 609.26, subdivision 5.

The bill was read for the first time and referred to the Committee on Judiciary.

Simoneau introduced:

H. F. No. 1617, A bill for an act relating to public employment; removing certain limits on negotiation of health insurance for retired public employees; increasing investment options for public employee deferred compensation plans; amending Minnesota Statutes 1990, sections 179A.20, subdivision 2a; and 356.24; proposing coding for new law in Minnesota Statutes, chapter 356; repealing Minnesota Statutes 1990, section 179A.16, subdivision 9.

The bill was read for the first time and referred to the Committee on Governmental Operations.

Runbeck, Milbert and Krinkie introduced:

H. F. No. 1618, A bill for an act relating to housing; requiring disclosure of conditions in sales of used manufactured homes; creating a used manufactured home transfer disclosure form; authorizing the commissioner of commerce to adopt rules; proposing coding for new law in Minnesota Statutes, chapter 327B.

The bill was read for the first time and referred to the Committee on Housing.

Ogren and Lourey introduced:

H. F. No. 1619, A bill for an act relating to state lands; authorizing sale of certain tax-forfeited land that borders public water in Aitkin county.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Steensma introduced:

H. F. No. 1620, A bill for an act relating to traffic regulations; authorizing the use of studded tires by rural mail carriers; amending Minnesota Statutes 1990, section 169.72, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Transportation.

Vellenga introduced:

H. F. No. 1621, A bill for an act relating to crimes; expanding the definition of drug free zones to include post-secondary and technical colleges and public housing property; requiring the sentencing guidelines commission to develop a model set of local correctional guidelines; authorizing special levies for local correctional services that do not involve incarceration; changing the name and duties of the drug abuse prevention resource council; providing incentives for judicial districts to adopt local correctional guidelines; requiring reporting of felony convictions; requiring chemical use assessments of persons convicted of felonies; requiring studies; appropriating money; amending Minnesota Statutes 1990, sections 152.01, subdivision 14a, and by adding a subdivision; 152.022, subdivision 1; 152.023, subdivision 2; 244.095, subdivisions 1 and 2; 275.50, subdivision 5; 275.51, subdivision 3f; 299A.30; 299A.31, subdivision 1; 299A.32; 401.14, by adding a subdivision; 485.16; and 609.115, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 244; repealing Minnesota Statutes 1990, sections 244.095, subdivision 3; 299A.29; and 299A.30.

The bill was read for the first time and referred to the Committee on Judiciary.

Dille introduced:

H. F. No. 1622, A bill for an act relating to traffic regulations; allowing use of studded tires on emergency vehicles; amending Minnesota Statutes 1990, section 169.72, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Transportation.

HOUSE ADVISORIES

The following House Advisory was introduced:

Wejeman, Kahn, Mariani, Vellenga and Segal introduced:

H. A. No. 9, A proposal to study health services in secondary schools.

The advisory was referred to the Committee on Education.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 795, A bill for an act relating to counties; removing certain restrictions on county morgues; amending Minnesota Statutes 1990, sections 390.06 and 390.07.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 196, A resolution memorializing the Congress of the United States to enact the POW/MIA truth bill, that relates to the disclosure of live sighting information on American service personnel missing in action from World War II, Korea, and Vietnam.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 328, 339, 473, 531, 732 and 925.

PATRICK E. FLAHAVEN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 328, A bill for an act relating to insurance; Medicare supplement; conforming state Medicare supplement policy requirements to federal law; requiring certain foreign travel coverages to be added to the basic plan; amending Minnesota Statutes 1990, sections 62A.31, subdivision 1; 62A.316; 62A.36, subdivision 1a; and 62A.43, subdivision 1.

The bill was read for the first time.

Skoglund moved that S. F. No. 328 and H. F. No. 32, now on

General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 339, A bill for an act relating to taxation; providing that certain nonprofit organizations that provide athletic programs qualify for a sales tax exemption on their purchases.

The bill was read for the first time.

Trimble moved that S. F. No. 339 and H. F. No. 390, now on the Consent Calendar, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 473, A bill for an act relating to health; allowing nursing homes to transfer medical assistance certification among beds; amending Minnesota Statutes 1990, section 144A.071, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Health and Human Services.

S. F. No. 531, A bill for an act relating to waste; authorizing a water or sewer commission to issue bonds; amending Minnesota Statutes 1990, section 116A.24, subdivisions 2 and 3.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

S. F. No. 732, A bill for an act relating to natural resources; offering an alternative to bond or deposit requirements on contracts for cutting timber; allowing reduction in value of letters of credit given as security for timber permits; amending Minnesota Statutes 1990, section 90.173; proposing coding for new law in Minnesota Statutes, chapter 90.

The bill was read for the first time.

Johnson, R., moved that S. F. No. 732 and H. F. No. 747, now on Technical General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 925, A bill for an act relating to insurance; medical expense benefits; including language translation services as medical expense benefits for insurance; amending Minnesota Statutes 1990, section 65B.44, subdivision 2.

The bill was read for the first time.

Dawkins moved that S. F. No. 925 and H. F. No. 234, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

REPORT FROM THE COMMITTEE ON RULES AND
LEGISLATIVE ADMINISTRATION

Long, from the Committee on Rules and Legislative Administration, pursuant to rule 1.09, designated the following bills as Special Orders to be acted upon immediately preceding General Orders for today, Monday, April 15, 1991:

H. F. No. 21; S. F. No. 187; H. F. Nos. 274, 726 and 299; S. F. No. 734; H. F. Nos. 611, 683, 173, 716, 808, 815, 977, 1001, 1017 and 1035; S. F. Nos. 34 and 254; and H. F. Nos. 739, 782, 248, 478 and 756.

The Speaker called Krueger to the Chair.

CONSENT CALENDAR

H. F. No. 1112 was reported to the House.

Dawkins moved that H. F. No. 1112 be placed on General Orders. The motion prevailed.

S. F. No. 252, A bill for an act relating to housing; authorizing a multicounty housing and redevelopment authority to appoint additional commissioners; amending Minnesota Statutes 1990, section 469.006, subdivision 2.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams
Anderson, I.
Anderson, R.

Anderson, R. H.
Battaglia
Bauerly

Beard
Begich
Bertram

Bettermann
Bishop
Blatz

Bodahl
Boo
Brown

Carlson	Hausman	Limmer	Orenstein	Solberg
Carruthers	Heir	Long	Orfield	Sparby
Clark	Henry	Lourey	Osthoff	Stanisus
Cooper	Hufnagle	Lynch	Ostrom	Steensma
Dauner	Hugoson	Macklin	Ozment	Sviggum
Davids	Jacobs	Mariani	Pauly	Swenson
Dawkins	Janezich	Marsh	Pellow	Thompson
Dempsey	Jaros	McEachern	Pelowski	Tompkins
Dille	Jefferson	McGuire	Peterson	Trimble
Dorn	Jennings	McPherson	Pugh	Tunheim
Erhardt	Johnson, A.	Milbert	Reding	Uphus
Farrell	Johnson, R.	Morrison	Rest	Valento
Frederick	Johnson, V.	Munger	Rice	Vellenga
Frerichs	Kahn	Murphy	Rodosovich	Wagenius
Garcia	Kalis	Nelson, K.	Rukavina	Waltman
Girard	Kelso	Nelson, S.	Runbeck	Weaver
Goodno	Kinkel	Newinski	Sarna	Wejcmann
Greenfield	Knickerbocker	O'Connor	Schafer	Welle
Gruenes	Koppendrayner	Ogren	Scheid	Wenzel
Gutknecht	Krinkie	Olsen, S.	Schreiber	Winter
Hanson	Krueger	Olson, E.	Seaberg	Spk. Vanasek
Hartle	Lasley	Olson, K.	Segal	
Hasskamp	Leppik	Omman	Simoneau	
Haukoos	Lieder	Onnen	Smith	

The bill was passed and its title agreed to.

