STATE OF MINNESOTA

SEVENTY-SEVENTH SESSION—1991

THIRTY-FIFTH DAY

SAINT PAUL, MINNESOTA, THURSDAY, APRIL 18, 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 Gerald A. Mahon, St. Casimirs Catholic Church, Winona, Minnesota.

The roll was called and the following members were present:

Abrams	Frederick	Kelso	Ogren	Simoneau
Anderson, I.	Frerichs	Kinkel	Olsen, S.	Skoglund
Anderson, R.	Garcia	Knickerbocker	Olson, E.	Smith
Anderson, R. H.	Girard	Koppendrayer	Olson, K.	Solberg
Battaglia	Goodno	Krinkie	Omann	Sparby
Bauerly	Greenfield	Krueger	Onnen	Stanius
Beard	Gruenes	Lasley	Orenstein	Steensma
Begich	Gutknecht	Leppik	Orfield	Sviggum
Bertram	Hanson	Lieder	Osthoff	Swenson
Bettermann	Hartle	Limmer	Ostrom	Thompson
Bishop	Hasskamp	Long	Ozment	Tompkins
Blatz	Haukoos	Lourey	Pauly	Trimble
Bodahl	Hausman	Lynch	Pellow	Tunheim
Boo	Heir	Macklin	Pelowski	Uphus
Brown	Henry	Mariani	Peterson	Valento
Carlson	Hufnagle	Marsh	Pugh	Vellenga
Carruthers	Hugoson	McEachern	Reding	Wagenius
Clark	Jacobs	McGuire	Rest	Waltman
Cooper	Janezich	McPherson	Rice	Weaver
Dauner	Jaros	Milbert	Rodosovich	Wejcman
Davids	Jefferson	Morrison	Rukavina	Welker
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	Seaberg	
Farrell	Kalis	O'Connor	Segal	

A quorum was present.

Schreiber was excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Rodosovich 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 STANDING COMMITTEES

Ogren from the Committee on Taxes 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 following amendments:

Page 7, delete lines 1 to 4

Renumber the remaining subdivisions

And that when so amended the bill be re-referred to the Committee on Appropriations without further recommendation.

The report was adopted.

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

H. F. No. 12, A bill for an act relating to insurance; regulating credit for reinsurance; establishing standards and the commissioner's authority for companies considered to be in hazardous financial condition; regulating managing general agents; creating and regulating the life and health guaranty association; prescribing its powers and duties; amending Minnesota Statutes 1990, section 60B.25; proposing coding for new law in Minnesota Statutes, chapter 61B; proposing coding for new law as Minnesota Statutes, chapters 60G, 60H, and 60I; repealing Minnesota Statutes 1990, sections 61B.01; 61B.02; 61B.03; 61B.04; 61B.05; 61B.06; 61B.07; 61B.08; 61B.09; 61B.10; 61B.11; 61B.12; 61B.13; 61B.14; 61B.15; and 61B.16.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

REINSURANCE

Section 1. Minnesota Statutes 1990, section 60A.09, subdivision 5, is amended to read:

Subd. 5. [REINSURANCE.] (1) [DEFINITIONS.] For the purposes of this subdivision, the word "insurer" shall be deemed to include the word "reinsurer," and the words "issue policies of insurance" shall be deemed to include the words "make contracts of reinsurance."

(2) ~~[CONDITIONS AND REQUIREMENTS.] Every insurer authorized to issue policies in this state may reinsure in any other insurer any part or all of any risk or risks assumed by it; but such reinsurance, unless effected (1) with an insurer authorized to issue policies in this state, or (2) with an insurer similarly authorized in another state, territory, or district of the United States, and showing the same standards of solvency and meeting the same statutory and departmental rules which would be required of or prescribed for such insurer were it at the time of such reinsurance authorized in this state to issue policies covering risks of the same kind or kinds as those reinsured, shall not reduce the reserve or other liability to be charged to the ceding insurer; provided, that nothing in this subdivision shall be construed to permit to a ceding insurer any reduction of reserve or liability through reinsurance effected with an unauthorized insurer. In case such reinsurance effected with an insurer so authorized or so recognized for reinsurance in this state, the ceding insurer shall thereafter be charged on the gross premium basis with an unearned premium liability representing the proportion of such obligation retained by it, and the insurer to which the business is ceded shall be charged with an unearned premium liability representing the proportion of such obligation ceded to it, calculated in the same way. The two parties to the transaction shall together carry the same reserve as the ceding insurer would have carried had it retained the risk.~~

~~(3)~~ [REINSURANCE OF MORE THAN ~~75~~ 50 PERCENT OF INSURANCE LIABILITIES.] Any contract of reinsurance whereby an insurer cedes more than ~~75~~ 50 percent of the total of its outstanding insurance liabilities shall, if such insurer is incorporated by or, if an insurer of a foreign country, has its principal office in this state, be subject to the approval, in writing, by the commissioner.

~~(4)~~ (3) [ACTUAL UNEARNED PREMIUM RESERVE TO BE CARRIED AS LIABILITY.] Nothing in this subdivision shall be deemed to permit the ceding insurer to receive, through the cession of the whole of any risk or risks, any advantage in respect to its unearned premium reserve that would reduce the same below the actual amount thereof.

~~(5)~~ (4) [AIRCRAFT RISKS.] An insurer authorized to transact the business specified in section 60A.06, subdivision 1, clauses (4) and (5)(a), may through reinsurance assume any risk arising from, related to, or incident to the manufacture, ownership, or operation of aircraft and may retrocede any portion thereof; provided, however, that no insurer may undertake any such reinsurance business without the prior approval of the commissioner and such reinsurance business shall be subject to any regulations which may be promulgated by the commissioner. Any such reinsurance business may be provided through pooling arrangements with other insurers for purposes of spreading the insurance risk.

Sec. 2. [60A.091] [CREDIT ALLOWED A DOMESTIC CEDING INSURER.]

Subdivision 1. [GENERALLY.] Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the requirements of subdivisions 2 to 6 are met.

Subd. 2. [ASSUMING INSURER IS LICENSED OR ACCREDITED IN THIS STATE.] Credit shall be allowed if the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state, or the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state. An accredited reinsurer is one that:

(1) files with the commissioner evidence of its submission to this state's jurisdiction;

(2) submits to this state's authority to examine its books and records;

(3) is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;

(4) files annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(5) maintains a surplus as regards policyholders in an amount not less than $20,000,000 and whose accreditation has not been denied by the commissioner within 90 days of its submission, or for companies with a surplus as regards policyholders in an amount less than $20,000,000 and whose accreditation has been approved by the commissioner.

No credit shall be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the commissioner after notice and hearing.

Clause (5) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

Subd. 3. [ASSUMING INSURER IS OTHERWISE REGULATED.] Credit shall be allowed if the reinsurance is ceded to an assuming insurer that is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this chapter and the assuming insurer or United States branch of an alien assuming insurer: (1) maintains a surplus as regards policyholders in an amount not less than $20,000,000; and (2) submits to the authority of this state to examine its books and records.

Clause (1) does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

Subd. 4. [ASSUMING INSURER MAINTAINS TRUST FUND.] (a) Credit shall be allowed if the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in section 4, for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners annual statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than $20,000,000. In the case of a group of individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which $100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall make available to the

commissioner an annual certification by the group's domiciliary regulator and its independent public accountants of the solvency of each underwriter.

(b) In the case of a group of incorporated insurers under common administration that complies with the filing requirements contained in the previous paragraph, and under the supervision of the Department of Trade and Industry of the United Kingdom and submit to this state's authority to examine its books and records and bear the expense of the examination, with aggregate policyholders' surplus of $10,000,000,000; the trust shall be in an amount equal to the group's several liabilities attributable to business written in the United States plus maintain a joint trusteed surplus of which $100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group, and each member of the group shall make available to the commissioner an annual certification by the member's domiciliary regulator and its independent accountant of the member's solvency.

(c) The trust shall be established in a form approved by the commissioner of commerce. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust described in this paragraph must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.

(d) No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire before the next following December 31.

Subd. 5. [REQUIRED COVERAGE.] Credit shall be allowed if the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivisions 2 to 4 but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

Subd. 6. [ADDITIONAL REQUIREMENTS FOR ASSUMING INSURER NOT LICENSED OR ACCREDITED.] If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted by subdivisions 3 and 4 shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(1) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, comply with all requirements necessary to give the court jurisdiction, and abide by the final decision of the court or of any appellate court in the event of an appeal; and

(2) to designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

This subdivision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

Sec. 3. [60A.092] [REDUCTION FROM LIABILITY FOR REINSURANCE CEDED BY A DOMESTIC INSURER TO AN ASSUMING INSURER.]

A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 2 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations under the contract if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in section 4, paragraph (b). This security may be any form of security acceptable to the commissioner or in the form of:

(1) cash;

(2) securities listed by the securities valuation office of the National Association of Insurance Commissioners and qualifying as admitted assets; or

(3) clean, irrevocable, unconditional letters of credit, as defined in section 4, paragraph (a), issued or confirmed by a qualified United States institution no later than December 31 in respect of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement.

Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall,

notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever occurs first.

Sec. 4. [60A.093] [QUALIFIED UNITED STATES FINANCIAL INSTITUTION.]

(a) For purposes of section 3, clause (3), a "qualified United States financial institution" means an institution that:

(1) is organized or, in the case of a United States office of a foreign banking organization, licensed, under the laws of the United States or any state;

(2) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies; and

(3) has been determined by either the commissioner, or the securities valuation office of the National Association of Insurance Commissioners, to meet the standards of financial condition and standing considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(b) "Qualified United States financial institution" means, for purposes of those provisions of this article specifying those institutions that are eligible to act as fiduciary of a trust, an institution that:

(1) is organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed, under the laws of the United States or any state and has been granted authority to operate with fiduciary powers; and

(2) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

Sec. 5. [60A.094] [RULES.]

The commissioner may adopt rules implementing the provisions of this article.

Sec. 6. [60A.095] [REINSURANCE AGREEMENTS AFFECTED.]

Sections 1 to 4 apply to all cessions after the effective date of this article under reinsurance agreements that have had an inception,

anniversary, or renewal date not less than six months after the effective date of this article.

Sec. 7. [REPEALER.]

Minnesota Statutes 1990, section 60A.09, subdivision 4, is repealed.

ARTICLE 2

ADMINISTRATIVE SUPERVISION MODEL ACT

Section 1. [60H.01] [DEFINITIONS.]

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

Subd. 2. [INSURER.] "Insurer" means a person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance or of annuities as limited to:

(1) an insurer who is doing an insurer business, or has transacted insurance in this state, and against whom claims arising from that transaction may exist now or in the future;

(2) fraternal benefit societies subject to chapter 64B;

(3) nonprofit health service plan corporations subject to chapter 62C;

(4) cooperative life and casualty companies subject to sections 61A.39 to 61A.52;

(5) health maintenance organizations regulated under chapter 62D.

Subd. 3. [EXCEEDED ITS POWERS.] "Exceeded its powers" means the following conditions:

(1) the insurer has refused to permit examination of its books, papers, accounts, records, or affairs by the commissioner, the commissioner's deputies, employees, or duly commissioned examiners;

(2) a domestic insurer has unlawfully removed from this state books, papers, accounts, or records necessary for an examination of the insurer;

(3) the insurer has failed to promptly comply with the applicable financial reporting statutes or rules and departmental requests relating to them;

(4) the insurer has neglected or refused to observe an order of the commissioner to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock, or surplus;

(5) the insurer is continuing to transact insurance or write business after its license has been revoked or suspended by the commissioner;

(6) the insurer, by contract or otherwise, has unlawfully or has in violation of an order of the commissioner or has without first having obtained written approval of the commissioner if approval is required by law:

(i) totally reinsured its entire outstanding business, or

(ii) merged or consolidated substantially its entire property or business with another insurer;

(7) the insurer engaged in any transaction in which it is not authorized to engage under the laws of this state;

(8) the insurer refused to comply with a lawful order of the commissioner.

Subd. 4. [CONSENT.] "Consent" means agreement to administrative supervision by the insurer.

Subd. 5. [COMMISSIONER.] "Commissioner" means the commissioner of commerce.

Subd. 6. [DEPARTMENT.] "Department" means the department of commerce.

Sec. 2. [60H.02] [NOTICE TO COMPLY WITH WRITTEN REQUIREMENTS OF COMMISSIONER; NONCOMPLIANCE; ADMINISTRATIVE SUPERVISION.]

Subdivision 1. [COMMISSIONER'S DETERMINATION.] An insurer may be subject to administrative supervision by the commissioner if upon examination or at any other time it appears in the commissioner's discretion that:

(1) the insurer's condition renders the continuance of its business hazardous to the public or to its insureds;

(2) the insurer has or appears to have exceeded its powers granted under its certificate of authority and applicable law;

(3) the insurer has failed to comply with the applicable provisions of the insurance laws;

(4) the business of the insurer is being conducted fraudulently; or

(5) the insurer gives its consent.

Subd. 2. [COMMISSIONER'S POWERS.] If the commissioner determines that the conditions set forth in subdivision 1 exist, the commissioner may:

(1) notify the insurer of the commissioner's determination;

(2) furnish to the insurer a written list of the requirements to abate this determination; and

(3) notify the insurer that it is under the supervision of the commissioner and that the commissioner is applying and effectuating the provisions of this article. This action by the commissioner is subject to review pursuant to chapter 14.

Subd. 3. [INSURER COMPLIANCE.] If placed under administrative supervision, the insurer has 60 days, or another period of time as designated by the commissioner, to comply with the requirements of the commissioner subject to the provisions of this article.

Subd. 4. [EXTENSION OF SUPERVISION.] If it is determined after notice and hearing that the conditions giving rise to the supervision still exist at the end of the supervision period specified in subdivision 3, the commissioner may extend this period.

Subd. 5. [RELEASE FROM SUPERVISION.] If it is determined that none of the conditions giving rise to the supervision exist, the commissioner shall release the insurer from supervision.

Sec. 3. [60H.03] [CONFIDENTIALITY OF CERTAIN PROCEEDINGS AND RECORDS.]

Subdivision 1. [GENERALLY.] Notwithstanding any other law to the contrary, proceedings, hearings, notices, correspondence, reports, records, and other information in the possession of the commissioner or the department relating to the supervision of any insurer are confidential except as provided by this section.

Subd. 2. [DEPARTMENT ACCESS.] The personnel of the department shall have access to these proceedings, hearings, notices,

correspondence, reports, records, or information as permitted by the commissioner.

Subd. 3. [EXCEPTIONS.] The commissioner may open the proceedings or hearings or disclose the notices, correspondence, reports, records, or information to a department, agency, or instrumentality of this or another state or the United States if the commissioner determines that the disclosure is necessary or proper for the enforcement of the laws of this or another state of the United States.

The commissioner may open the proceedings or hearings or make public the notices, correspondence, reports, records, or other information if the commissioner considers that it is in the best interest of the public or in the best interest of the insurer, its insureds, creditors, or the general public.

Subd. 4. [PROCEEDINGS AND RECORDS OBTAINED BY COURT.] This section does not apply to hearings, notices, correspondence, reports, records, or other information obtained upon the appointment of a receiver for the insurer by a court of competent jurisdiction.