H. F. No. 456, A bill for an act relating to adoption; clarifying the requirements for consents; amending Minnesota Statutes 1990, section 259.24, subdivision 5.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Dempsey	Jacobs	Macklin	Ostrom
Anderson, I.	Dille	Jaros	Mariani	Ozment
Anderson, R.	Dorn	Jefferson	Marsh	Pauly
Anderson, R. H.	Erhardt	Jennings	McEachern	Pellow
Battaglia	Farrell	Johnson, A.	McGuire	Pelowski
Bauerly	Frederick	Johnson, R.	McPherson	Peterson
Beard	Frerichs	Johnson, V.	Milbert	Pugh
Begich	Garcia	Kahn	Morrison	Reding
Bertram	Girard	Kalis	Munger	Rest
Bettermann	Goodno	Kelso	Murphy	Rice
Bishop	Greenfield	Kinkel	Nelson, S.	Rodosovich
Blatz	Gruenes	Knickerbocker	Newinski	Rukavina
Bodahl	Gutknecht	Koppendrayner	O'Connor	Runbeck
Boo	Hanson	Krinkie	Ogren	Sarna
Brown	Hartle	Krueger	Olsen, S.	Schafer
Carlson	Hasskamp	Lasley	Olson, E.	Scheid
Carruthers	Haukoos	Leppik	Olson, K.	Schreiber
Clark	Hausman	Lieder	Omman	Seaberg
Cooper	Heir	Limmer	Onnen	Segal
Dauner	Henry	Long	Orenstein	Simoneau
Davids	Hufnagle	Lourey	Orfield	Skoglund
Dawkins	Hugoson	Lynch	Osthoff	Smith

Solberg	Swenson	Uphus	Weaver	Spk. Vanasek
Sparby	Thompson	Valento	Wejzman	
Stanius	Tompkins	Vellenga	Welle	
Steensma	Trimble	Wagenius	Wenzel	
Sviggum	Tunheim	Waltman	Winter	

The bill was passed and its title agreed to.

H. F. No. 696, A bill for an act relating to education; revising membership requirements for joint vocational technical boards; authorizing joint vocational technical boards to appoint additional members; amending Minnesota Statutes 1990, section 136C.61, subdivision 1; and by adding a subdivision.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frederick	Kinkel	Olsen, S.	Simoneau
Anderson, I.	Frerichs	Knickerbocker	Olson, E.	Skoglund
Anderson, R.	Garcia	Koppendrayner	Olson, K.	Smith
Anderson, R. H.	Girard	Krinkie	Omann	Solberg
Battaglia	Goodno	Krueger	Onnen	Sparby
Bauerly	Greenfield	Lasley	Orenstein	Stanius
Beard	Gruenes	Leppik	Orfield	Steensma
Begich	Gutknecht	Lieder	Osthoff	Sviggum
Bertram	Hanson	Limmer	Ostrom	Swenson
Bettermann	Hartle	Long	Ozment	Thompson
Bishop	Hasskamp	Lourey	Pauly	Tompkins
Blatz	Haukoos	Lynch	Pellow	Trimble
Bodahl	Hausman	Macklin	Pelowski	Tunheim
Boo	Heir	Mariani	Peterson	Uphus
Brown	Henry	Marsh	Pugh	Valento
Carlson	Hufnagle	McEachern	Reding	Vellenga
Carruthers	Hugoson	McGuire	Rest	Wagenius
Clark	Jacobs	McPherson	Rice	Waltman
Cooper	Jaros	Milbert	Rodosovich	Weaver
Dauner	Jefferson	Morrison	Rukavina	Wejzman
Dauids	Jennings	Munger	Runbeck	Welle
Dawkins	Johnson, A.	Murphy	Sarna	Wenzel
Dempsey	Johnson, R.	Nelson, K.	Schafer	Winter
Dille	Johnson, V.	Nelson, S.	Scheid	Spk. Vanasek
Dorn	Kahn	Newinski	Schreiber	
Erhardt	Kalis	O'Connor	Seaberg	
Farrell	Kelso	Ogren	Segal	

The bill was passed and its title agreed to.

H. F. No. 594, A bill for an act relating to foreign money claims; enacting the uniform foreign-money claims act; proposing coding for new law in Minnesota Statutes, chapter 548.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frederick	Kelso	Ogren	Segal
Anderson, I.	Frerichs	Kinkel	Olsen, S.	Simoneau
Anderson, R.	Garcia	Knickerbocker	Olson, E.	Skoglund
Anderson, R. H.	Girard	Koppendrayner	Olson, K.	Smith
Battaglia	Goodno	Krinkie	Omann	Solberg
Bauerly	Greenfield	Krueger	Onnen	Sparby
Beard	Gruenes	Lasley	Orenstein	Stanius
Begich	Gutknecht	Leppik	Orfield	Steensma
Bertram	Hanson	Lieder	Osthoff	Swigum
Bettermann	Hartle	Limmer	Ostrom	Swenson
Bishop	Hasskamp	Long	Ozment	Thompson
Blatz	Haukoos	Lourey	Pauly	Tompkins
Bodahl	Hausman	Lynch	Pellow	Trimble
Boo	Heir	Macklin	Pelowski	Tunheim
Brown	Henry	Mariani	Peterson	Uphus
Carlson	Hufnagle	Marsh	Pugh	Valento
Carruthers	Hugoson	McEachern	Reding	Vellenga
Clark	Jacobs	McGuire	Rest	Wagenius
Cooper	Janezich	McPherson	Rice	Waltman
Dauner	Jaros	Milbert	Rodosovich	Weaver
Davids	Jefferson	Morrison	Rukavina	Wejcman
Dawkins	Jennings	Munger	Runbeck	Welle
Dempsey	Johnson, A.	Murphy	Sarna	Wenzel
Dille	Johnson, R.	Nelson, K.	Schafer	Winter
Dorn	Johnson, V.	Nelson, S.	Scheid	Spk. Vanasek
Erhardt	Kahn	Newinski	Schreiber	
Farrell	Kalis	O'Connor	Seaberg	

The bill was passed and its title agreed to.