Sec. 4. [60H.04] [PROHIBITED ACTS DURING PERIOD OF SUPERVISION.]

During the period of supervision, the commissioner shall serve as the administrative supervisor. The commissioner may provide that the insurer may not do any of the following things during the period of supervision, without the prior approval of the commissioner:

(1) dispose of, convey, or encumber any of its assets or its business in force;

(2) withdraw any of its bank accounts;

(3) lend any of its funds;

(4) invest any of its funds;

(5) transfer any of its property;

(6) incur any debt, obligation, or liability;

(7) merge or consolidate with another company;

(8) approve new premiums or renew any policies;

(9) enter into any new reinsurance contract or treaty;

(10) terminate, surrender, forfeit, convert, or lapse any insurance policy, certificate, or contract, except for nonpayment of premiums due;

(11) release, pay, or refund premium deposits, accrued cash or loan values, unearned premiums, or other reserves on any insurance policy, certificate, or contract;

(12) make any material change in management; or

(13) increase salaries and benefits of officers or directors or the preferential payment of bonuses, dividends, or other payments considered preferential.

Sec. 5. [60H.05] [REVIEW AND STAY OF ACTION.]

During the period of supervision the insurer may contest an action taken or proposed to be taken by the commissioner specifying the manner wherein the action being complained of would be detrimental to the condition of the insurer. Denial of the insurer's request upon reconsideration entitles the insurer to request a proceeding under chapter 14.

Sec. 6. [60H.06] [ADMINISTRATIVE ELECTION OF PROCEEDINGS.]

Nothing in this article precludes the commissioner from initiating judicial proceedings to place an insurer in rehabilitation or liquidation proceedings, under the laws of this state, regardless of whether the commissioner has previously initiated administrative supervision proceedings under this article against the insurer.

Sec. 7. [60H.07] [RULES.]

The commissioner may adopt rules necessary for the implementation of this article.

Sec. 8. [60H.08] [IMMUNITY.]

There shall be no liability on the part of, and no cause of action of any nature shall arise against, the commissioner or the department or its employees or agents for any action taken by them in the performance of their powers and duties under this article.

ARTICLE 3

STANDARDS AND COMMISSIONER'S AUTHORITY FOR COMPANIES CONSIDERED TO BE IN HAZARDOUS FINANCIAL CONDITION

Section 1. [60H.21] [PURPOSE.]

The purpose of this article is to set forth the standards which the commissioner may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to the public or to holders of their policies or certificates of insurance.

This article shall not be interpreted to limit the powers granted the commissioner by any other laws or parts of laws of this state, nor shall this chapter be interpreted to supersede any other laws or parts of laws of this state.

Sec. 2. [60H.22] [STANDARDS.]

The following standards, either singly or a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer, whether domestic, foreign, or alien, transacting an insurance business in this state might be considered to be hazardous to the policyholders, creditors or the general public. The commissioner may consider:

(1) adverse finding reported in financial condition and market conduct examination reports;

(2) the National Association of Insurance Commissioners Insurance Regulatory Information System and its related reports;

(3) the ratios of commission expense, general insurance expense, policy benefits, and reserve increases as to annual premium and net investment income which could lead to an impairment of capital and surplus;

(4) whether the insurer's asset portfolio when viewed in light of current economic conditions is of sufficient value, liquidity, or diversity to assure the company's ability to meet its outstanding obligations as they mature;

(5) the ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the company's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

(6) whether the insurer's operating loss in the last 12-month

period or any shorter period of time, including, but not limited to, net capital gain or loss, change in nonadmitted assets, and cash dividends paid to shareholders, is greater than 50 percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

(7) whether any affiliate, subsidiary, or reinsurer is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligation;

(8) whether contingent liabilities, pledges, or guaranties which either individually or collectively involve a total amount which in the opinion of the commissioner may affect the solvency of the insurer;

(9) whether any "controlling person" of an insurer is delinquent in the transmitting to, or payment of, net premiums to the insurer;

(10) the age and collectability of receivables;

(11) whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of the insurer, fails to possess and demonstrate the competence, fitness, and reputation considered necessary to serve the insurer in this position;

(12) whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;

(13) whether management of an insurer either has filed a false or misleading sworn financial statement, or has released a false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;

(14) whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner; or

(15) whether the company has experienced or will experience in the foreseeable future cash flow or liquidity problems.

Sec. 3. [60H.23] [COMMISSIONER'S AUTHORITY.]

Subdivision 1. [DETERMINATION OF FINANCIAL CONDITION.] For the purposes of making a determination of an insurer's financial condition under this chapter, the commissioner may:

(1) disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired, or otherwise subject to a delinquency proceeding;

(2) make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates;

(3) refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

(4) increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.

Subd. 2. [COMMISSIONER'S ORDER.] If the commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to the policyholders or the general public, then the commissioner may, upon the commissioner's determination, issue an order requiring the insurer to:

(1) reduce the total amount of present and potential liability for policy benefits by reinsurance;

(2) reduce, suspend, or limit the volume of business being accepted or renewed;

(3) reduce general insurance and commission expenses by specified methods;

(4) increase the insurer's capital and surplus;

(5) suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders;

(6) file reports in a form acceptable to the commissioner concerning the market value of an insurer's assets;

(7) limit or withdraw from certain investments or discontinue certain investment practices to the extent the commissioner considers necessary;

(8) document the adequacy of premium rates in relation to the risks insured; or

(9) file, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of

Insurance Commissioners or in the format adopted by the commissioner.

Subd. 3. [HEARING.] An insurer subject to an order under subdivision 2 may request a hearing pursuant to chapter 14 to review that order. The commissioner shall hold all hearings under this paragraph privately.

Sec. 4. [60H.24] [JUDICIAL REVIEW.]

An order or decision of the commissioner is subject to review in accordance with chapter 14 at the instance of any party to the proceedings whose interests are substantially affected.

ARTICLE 4

MANAGING GENERAL AGENTS

Section 1. [60I.01] [TITLE.]

Sections 60I.01 to 60I.10 may be cited as the managing general agents act.

Sec. 2. [60I.02] [DEFINITIONS.]

Subdivision 1. [TERMS.] For purposes of sections 60I.01 to 60I.10, the terms defined in this section have the meanings given them.

Subd. 2. [ACTUARY.] "Actuary" means a person who is a member in good standing of the American Academy of Actuaries.

Subd. 3. [INSURER.] "Insurer" means a person, firm, association, or corporation duly licensed in this state as an insurance company.

Subd. 4. [MANAGING GENERAL AGENT.] (a) "Managing general agent" means a person, firm, association, or corporation who negotiates and binds ceding reinsurance contracts on behalf of an insurer or manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office, and acts as an agent for that insurer whether known as a managing general agent, manager, or other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than five percent of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year together with one or more of the following: (1) adjusts or pays claims in excess of an amount determined by the commissioner; or (2) negotiates reinsurance on behalf of the insurer.

(b) Notwithstanding paragraph (a), the following persons shall not be considered as managing general agents for the purposes of sections 60I.01 to 60I.10:

(1) an employee of the insurer;

(2) a United States manager of the United States branch of an alien insurer;

(3) an underwriting manager that, pursuant to contract, manages all the insurance or reinsurance operation of the insurer, is under common control with the insurer, subject to the insurance holding company act, chapter 60D, and whose compensation is not based on the volume of premiums written; or

(4) an attorney in fact authorized by, and acting for, the subscribers of a reciprocal insurer or interinsurance exchange under powers of attorney.

Subd. 5. [UNDERWRITE.] "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

Sec. 3. [60I.03] [LICENSE.]

Subdivision 1. [REQUIRED.] (a) No person, firm, association, or corporation shall act in the capacity of a managing general agent with respect to risks located in this state for an insurer licensed in this state unless the person is a licensed producer in this state.

(b) No person, firm, association, or corporation shall act in the capacity of a managing general agent representing an insurer domiciled in this state with respect to risks located outside this state unless the person is licensed as a producer in this state pursuant to sections 60I.01 to 60I.10. The license may be a nonresident license.

Subd. 2. [BOND.] The commissioner of commerce may require a bond in an amount acceptable for the protection of the insurer.

Subd. 3. [ERRORS AND OMISSIONS INSURANCE.] The commissioner of commerce may require the managing general agent to maintain an errors and omissions policy.

Sec. 4. [60I.04] [REQUIRED CONTRACT PROVISIONS.]

Subdivision 1. [GENERALLY.] No person, firm, association, or corporation acting in the capacity of a managing general agent shall place business with an insurer unless there is in force a written contract between the parties that sets forth the responsibilities of each party and where both parties share responsibility for a partic-

ular function, specifies the division of responsibilities, and that contains the *minimum* provisions in subdivisions 2 to 12.

Subd. 2. [TERMINATIONS.] The insurer may terminate the contract for cause upon written notice to the managing general agent. The insurer may suspend the underwriting authority of the managing general agent during the pendency of any dispute regarding the cause for termination.

Subd. 3. [PERIODIC ACCOUNTING.] The managing general agent will render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer *on not* less than a monthly basis.

Subd. 4. [HANDLING OF FUNDS.] All funds collected for the account of an insurer will be held by the managing general agent in a fiduciary capacity in a bank which is a member of the Federal Reserve System. This account shall be used for all payments on behalf of the insurer. The managing general agent may retain no more than three months estimated claims payments and allocated loss adjustment expenses. A managing general agent shall deposit only trust funds in a trust account and shall not commingle personal funds or other funds in a trust account, except that a managing general agent may deposit and maintain a sum in a trust account from personal funds, which sum shall be specifically identified and used to pay service charges or satisfy the minimum balance requirements relating to the trust account.

Subd. 5. [BUSINESS RECORDS.] Separate records of business written by the managing general agent will be maintained. The insurer shall have access and right to copy all accounts and records related to its business in a form usable by the insurer, and the commissioner shall have access to all books, bank accounts, and records of the managing general agent in a form usable to the commissioner. The records shall be retained on a basis acceptable to the commissioner.

Subd. 6. [NONASSIGNMENT OF CONTRACT.] The contract may not be assigned in whole or part by the managing general agent.

Subd. 7. [UNDERWRITING GUIDELINES.] Appropriate underwriting guidelines will be followed, including:

(1) the maximum annual premium volume;

(2) the basis of the rates to be charged;

(3) the types of risks that may be written;

(4) *maximum* limits of liability;

(5) applicable exclusions;

(6) territorial limitations;

(7) policy cancellation provisions; and

(8) the maximum policy period.

The insurer shall have the right to cancel or nonrenew any policy of insurance subject to the applicable laws and rules concerning the cancellation and nonrenewal of insurance policies.

Subd. 8. [CLAIMS SETTLEMENT.] If the contract permits the managing general agent to settle claims on behalf of the insurer:

(1) all claims must be reported to the company in a timely manner;

(2) a copy of the claim file will be sent to the insurer at its request or as soon as it becomes known that the claim:

(i) has the potential to exceed an amount determined by the commissioner or exceeds the limit set by the company, whichever is less;

(ii) involves a coverage dispute;

(iii) may exceed the managing general agent's claim settlement authority;

(iv) is open for more than six months; or

(v) is closed by payment of an amount set by the commissioner or an amount set by the company, whichever is less;

(3) all claim files will be the joint property of the insurer and managing general agent. However, upon an order of liquidation of the insurer, the files shall become the sole property of the insurer or its estate. The managing general agent shall have reasonable access to and the right to copy the files on a timely basis; and

(4) settlement authority granted to the managing general agent may be terminated for cause upon the insurer's written notice to the managing general agent or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination.

Subd. 9. [TRANSMISSION OF ELECTRONIC CLAIMS DATA.]

Where electronic claims files are in existence, the contract must address the timely transmission of the data.

Subd. 10. [INTERIM PROFITS.] If the contract provides for a sharing of interim profits by the managing general agent, and the managing general agent has the authority to determine the amount of the interim profits by establishing loss reserves or controlling claim payments, or in any other manner, interim profits will not be paid to the managing general agent until one year after they are earned for property insurance business and five years after they are earned on casualty business and not until the profits have been verified pursuant to section 60I.05.

Subd. 11. [AGENT PRACTICES.] The managing general agent shall not:

(1) bind reinsurance or retrocessions on behalf of the insurer, except that the managing general agent may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which these automatic agreements are in effect, the coverage and amounts or percentages that may be reinsured, and commission schedules;

(2) commit the insurer to participate in insurance or reinsurance syndicates;

(3) appoint any producer without assuring that the producer is lawfully licensed to transact the type of insurance for which that person is appointed;

(4) without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which shall not exceed one percent of the insurer's policyholder's surplus as of December 31 of the last completed calendar year;

(5) without prior approval of the insurer, collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer. If prior approval is given, a report must be promptly forwarded to the insurer;

(6) permit its subproducer to serve on the insurer's board of directors;

(7) jointly employ an individual who is employed with the insurer; or

(8) appoint a submanaging general agent.

Subd. 12. [CONTRACT TERM.] The contract term may not be for an unreasonable period of time, but in no circumstance may the term exceed five years.

Sec. 5. [60I.05] [DUTIES OF INSURERS.]

Subdivision 1. [FINANCIAL EXAMINATION OF AGENT.] The insurer shall have on file an independent financial examination, in a form acceptable to the commissioner of commerce, of each managing general agent with which it has done business.

Subd. 2. [ACTUARIAL OPINION ON LOSS RESERVES.] If a managing general agent establishes loss reserves, the insurer shall annually obtain the opinion of an actuary not employed by the insurer or by the managing general agent attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the managing general agent. This is in addition to any other required loss reserve certification.

Subd. 3. [UNDERWRITING AND CLAIMS PROCESSING REVIEW.] The insurer shall periodically, at least semiannually, conduct an on-site review of the underwriting and claims processing operation of the managing general agent and maintain on its records the results of that review.

Subd. 4. [BINDING AUTHORITY.] Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer, who shall not be affiliated with the managing general agent.

Subd. 5. [NOTIFICATION OF APPOINTMENT OR TERMINATION.] Within 30 days of entering into or termination of a contract with a managing general agent, the insurer shall provide written notification of the appointment or termination to the commissioner. Notices of appointment of a managing general agent shall include a statement of duties which the applicant is expected to perform on behalf of the insurer, the lines of insurance for which the applicant is to be authorized to act, and any other information the commissioner may request.

Subd. 6. [REVIEW OF PRODUCERS.] An insurer shall review its books and records each quarter to determine if any producer has become, by operation of section 1, subdivision 4, a managing general agent as defined in that section. If the insurer determines that a producer has become a managing general agent, the insurer shall promptly notify the producer and the commissioner of the determination and the insurer and producer must fully comply with the provisions of this chapter with 30 days.

Subd. 7. [APPOINTMENTS TO BOARD.] An insurer shall not

appoint to its board of directors an officer, director, employee, subproducer, or controlling shareholder of its managing general agents. This subdivision does not apply to relationships governed by the insurance holding company act, chapter 60D or, if applicable, the producer controlled property/casualty insurer act, article 13.

Sec. 6. [60I.06] [EXAMINATION AUTHORITY.]

A managing general agent may be examined as if it were the insurer.

Sec. 7. [60I.07] [ACTS OF MANAGING GENERAL AGENT.]

The acts of the managing general agent are considered to be the acts of the insurer on whose behalf it is acting.