H. F. No. 772, A bill for an act relating to agriculture; changing the composition of county extension committees; amending Minnesota Statutes 1990, section 38.36, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 112 yeas and 20 nays as follows:

Those who voted in the affirmative were:

Abrams	Bishop	Cooper	Frederick	Hausman
Anderson, I.	Blatz	Davids	Frerichs	Heir
Anderson, R.	Bodahl	Dawkins	Garcia	Henry
Anderson, R. H.	Dempsey	Dawkins	Girard	Hufnagle
Battaglia	Brown	Dille	Goodno	Hugoson
Begich	Carlson	Dorn	Gruenes	Jacobs
Bertram	Carruthers	Erhardt	Gutknecht	Janezich
Bettermann	Clark	Farrell	Hartle	Jaros

Jefferson	Long	Olson, E.	Rice	Tunheim
Jennings	Lourey	Olson, K.	Rodosovich	Uphus
Johnson, A.	Lynch	Omann	Rukavina	Valento
Johnson, V.	Macklin	Onnen	Schafer	Vellenga
Kahn	Mariani	Orenstein	Schreiber	Wagenius
Kalis	Marsh	Orfield	Seaberg	Waltman
Kelso	McGuire	Ostrom	Segal	Weaver
Knickerbocker	McPherson	Ozment	Simoneau	Wejcman
Koppendrayner	Milbert	Pauly	Smith	Welle
Krinkie	Morrison	Pellow	Stanis	Wenzel
Krueger	Munger	Pelowski	Steensma	Winter
Lasley	Nelson, K.	Peterson	Svigum	Spk. Vanasek
Leppik	Newinski	Pugh	Swenson	
Lieder	Ogren	Reding	Tompkins	
Limmer	Olsen, S.	Rest	Trimble	

Those who voted in the negative were:

Bauerly	Hanson	Kinkel	O'Connor	Skoglund
Beard	Hasskamp	McEachern	Osthoff	Solberg
Dauner	Haukoos	Murphy	Sarna	Sparby
Greenfield	Johnson, R.	Nelson, S.	Scheid	Thompson

The bill was passed and its title agreed to.

H. F. No. 807 was reported to the House.

Rice moved to amend H. F. No. 807, the first engrossment, as follows:

Page 3, line 26, delete everything after the period

Page 3, delete line 27

The motion prevailed and the amendment was adopted.

H. F. No. 807, A bill for an act relating to commerce; requiring real estate brokers and salespersons to receive instruction in fair housing laws; amending Minnesota Statutes 1990, section 82.22, subdivisions 6 and 13.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Anderson, R. H.	Beard	Bettermann	Bodahl
Anderson, I.	Battaglia	Begich	Bishop	Boo
Anderson, R.	Bauerly	Bertram	Blatz	Brown

Carlson	Hausman	Limmer	Orfield	Solberg
Carruthers	Heir	Long	Osthoff	Stanisus
Clark	Henry	Lourey	Ostrom	Steensma
Cooper	Hufnagle	Lynch	Ozment	Sviggrum
Dauner	Hugoson	Macklin	Pauly	Swenson
Davids	Jacobs	Mariani	Pellow	Thompson
Dawkins	Janezich	Marsh	Pelowski	Tompkins
Dempsey	Jaros	McEachern	Peterson	Trimble
Dille	Jefferson	McGuire	Pugh	Tunheim
Dorn	Jennings	McPherson	Reding	Uphus
Erhardt	Johnson, A.	Milbert	Rest	Valento
Farrell	Johnson, R.	Morrison	Rice	Vellenga
Frederick	Johnson, V.	Murphy	Rodosovich	Wagenius
Frerichs	Kahn	Nelson, K.	Rukavina	Waltman
Garcia	Kalis	Nelson, S.	Runbeck	Weaver
Girard	Kelso	Newinski	Sarna	Wejcman
Goodno	Kinkel	O'Connor	Schafer	Welle
Greenfield	Knickerbocker	Ogren	Scheid	Wenzel
Gruenes	Koppendrayar	Olson, S.	Schreiber	Winter
Gutknecht	Krinkie	Olson, E.	Seaberg	Spk. Vanasek
Hanson	Krueger	Olson, K.	Segal	
Hartle	Lasley	Omman	Simoneau	
Hasskamp	Leppik	Onnen	Skoglund	
Haukoos	Lieder	Orenstein	Smith	

The bill was passed, as amended, and its title agreed to.

H. F. No. 1299, A bill for an act relating to agriculture; abolishing refund of checkoff fee paid by paddy wild rice producers; changing the definition of restricted seed potato growing area; amending Minnesota Statutes 1990, sections 17.63; and 21.1196, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Dawkins	Hufnagle	Limmer	Omman
Anderson, I.	Dempsey	Hugoson	Long	Onnen
Anderson, R.	Dille	Jacobs	Lourey	Orenstein
Anderson, R. H.	Dorn	Janezich	Lynch	Orfield
Battaglia	Erhardt	Jaros	Macklin	Osthoff
Bauerly	Farrell	Jefferson	Mariani	Ostrom
Beard	Frederick	Jennings	Marsh	Ozment
Begich	Frerichs	Johnson, A.	McEachern	Pauly
Bertram	Garcia	Johnson, R.	McGuire	Pellow
Bettermann	Girard	Johnson, V.	McPherson	Pelowski
Bishop	Goodno	Kahn	Morrison	Peterson
Blatz	Greenfield	Kalis	Munger	Pugh
Bodahl	Gruenes	Kelso	Murphy	Reding
Boo	Gutknecht	Kinkel	Nelson, K.	Rest
Brown	Hanson	Knickerbocker	Nelson, S.	Rice
Carlson	Hartle	Koppendrayar	Newinski	Rodosovich
Carruthers	Hasskamp	Krinkie	O'Connor	Rukavina
Clark	Haukoos	Krueger	Ogren	Runbeck
Cooper	Hausman	Lasley	Olson, S.	Sarna
Dauner	Heir	Leppik	Olson, E.	Schafer
Davids	Henry	Lieder	Olson, K.	Scheid

Schreiber	Solberg	Thompson	Vellenga	Wenzel
Seaberg	Sparby	Tompkins	Wagenius	Winter
Segal	Stanis	Trimble	Waltman	Spk. Vanasek
Simoneau	Steensma	Tunheim	Weaver	
Skoglund	Sviggrum	Uphus	Wejman	
Smith	Swenson	Valento	Welle	

The bill was passed and its title agreed to.

CALENDAR

H. F. No. 471, A resolution memorializing the International Special Olympics Committee in support of the 1991 International Special Olympics Games.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frederick	Kelso	Ogren	Segal
Anderson, I.	Frerichs	Kinkel	Olsen, S.	Simoneau
Anderson, R.	Garcia	Knickerbocker	Olson, E.	Skoglund
Anderson, R. H.	Girard	Koppendrayer	Olson, K.	Smith
Battaglia	Goodno	Krinkie	Omann	Solberg
Bauerly	Greenfield	Krueger	Onnen	Sparby
Beard	Gruenes	Lasley	Orenstein	Stanis
Begich	Gutknecht	Leppik	Orfield	Steensma
Bertram	Hanson	Lieder	Osthoff	Sviggrum
Bettermann	Hartle	Limmer	Ostrom	Swenson
Bishop	Hasskamp	Long	Ozment	Thompson
Blatz	Haukoos	Lourey	Pauly	Tompkins
Bodahl	Hausman	Lynch	Pellow	Trimble
Boo	Heir	Macklin	Pelowski	Tunheim
Brown	Henry	Mariani	Peterson	Uphus
Carlson	Hufnagle	Marsh	Pugh	Valento
Carruthers	Hugoson	McEachern	Reding	Vellenga
Clark	Jacobs	McGuire	Rest	Wagenius
Cooper	Janezich	McPherson	Rice	Waltman
Dauner	Jaros	Milbert	Rodosovich	Weaver
Davids	Jefferson	Morrison	Rukavina	Wejman
Dawkins	Jennings	Munger	Runbeck	Welle
Dempsey	Johnson, A.	Murphy	Sarna	Wenzel
Dille	Johnson, R.	Nelson, K.	Schafer	Winter
Dorn	Johnson, V.	Nelson, S.	Scheid	Spk. Vanasek
Erhardt	Kahn	Newinski	Schreiber	
Farrell	Kalis	O'Connor	Seaberg	

The bill was passed and its title agreed to.

SPECIAL ORDERS

H. F. No. 21, A bill for an act relating to waste management; requiring air emission permits for new or expanded infectious waste incinerators; requiring environmental impact statements for the incinerators until new rules are adopted; proposing coding for new law in Minnesota Statutes, chapter 116.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frederick	Kelso	Ogren	Segal
Anderson, I.	Frerichs	Kinkel	Olsen, S.	Simoneau
Anderson, R.	Garcia	Knickerbocker	Olson, E.	Skoglund
Anderson, R. H.	Girard	Koppendraye	Olson, K.	Smith
Battaglia	Goodno	Krinkie	Omann	Solberg
Bauerly	Greenfield	Krueger	Onnen	Sparby
Beard	Gruenes	Lasley	Orenstein	Stanis
Begich	Gutknecht	Leppik	Orfield	Steensma
Bertram	Hanson	Lieder	Osthoff	Svigum
Bettermann	Hartle	Limmer	Ostrom	Swenson
Bishop	Hasskamp	Long	Ozment	Thompson
Blatz	Haukoos	Lourey	Pauly	Tompkins
Bodahl	Hausman	Lynch	Pellow	Trimble
Boo	Heir	Macklin	Pelowski	Tunheim
Brown	Henry	Mariani	Peterson	Uphus
Carlson	Hufnagle	Marsh	Pugh	Valento
Carruthers	Hugoson	McEachern	Reding	Vellenga
Clark	Jacobs	McGuire	Rest	Wagenius
Cooper	Janezich	McPherson	Rice	Waltman
Dauner	Jaros	Milbert	Rodosovich	Weaver
Davids	Jefferson	Morrison	Rukavina	Wejcmann
Dawkins	Jennings	Munger	Runbeck	Welle
Dempsey	Johnson, A.	Murphy	Sarna	Wenzel
Dille	Johnson, R.	Nelson, K.	Schafer	Winter
Dorn	Johnson, V.	Nelson, S.	Scheid	Spk. Vanasek
Erhardt	Kahn	Newinski	Schreiber	
Farrell	Kalis	O'Connor	Seaberg	

The bill was passed and its title agreed to.

Olsen, S., was excused for the remainder of today's session.

S. F. No. 187 was reported to the House.

Greenfield moved to amend S. F. No. 187, as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 253B.03, is amended to read:

253B.03 [RIGHTS OF PATIENTS.]

Subdivision 1. [RESTRAINTS.] A patient has the right to be free from restraints. Restraints shall not be applied to a patient unless the head of the treatment facility or a member of the medical staff determines that they are necessary for the safety of the patient or others. Restraints shall not be applied to patients with mental retardation except as permitted under section 245.825 and rules of the commissioner of human services. Consent must be obtained from the person or person's guardian *except for emergency procedures* as permitted under rules of the commissioner adopted under section 245.825. Each use of a restraint and reason for it shall be made part of the clinical record of the patient under the signature of the head of the treatment facility.

Subd. 2. [CORRESPONDENCE.] A patient has the right to correspond freely without censorship. The head of the treatment facility may restrict correspondence on determining that the medical welfare of the patient requires it. For patients in regional facilities, that determination may be reviewed by the commissioner. Any limitation imposed on the exercise of a patient's correspondence rights and the reason for it shall be made a part of the clinical record of the patient. Any communication which is not delivered to a patient shall be immediately returned to the sender.

Subd. 3. [VISITORS AND PHONE CALLS.] Subject to the general rules of the treatment facility, a patient has the right to receive visitors and make phone calls. The head of the treatment facility may restrict visits and phone calls on determining that the medical welfare of the patient requires it. Any limitation imposed on the exercise of the patient's visitation and phone call rights and the reason for it shall be made a part of the clinical record of the patient.

Subd. 4. [SPECIAL VISITATION; RELIGION.] A patient has the right to meet with or call a personal physician, spiritual advisor, and counsel at all reasonable times. The patient has the right to continue the practice of religion.

Subd. 5. [PERIODIC ASSESSMENT.] A patient has the right to periodic medical assessment. The head of a treatment facility shall have the physical and mental condition of every patient assessed as frequently as necessary, but not less often than annually. If a person is committed as mentally retarded for an indeterminate period of time, the three-year judicial review must include the annual reviews for each year as outlined in Minnesota Rules, part 9525.0075, subpart 6.

Subd. 6. [CONSENT FOR MEDICAL PROCEDURE.] A patient

has the right to prior consent to any medical or surgical treatment, other than ~~the treatment of mental illness or for chemical dependency or nonintrusive treatment for mental illness. A patient with mental retardation or the patient's guardian or conservator has the right to give or withhold consent before:~~

~~(1) the implementation of any aversive or deprivation procedure except for emergency procedures permitted in rules of the commissioner adopted under section 245.825; or~~

~~(2) the administration of psychotropic medication.~~

The following procedures shall be used to obtain consent for any treatment necessary to preserve the life or health of any committed patient:

(a) The written, informed consent of a competent adult patient for the treatment is sufficient.

(b) If the patient is subject to guardianship or conservatorship which includes the provision of medical care, the written, informed consent of the guardian or conservator for the treatment is sufficient.

(c) If the head of the treatment facility determines that the patient is not competent to consent to the treatment and the patient has not been adjudicated incompetent, written, informed consent for the surgery or medical treatment shall be obtained from the nearest proper relative. For this purpose, the following persons are proper relatives, in the order listed: the patient's spouse, parent, adult child, or adult sibling. If the nearest proper relatives cannot be located or refuse to consent to the procedure, the head of the treatment facility or an interested person may petition the committing court for approval for the treatment or may petition a court of competent jurisdiction for the appointment of a guardian or conservator. The determination that the patient is not competent, and the reasons for the determination, shall be documented in the patient's clinical record.