Sec. 8. [60I.08] [PENALTIES AND LIABILITIES.]

Subdivision 1. [GENERALLY.] If the commissioner finds pursuant to the procedural requirements of section 45.027 that any person has violated any provision or provisions of this article, the commissioner may take any action granted to the commissioner by that section.

Subd. 2. [CIVIL PENALTY AND REIMBURSEMENT ORDER.] In addition to authority granted by section 45.027 for each separate violation, the commissioner may impose a penalty up to $5,000 and order the managing general agent to reimburse the insurer, rehabilitator, or liquidator of the insurer for any losses incurred by the insurer caused by a violation of this article committed by the managing general agent.

Subd. 3. [JUDICIAL REVIEW.] The decision, determination, or order of the commissioner pursuant to subdivision 1, is subject to judicial review pursuant to chapter 14.

Subd. 4. [OTHER PENALTIES.] Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided for by law.

Sec. 9. [60I.09] [SCOPE.]

Nothing contained in this article is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, and auditors.

Sec. 10. [60I.10] [RULES.]

The commissioner of commerce may adopt rules for the implementation and administration of sections 60I.01 to 60I.10.

Sec. 11. [REPEALER.]

Minnesota Statutes 1990, section 60A.076, is repealed.

Sec. 12. [EFFECTIVE DATE.]

Sections 60I.01 to 60I.10 are effective August 1, 1991. No insurer may continue to utilize the services of a managing general agent on and after that date unless the utilization is in compliance with this article.

ARTICLE 5

LIFE AND HEALTH GUARANTY ASSOCIATION

Section 1. Minnesota Statutes 1990, section 60B.25, is amended to read:

60B.25 [POWERS OF LIQUIDATOR.]

The liquidator shall report to the court monthly, or at other intervals specified by the court, on the progress of the liquidation in whatever detail the court orders. The liquidator shall coordinate activities with those of each guaranty association having an interest in the liquidation and shall submit a report detailing how coordination will be achieved to the court for its approval within 30 days following appointment, or within the time which the court, in its discretion, may establish. Subject to the court's control, the liquidator may:

(1) Appoint a special deputy to act under sections 60B.01 to 60B.61 and determine the deputy's compensation. The special deputy shall have all powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator.

(2) Appoint or engage employees and agents, actuaries, accountants, appraisers, consultants, and other personnel deemed necessary to assist in the liquidation without regard to chapter 14.

(3) Fix the compensation of persons under clause (2), subject to the control of the court.

(4) Defray all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the liquidator may advance the costs so incurred out of the appropriation made to the department of commerce. Any amounts so paid shall be deemed expense of administration and shall be repaid

for the credit of the department of commerce out of the first available money of the insurer.

(5) Hold hearings, subpoena witnesses and compel their attendance, administer oaths, examine any person under oath and compel any person to subscribe to testimony after it has been correctly reduced to writing, and in connection therewith require the production of any books, papers, records, or other documents which the liquidator deems relevant to the inquiry.

(6) Collect all debts and money due and claims belonging to the insurer, wherever located, and for this purpose institute timely action in other jurisdictions, in order to forestall garnishment and attachment proceedings against such debts; do such other acts as are necessary or expedient to collect, conserve, or protect its assets or property, including sell, compound, compromise, or assign for purposes of collection, upon such terms and conditions as the liquidator deems best, any bad or doubtful debts; and pursue any creditor's remedies available to enforce claims.

(7) Conduct public and private sales of the property of the insurer in a manner prescribed by the court.

(8) Use assets of the estate to transfer coverage obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under section 60B.44.

(9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable, except that no transaction involving property the market value of which exceeds $10,000 shall be concluded without express permission of the court. The liquidator may also execute, acknowledge, and deliver any deeds, assignments, releases, and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the liquidation. In cases where real property sold by the liquidator is located other than in the county where the liquidation is pending, the liquidator shall cause to be filed with the county recorder for the county in which the property is located a certified copy of the order of appointment.

(10) Borrow money on the security of the insurer's assets or without security and execute and deliver all documents necessary to that transaction for the purpose of facilitating the liquidation.

(11) Enter into such contracts as are necessary to carry out the order to liquidate, and affirm or disallow any contracts to which the insurer is a party.

(12) Continue to prosecute and institute in the name of the insurer

or in the liquidator's own name any suits and other legal proceedings, in this state or elsewhere, and abandon the prosecution of claims the liquidator deems unprofitable to pursue further. If the insurer is dissolved under section 60B.23, the liquidator may apply to any court in this state or elsewhere for leave to be substituted for the insurer as plaintiff.

(13) Prosecute any action which may exist in behalf of the creditors, members, policyholders, or shareholders of the insurer against any officer of the insurer, or any other person.

(14) Remove any records and property of the insurer to the offices of the commissioner or to such other place as is convenient for the purposes of efficient and orderly execution of the liquidation.

(15) Deposit in one or more banks in this state such sums as are required for meeting current administration expenses and dividend distributions.

(16) Deposit with the state board of investment for investment pursuant to section 11A.24, all sums not currently needed, unless the court orders otherwise.

(17) File any necessary documents for record in the office of any county recorder or record office in this state or elsewhere where property of the insurer is located.

(18) Assert all defenses available to the insurer as against third persons, including statutes of limitations, statutes of frauds, and the defense of usury. A waiver of any defense by the insurer after a petition for liquidation has been filed shall not bind the liquidator.

(19) Exercise and enforce all the rights, remedies, and powers of any creditor, shareholder, policyholder, or member, including any power to avoid any transfer or lien that may be given by law and that is not included within sections 60B.30 and 60B.32.

(20) Intervene in any proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

(21) Enter into agreements with any receiver or commissioner of any other state relating to the rehabilitation, liquidation, conservation, or dissolution of an insurer doing business in both states.

(22) Exercise all powers now held or hereafter conferred upon receivers by the laws of this state not inconsistent with sections 60B.01 to 60B.61.

(23) The enumeration in this section of the powers and authority

of the liquidator is not a limitation, nor does it exclude the right to do such other acts not herein specifically enumerated or otherwise provided for as are necessary or expedient for the accomplishment of or in aid of the purpose of liquidation.

(24) The power of the liquidator of a health maintenance organization includes the power to transfer coverage obligations to a solvent and voluntary health maintenance organization, insurer, or nonprofit health service plan, and to assign provider contracts of the insolvent health maintenance organization to an assuming health maintenance organization, insurer, or nonprofit health service plan permitted to enter into such agreements. The liquidator is not required to meet the notice requirements of section 62D.121. Transferees of coverage obligations or provider contracts shall have no liability to creditors or obligees of the health maintenance organization except those liabilities expressly assumed.

Sec. 2. Minnesota Statutes 1990, section 61B.12, is amended by adding a subdivision to read:

Subd. 6. [NOTICE CONCERNING LIMITATIONS AND EXCLUSIONS.] On and after January 1, 1992, no person, including an insurer, agent, or affiliate of an insurer or agent, shall offer for sale in this state a covered life insurance, annuity, or health insurance policy or contract without delivering at the time of application for that policy or contract a separate notice in the form the commissioner from time to time may approve for use in this state relating to coverage provided by the Minnesota Life and Health Insurance Guaranty Association. The notice must be signed by the applicant and kept on file by the person offering the policy or contract for sale. A copy of the signed notice must be given to the applicant.

Sec. 3. Minnesota Statutes 1990, section 61B.12, is amended by adding a subdivision to read:

Subd. 7. [EFFECT OF NOTICE.] The distribution, delivery, or contents or interpretation of the notice described in subdivision 6 shall not mean that either the policy or contract, or the owner or holder thereof, would be covered in the event of the impairment of a member insurer if coverage is not otherwise provided by this chapter. Failure to receive the notice does not give the policyholder, contract holder, certificate holder, insured, owner, beneficiaries, assignees, or payees any greater rights than those provided by this chapter.

ARTICLE 6

MINNESOTA INSURANCE GUARANTY ASSOCIATION AMENDMENTS

Section 1. Minnesota Statutes 1990, section 60B.37, subdivision 2, is amended to read:

Subd. 2. [EXCUSED LATE FILINGS.] For a good cause shown, the liquidator shall recommend and the court shall permit a claimant making a late filing to share in dividends, whether past or future, as if the claimant were not late, to the extent that any such payment will not prejudice the orderly administration of the liquidation. Good cause includes but is not limited to the following:

(a) That existence of a claim was not known to the claimant and that the claimant filed within 30 days after learning of it;

(b) That a claim for unearned premiums or for cash surrender values or other investment values in life insurance or annuities which was not required to be filed was omitted from the liquidator's recommendations to the court under section 60B.45, and that it was filed within 30 days after the claimant learned of the omission;

(c) That a transfer to a creditor was avoided under sections 60B.30 to 60B.32 or was voluntarily surrendered under section 60B.33, and that the filing satisfies the conditions of section 60B.33;

(d) That valuation under section 60B.43 of security held by a secured creditor shows a deficiency, which is filed within 30 days after the valuation; ~~and~~

(e) That a claim was contingent and became absolute, and was filed within 30 days after it became absolute~~.~~; and

(f) That the claim is for workers' compensation benefits and the time limitations and other requirements of chapter 176 have been met.

Sec. 2. Minnesota Statutes 1990, section 60C.02, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] This chapter applies to all kinds of direct insurance, except life, title, accident and sickness written by life insurance companies, credit, mortgage guaranty, financial guaranty or other forms of insurance offering protection against investment risks, and ocean marine.

Sec. 3. Minnesota Statutes 1990, section 60C.03, subdivision 6, is amended to read:

Subd. 6. "Member insurer" means any person, including reciprocals or interinsurance exchanges operating under chapter 71A, township mutual fire insurance companies operating under sections 67A.01 to 67A.26, and farmers mutual fire insurance companies operating under sections 67A.27 to 67A.39, who (a) writes any kind of insurance not excepted from the scope of Laws 1971, chapter 145 by section 60C.02, and (b) is licensed to transact insurance business

in this state, except any nonprofit service plan incorporated or operating under sections 62C.01 to 62C.23 and any health plan incorporated under chapter 317A, and includes an insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn.

Sec. 4. Minnesota Statutes 1990, section 60C.03, is amended by adding a subdivision to read:

Subd. 10. "Financial guaranty insurance" includes any insurance under which loss is payable upon proof of occurrence of any of the following events to the damage of an insured claimant or obligee:

(1) failure of any obligor or obligors on any debt instrument or other monetary obligation, including common or preferred stock, to pay when due the principal, interest, dividend or purchase price of such instrument or obligation, whether such failure is the result of a financial default or insolvency and whether or not such obligation is incurred directly or as guarantor by, or on behalf of, another obligor which has also defaulted;

(2) changes in the level of interest rates whether short-term or long-term, or in the difference between interest rates existing in various markets;

(3) changes in the rate of exchange or currency, or from the inconvertibility of one currency into another for any reason; and

(4) changes in the value of specific assets or commodities, or price levels in general.

Sec. 5. Minnesota Statutes 1990, section 60C.04, is amended to read:

60C.04 [CREATION.]

All insurers subject to the provisions of Laws 1971, chapter 145 shall form an organization to be known as the Minnesota insurance guaranty association. All insurers defined as member insurers in section 60C.03, subdivision 6, are and shall remain members of the association as a condition of their authority to transact insurance business or to execute surety bonds in this state. An insurer's membership obligations under this chapter shall survive any merger, consolidation, restructuring, incorporation, or reincorporation. The association shall perform its functions under a plan of operation established and approved under section 60C.07 and shall exercise its powers through a board of directors established under section 60C.08. For purposes of administration and assessment the association shall be divided into five separate accounts: (1) the automobile insurance account, (2) the township mutuals account, (3)

the fidelity and surety bond account, (4) the account for all other insurance to which ~~Laws 1971,~~ this chapter ~~145~~ applies, and (5) the workers' compensation insurance account.

Sec. 6. Minnesota Statutes 1990, section 60C.06, subdivision 1, is amended to read:

Subdivision 1. [DETERMINATION OF AMOUNT.] The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year on the kinds of insurance in the account bear to the net direct written premiums of all member insurers for the preceding calendar year on the kinds of insurance in the account. No member insurer may be assessed in any year on any account in an amount greater than two percent of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance in the account. ~~All member insurers licensed to transact insurance business in this state on the date an insurer is placed in liquidation may be assessed as provided by section 60C.06 for necessary payments from the account.~~

Sec. 7. Minnesota Statutes 1990, section 60C.09, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] A covered claim is any unpaid claim, including one for unearned premium, which:

(a)(1) Arises out of and is within the coverage of an insurance policy issued by a member insurer if the insurer becomes an insolvent insurer after April 30, 1979; or

(2) Would be within the coverage of an extended reporting endorsement to a claims-made insurance policy if insolvency had not prevented the member insurer from fulfilling its obligation to issue the endorsement, if:

(i) the claims-made policy contained a provision affording the insured the right to purchase a reporting endorsement;

(ii) coverage will be no greater than if a reporting endorsement had been issued;

(iii) the insured has not purchased other insurance which applies to the claim; and

(iv) the insured's deductible under the policy is increased by an amount equal to the premium for the reporting endorsement, as provided in the insured's claims-made policy, or if not so provided, then as established by a rate service organization.

(b) Arises out of a class of business which is not excepted from the scope of this chapter by section 60C.02; and

(c) Is made by:

(i) A policyholder, or an insured beneficiary under a policy, who, at the time of the insured event, was a resident of this state; or

(ii) A person designated in the policy as having an insurable interest in or related to property situated in this state at the time of the insured event; or

(iii) An obligee or creditor under any surety bond, who, at the time of default by the principal debtor or obligor, was a resident of this state; or

(iv) A third party claimant under a liability policy or surety bond, if: (a) the insured or the third party claimant was a resident of this state at the time of the insured event; (b) the claim is for bodily or personal injuries suffered in this state by a person who when injured was a resident of this state; or (c) the claim is for damages to real property situated in this state at the time of damage; or

(v) A direct or indirect assignee of a person who except for the assignment might have claimed under item (i), (ii), or (iii).

For purposes of paragraph (c), item (ii), unit owners of condominiums, townhouses, or cooperatives are considered as having an insurable interest.

A covered claim also includes any unpaid claim which arises or exists within 30 days after the time of entry of an order of liquidation with a finding of insolvency by a court of competent jurisdiction unless prior thereto the insured replaces the policy or causes its cancellation or the policy expires on its expiration date. A covered claim does not include claims filed with the guaranty fund after the final date set by the court for the filing of claims except for workers' compensation claims that have met the time limitations and other requirements of chapter 176 and excused late filings permitted under section 60B.37.

Sec. 8. Minnesota Statutes 1990, section 60C.13, subdivision 1, is amended to read:

Subdivision 1. Any person having a claim ~~against an insurer under any provision in an insurance policy other than a policy of an insurer in liquidation which is also a covered claim, is required to exhaust first any rights~~ under another policy, which claim arises out of the same facts which give rise to the covered claim, shall be first required to exhaust the person's right under the other policy. Any

amount payable on a covered claim under ~~Laws 1971,~~ this chapter ~~145~~ shall be reduced by the amount of any recovery under such insurance policy. For purposes of this subdivision, another insurance policy does not include a workers' compensation policy.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 7 are effective the day following final enactment. Section 8 applies to all unsettled existing and future claims made after that date arising out of any past or future member insolvencies.