(d) Consent to treatment of any minor patient shall be secured in accordance with sections 144.341 to 144.346, except that a minor 16 years of age or older may give valid consent for hospitalization, routine diagnostic evaluation, and emergency or short-term acute care.

(e) In the case of an emergency when the persons ordinarily qualified to give consent cannot be located, the head of the treatment facility may give consent.

No person who consents to treatment pursuant to the provisions of

this subdivision shall be civilly or criminally liable for the performance or the manner of performing the treatment. No person shall be liable for performing treatment without consent if written, informed consent was given pursuant to this subdivision. This provision shall not affect any other liability which may result from the manner in which the treatment is performed.

Subd. 6a. [CONSENT FOR TREATMENT FOR MENTAL RETARDATION.] A patient with mental retardation or the patient's guardian or conservator has the right to give or withhold consent before:

(1) the implementation of any aversive or deprivation procedure except for emergency procedures permitted in rules of the commissioner adopted under section 245.825; or

(2) the administration of psychotropic medication.

Subd. 6b. [CONSENT FOR TREATMENT FOR MENTAL ILLNESS.] A competent person admitted or committed to a treatment facility may be subjected to intrusive treatment for mental illness only with that person's written informed consent. For purposes of this section, "intrusive treatment for mental illness" means electroshock therapy and neuroleptic medication. An incompetent person who has prepared a declaration under subdivision 6d regarding treatment with intrusive therapies must be treated in accordance with this section, except in cases of emergencies.

Subd. 6a- 6c. [ADMINISTRATION OF NEUROLEPTIC MEDICATIONS.] (a) Neuroleptic medications may be administered to persons committed as mentally ill or mentally ill and dangerous only as described in this subdivision.

(b) A neuroleptic medication may be administered to a patient who is competent to consent to neuroleptic medications if the patient has given written, informed consent to administration of the neuroleptic medication.

(c) A neuroleptic medication may be administered to a patient who is not competent to consent to neuroleptic medications if the patient, when competent, prepared a declaration under subdivision 6d requesting the treatment or authorizing a proxy to request the treatment or if a court approves the administration of the neuroleptic medication.

(d) A neuroleptic medication may be administered without court review to a patient who has not prepared a declaration under subdivision 6d and who is not competent to consent to neuroleptic medications if:

(1) the patient does not object to or refuse the medication;

(2) a guardian ad litem appointed by the court with authority to consent to neuroleptic medications gives written, informed consent to the administration of the neuroleptic medication; and

(3) a multidisciplinary treatment review panel composed of persons who are not engaged in providing direct care to the patient gives written approval to administration of the neuroleptic medication.

(e) A neuroleptic medication may be administered without judicial review and without consent in an emergency situation for so long as the emergency continues to exist if the treating physician determines that the medication is necessary to prevent serious, immediate physical harm to the patient or to others. The treatment facility shall document the emergency in the patient's medical record in specific behavioral terms.

(f) A person who consents to treatment pursuant to this subdivision is not civilly or criminally liable for the performance of or the manner of performing the treatment. A person is not liable for performing treatment without consent if written, informed consent was given pursuant to this subdivision. This provision does not affect any other liability that may result from the manner in which the treatment is performed.

(g) The court may allow and order paid to a guardian ad litem a reasonable fee for services provided under paragraph (c), or the court may appoint a volunteer guardian ad litem.

(h) A medical director or patient may petition the committing court, or the court to which venue has been transferred, for a hearing concerning the administration of neuroleptic medication. A hearing may also be held pursuant to section 253B.08, 253B.09, 253B.12, or 253B.18. The hearing concerning the administration of neuroleptic medication must be held within 14 days from the date of the filing of the petition. The court may extend the time for hearing up to an additional 15 days for good cause shown.

Subd. 6d. [ADULT MENTAL HEALTH TREATMENT.] (a) A competent adult may make a declaration of preferences or instructions regarding intrusive mental health treatment. These preferences or instructions may include, but are not limited to, consent to or refusal of these treatments.

(b) A declaration may designate a proxy to make decisions about intrusive mental health treatment. A proxy designated to make decisions about intrusive mental health treatments and who agrees to serve as proxy may make decisions on behalf of a declarant

consistent with any desires the declarant expresses in the declaration.

(c) A declaration is effective only if it is signed by the declarant and is either signed by two witnesses or is notarized. A declaration becomes operative when it is delivered to the declarant's physician or other mental health treatment provider. The physician or provider must comply with it to the fullest extent possible, consistent with reasonable medical practice, the availability of treatments requested, and applicable law. The physician or provider shall continue to obtain the declarant's informed consent to all intrusive mental health treatment decisions if the declarant is capable of informed consent. No treatment provider may require that a person make a declaration under this subdivision as a condition of receiving services.

(d) The physician or other provider shall make the declaration a part of the declarant's medical record. If the physician or other provider is unwilling at any time to comply with the declaration, the physician or provider must promptly notify the declarant and document the notification in the declarant's medical record. If the declarant has been committed as a patient under this chapter, the physician or provider may subject a declarant to intrusive treatment in a manner contrary to the declarant's expressed wishes, only upon order of the committing court. If the declarant is not a committed patient under this chapter, the physician or provider may subject the declarant to intrusive treatment in a manner contrary to the declarant's expressed wishes, only if a petition for commitment has been filed and a court order authorizing the treatment has been issued.

(e) A declaration under this subdivision may be revoked in whole or in part at any time and in any manner by the declarant if the declarant is competent at the time of revocation. A revocation is effective when a competent declarant communicates the revocation to the attending physician or other provider. The attending physician or other provider shall note the revocation as part of the declarant's medical record.

(f) A provider who administers intrusive mental health treatment according to and in good faith reliance upon the validity of a declaration under this subdivision is held harmless from any liability resulting from a subsequent finding of invalidity.

(g) In addition to making a declaration under this subdivision, a competent adult may delegate parental powers under section 524.5-505 or may nominate a guardian or conservator under section 525.544.

Subd. 7. [PROGRAM PLAN.] A person receiving services under this chapter has the right to receive proper care and treatment, best

adapted, according to contemporary professional standards, to rendering further custody, institutionalization, or other services unnecessary. The treatment facility shall devise a written program plan for each person which describes in behavioral terms the case problems, the precise goals, including the expected period of time for treatment, and the specific measures to be employed. Each plan shall be reviewed at least quarterly to determine progress toward the goals, and to modify the program plan as necessary. The program plan shall be devised and reviewed with the designated agency and with the patient. The clinical record shall reflect the program plan review. If the designated agency or the patient does not participate in the planning and review, the clinical record shall include reasons for nonparticipation and the plans for future involvement. The commissioner shall monitor the program plan and review process for regional centers to insure compliance with the provisions of this subdivision.

Subd. 8. [MEDICAL RECORDS.] A patient has the right to access to personal medical records. Notwithstanding the provisions of section 144.335, subdivision 2, every person subject to a proceeding or receiving services pursuant to this chapter shall have complete access to all medical records relevant to the person's commitment.

Subd. 9. [RIGHT TO COUNSEL.] A patient has the right to be represented by counsel at any proceeding under this chapter. The court shall appoint counsel to represent the proposed patient if neither the proposed patient nor others provide counsel. Counsel shall be appointed at the time a petition is filed pursuant to section 253B.07. Counsel shall have the full right of subpoena. In all proceedings under this chapter, counsel shall: (1) consult with the person prior to any hearing; (2) be given adequate time to prepare for all hearings; (3) continue to represent the person throughout any proceedings under this charge unless released as counsel by the court; and (4) be a vigorous advocate on behalf of the client.

Subd. 10. [NOTIFICATION.] All persons admitted or committed to a treatment facility shall be notified in writing of their rights under this chapter at the time of admission.

Sec. 2. Minnesota Statutes 1990, section 253B.18, subdivision 4b, is amended to read:

Subd. 4b. [PASS-ELIGIBLE STATUS; NOTIFICATION.] The following patients committed to the Minnesota security hospital shall not be placed on pass-eligible status unless that status has been approved by the medical director of the Minnesota security hospital:

(a) a patient who has been committed as mentally ill and dangerous and who

(1) was found incompetent to proceed to trial for a felony or was

found not guilty by reason of mental illness of a felony immediately prior to the filing of the commitment petition;

(2) was convicted of a felony immediately prior to or during commitment as mentally ill and dangerous; or

(3) is subject to a commitment to the commissioner of corrections; and

(b) a patient who has been committed as a psychopathic personality, as defined in section 526.09.

At least ten days prior to a determination on the status, the medical director shall notify the committing court, the county attorney of the county of commitment, the designated agency, an interested person, the petitioner, and the petitioner's counsel of the proposed status, and their right to request review by the special review board. If within ten days of receiving notice any notified person requests review by filing a notice of objection with the commissioner and the head of the treatment facility, a hearing shall be held before the special review board. The proposed status shall not be implemented unless it receives a favorable recommendation by a majority of the board and approval by the commissioner. The order of the commissioner is appealable as provided in section 253B.19.

Nothing in this subdivision shall be construed to give a patient an affirmative right to seek pass-eligible status from the special review board.

Sec. 3. Minnesota Statutes 1990, section 253B.18, subdivision 5, is amended to read:

Subd. 5. [PETITION; NOTICE OF HEARING; ATTENDANCE; ORDER.] A petition for an order of transfer, discharge, provisional discharge, or revocation of provisional discharge shall be filed with the commissioner and may be filed by the patient or by the head of the treatment facility. The special review board shall hold a hearing on each petition prior to making any recommendation. Within 45 days of the filing of the petition, the committing court, the county attorney of the county of commitment, the designated agency, an interested person, the petitioner and petitioner's counsel shall be given written notice by the commissioner of the time and place of the hearing before the special review board. Only those entitled to statutory notice of the hearing or those administratively required to attend may be present at the hearing. The commissioner shall issue an order no later than 14 days after receiving the recommendation of the special review board. A copy of the order shall be sent by certified mail to every person entitled to statutory notice of the hearing within five days after it is issued. No order by the commissioner shall be effective sooner than 15 days after it is issued.

Sec. 4. Minnesota Statutes 1990, section 253B.19, subdivision 2, is amended to read:

Subd. 2. [PETITION; HEARING.] The committed person or the county attorney of the county from which a patient as mentally ill and dangerous to the public was committed may petition the appeal panel for a rehearing and reconsideration of a decision by the commissioner. The petition shall be filed with the supreme court within 30 days after the decision of the commissioner. The supreme court shall refer the petition to the chief judge of the appeal panel. The chief judge shall notify the patient, the county attorney of the county of commitment, the designated agency, the commissioner, the head of the treatment facility, any interested person, and other persons the chief judge designates, of the time and place of the hearing on the petition. The notice shall be given at least 14 days prior to the date of the hearing. The hearing shall be within 45 days of the filing of the petition. Any person may oppose the petition. The appeal panel may appoint examiners and may adjourn the hearing from time to time. It shall hear and receive all relevant testimony and evidence and make a record of all proceedings. The patient, patient's counsel, and the county attorney of the committing county may be present and present and cross-examine all witnesses."

The motion prevailed and the amendment was adopted.

Bishop and Greenfield moved to amend S. F. No. 187, as amended, as follows:

Page 1, after line 8, insert:

"Section 1. Minnesota Statutes 1990, section 145B.01, is amended to read:

145B.01 [CITATION.]

This chapter may be cited as the "~~adult health care decisions act.~~" "Minnesota living will act."

Page 11, after line 1, insert:

"Sec. 5. [INSTRUCTION TO THE REVISOR.]

In Minnesota Statutes 1992 and subsequent editions of the statutes, the revisor of statutes is directed to change the term "declaration" to "living will" wherever that term appears in chapter 145B."

Renumber the remaining sections in sequence

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Bishop and Greenfield amendment and the roll was called. There were 88 yeas and 40 nays as follows:

Those who voted in the affirmative were:

Abrams	Farrell	Knickerbocker	Ogren	Sarna
Anderson, R.	Frerichs	Krueger	Olson, E.	Schreiber
Anderson, R. H.	Garcia	Lasley	Olson, K.	Segal
Bauerly	Greenfield	Leppik	Orenstein	Simoneau
Beard	Gutknecht	Lieder	Orfield	Skoglund
Bishop	Hanson	Limmer	Osthoff	Solberg
Blatz	Hartle	Long	Ostrom	Stanius
Boo	Hausman	Lourey	Pauly	Swenson
Brown	Henry	Macklin	Pellow	<i>Thompson</i>
Carlson	Jacobs	Mariani	Pelowski	Tompkins
Carruthers	Janezich	McEachern	Peterson	Trimble
Clark	Jaros	McGuire	Pugh	Vellenga
Cooper	Jefferson	Morrison	Reding	Wagenius
Dauner	Jennings	Munger	Rest	Wejman
Dawkins	Johnson, A.	Murphy	Rice	Welle
Dille	Johnson, R.	Nelson, K.	Rodosovich	Spk. Vanasek
Dorn	Kahn	Nelson, S.	Rukavina	
Erhardt	Kelso	O'Connor	Runbeck	

Those who voted in the negative were:

Anderson, I.	Frederick	Johnson, V.	Newinski	Svigum
Battaglia	Girard	Kalis	Omann	Tunheim
Begich	Goodno	Kinkel	Onnen	Uphus
Bertram	Gruenes	Koppendrayer	Schafer	Valento
Bettermann	Haukoos	Krinkie	Seaberg	Waltman
Bodahl	Heir	Marsh	Smith	Weaver
Davids	Hufnagle	McPherson	Sparby	Wenzel
Dempsey	Hugoson	Milbert	Steensma	Winter

The motion prevailed and the amendment was adopted.