ARTICLE 7

STANDARD VALUATION LAW

Section 1. Minnesota Statutes 1990, section 61A.25, is amended by adding a subdivision to read:

Subd. 2a. [ACTUARIAL OPINION OF RESERVES.] (a) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner may by rule define the specifics of this opinion and add any other items considered to be necessary to its scope. The opinion must be included in the company's annual statement.

This requirement to annually submit the opinion of a qualified actuary shall apply to service plan corporations licensed pursuant to chapter 62C, to legal service plans licensed pursuant to chapter 62G, and to all fraternal benefit societies except those societies paying only sick benefits not exceeding $250 in any one year, or paying funeral benefits of not more than $350, or aiding those dependent on a member not more than $350, nor any subordinate lodge or council which is or whose members are, assessed for benefits which are payable by a grand body.

(b) The opinion shall apply to all business in force, including individual and group health insurance plans, and shall be based on standards adopted by the Actuarial Standards Board. The opinion shall be acceptable to the commissioner in both form and substance.

(c) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably

meets the requirements applicable to a company domiciled in this state.

(d) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in rules the commissioner may prescribe.

(e) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(f) A memorandum, in form and substance acceptable to the commissioner based on standards adopted from time to time by the Actuarial Standards Board and on any additional standards the commissioner may by rule prescribe, shall be prepared to support each actuarial opinion.

(g) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by the commissioner or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards based on standards adopted from time to time by the Actuarial Standards Board and on any additional standards the commissioner may by rule prescribe or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare any supporting memorandum required by the commissioner.

(h) A memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with this subdivision, shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this subdivision or by rules adopted pursuant to this subdivision; provided, however, that the memorandum or other material may otherwise be released by the commissioner (1) with the written consent of the company or (2) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

Sec. 2. Minnesota Statutes 1990, section 61A.25, is amended by adding a subdivision to read:

Subd. 2b. [ACTUARIAL ANALYSIS OF RESERVES AND ASSETS SUPPORTING RESERVES.] (a) Every life insurance company, except as exempted by or pursuant to rule, shall also annually include in the opinion required by subdivision 2a, paragraph (a), an opinion of the same qualified actuary as to whether the reserves and related actuarial items, including page 3, line 10, of the annual statement, held in support of the policies and contracts specified by the commissioner, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(b) The commissioner may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may consider necessary in order to render the opinion required by this section.

Sec. 3. Minnesota Statutes 1990, section 61A.25, subdivision 3, is amended to read:

Subd. 3. [MINIMUM STANDARDS OF VALUATION GENERALLY.] Except as otherwise provided in subdivisions 3a and 3b, the minimum standard for the valuation of the policies and contracts issued prior to the operative date of Laws 1947, chapter 182, shall be that provided by the laws in effect immediately prior to that date. Except as otherwise provided in subdivisions 3a and 3b, the minimum standard for the valuation of the policies and contracts issued on or after the operative date of Laws 1947, chapter 182, shall be the commissioners reserve valuation methods described in subdivisions 4, 4a and 7, 3-1/2 percent interest, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after April 11, 1974, four percent interest for policies issued prior to August 1, 1978, 5-1/2 percent interest for single premium life insurance policies and 4-1/2 percent interest for other policies issued on or after August 1, 1978, and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies, the Commissioners 1941 Standard Ordinary Mortality Table for the policies issued prior to the operative date of section 61A.24, subdivision 9 and the Commissioners 1958 Standard Ordinary Mortality Table for the policies issued on or after the operative date of section 61A.24, subdivision 9, and prior to the

operative date of section 61A.24, subdivision 12; provided, that for any category of the policies issued on female risks all modified net premiums and present values referred to in Laws 1959, chapter 26, may be calculated according to an age not more than six years younger than the actual age of the insured; and for policies issued on or after the operative date of section 61A.24, subdivision 12:

(1) the Commissioners 1980 Standard Ordinary Mortality Table; (2) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; or (3) any ordinary mortality table, including any adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies, the 1941 Standard Industrial Mortality Table for the policies issued prior to the operative date of section 61A.24, subdivision 11 and for the policies issued on or after the operative date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, including any adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the policies.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies, the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies, the Group Annuity Mortality Table for 1951, any modification of the table approved by the commissioner, or at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplemental to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, including any adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the policies; for policies or contracts issued on or after January 1, 1963, and prior to January 1, 1966, either the tables or, at the option of the

company, the class (3) disability table (1926); and for policies issued prior to January 1, 1963, the class (3) disability table (1926). The table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table, including any adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the policies; for policies issued on or after January 1, 1963, and prior to January 1, 1966, either table or, at the option of the company, the Intercompany Double Indemnity Mortality Table; and for policies issued prior to January 1, 1963, the Intercompany Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits, any tables as may be approved by the commissioner.

Sec. 4. Minnesota Statutes 1990, section 61A.25, subdivision 5, is amended to read:

Subd. 5. [MINIMUM AGGREGATE RESERVES.] A company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of Laws 1947, chapter 182, shall not be less than the aggregate reserves calculated in accordance with the methods set forth in subdivisions 4, 4a, 7, and 8, and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies.

In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by subdivision 2a.

Sec. 5. Minnesota Statutes 1990, section 61A.25, subdivision 6, is amended to read:

Subd. 6. [CALCULATION OF RESERVES.] (1) Reserves for all policies and contracts issued prior to the operative date of Laws 1947, chapter 182, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(2) Reserves for any category of policies, contracts or benefits as established by the commissioner, issued on or after the operative date of Laws 1947, chapter 182, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(3) Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided; provided, however, that, for the purposes of this section the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by subdivision 2a shall not be considered to be the adoption of a higher standard of valuation.

Sec. 6. Minnesota Statutes 1990, section 61A.25, is amended by adding a subdivision to read:

Subd. 9. [MINIMUM STANDARDS FOR HEALTH, DISABILITY, ACCIDENT, AND SICKNESS PLANS.] The commissioner may adopt a rule containing the minimum standards applicable to the valuation of health, disability, accident, and sickness plans.

Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 6 are effective the day following final enactment and apply to annual statements submitted pursuant to Minnesota Statutes, section 60A.13, for 1992 and subsequent years.

ARTICLE 8

PROPERTY/CASUALTY INVESTMENTS

Section 1. Minnesota Statutes 1990, section 60A.11, subdivision 10, is amended to read:

Subd. 10. [DEFINITIONS.] The following terms have the meaning assigned in this subdivision for purposes of this section and section 60A.111:

(a) "Adequate evidence" means a written confirmation, advice, or other verification issued by a depository, issuer, or custodian bank which shows that the investment is held for the company;

(b) "Adequate security" means a letter of credit qualifying under subdivision 11, paragraph (f), cash, or the pledge of an investment authorized by any subdivision of this section;

(c) "Admitted assets," for purposes of computing percentage limitations on particular types of investments, means the assets as shown by the company's annual statement, required by section 60A.13, as of the December 31 immediately preceding the date the company acquires the investment;

~~(b)~~ (d) "Clearing corporation" means The Depository Trust Company or any other clearing agency registered with the ~~federal~~ securities and exchange commission pursuant to the ~~Federal~~ Securities Exchange Act of 1934, section 17A, Euro-clear Clearance System Limited and CEDEL S.A., and, with the approval of the commissioner, any other clearing corporation as defined in section 336.8-102;

~~(c)~~ (e) "Control" has the meaning assigned to that term in, and must be determined in accordance with, section ~~60D.01~~ 60D.15, subdivision 4;

~~(d)~~ (f) "Custodian bank" means a bank or trust company or a branch of a bank or trust company that is acting as custodian and is supervised and examined by state or federal authority having supervision over the bank or trust company or with respect to a company's foreign investments only by the regulatory authority having supervision over banks or trust companies in the jurisdiction in which the bank, trust company, or branch is located, and any banking institutions qualifying as an "Eligible Foreign Custodian" pursuant to Reg. 270.17f-5 promulgated under Section 17(f) of the Investment Company Act of 1940, and specifically ~~includes~~ including Euro-clear Clearance System Limited and CEDEL S.A., acting as custodians;

(g) "Evergreen clause" means a provision that automatically renews a letter of credit for a time certain if the issuer of the letter of credit fails to affirmatively signify its intention to nonrenew upon expiration;

(h) "Government obligations" means direct obligations for the payment of money, or obligations for the payment of money to the extent guaranteed as to the payment of principal and interest by any governmental issuer where the obligations are payable from ad valorem taxes or guaranteed by the full faith, credit, and taxing power of the issuer and are not secured solely by special assessments for local improvements;

(i) "Noninvestment grade obligations" means obligations which, at the time of acquisition, were rated below Baa/BBB or the equivalent by a securities rating agency or which, at the time of

acquisition, were not in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners;

~~(e)~~ (j) "Issuer" means the corporation, business trust, governmental unit, partnership, association, individual, or other entity which issues or on behalf of which is issued any form of obligation;

(k) "Licensed real estate appraiser" means a person who develops and communicates real estate appraisals and who holds a current, valid license pursuant to chapter 82B or a substantially similar licensing requirement in another jurisdiction;

~~(f)~~ (l) "Member bank" means a national bank, state bank or trust company which is a member of the Federal Reserve System;

~~(g)~~ (m) "National securities exchange" means an exchange registered under section 6 of the Securities Exchange Act of 1934 or an exchange regulated under the laws of the Dominion of Canada;

(n) "NASDAQ" means the reporting system for securities meeting the definition of National Market System security found in Part I of Schedule D of the National Association of Securities Dealer's Incorporated Bylaws;

~~(h)~~ (o) "Obligations" include bonds, notes, debentures, transportation equipment certificates, repurchase agreements, bank certificates of deposit, time deposits, bankers' acceptances, and other obligations for the payment of money not in default as to payments of principal and interest on the date of investment, whether constituting general obligations of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment. Leases are considered obligations if the lease is assigned for the benefit of the company and is nonterminable by the lessee or lessees thereunder upon foreclosure of any lien upon the leased property, and rental payments are sufficient to amortize the investment over the primary lease term;

~~(i)~~ (p) "Qualified assets" means the sum of (1) all investments qualified in accordance with this section other than investments in affiliates and subsidiaries, (2) investments in obligations of affiliates as defined in section ~~60D.01~~ 60D.15, subdivision 2 secured by real or personal property sufficient to qualify the investment under subdivision 19 or 23, (3) qualified investments in subsidiaries, as defined in section ~~60D.01~~ 60D.15, subdivision 9, on a consolidated basis with the insurance company without allowance for goodwill or other intangible value, and (4) cash on hand and on deposit, agent's balances or uncollected premiums not due more than 90 days, assets held pursuant to section 60A.12, subdivision 2, investment income due and accrued, funds due or on deposit or recoverable on loss payments under contracts of reinsurance entered into pursuant to

section 60A.09, premium bills and notes receivable, federal income taxes recoverable, and equities and deposits in pools and associations;

~~(j)~~ (q) "Qualified net earnings" means that the net earnings of the issuer after elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period;

~~(k)~~ (r) "Required liabilities" means the sum of (1) total liabilities as required to be reported in the company's most recent annual report to the commissioner of commerce of this state, (2) for companies operating under the stock plan, the minimum paid-up capital and surplus required to be maintained pursuant to section 60A.07, subdivision 5a, (3) for companies operating under the mutual or reciprocal plan, the minimum amount of surplus required to be maintained pursuant to section 60A.07, subdivision 5b, and (4) the amount, if any, by which the company's loss and loss adjustment expense reserves exceed 350 percent of its surplus as it pertains to policyholders as of the same date. The commissioner may waive the requirement in clause (4) unless the company's written premiums exceed 300 percent of its surplus as it pertains to policyholders as of the same date. In addition to the required amounts pursuant to clauses (1) to (4), the commissioner may require that the amount of any apparent reserve deficiency that may be revealed by one to five year loss and loss adjustment expense development analysis for the five years reported in the company's most recent annual statement to the commissioner be added to required liabilities; ~~and~~

(s) "Revenue obligations" means obligations for the payment of money by any governmental issuer where the obligations are payable from revenues, earnings, or special assessments on properties benefited by local improvements of such issuer which are specifically pledged therefor;

(t) "Security" or its plural, "securities" has the meaning assigned to that term in Section 5 of the Security Act of 1933 and specifically includes, but is not limited to, stocks, stock equivalents, warrants, rights, options, obligations, American Depository Receipts (ADR's), repurchase agreements, and reverse repurchase agreements; and

~~(l)~~ (u) "Unrestricted surplus" means the amount by which qualified assets exceed 110 percent of required liabilities.

Sec. 2. Minnesota Statutes 1990, section 60A.11, subdivision 11, is amended to read:

Subd. 11. [INVESTMENTS IN NAME OF COMPANY OR NOM-

INEE AND PROHIBITIONS.] A company's investments shall be held in its own name or the name of its nominee, except that:

(a) Investments may be held in the name of a clearing corporation or of a custodian bank or in the name of the nominee of either on the following conditions:

(1) The clearing corporation, custodian bank, or nominee must be legally authorized to hold the particular investment for the account of others;

(2) Where the investment is evidenced by a certificate and held in the name of a custodian bank or the nominee by a custodian bank, a written agreement shall provide that certificates so deposited shall at all times be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the company making the deposit; ~~and~~

(3) Where a clearing corporation is to act as depository, the investment may be merged or held in bulk in the clearing corporation's or its nominee name with other investments deposited with the clearing corporation by any other person, if a written agreement provides that adequate evidence of the deposit is to be obtained and retained by the company or a custodian bank; and

(4) The company will monitor current publicly available financial information and other pertinent data with respect to the custodian banks.

(b) A company may loan ~~stocks or obligations~~ securities held by it under this chapter to a broker-dealer registered under the Securities and Exchange Act of 1934 or a member bank. The loan must be evidenced by a written agreement which provides:

(1) That the loan will be fully collateralized by cash or obligations issued or guaranteed by the United States or an agency or an instrumentality thereof, and that the collateral will be adjusted each business day during the term of the loan to maintain the required collateralization in the event of market value changes in the loaned securities or collateral;

(2) That the loan may be terminated by the company at any time, and that the borrower will return the loaned ~~stocks or obligations~~ securities or their equivalent within five business days after termination;

(3) That the company has the right to retain the collateral or use the collateral to purchase investments equivalent to the loaned securities if the borrower defaults under the terms of the agreement and that the borrower remains liable for any losses and expenses

incurred by the company due to default that are not covered by the collateral~~;~~.

(c) A company may participate through a member bank in the Federal Reserve book-entry system, and the records of the member bank shall at all times show that the investments are held for the company or for specific accounts of the company~~; or~~.

(d) An investment may consist of an individual interest in a pool of obligations or a fractional interest in a single obligation if the certificate of participation or interest or the confirmation of participation or interest in the investment shall be issued in the name of the company or the name of the custodian bank or the nominee of either and if the certificate or confirmation must, if held by a custodian bank, be kept separate and apart from the investments of others so that at all times the participation may be identified as belonging solely to the company making the investment.

(e) Except as provided in paragraph (c), where an investment is not evidenced by a certificate, ~~except as provided in paragraph (c),~~ adequate evidence of the company's investment shall be obtained from the issuer or its transfer or recording agent and retained by the company, a custodian bank, or clearing corporation. ~~Adequate evidence, for purposes of this subdivision, shall mean a written receipt or other verification issued by the depository or issuer or a custodian bank which shows that the investment is held for the company.~~ Transfers of ownership of investments held as described in paragraphs (a), clause (3), (c) and (d) may be evidenced by bookkeeping entry on the books of the issuer of the investment or its transfer or recording agent or the clearing corporation without physical delivery of certificates, if any, evidencing the company's investment.

(f) A letter of credit issued by a member bank or any of the 100 largest banks in the world ranked by deposits in dollars or converted into dollar equivalents, as compiled annually by the American Bankers Association or listed in Moody's Bank & Finance Manual (published annually), which also has a long-term deposit rating or a long-term debt rating of at least Aa2 as found in the current Moody's Credit Opinions (published monthly) or its equivalent, which qualifies under the guidelines of the National Association of Insurance Commissioners as a clean, irrevocable letter of credit containing an "evergreen clause" or having a maturity date subsequent to the maturity date of the underlying investment or loan, may be accepted as a guaranty of other investments, as collateral to secure loans, and in lieu of cash to secure loans of securities. The company will monitor current publicly available financial information and other pertinent data with respect to the banks issuing the letters of credit.

Sec. 3. Minnesota Statutes 1990, section 60A.11, subdivision 12, is amended to read:

Subd. 12. [INVESTMENTS.] (a) The investments authorized under the following subdivisions of this section shall constitute admitted assets for a company.

(b) A company's investments shall be so diversified that the securities of a single issuer, other than the United States of America or any agency or instrumentality of the United States of America backed by the full faith and credit thereof, shall comprise no more than five percent of the company's admitted assets, except where otherwise specified under this chapter. In the case of insurance companies which are subsidiaries of a company, this diversification test will be applied to the assets of the insurance company subsidiary in determining the company's compliance.

Sec. 4. Minnesota Statutes 1990, section 60A.11, subdivision 13, is amended to read:

Subd. 13. [UNITED STATES GOVERNMENT OBLIGATIONS.] (a) Obligations issued or guaranteed by the United States of America or ~~an~~ any agency or instrumentality of the United States of America backed by the full faith and credit thereof, including rights to purchase or sell these obligations if those rights are traded upon a contract market designated and regulated by a federal agency.

(b) Obligations issued or guaranteed by an agency or instrumentality of the United States of America other than those backed by the full faith and credit thereof, including rights to purchase or sell these obligations if those rights are traded upon a contract market designated and regulated by a federal agency. The securities of a single issuer under this paragraph shall comprise no more than 20 percent of the company's admitted assets.

Sec. 5. Minnesota Statutes 1990, section 60A.11, subdivision 14, is amended to read:

Subd. 14. [CERTAIN BANK OBLIGATIONS.] (a) Certificates of deposits, time deposits, and bankers' acceptances issued by and other obligations guaranteed by (1) any bank organized under the laws of the United States or any state, commonwealth, or territory thereof, including the District of Columbia, or of the Dominion of Canada or any province thereof or (2) any of the 100 largest banks, not a subsidiary or a holding company thereof, in the world ranked by deposits in dollars or converted into dollar equivalents, as compiled annually by the American Bankers Association or listed in Moody's Bank & Finance Manual (published annually), which also has a long-term deposit rating or a long-term debt rating of at least Aa2 as found in the current Moody's Credit Opinions (published monthly) or its equivalent. A company may not invest more than five percent of its admitted assets in the obligations of any one bank and may not hold at any time more than ten percent of the outstanding obligations of any one bank. ~~A letter of credit issued by a member~~

~~bank which qualifies under the guidelines of the National Association of Insurance Commissioners as a clean, irrevocable letter of credit which contains an "evergreen clause," may be accepted as a guaranty of other investments and in lieu of cash to secure loans of securities.~~

(b) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, the Asian Development Bank, the Inter-American Development Bank, the African Development Bank, the Export-Import Bank, the World Bank or any United States government sponsored organization of which the United States is a member, if the principal and interest is payable in United States dollars. A company may not invest more than five percent of its total admitted assets in the obligations of any one of these banks or organizations, and may not invest more than a total of 15 percent of its total admitted assets in the obligations of all these banks and organizations.

Sec. 6. Minnesota Statutes 1990, section 60A.11, subdivision 15, is amended to read:

Subd. 15. [STATE OBLIGATIONS.] (a) Government obligations issued or guaranteed by any state, commonwealth, or territory of the United States of America or by any political subdivision thereof, including the District of Columbia, or by any instrumentality of any state, commonwealth, territory, or political subdivision thereof. The diversification requirement of subdivision 12, paragraph (b), does not apply to government obligations under this paragraph.

(b) Revenue obligations issued by any state, commonwealth, or territory of the United States of America or by any political subdivision thereof, including the District of Columbia, or by any instrumentality of any state, commonwealth, territory, or political subdivision thereof. The diversification requirement of subdivision 12, paragraph (b), is applicable to revenue obligations under this paragraph.

Sec. 7. Minnesota Statutes 1990, section 60A.11, subdivision 16, is amended to read:

Subd. 16. [CANADIAN GOVERNMENT OBLIGATIONS.] (a) Obligations issued or guaranteed by the Dominion of Canada or by any agency or ~~province thereof, or by any political subdivision of any province or by an instrumentality of any province or political subdivision~~ instrumentality of the Dominion of Canada backed by the full faith and credit thereof. The diversification requirement of subdivision 12, paragraph (b), does not apply to government obligations under this paragraph.

(b) Obligations issued or guaranteed by an agency or instrumentality of the Dominion of Canada other than those backed by the full

faith and credit thereof. The securities of a single issuer under this paragraph shall comprise no more than 20 percent of the company's admitted assets.

(c) Government obligations issued or guaranteed by any province or territory of the Dominion of Canada or by any political subdivision thereof, or by any instrumentality of any province, territory, or political subdivision thereof. The diversification requirement of subdivision 12, paragraph (b), does not apply to government obligations under this paragraph.

(d) Revenue obligations issued by any province or territory of the Dominion of Canada or by any political subdivision thereof, or by any instrumentality of any province, territory, or political subdivision thereof. The diversification requirement of subdivision 12, paragraph (b), is applicable to revenue obligations under this paragraph.

Sec. 8. Minnesota Statutes 1990, section 60A.11, subdivision 17, is amended to read:

Subd. 17. [CORPORATE AND BUSINESS TRUST OBLIGATIONS.] Obligations issued, assumed or guaranteed by a corporation or business trust organized under the laws of the United States of America or any state, commonwealth, or territory of the United States, including the District of Columbia, or the laws of the Dominion of Canada or any province or territory of the Dominion of Canada, or obligations traded on a national securities exchange on the following conditions:

(a) A company may invest in any obligations traded on a national securities exchange;

(b) A company may also invest in any obligations which are secured by adequate security located in the United States or Canada;

(c) A company may also invest in previously outstanding or newly issued obligations not qualifying for investment under paragraph (a) or (b) if the corporation or business trust has qualified net earnings. If the obligations are not newly issued, neither principal nor interest payments on the obligations shall have been in arrears (1) for an aggregate of 90 days during the three-year period preceding the date of investment, or (2) where the obligations have been outstanding for less than 90 days, during the period the obligations have been outstanding;

(d) A company may invest no more than 15 percent of its total admitted assets in noninvestment grade obligations;

(e) A company may invest in federal farm loan bonds and may invest up to 20 percent of its total admitted assets in the obligations of farm mortgage debenture companies; and

~~(e)~~ (f) A company may not invest more than five percent of its admitted assets in the obligations of any one corporation or business trust; provided, however, that a company may invest in the obligations of a corporation without regard to this paragraph or the subdivision 12, paragraph (b), diversification requirement if: (1) the company is wholly owned by the issuer and affiliates of the issuer of the obligations; (2) the company insures solely the issuer of the obligations and its affiliates; (3) the issuer has a net worth, determined on a consolidated basis, which equals or exceeds $100,000,000; and (4) the issuer and its affiliates forego any and all claims they may have against the Minnesota insurance guaranty association pursuant to chapter 60C in the event of the insolvency of the company. This does not affect the rights of any unaffiliated third party claimant under section 60C.09, subdivision 1.

Sec. 9. Minnesota Statutes 1990, section 60A.11, subdivision 18, is amended to read:

Subd. 18. [STOCKS AND LIMITED PARTNERSHIPS.] (a) Stocks issued or guaranteed by any corporation incorporated under the laws of the United States of America or any state, commonwealth, or territory of the United States, including the District of Columbia, or the laws of the Dominion of Canada or any province or territory of Canada, or stocks or stock equivalents, including American Depository Receipts or unit investment trusts, listed or regularly traded on a national securities exchange on the following conditions:

(1) A company may not invest more than a total of 25 percent of its total admitted assets in stocks, stock equivalents, and convertible issues. Not more than ten percent of a company's total admitted assets may be invested in stocks, stock equivalents, and convertible issues not traded or listed on a national securities exchange or designated or approved for designation upon notice of issuance on the NASDAQ/National Market System, provided, however, that this limitation shall not apply to investments under clause (4);

~~(a)~~ (2) A company may not invest ~~in~~ more than two percent of its total admitted assets in preferred stocks of any corporation which are traded on a national securities exchange and may also invest in other preferred stocks if the issuer has qualified net earnings and if current or cumulative dividends are not then in arrears;

~~(b)~~ (3) A company may not invest ~~in~~ more than two percent of its total admitted assets in common stocks, common stock equivalents, or securities convertible into common stock or common stock equivalents of any corporation or business trust, ~~provided:~~ which are traded on a national securities exchange or designated or approved

for designation upon notice of issuance on the NASDAQ/National Market System and may also invest in other common stocks, stock equivalents, and convertible issues subject to the limitations set forth in clause (1);

~~(1) The common stock, common stock equivalent or convertible issue is publicly traded on a national securities exchange, or the corporation or business trust has qualified net earnings;~~

~~(2) A company may invest up to two percent of its admitted assets in common stock, common stock equivalents or convertible issues which do not meet the requirements of clause (1);~~

~~(3) At no time may~~ (4) A company may organize or acquire ~~or~~ and hold voting control of a corporation or business trust through its ownership of common stock, common stock equivalents, or other securities, ~~except that a company may organize and hold, or acquire and hold more than 50 percent of the common stock of~~ provided the corporation or business trust is: (a) a corporation providing investment advisory, banking, management or sale services to an investment company or to an insurance company, (b) a data processing or computer service company, (c) a mortgage loan corporation engaged in the business of making, originating, purchasing or otherwise acquiring or investing in, and servicing or selling or otherwise disposing of loans secured by mortgages on real property, (d) a corporation if its business is owning and managing or leasing personal property, (e) a corporation providing securities underwriting services or acting as a securities broker or dealer, (f) a real property holding, developing, managing, brokerage or leasing corporation, (g) any domestic or foreign insurance company, (h) any alien insurance company, if the organization or acquisition and the holding of the company is subject to the prior approval of the commissioner of commerce, which approval must be given upon good cause shown and is deemed to have been given if the commissioner does not disapprove of the organization or acquisition within 30 days after notification by the company, (i) an investment subsidiary to acquire and hold investments which the company could acquire and hold directly, if the investments of the subsidiary are considered direct investments for purposes of this chapter and are subject to the same percentage limitations, requirements and restrictions as are contained herein, or (j) any corporation whose business has been approved by the commissioner as complementary or supplementary to the business of the company. ~~The percentage of common stock may be less than 50 percent if the prior approval of the commissioner is obtained.~~ A company may invest up to an aggregate of ten percent of its total admitted assets under subclauses (a) to (e) of this clause ~~(3)~~. The diversification requirement of subdivision 12, paragraph (b), does not apply to this clause;

~~(4) A company may invest in the common stock of any corporation owning investments in foreign companies used for purposes of legal~~

~~deposit, when the insurance company transacts business therein direct or as reinsurance;~~

~~(c)~~ (5) A company may invest in warrants and rights granted by an issuer to purchase ~~stock~~ securities of the issuer if ~~the stock~~ that security of the issuer, at the time of the acquisition of the warrant or right to purchase, would qualify as an investment under paragraph (a), clause (2), or ~~(b)~~ paragraph (a), clause (3), whichever is applicable. ~~A company shall not invest more than two percent of its assets under this paragraph. Any stock actually acquired through the exercise of a warrant or right to purchase may be included in paragraph (a) or (b), whichever is applicable, only if the stock,~~ provided that security meets the standards prescribed in the clause at the time of acquisition of the ~~stock~~ securities; and

~~(d)~~ (6)(i) A company may invest in the securities of any face amount certificate company, unit investment trust, or management type investment company, registered or in the process of registration under the ~~Federal~~ Investment Company Act of 1940 as from time to time amended, provided that the aggregate of all these investments other than in securities of money market mutual funds or mutual funds investing primarily in United States government securities, determined at cost, shall not exceed five percent of its total admitted assets; investments may be made under this clause without regard to the percentage limitations applicable to investments in voting securities.

~~(e)~~ (ii) A company may invest in any proportion of the shares or investment units of an investment company or investment trust, whether or not registered under the ~~Federal~~ Investment Company Act of 1940, which is managed by an insurance company, member bank, trust company regulated by state or federal authority or an investment manager or adviser registered under the ~~Federal~~ Investment Advisers Act of 1940 or qualified to manage the investments of an investment company registered under the ~~Federal~~ Investment Company Act of 1940, provided that the investments of the investment company or investment trust are qualified investments made under this section and that the articles of incorporation, bylaws, trust agreement, investment management agreement, or some other governing instrument limits its investments to investments qualified under this section.

(b) A company may invest in or otherwise acquire and hold a limited partnership interest in any limited partnership formed pursuant to the laws of any state, commonwealth, or territory of the United States or under the laws of the United States of America. No limited partnership interest shall be acquired if the investment in it, valued at cost, would exceed two percent of the admitted assets of the company or if the investment, plus the book value on the date of the investment of all limited partnership interests then held by the company and held under the authority of this subdivision, would

exceed ten percent of the company's admitted assets. Limited partnership interests traded on a national securities exchange shall be classified as stock equivalents and shall not be subject to the percentage limitations contained in this paragraph.