S. F. No. 187, A bill for an act relating to mental health; authorizing competent persons to make advance declarations regarding mental health treatment; requiring certain notices to be given to the designated agency; amending Minnesota Statutes 1990, sections 253B.03; 253B.18, subdivisions 4b and 5; and 253B.19, subdivision 2.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 113 yeas and 13 nays as follows:

Those who voted in the affirmative were:

Abrams	Garcia	Knickerbocker	Olson, E.	Segal
Anderson, R. H.	Girard	Koppendrayer	Olson, K.	Simoneau
Battaglia	Goodno	Krinkie	Omann	Skoglund
Bauerly	Greenfield	Krueger	Onnen	Smith
Beard	Gruenes	Lasley	Orenstein	Solberg
Begich	Gutknecht	Leppik	Orfield	Sparby
Bettermann	Hanson	Lieder	Osthoff	Stanis
Bishop	Hartle	Limmer	Ozment	Sviggum
Blatz	Haukoos	Long	Pauly	Swenson
Bodahl	Hausman	Lourey	Pellow	Tompkins
Boo	Henry	Lynch	Pelowski	Trimble
Carlson	Hugoson	Macklin	Peterson	Tunheim
Carruthers	Jacobs	Mariani	Pugh	Valento
Clark	Janezich	McEachern	Reding	Vellenga
Cooper	Jaros	McGuire	Rest	Wagenius
Dauner	Jefferson	Milbert	Rice	Waltman
Dawkins	Jennings	Morrison	Rodosovich	Weaver
Dempsey	Johnson, A.	Munger	Rukavina	Wejcmann
Dille	Johnson, R.	Murphy	Runbeck	Welle
Dorn	Johnson, V.	Nelson, K.	Sarna	Winter
Erhardt	Kahn	Nelson, S.	Schafer	Spk. Vanasek
Farrell	Kelso	O'Connor	Scheid	
Frerichs	Kinkel	Ogren	Seaberg	

Those who voted in the negative were:

Anderson, I.	Frederick	Kalis	Newinski	Wenzel
Bertram	Heir	Marsh	Steensma	
Davids	Hufnagle	McPherson	Uphus	

The bill was passed, as amended, and its title agreed to.

H. F. No. 274, A bill for an act relating to commerce; motor vehicle sales and distribution; regulating franchises; proscribing certain acts; providing remedies; amending Minnesota Statutes 1990, sections 80E.04, subdivision 1, and by adding a subdivision; 80E.05; 80E.06, subdivision 2; 80E.12; and 80E.13.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Bishop	Davids	Girard	Heir
Anderson, I.	Blatz	Dawkins	Goodno	Henry
Anderson, R.	Bodahl	Dempsey	Greenfield	Hufnagle
Anderson, R. H.	Boo	Dille	Gruenes	Hugoson
Battaglia	Brown	Dorn	Gutknecht	Jacobs
Bauerly	Carlson	Erhardt	Hanson	Janezich
Beard	Carruthers	Farrell	Hartle	Jaros
Begich	Clark	Frederick	Hasskamp	Jefferson
Bertram	Cooper	Frerichs	Haukoos	Jennings
Bettermann	Dauner	Garcia	Hausman	Johnson, A.

Johnson, R.	Macklin	Omann	Runbeck	Tompkins
Johnson, V.	Mariani	Onnen	Sarna	Trimble
Kahn	Marsh	Orenstein	Schafer	Tunheim
Kalis	McEachern	Orfield	Scheid	Uphus
Kelso	McGuire	Osthoff	Schreiber	Valento
Kinkel	McPherson	Ostrom	Seaberg	Vellenga
Knickerbocker	Milbert	Ozment	Segal	Wagenius
Koppendrayner	Morrison	Pauly	Simoneau	Waltman
Krinkie	Munger	Pellow	Skoglund	Weaver
Krueger	Murphy	Pelowski	Smith	Wejcmann
Lasley	Nelson, K.	Peterson	Solberg	Welle
Leppik	Nelson, S.	Pugh	Sparby	Wenzel
Lieder	Newinski	Reding	Stanius	Winter
Limmer	O'Connor	Rest	Steensma	Spk. Vanasek
Long	Ogren	Rice	Swiggum	
Lourey	Olson, E.	Rodosovich	Swenson	
Lynch	Olson, K.	Rukavina	Thompson	

The bill was passed and its title agreed to.

H. F. No. 726, A bill for an act relating to real property; providing for cause of action on an interest in real property of a married person when the property was conveyed by the person's spouse before March 1, 1977; amending Minnesota Statutes 1990, section 519.101.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Farrell	Kalis	Newinski	Seaberg
Anderson, I.	Frederick	Kelso	O'Connor	Segal
Anderson, R.	Frerichs	Kinkel	Ogren	Simoneau
Anderson, R. H.	Garcia	Knickerbocker	Olson, K.	Skoglund
Battaglia	Girard	Koppendrayner	Omann	Smith
Bauerly	Goodno	Krinkie	Onnen	Solberg
Beard	Greenfield	Krueger	Orenstein	Stanius
Begich	Gruenes	Lasley	Orfield	Steensma
Bertram	Gutknecht	Leppik	Osthoff	Swiggum
Bettermann	Hanson	Lieder	Ostrom	Swenson
Bishop	Hartle	Limmer	Ozment	Thompson
Blatz	Hasskamp	Long	Pauly	Tompkins
Bodahl	Haukoos	Lourey	Pellow	Trimble
Boo	Hausman	Lynch	Pelowski	Tunheim
Brown	Heir	Macklin	Peterson	Uphus
Carlson	Henry	Mariani	Pugh	Valento
Carruthers	Hufnagle	Marsh	Reding	Vellenga
Clark	Hugoson	McEachern	Rest	Wagenius
Cooper	Jacobs	McGuire	Rice	Waltman
Dauner	Janezich	McPherson	Rodosovich	Weaver
Davids	Jaros	Milbert	Rukavina	Welle
Dawkins	Jefferson	Morrison	Runbeck	Wenzel
Dempsey	Jennings	Munger	Sarna	Winter
Dille	Johnson, A.	Murphy	Schafer	Spk. Vanasek
Dorn	Johnson, R.	Nelson, K.	Scheid	
Erhardt	Johnson, V.	Nelson, S.	Schreiber	

The bill was passed and its title agreed to.

H. F. No. 299, A bill for an act relating to state government; describing conditions of certain employee interchange programs; authorizing the continuation of surviving spouse benefits for local police and salaried firefighter relief associations in the event of remarriage; amending Minnesota Statutes 1990, section 15.53, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 352 and 423A.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frederick	Kelso	Ogren	Simoneau
Anderson, I.	Frerichs	Kinkel	Olson, E.	Skoglund
Anderson, R.	Garcia	Knickerbocker	Olson, K.	Smith
Anderson, R. H.	Girard	Koppendrayner	Omann	Solberg
Battaglia	Goodno	Krinkie	Onnen	Sparby
Bauerly	Greenfield	Krueger	Orenstein	Stanius
Beard	Gruenes	Lasley	Orfield	Steensma
Begich	Gutknecht	Leppik	Osthoff	Sviggum
Bertram	Hanson	Lieder	Ostrom	Swenson
Bettermann	Hartle	Limmer	Ozment	Thompson
Bishop	Hasskamp	Long	Pauly	Tompkins
Blatz	Haukoos	Lourey	Pellow	Trimble
Bodahl	Hausman	Lynch	Pelowski	Tunheim
Boo	Heir	Macklin	Peterson	Uphus
Brown	Henry	Mariani	Pugh	Valento
Carlson	Hufnagle	Marsh	Reding	Vellenga
Carruthers	Hugoson	McEachern	Rest	Wagenius
Clark	Jacobs	McGuire	Rice	Waltman
Cooper	Janezich	McPherson	Rodosovich	Weaver
Dauner	Jaros	Milbert	Rukavina	Wejcmann
Davids	Jefferson	Morrison	Runbeck	Welle
Dawkins	Jennings	Munger	Sarna	Wenzel
Dempsey	Johnson, A.	Murphy	Schafer	Winter
Dille	Johnson, R.	Nelson, K.	Scheid	Spk. Vanasek
Dorn	Johnson, V.	Nelson, S.	Schreiber	
Erhardt	Kahn	Newinski	Seaberg	
Farrell	Kalis	O'Connor	Segal	

The bill was passed and its title agreed to.