Sec. 10. Minnesota Statutes 1990, section 60A.11, subdivision 19, is amended to read:

Subd. 19. [MORTGAGES ON REAL ESTATE.] Up to 25 percent of a company's total admitted assets may be invested in loans or obligations secured by a mortgage or a trust deed on real estate located in any state, commonwealth, or territory of the United States, including the District of Columbia, or in any province or territory of the Dominion of Canada, on the following conditions:

(a) A leasehold estate constitutes real estate under this section if its unexpired term on the date of investment is at least five years longer than the term of the obligation secured by it. The obligation must be repayable within the leasehold term in annual or more frequent installments, except that obligations for commercial purposes may begin up to five years after the date of the obligations. The mortgage must entitle the company upon default to be subrogated to all rights of the lessor under the leasehold;

(b) The real estate to which the mortgage applies must be (1) improved with permanent buildings, or (2) used for agriculture or pasture, or (3) income-producing, including but not limited to parking lots and leases, royalty or other mineral interests in properties producing oil, gas or other minerals and interests in properties for the harvesting of forest products, or (4) subject to a definite plan for the commencement of development within five years;

(c) The real estate to which the mortgage applies must be otherwise unencumbered when the mortgage loan is funded except as provided in paragraph (d) and except for encumbrances which do not unreasonably interfere with the intended use of the real estate as security;

(d) The real estate to which the mortgage applies may be subject to a prior mortgage or trust deed if (1) the amount of the obligation is equal to the sum of the company's loan and the other outstanding indebtedness and (2) the company has control over the payments under the prior mortgage or trust deed;

(e) The amount of the obligation may not exceed 80 percent of the real estate. If the amount of the obligation exceeds 66-2/3 percent of the market value of the real estate, principal payments must commence within five years after the date of the mortgage loan and principal and interest on the loan shall be fully amortized by regular installments payable during the term of the loan without irregular

or balloon payments, unless the schedule of irregular or balloon payments is more favorable to the insurer than regular installments of equal amount would be. The market value shall be established by the written certification of a licensed real estate appraiser qualified to appraise the particular type of real estate involved. The appraisal shall be required at the time the loan is made;

(f) The maximum term of any obligation shall be 40 years, except as provided in paragraph (g) and except for obligations secured by a mortgage or trust deed which are or are to be insured by a private mortgage insurance company approved by the commissioner;

(g) The 25 percent of total admitted asset limitation in the preamble of this subdivision and the maximum amount and term limitations in paragraphs (e) and (f) shall not apply to obligations secured by mortgage or trust deed which are insured or guaranteed by the United States of America or any agency or instrumentality of the United States;

(h) A company may invest in collateralized mortgage obligations (CMO's), mortgage participation certificates and pools issued or administered by a bank or banks and secured by first mortgages or trust deeds on improved real estate located in the United States provided the private placement memorandum, prospectus or other offering circular, or a written agreement with the issuer of the CMO, certificate or other pool interest provides that each loan meets the requirements of this subdivision;

(i) Notwithstanding the restrictions in paragraph (e), if a company disposes of real estate acquired by it under subdivision 20, it may take back a purchase money mortgage from its ~~vendee~~ purchaser in an amount up to 90 percent of the ~~purchase price~~ appraised value; and

(j) The vendor's equity in a contract for deed shall be treated as a mortgage for purposes of this subdivision.

Sec. 11. Minnesota Statutes 1990, section 60A.11, subdivision 20, is amended to read:

Subd. 20. [REAL ESTATE.] (a) Except as provided in paragraphs (b) to (d), a company may only acquire, hold, and convey real estate which:

(1) has been mortgaged to it in good faith by way of security for loans previously contracted, or for money due;

(2) has been conveyed to it in satisfaction of debts previously contracted in the course of its dealings;

(3) has been purchased at sales on judgments, decrees or mortgages obtained or made for the debts; and

(4) is subject to a contract for deed under which the company holds the vendor's interest to secure the payments the vendee is required to make thereunder.

All the real estate specified in clauses (1) to (3) must be sold and disposed of within five years after the company has acquired title to it, or within five years after it has ceased to be necessary for the accommodation of the company's business, and the company must not hold this property for a longer period unless the company elects to hold the real estate under another section, or unless it procures a certificate from the commissioner of commerce that its interest will suffer materially by the forced sale thereof, in which event the time for the sale may be extended to the time the commissioner directs in the certificate.

(b) A company may acquire and hold real estate for the convenient accommodation of its business.

(c) A company may acquire real estate or any interest in real estate, including oil and gas and other mineral interests, as an investment for the production of income, and may hold, improve or otherwise develop, subdivide, lease, sell and convey real estate so acquired directly or as a joint venture or through a limited or general partnership in which the company is a partner.

(d) A company may also hold real estate (1) if the purpose of the acquisition is to enhance the sale value of real estate previously acquired and held by the company under this section, and (2) if the company expects the real estate so acquired to qualify under paragraph (b) or (c) above within five years after acquisition.

(e) A company may, after securing the approval of the commissioner, acquire and hold real estate for the purpose of providing necessary living quarters for its employees. The company must dispose of the real estate within five years after it has ceased to be necessary for that purpose unless the commissioner agrees to extend the holding period upon application by the company.

(f) A company may not invest more than 25 percent of its total admitted assets in real estate. The cost of any parcel of real estate held for both the accommodation of business and for the production of income must be allocated between the two uses annually. No more than ten percent of a company's total admitted assets may be invested in real estate held under paragraph (b). No more than 15 percent of a company's total admitted assets may be invested in real estate held under paragraph (c). No more than three percent of its total admitted assets may be invested in real estate held under paragraph (e). Upon application by a company, the commissioner of

commerce may increase any of these limits up to an additional five percent.

Sec. 12. Minnesota Statutes 1990, section 60A.11, subdivision 21, is amended to read:

Subd. 21. [FOREIGN INVESTMENTS.] Obligations of and investments in foreign countries, on the following conditions:

(a) a company may acquire and hold any foreign investments which are required as a condition of doing business in the foreign country or necessary for the convenient accommodation of its foreign business. An investment is considered necessary for the convenient accommodation of the insurance company's foreign business only if it is demonstrably and directly related in size and purpose to the company's foreign insurance operations; and

(b) a company may ~~also~~ not invest ~~not~~ more than ~~a total of two~~ five percent of its total admitted assets in any combination of:

(1) the obligations of foreign governments, corporations, or business trusts;

(2) obligations of federal, provincial, or other political subdivisions backed by the full faith and credit of the foreign governmental unit;

(3) or in the stocks or stock equivalents or obligations of foreign corporations or business trusts not qualifying for investment under subdivision 12, if the obligations, stocks or stock equivalents are listed or regularly traded on the London, Paris, Zurich, or Tokyo stock exchange or any similar regular securities exchange not disapproved by the commissioner within 30 days following notice from the company of its intention to invest in these securities.

Sec. 13. Minnesota Statutes 1990, section 60A.11, subdivision 22, is amended to read:

Subd. 22. [PERSONAL PROPERTY UNDER LEASE.] Personal property for intended lease or rental in the United States or Canada. A company may not invest more than five percent of its total admitted assets under this subdivision.

Sec. 14. Minnesota Statutes 1990, section 60A.11, subdivision 23, is amended to read:

Subd. 23. [COLLATERAL LOANS.] Obligations ~~adequately secured by a qualifying letter of credit issued by a member bank or by cash or by the pledge of any investment authorized by any of the preceding subdivisions~~ having adequate security if:

(a) The collateral is legally assigned or delivered to the company;

(b) The company has the right to declare the obligation immediately due and payable if the security thereafter depreciates to the point where the investment would not qualify under paragraph (c); provided, that additional qualifying security may be pledged to allow the investment to remain qualified at its face value;

(c) The collateral must at the time of delivery or assignment have a market value of at least, in the case of cash, or a letter of credit meeting the requirements of subdivision 11(f), equal to and, in all other cases, 1-1/4 times the amount of the unpaid balance of the obligations.

A collateral loan made by a company to its parent or upstream affiliate must be secured by collateral: (1) having a market value equal to the amount of the unpaid balance of the obligations; and (2) which is issued or guaranteed by the United States of America or an agency or an instrumentality thereof, any state or territory thereof, and is secured by the full faith and credit of the United States of America or any state or territory thereof. A company may not invest more than five percent of its total admitted assets under this subdivision.

Sec. 15. Minnesota Statutes 1990, section 60A.11, is amended by adding a subdivision to read:

Subd. 24a. [DATA PROCESSING SYSTEMS.] Electronic computer or data processing machines or systems purchased for use in connection with the business of the company, provided that these machines or systems shall have an original cost of not less than $100,000 nor more than three percent of the admitted assets of the company and the cost shall be amortized in full over a period not to exceed ten full calendar years.

Sec. 16. Minnesota Statutes 1990, section 60A.11, subdivision 26, is amended to read:

Subd. 26. [RULES.] (a) The commissioner may adopt appropriate rules to carry out the purpose and provisions of this section.

(b) A company may make qualified investments in any ~~additional securities or property of any kind~~ other type of investment or exceeding any limitations of quality, quantity, or percentage of admitted assets contained in this section with the written order of the commissioner. This approval is at the discretion of the commissioner.

(c) Nothing authorized in this subdivision negates or reduces the investment authority granted in subdivisions 1 to 25.

Sec. 17. [REPEALER.]

Minnesota Statutes 1990, section 60A.12, subdivision 2, is repealed.

Sec. 18. [EFFECTIVE DATE.]

Section 8, paragraph (d), is effective as follows:

(1) effective January 1, 1992, noninvestment grade obligations shall be limited to 20 percent of admitted assets;

(2) effective January 1, 1993, noninvestment grade obligations shall be limited to 17.5 percent of admitted assets; and

(3) effective January 1, 1994, and thereafter, noninvestment grade obligations shall be limited to 15 percent of admitted assets.

ARTICLE 9

LIFE INSURANCE COMPANY INVESTMENTS

Section 1. Minnesota Statutes 1990, section 61A.28, subdivision 1, is amended to read:

Subdivision 1. [~~FUNDS TO BE INVESTED~~ GENERALLY.] No investment or loan, except policy loans, shall be made by any domestic life insurance company unless it has been authorized or be approved by the board of directors or by a committee of directors, officers, or employees of the company designated by the board charged with the duty of supervising the investment or loan and in either case accurate records of all authorizations and approvals shall be maintained.

The capital, surplus and other funds of every domestic life insurance company, whether incorporated by special act or under the general law (in addition to investments in real estate as otherwise permitted by law) may be invested only in one or more of the following kinds of securities or property.

Sec. 2. Minnesota Statutes 1990, section 61A.28, subdivision 2, is amended to read:

Subd. 2. [GOVERNMENT OBLIGATIONS.] Bonds or other obligations of, or bonds or other obligations insured or guaranteed by, (a) the United States or any state thereof; (b) the Dominion of Canada or any province thereof; (c) any county, city, town, statutory city formerly a village, organized school district, municipality, or other civil or political subdivision of this state, or of any state of the

United States or of any province of the Dominion of Canada; (d) any agency or instrumentality of the foregoing, including but not limited to, debentures issued by the federal housing administrator, obligations of ~~national mortgage associations~~ the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association; and (e) obligations payable in United States dollars issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the Export-Import Bank, or any other United States government sponsored organization of which the United States is a member; provided, that the life insurance company may not invest ~~more than five percent of its total admitted assets~~ in the obligations of any one of these banks or organizations ~~and may not invest more than 15 percent of its total admitted assets in the obligations of all banks or organizations described in paragraph (e).~~

~~As used in this subdivision with respect to the United States or any agency or instrumentality of the United States, "bonds or other obligations" shall include purchases or sales of rights or options to purchase the obligations if those rights or options are traded upon a contract market designated and regulated by a federal agency.~~ if the investment will cause the company's aggregate investments in any one of these banks or organizations to exceed five percent of its admitted assets and a company may not invest in these obligations if the investment will cause the company's aggregate investments in the obligations of all banks or organizations described in paragraph (e) to exceed 15 percent of its admitted assets.

Sec. 3. Minnesota Statutes 1990, section 61A.28, subdivision 3, is amended to read:

Subd. 3. [LOANS OR OBLIGATIONS SECURED BY MORTGAGE.] Loans or obligations (hereinafter loans) secured by a first mortgage, or deed of trust (hereinafter mortgage), on improved real estate in the United States, if the amount of the loan secured thereby is not in excess of 66-2/3 percent of the market value of the real estate at the time of the loan, or, when the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is to be used for commercial purposes, and interest at least annually over a period of not to exceed 40 years, the amount of the loan does not exceed (a) 80 percent of the market value of the real estate at the time of the loan; (b) 90 percent of the market value of the real estate at the time of the loan if the loan is secured by a purchase money mortgage made in connection with the disposition of real estate acquired pursuant to section 61A.31, subdivision 1, or, if (1) the real estate is used for commercial purposes, and (2) the loan is additionally secured by an assignment of lease or leases, and (3) the lessee or lessees under the lease or leases, or a guarantor or guarantors of the

lessee's obligations, is a corporation whose obligations would qualify as an investment under subdivision ~~6(f)~~ 6, paragraph (e), and (4) the rents payable during the primary term of the lease or leases are sufficient to amortize at least 60 percent of the loan. In calculating the ratio of the amount of the loan to the value of the property, no part of the amount of any loan is to be included which the United States or any agency or instrumentality thereof or other mortgage insurer as may be approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee; provided, in no event may the loan exceed the market value of the property. No improvement may be included in estimating the market value of the real estate unless it is insured against fire by policies payable to the security holder or a trustee for its benefit. This requirement may be met by a program of self-insurance established and maintained by a corporation whose debt obligations would qualify for purchase under subdivision 6, paragraph (g), clause (4). Also loans secured by mortgage, upon leasehold estates in improved real property where at the date of investment the lease has an unexpired term of at least five years longer than the term of the loan secured thereby, and where the leasehold estate is unencumbered except by the lien reserved in the lease for the payment of rentals and the observance of the other covenants, terms and conditions of the lease and where the mortgagee, upon default, is entitled to be subrogated to, or to exercise, all the rights and to perform all the covenants of the lessee, provided that no loan on the leasehold estate may exceed (a) 66-2/3 percent of the market value thereof at the time of the loan, or (b) 80 percent of the market value thereof at the time of the loan if the loan is to be fully amortized by installment payments of principal which begin within five years from the date of the loan if the leasehold estate is to be used for commercial purposes, interest is payable at least annually over the period of the loan which may not exceed 40 years and the market value of the leasehold estate is shown by the sworn certificate of a competent appraiser, or (c) 90 percent of the market value of the leasehold estate at the time of the loan if the loan is secured by a purchase money mortgage made in connection with the disposition of real estate acquired pursuant to section 61A.31, subdivision 1. In calculating the ratio of the amount of the loan to the value of the leasehold estate, no part of the amount of any loan is to be included which the United States or any agency or instrumentality thereof or other mortgage insurer approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee; provided, in no event may the loan exceed the market value of the leasehold estate. Also loans secured by mortgage, which the United States or any agency or instrumentality thereof or other mortgage insurer approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee. Also loans secured by mortgage, on improved real estate in the Dominion of Canada if the amount of the loan is not in excess of 66-2/3 percent of the market value of the real estate at the time of the loan, or, when the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is used for commercial purposes,

and interest at least annually over a period of not to exceed 40 years, the amount of the loan does not exceed (a) 80 percent of the market value of the real estate at the time of the loan, or (b) 90 percent of the market value of the real estate at the time of the loan if the loan is secured by a purchase money mortgage made in connection with the disposition of real estate acquired pursuant to section 61A.31, subdivision 1. In calculating the ratio of the amount of the loan to the value of the property, no part of the amount of any loan is to be included which the Dominion of Canada or any agency or instrumentality thereof has insured or guaranteed or made a commitment to insure or guarantee; provided in no event may the loan exceed the market value of the property. Also loans secured by mortgage, on real estate in the United States which may be unimproved provided there exists a definite plan for commencement of development for commercial purposes within not more than five years where the amount of the loan does not exceed 80 percent of the market value of the unimproved real estate at the time of the loan and the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan, and interest at least annually over a period of not to exceed 40 years. Also loans secured by second mortgage on improved or unimproved real estate used, or to be used, for commercial purposes; provided, that if unimproved real estate there exists a definite plan for commencement of development within not more than five years, in the United States or the Dominion of Canada under the following conditions: (a) the amount of the loan secured by the second mortgage is equal to the sum of the amount disbursed by the company and the then outstanding indebtedness under the first mortgage loan; and (b) the company has control over the payments under the first mortgage indebtedness; and (c) the total amount of the loan does not exceed 66-2/3 percent of the market value of the real estate at the date of the loan or, when the note or bond is to be fully amortized by installment payments of principal, beginning not more than five years from the date of the loan, and interest at least annually over a period of not to exceed 40 years, the amount of the loan does not exceed 80 percent of the market value of the real estate at the date of the loan.

A company may not invest in a mortgage loan authorized pursuant to this subdivision, if the investment will cause the company's aggregate investments in mortgages secured by a single property to exceed one percent of its admitted assets.

For purposes of this subdivision, improved real estate includes real estate improved with permanent buildings, used for agriculture or pasture, or income producing real estate, including but not limited to, parking lots and leases, royalty or other mineral interests in properties producing oil, gas, or other minerals and interests in properties for the harvesting of forest products.

A loan or obligation otherwise permitted under this subdivision must be permitted notwithstanding the fact that it provides for a

payment of the principal balance prior to the end of the period of amortization of the loan.

The vendor's equity in a contract for deed qualifies as a loan secured by mortgage for the purposes of this subdivision.

~~A mortgage participation certificate evidencing an interest in a loan secured by mortgage or pools of the same qualifies under this subdivision, if the loan secured by mortgage, and in the case of pools of the same that each loan, would otherwise qualify under this subdivision.~~

Sec. 4. Minnesota Statutes 1990, section 61A.28, subdivision 6, is amended to read:

Subd. 6. [STOCKS, OBLIGATIONS, AND OTHER INVESTMENTS.] ~~Stocks, warrants or options to purchase stocks, bonds, notes, evidences of indebtedness, or other investments as set forth in this subdivision, provided that no investment may be made which will increase the aggregate investment in all common stocks under paragraphs (a) and (b) beyond 20 percent of admitted assets as of the end of the preceding calendar year. In applying the standards prescribed in paragraphs (b), (c), and (d), (f) and (g) to the stocks, bonds, notes, evidences of indebtedness, or other obligations of a corporation which in the qualifying period preceding purchase of the stocks, bonds, notes, evidences of indebtedness, or other obligations acquired its property or a substantial part thereof through consolidation, merger, or purchase, the earnings of the several predecessors or constituent corporations must be consolidated. In applying any percentage limitations of this subdivision the value of the stock, or warrant or option to purchase stock, must be based on cost. For purposes of this subdivision, National Securities Exchange means an exchange registered under section 6 of the Securities Exchange Act of 1934 or an exchange regulated under the laws of the Dominion of Canada.~~

(a) ~~Stocks of banks, insurance companies, and municipal corporations organized under the laws of the United States or any state thereof; but not more than 15 percent of the admitted assets of any domestic life insurance company may be invested in stocks of other insurance corporations and banks.~~

~~(b)~~ Common stocks, common stock equivalents, or securities convertible into common stock or common stock equivalents of ~~any corporation or~~ a business ~~trust not designated in paragraph (a) of this subdivision,~~ entity organized under the laws of the United States or any state thereof, or ~~of~~ the Dominion of Canada or any province thereof, ~~or those traded on a National Securities Exchange,~~ if the net earnings of the ~~corporation~~ business entity after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five

immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period.

~~(c)~~ (b) Preferred stock of, or common or preferred stock guaranteed as to dividends by~~, any corporation not designated in paragraph (a),~~ a business entity organized under the laws of the United States or any state thereof, or ~~of~~ the Dominion of Canada or any province thereof, ~~or those traded on a National Securities Exchange,~~ under the following conditions: (1) No investment may be made under this paragraph in a stock upon which any dividend, current or cumulative, is in arrears; and (2) the ~~aggregate investment~~ company may not invest in stocks under this paragraph and in common stocks under ~~paragraphs~~ paragraph (a) ~~and (b) may not~~ if the investment causes the company's aggregate investments in such common or preferred stocks to exceed 25 percent of the ~~life insurance~~ company's total admitted assets, provided that no more than 20 percent of the company's admitted assets may be invested in common stocks under ~~paragraphs~~ paragraph (a) ~~and (b)~~; and (3) ~~if the net earnings of the corporation after the elimination of extraordinary nonrecurring items of income and expenses and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1 1/4 times its average annual fixed charges applicable to the period~~ the company may not invest in any preferred stock or common stock guaranteed as to dividends, which is rated in the four lowest categories established by the securities valuation office of the National Association of Insurance Commissioners if the investment will cause the company's aggregate investment in this lower-rated preferred or common stock guaranteed as to dividends to exceed five percent of its total admitted assets.

~~(d)~~ (c) Warrants, options, and rights to purchase stock if the stock, at the time of the acquisition of the warrant, option, or right to purchase, would qualify as an investment under paragraph (a)~~,~~ or (b)~~, or (c)~~, whichever is applicable. A ~~domestic life insurance~~ company shall not invest ~~more than two percent of its assets under this paragraph. Any stock actually acquired through the exercise of~~ in a warrant ~~or~~, option, or ~~rights~~ right to purchase ~~may be included in paragraph (a), (b), or (c), whichever is applicable, only if the stock then meets the standards prescribed in the paragraph at the time of~~ if, upon purchase and immediate exercise thereof, the acquisition of the stock would violate any of the concentration limitations contained in paragraphs (a) and (b).

~~(e)~~ (d) In addition to amounts that may be invested under subdivision 8 and without regard to the percentage limitation applicable to stocks, warrants, options, and rights to purchase, the securities of any face amount certificate company, unit investment trust, or management type investment company, registered or in the process of registration under the ~~federal~~ Investment Company Act of

1940 as from time to time amended~~, provided that the aggregate of the investments, determined at cost, by the life insurance company may not exceed five percent of its admitted assets, and the investments may be made without regard to the percentage limitations applicable to stocks, and warrants or options or rights to purchase stock~~. In addition, the company may transfer assets into one or more of its separate accounts for the purpose of establishing, or supporting its contractual obligations under, the accounts in accordance with the provisions of sections 61A.13 to 61A.21. A company may not invest in a security authorized pursuant to this paragraph if the investment will cause the company's aggregate investments in these securities to exceed five percent of its total admitted assets, except that for a health service plan corporation operating under chapter 62C, and for a health maintenance organization operating under chapter 62D, the company's aggregate investments may not exceed 20 percent of its total admitted assets. No more than five percent of the allowed investment in money market mutual funds may be invested in funds that invest in assets not backed by the federal government. When investing in money market mutual funds, nonprofit health service plan corporations regulated under chapter 62C and health maintenance organizations regulated under chapter 62D shall establish a trustee custodial account for the transfer of cash into the money market mutual fund.

~~(f)~~ (e)(1) Investment grade obligations, bonds, obligations, notes, debentures, repurchase agreements, or other evidences of indebtedness ~~(1) secured by letters of credit issued by a national bank, state bank or trust company which is a member of the federal reserve system or by a bank organized under the laws of the Dominion of Canada or (2) traded on a national securities exchange or (3) issued, assumed, or guaranteed by a corporation or business trust, other than a corporation designated in subdivision 4~~ (hereinafter investment grade obligations) of a business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, ~~if the net earnings of the corporation~~ provided that the obligation is rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, or is rated in one of the two highest categories established by the securities valuation office the National Association of Insurance Commissioners;

(2) Noninvestment grade obligations:

(i) Obligations of a business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, that are not rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, nor in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners; all such obligations being hereinafter referred to as noninvestment grade obligations.

(ii)(A) Obligations of a business entity fully secured by a letter of credit or financial insurance bond or guarantee in either case issued by a business entity meeting the net earnings requirements of clause (B); (B) obligations of a business entity issued, approved, or fully guaranteed by a business entity, the net earnings which after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period.; (C) obligations of a business entity issuing or assuming the obligation, or the business entity securing or guaranteeing the obligation, which has undergone an acquisition, recapitalization, or reorganization within the immediately preceding 12 months, or will use the proceeds of the obligation for an acquisition, recapitalization, or reorganization, then such business entity shall have, on a pro forma basis, for the next succeeding 12 months, net earnings averaging 1-1/4 its average annual fixed charges applicable to such period after elimination of extraordinary nonrecurring items of income and expense and before taxes; (D) no investment may be made under this ~~paragraph~~ section upon which any interest obligation is in default.

(iii) Limitation on aggregate interest in noninvestment grade obligations. A company may not invest in a noninvestment grade obligation if the investment will cause the company's aggregate investments in noninvestment grade obligations to exceed the applicable percentage of admitted assets set forth in the following table:

Effective Date	Percentage of Admitted Assets
January 1, 1992	20
January 1, 1993	17.5
January 1, 1994	15

Nothing in this subclause shall limit the ability of a company to invest in noninvestment grade obligations pursuant to subdivision 12.

~~(g)~~ (f) Obligations for the payment of money under the following conditions: (1) The obligation must be secured, either solely or in conjunction with other security, by an assignment of a lease or leases on property, real or personal; and (2) the lease or leases must be nonterminable by the lessee or lessees upon foreclosure of any lien upon the leased property; and (3) the rents payable under the lease or leases must be sufficient to amortize at least 90 percent of the obligation during the primary term of the lease; and (4) the lessee or lessees under the lease or leases, or a governmental entity or ~~corporation which~~ business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada, or any province thereof, that has assumed or guaranteed any lessee's

performance thereunder, must be a governmental entity or ~~corporation~~ business entity whose obligations would qualify as an investment under subdivision 2 or paragraph ~~(f)~~ (e); provided, however, a company may acquire leases assumed or guaranteed by a noninvestment grade lessee unless the value of the lease, when added to the other noninvestment grade obligations owned by the company, exceed 15 percent of the company's admitted assets.

~~(h)~~ (g) A company may sell exchange-traded call options against stocks or other securities owned by the company and may purchase exchange-traded call options in a closing transaction against a call option previously written by the company. In addition to the authority granted by paragraph ~~(d)~~ (c), to the extent and on the terms and conditions the commissioner determines to be consistent with the purposes of this chapter, a company may purchase or sell other exchange-traded call options, and may sell or purchase exchange-traded put options.

(h) A company may not invest in any security or other obligation authorized pursuant to this subdivision if the investment, valued at cost at the date of purchase, will cause the company's aggregate investment in any one business entity to exceed two percent of the company's admitted assets.

(i) For nonprofit health service plan corporations regulated under chapter 62C, and for health maintenance organizations regulated under chapter 62D, a company may invest in commercial paper rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization, or rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners, if the investment, valued at cost at the date of purchase, does not cause the company's aggregate investment in any one business entity to exceed six percent of the company's admitted assets.

Sec. 5. Minnesota Statutes 1990, section 61A.28, subdivision 8, is amended to read:

Subd. 8. [~~PROMISSORY NOTES SECURED BY WAREHOUSE RECEIPTS~~ ASSET BACKED ARRANGEMENTS.] ~~Promissory notes maturing within six months, secured by the pledge of registered terminal warehouse receipts issued against grain deposited in terminal warehouses, as defined in section 233.01. At the time of investing in these notes, the market value of the grain shall exceed the indebtedness secured thereby, and the note or pledge agreement shall provide that the holder may call for additional like security or sell the grain without notice upon depreciation of the security; the insurance company may accept, in lieu of the deposit with it of the warehouse receipts, a trustee certificate issued by any national or state bank at a terminal point, certifying that the warehouse receipts have been deposited with it and are held as security for the~~

~~notes; and the amount invested in the securities mentioned in this subdivision shall not, at any time, exceed 25 percent of the unassigned surplus and capital of the company.~~ Investments in asset backed arrangements that meet the definitions and credit criteria set forth in this subdivision. As used in this subdivision, an "asset backed arrangement" is a loan participation or loan to or equity investment in a business entity that has as its primary business activity the acquisition and holding of financial assets for the benefit of its debt and equity holders.

In order to qualify for investment under this subdivision:

(a) the investment in the asset backed arrangement must be secured by or represent an undivided interest in a single financial asset or a pool of financial assets; and

(b) either (1) at least 90 percent of the dollar value of the financial assets held pursuant to the asset backed arrangement shall qualify for direct investment under this section; or (2) the investment in the asset backed arrangement is rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; or (3) the investment in the asset backed arrangement is rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

A company may not invest in an asset backed arrangement if such investment will cause the company's aggregate investment in the financial assets held under the asset backed arrangement to exceed any of the concentration limits contained in this section.

Sec. 6. Minnesota Statutes 1990, section 61A.28, subdivision 11, is amended to read:

Subd. 11. [POLICY LOANS.] Loans on the security of insurance policies issued by itself to an amount not exceeding the loan value thereof; and loans on the pledge of any of the securities eligible for investment under the provisions of subdivisions 2 to 10, with the exception of noninvestment grade obligations as defined in subdivision 6, paragraph (e), but not exceeding 95 percent of the value of securities enumerated in subdivisions 2, 3, and 4 and 80 percent of the value of stocks and other securities; in case of securities enumerated in subdivisions 3, 5, and 10 "value" means principal amount unpaid thereon and in case of other securities market value thereof; in case of securities enumerated in subdivisions 3 and 10 the pledge agreement shall require principal payments by the pledgor at least equal to and concurrent with principal payments on the pledged security; in loans authorized by this subdivision, except as otherwise provided by law in regard to policy loans, the company shall reserve the right at any time to declare the indebtedness due and payable when in excess of such proportions of value or, in case of

pledge of securities other than those enumerated in subdivisions 3 and 10, upon depreciation of security.

Sec. 7. Minnesota Statutes 1990, section 61A.28, is amended by adding a subdivision to read:

Subd. 9a. [HEDGING.] A domestic life insurance company may enter into financial transactions solely for the purpose of managing the interest rate risk associated with the company's assets and liabilities not for speculative or other purposes. As used in this subdivision, the term "financial transactions" includes, but is not limited to, futures, options to buy or sell fixed income securities, repurchase and reverse repurchase agreements, and interest rate swaps, caps, and floors. This shall be in addition to any other authority of the insurer.

Sec. 8. Minnesota Statutes 1990, section 61A.28, subdivision 12, is amended to read:

Subd. 12. [ADDITIONAL INVESTMENTS.] Investments of any kind, without regard to the categories, conditions, standards, or other limitations set forth in the foregoing subdivisions and section 61A.31, subdivision 3, except that the prohibitions in clause (d) of subdivision 3 remains applicable, may be made by a domestic life insurance company in an amount not to exceed the lesser of the following:

(1) Five percent of the company's total admitted assets as of the end of the preceding calendar year, or

(2) Fifty percent of the amount by which its capital and surplus as of the end of the preceding calendar year exceeds $675,000. ~~Provided, however, that~~ Notwithstanding section 61.281, a company's total investment under this section in the common stock of any corporation, other than the stock of the types of corporations specified in subdivision 6(a), may not exceed ten percent of the common stock of the corporation. Provided, ~~further~~ however, that no investment may be made under the authority of this clause or clause (1) by a company that has not completed five years of actual operation since the date of its first certificate of authority.