S. F. No. 734, A bill for an act relating to retirement; highway patrol refund of certain employee contributions upon death; amending Minnesota Statutes 1990, section 352B.11, by adding a subdivision.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frederick	Kelso	Ogren	Simoneau
Anderson, I.	Frerichs	Kinkel	Olson, E.	Skoglund
Anderson, R.	Garcia	Knickerbocker	Olson, K.	Smith
Anderson, R. H.	Girard	Koppendrayner	Omann	Solberg
Battaglia	Goodno	Krinkie	Onnen	Sparby
Bauerly	Greenfield	Krueger	Orenstein	Stanias
Beard	Gruenes	Lasley	Orfield	Steenasma
Begich	Gutknecht	Leppik	Osthoff	Sviggum
Bertram	Hanson	Lieder	Ostrom	Swenson
Bettermann	Hartle	Limmer	Ozment	Thompson
Bishop	Hasskamp	Long	Pauly	Tompkins
Blatz	Haukoos	Lourey	Pellow	Trimble
Bodahl	Hausman	Lynch	Pelowski	Tunheim
Boo	Heir	Macklin	Peterson	Uphus
Brown	Henry	Mariani	Pugh	Valento
Carlson	Hufnagle	Marsh	Reding	Vellenga
Carruthers	Hugoson	McEachern	Rest	Wagenius
Clark	Jacobs	McGuire	Rice	Waltman
Cooper	Janezich	McPherson	Rodosovich	Weaver
Dauner	Jaros	Milbert	Rukavina	Wejman
Davids	Jefferson	Morrison	Runbeck	Welle
Dawkins	Jennings	Munger	Sarna	Wenzel
Dempsey	Johnson, A.	Murphy	Schafer	Winter
Dille	Johnson, R.	Nelson, K.	Scheid	Spk. Vanasek
Dorn	Johnson, V.	Nelson, S.	Schreiber	
Erhardt	Kahn	Newinski	Seaberg	
Farrell	Kalis	O'Connor	Segal	

The bill was passed and its title agreed to.

The Speaker resumed the Chair.

H. F. No. 611, A bill for an act relating to retirement; local police and salaried firefighters relief associations; authorizing the payment of a refund to the designated beneficiary of certain decedents; proposing coding for new law in Minnesota Statutes, chapter 423A.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Begich	Carlson	Dempsey	Garcia
Anderson, I.	Bertram	Carruthers	Dille	Girard
Anderson, R.	Bettermann	Clark	Dorn	Goodno
Anderson, R. H.		Cooper	Erhardt	Greenfield
Battaglia	Bodahl	Dauner	Farrell	Gruenes
Bauerly	Boo	Davids	Frederick	Gutknecht
Beard	Brown	Dawkins	Frerichs	Hanson

Hartle	Knickerbocker	Murphy	Reding	Swenson
Hasskamp	Koppendrayner	Nelson, K.	Rest	Thompson
Haukoos	Krinkie	Nelson, S.	Rice	Tompkins
Hausman	Krueger	Newinski	Rodosovich	Trimble
Heir	Lasley	O'Connor	Rukavina	Tunheim
Henry	Leppik	Ogren	Runbeck	Uphus
Hufnagle	Lieder	Olson, E.	Sarna	Valento
Hugoson	Limmer	Olson, K.	Schafer	Vellenga
Jacobs	Long	Omann	Scheid	Wagenius
Janezich	Lourey	Onnen	Schreiber	Waltman
Jaros	Lynch	Orenstein	Seaberg	Weaver
Jefferson	Macklin	Orfield	Segal	Wejeman
Jennings	Mariani	Osthoff	Simoneau	Welle
Johnson, A.	Marsh	Ostrom	Skoglund	Wenzel
Johnson, R.	McEachern	Ozment	Smith	Winter
Johnson, V.	McGuire	Pauly	Solberg	Spk. Vanasek
Kahn	McPherson	Pellow	Sparby	
Kalis	Milbert	Pelowski	Stanius	
Kelso	Morrison	Peterson	Steensma	
Kinkel	Munger	Pugh	Sviggum	

The bill was passed and its title agreed to.

Long moved that the remaining bills on Special Orders for today be continued. The motion prevailed.

GENERAL ORDERS

Long moved that the bills on General Orders for today be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Pelowski moved that the name of Olsen, S., be added as an author on H. F. No. 99. The motion prevailed.

Clark moved that the name of Ostrom be shown as chief author on H. F. No. 724. The motion prevailed.

Bishop moved that the name of Sparby be added as an author on H. F. No. 1045. The motion prevailed.

Dempsey moved that the name of Solberg be added as an author on H. F. No. 1162. The motion prevailed.

Dempsey moved that the name of Solberg be added as an author on H. F. No. 1163. The motion prevailed.

Johnson, R., moved that the name of Marsh be stricken and the name of Johnson, V., be added as an author on H. F. No. 1220. The motion prevailed.

Wagenius moved that the name of Carruthers be stricken and the name of Milbert be added as an author on H. F. No. 1277. The motion prevailed.

Segal moved that the names of Frerichs, Krueger, Sparby and Winter be added as authors on H. F. No. 1521. The motion prevailed.

Orenstein moved that H. F. No. 1221 be recalled from the Committee on Education and be re-referred to the Committee on Appropriations. The motion prevailed.

Reding moved that H. F. No. 165, now on Technical General Orders, be re-referred to the Committee on Governmental Operations. The motion prevailed.

McGuire moved that H. F. No. 766, now on Technical General Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Segal moved that H. F. No. 1521, now on Technical General Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Simoneau moved that H. F. No. 1320, now on Technical General Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Gruenes moved that H. F. No. 1529, now on the Technical Consent Calendar, be re-referred to the Committee on Appropriations. The motion prevailed.

ADJOURNMENT

Long moved that when the House adjourns today it adjourn until 12:30 p.m., Wednesday, April 17, 1991. The motion prevailed.

Long moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 12:30 p.m., Wednesday, April 17, 1991.

EDWARD A. BURDICK, Chief Clerk, House of Representatives