If, subsequent to being made under the provisions of this subdivision, an investment is determined to have become qualified or eligible under any of the other provisions of this chapter, the company may consider the investment as being held under the other provision and the investment need no longer be considered as having been made under the provisions of this subdivision.

In addition to the investments authorized by this subdivision, a domestic life insurance company may make qualified investments in

any additional securities or property of the type authorized by subdivision 6, ~~paragraph~~ paragraphs (e) and (f), with the written order of the commissioner. This approval is at the discretion of the commissioner. This authorization does not negate or reduce the investment authority granted in subdivision 6, ~~paragraph~~ paragraphs (e) and (f), or this subdivision.

Sec. 9. Minnesota Statutes 1990, section 61A.281, is amended by adding a subdivision to read:

Subd. 5. [CORPORATIONS ORGANIZED TO HOLD INVESTMENTS.] A domestic life insurance company may organize one or more corporations domiciled in the United States and hold the capital stock of them, provided that it shall continuously own all of this capital stock and provided further that the corporations so organized shall limit their activities to acquiring and holding investments, other than under subdivisions 1 to 4, that a domestic life insurance company could acquire and hold. The investments of these corporations are subject to the same restrictions and requirements as apply to domestic life insurance companies, including the applicable percentage limitations for investments in individual properties and entities as well as limitations on the aggregate amount to be invested in any investment category. For the purposes of calculating the amount of an investment held by the life insurance company, investments in the same property, entity, or investment category that are owned by the company and all corporations qualifying under this subdivision shall be aggregated.

Sec. 10. Minnesota Statutes 1990, section 61A.29, is amended to read:

61A.29 [~~INVESTMENTS; AUTHORIZATION~~; FOREIGN INVESTMENTS.]

Subdivision 1. [AUTHORIZATION.] ~~No investment or loan, except policy loans, shall be made by any domestic life insurance company unless the same shall have been authorized or be approved by the board of directors or by a committee of directors, officers or employees of the company designated by the board charged with the duty of supervising the investment or loan, and in either case accurate records of all authorizations and approvals shall be maintained.~~ In addition to the Canadian investments permitted by this chapter, any domestic life insurance company may make foreign investments authorized by subdivision 2, subject to the limitations contained in subdivision 3. Investments authorized by this section shall be restricted to countries where the obligations of the sovereign government are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization in the United States. These investments shall be made pursuant to foreign investment guidelines established and maintained by the company pursuant to section 60A.112.

Subd. 2. [~~FOREIGN~~ AUTHORIZED INVESTMENTS.] ~~Any domestic life insurance company may invest in obligations of and investments in foreign countries, other than the Dominion of Canada, on the following conditions:~~

~~(a) A company may acquire and hold any foreign investments which are required as a condition of doing business in the foreign country or necessary for the convenient accommodation of its foreign business. An investment shall be considered necessary for the convenient accommodation of foreign business only if it is demonstrably and directly related in size and purpose to such company's foreign insurance operations; and~~

~~(b) A company may also invest not more than a total of two percent of its admitted assets in any combination of:~~

~~(1) the obligations of foreign governments, corporations, or business trusts;~~

~~(2) obligations of federal, provincial, or other political subdivisions backed by the full faith and credit of the foreign governmental unit;~~

~~(3) or in the stocks or stock equivalents or obligations of foreign corporations or business trusts not qualifying for investment under section 61A.28, subdivision 6, if the obligations, stocks, or stock equivalents are regularly traded on the London, Paris, Zurich, or Tokyo stock exchange or any similar regular securities exchange not disapproved by the commissioner within 30 days following notice from the company of its intention to invest in these securities.~~ A company may invest in: (1) foreign assets denominated in United States dollars; (2) foreign assets denominated in foreign currency; and (3) United States assets denominated in foreign currency. These investments may be made in any combination of the following:

(a) Obligations of sovereign governments and political subdivisions thereof and obligations issued or fully guaranteed by supranational banks or organizations, other than those described in section 61A.28, subdivision 2, paragraph (e), provided that these obligations are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization in the United States.

(b) Obligations of a foreign business entity, provided the obligation: (1) is rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization in the United States or by a similarly recognized statistical rating organization, as approved by the commissioner, in the country where the investment will be made; or (2) is rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(c) Stock or stock equivalents issued by a foreign entity if the stock or stock equivalents are regularly traded on the Frankfurt, London, Paris, or Tokyo stock exchange or any similar securities exchange as may be approved from time to time by the commissioner subject to oversight by the government of the country in which the exchange is located.

(d) Financial transactions for the sole purpose of managing the foreign currency risk of investments made pursuant to this subdivision, provided that these financial transactions are entered into pursuant to a detailed plan maintained by the company. "Financial transactions" as used in this paragraph include, but are not limited to, the purchase or sale of currency swaps, forward agreements, and currency futures.

Subd. 3. [INVESTMENT LIMITATIONS.] Investments authorized by subdivision 2 are subject to the following limitations:

(a) A company shall not make any investment pursuant to this section if the investment will cause the company's aggregate investments authorized pursuant to this section to exceed ten percent of its total admitted assets.

(b) Investments made pursuant to subdivision 2 shall be aggregated with United States investments in determining compliance with percentage concentration limitations, if any, contained in the other sections of this chapter.

(c) A company shall not invest in the obligations of any one issuer under subdivision 2 in an amount greater than authorized for investments of the same class under this chapter, and a company shall not invest more than two percent of its total admitted assets in the direct or guaranteed obligations of a sovereign government or political subdivision thereof, or of a supranational bank.

Sec. 11. Minnesota Statutes 1990, section 61A.31, is amended to read:

61A.31 [REAL ESTATE HOLDINGS.]

Subdivision 1. [PURPOSES.] Except as provided in subdivisions 2, 3, and 4, every domestic life insurance company may acquire, hold and convey real property only for the following purposes and in the following manner:

(1) Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for moneys due;

(2) Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings;

(3) Such as shall have been purchased at sales on judgments, decrees or mortgages obtained or made for *such debts*;

(4) Such as shall have been subject to a contract for deed under which the company held the vendor's interest to secure the payment by the vendee.

~~All the real property specified in clauses (1), (2), (3), and (4), which shall not be necessary for its accommodation in the convenient transaction of its business, shall be sold and disposed of within five years after the company shall have acquired title to the same, or within five years after the same shall have ceased to be necessary for the accommodation of its business, and it shall not hold this property for a longer period unless it shall hold real property pursuant to subdivision 3, or shall procure a certificate from the commissioner of commerce that its interest will suffer materially by the forced sale thereof, in which event the time for the sale may be extended to such time as the commissioner shall direct in the certificate.~~

Subd. 2. [BUILDING PROJECTS.] In order to promote and supplement public and private efforts to provide an adequate supply of decent, safe, and sanitary dwelling accommodations for persons of low and moderate income; to relieve unemployment; to alleviate the shortage of rental residences; and to assist in relieving the emergency in the housing situation in this country through investment of funds, any life insurance company may purchase or lease from any owner or owners (including states and political subdivisions thereof), real property in any state in which such company is licensed to transact the business of *life insurance*; and on *any real* property so acquired or on real property so located and acquired otherwise in the conduct of its business, such company may erect apartment, or other dwelling houses, not including hotels, but including accommodations for retail stores, shops, offices, and other community services reasonably incident to such projects; or, to provide such housing or accommodations, may construct, reconstruct, improve, or remove any buildings or other improvements thereon. Such company may thereafter own, improve, maintain, manage, collect or receive income from, sell, lease, or convey any such real property and the improvements *thereon*. ~~The aggregate investment by any such domestic life insurance company in all such projects, including the cost of all real property so purchased or leased and the cost of all improvements to be made upon such real property and upon real property otherwise acquired, shall not, at the date of purchase or other acquisition of such real property, exceed ten percent of the total admitted assets of such company on the last day of the previous calendar year.~~ A company may not invest in the building projects if the investment will cause the company's aggregate investments under this subdivision to exceed ten percent of its total admitted assets.

Subd. 3. [ACQUISITION OF PROPERTY.] Any domestic life insurance company may:

(a) acquire real property or any interest in real property, including oil and gas and other mineral interests, in the United States or any state thereof, or in the Dominion of Canada or any province thereof, as an investment for the production of income, and hold, improve or otherwise develop, and lease, sell, and convey the same either directly or as a joint venturer or through a limited or general partnership in which the company is a partner~~, subject to the following conditions and limitations: (1) The cost to the company of each parcel of real property acquired pursuant to this paragraph, including the estimated cost to the company of the improvement or development thereof, when added to the book value of all other real property then held by it pursuant to this clause, may not exceed 15 percent of its admitted assets as of the end of the preceding calendar year, and (2) the cost to the company of each parcel of real property acquired pursuant to this paragraph, including the estimated costs to the company of the improvement or development thereof, may not exceed two percent of its admitted assets as of the end of the preceding calendar year~~;. A company may not invest in any real property asset other than property held for the convenience and accommodation of its business if the investment will: (1) cause the company's aggregate investments in these real property assets to exceed ten percent of its admitted assets; or (2) cause the company's investment in any single parcel of real property to exceed one-half of one percent of its admitted assets;

(b) acquire personal property in the United States or any state thereof, or in the Dominion of Canada or any province thereof, under lease or leases or commitment for lease or leases if: (1) either the fair value of the property exceeds the company's investment in it or the lessee, or at least one of the lessees, or a guarantor, or at least one of the guarantors, of the lease is a corporation with a net worth of $1,000,000 or more; and (2) the lease provides for rent sufficient to amortize the investment with interest over the primary term of the lease or the useful life of the property, whichever is less~~; and (3) in no event does the total investment in personal property under this paragraph exceed three percent of the domestic life insurance company's admitted assets~~. A company may not invest in this personal property if the investment will cause the company's aggregate investments in this personal property to exceed three percent of its admitted assets;

(c) acquire and hold real estate (1) if the purpose of the acquisition is to enhance the sale value of real estate previously acquired and held by the company under this section and (2) if the company expects the real estate so acquired to qualify and be held by the company under paragraph (a) within five years after acquisition; and

(d) not acquire real property under paragraphs (a) to (c) if the property is to be used primarily for agricultural, horticultural, ranch, mining, or church purposes.

All real property acquired or held under this subdivision must be carried at a value equal to the lesser of (1) cost plus the cost of capitalized improvements, less normal depreciation, or (2) market value.

Subd. 4. [CONVENIENCE AND ACCOMMODATION OF BUSINESS.] ~~The real estate acquired or held by any domestic life insurance company for the convenience and accommodation of its business shall not exceed in value 25 percent of its cash and invested assets, not including real estate acquired or held for the convenience and accommodation of its business. Any domestic life insurance company, after having secured approval of the commissioner of commerce therefor, may also acquire and hold real estate for the sole purpose of providing necessary homes and living quarters for its employees. Such real estate shall never exceed three percent of the company's cash assets as shown by its annual statement last filed with the commissioner of commerce. All real property which shall not be necessary for its accommodation in the convenient transaction of its business, or the housing of its employees, shall be sold and disposed of within five years after the same shall have ceased to be necessary for the accommodation of its business, or the housing of its employees, and it shall not hold this property for a longer period unless, (a) it shall procure a certificate from the commissioner of commerce that its interest will suffer materially by the forced sale thereof, in which event the time for sale may be extended to such time as the commissioner shall direct in the certificate, or (b) such real property qualifies as an investment under the terms of subdivision 3 in which event the company may, at its option consider such real property as held under the provisions of said subdivision, subject to the conditions, standards, or other limitations of said subdivision as though it had been originally acquired thereunder.~~ A company may acquire and hold real estate for the convenience and accommodation of its business. Without the prior approval of the department of commerce, a company may not invest in real estate authorized under this subdivision if the investment will cause the company's aggregate investments under this subdivision to exceed five percent of its total admitted assets, except that a health service plan corporation operating under chapter 62C may not invest in real estate authorized under this subdivision if the investment causes the company's aggregate investments under this subdivision to exceed 25 percent of its total admitted assets.

Sec. 12. [REPEALER.]

Minnesota Statutes 1990, section 61A.28, subdivisions 4 and 5, are repealed.

ARTICLE 10

EXAMINATIONS

Section 1. Minnesota Statutes 1990, section 60A.02, is amended by adding a subdivision to read:

Subd. 1a. [ADMITTED ASSETS.] "Admitted assets" means the assets as shown by the company's annual statement on December 31, valued according to valuation regulations prescribed by the National Association of Insurance Commissioners and procedures adopted by its financial condition (Ex4) subcommittee if not addressed in another section, unless the commissioner requires or finds another method of valuation reasonable under the circumstances.

Sec. 2. Minnesota Statutes 1990, section 60A.031, is amended to read:

60A.031 [EXAMINATIONS.]

Subdivision 1. [POWER TO EXAMINE.] (1) [INSURERS AND OTHER LICENSEES.] At any time and for any reason related to the enforcement of the insurance laws, or to ensure that companies are being operated in a safe and sound manner and to protect the public interest, the commissioner may examine the affairs and conditions of any foreign or domestic insurance company, including reciprocals and fraternals, licensee or applicant for a license under the insurance laws, or any other person or organization of persons doing or in the process of organizing to do any insurance business in this state, and of any licensed advisory organization serving any of the foregoing in this state.

The commissioner shall examine the affairs and conditions of every domestic insurance company at least once every five years.

(2) [WHO MAY BE EXAMINED.] The commissioner in making any examination of an insurance company as authorized by this section may, if in the commissioner's discretion, there is cause to believe the commissioner is unable to obtain relevant information from such insurance company or that the examination or investigation is, in the discretion of the commissioner, necessary or material to the examination of the company, examine any person, association, or corporation:

(a) transacting, having transacted, or being organized to transact the business of insurance in this state;

(b) engaged in or proposing to be engaged in the organization, promotion, or solicitation of shares or capital contributions to or aiding in the formation of a domestic insurance company;

(c) holding shares of capital stock of an insurance company for the purpose of controlling the management thereof as voting trustee or otherwise;

(d) having a contract, written or oral, pertaining to the management or control of an insurance company as general agent, managing agent, attorney-in-fact, or otherwise;

(e) which has substantial control directly or indirectly over an insurance company whether by ownership of its stock or otherwise, or owning stock in any domestic insurance company, which stock constitutes a substantial proportion of either the stock of the domestic insurance company or of the assets of the owner thereof;

(f) which is a subsidiary or affiliate of an insurance company;

(g) which is a licensed agent or solicitor or has made application for the licenses;

(h) engaged in the business of adjusting losses or financing premiums.

Nothing contained in this clause (2) shall authorize the commissioner to examine any person, association, or corporation which is subject to regular examination by another division of the commerce department of this state. The commissioner shall notify the other division when an examination is deemed advisable.

Subd. 2a. [PURPOSE, SCOPE, AND NOTICE OF EXAMINATION.] An examination may, but need not, cover comprehensively all aspects of the examinee's affairs, practices, and conditions. The commissioner shall determine the nature and scope of each examination and in doing so shall take into account all available relevant factors concerning the financial and business affairs, practices and conditions of the examinee. For examinations undertaken pursuant to this section, the commissioner shall issue an order stating the scope of the examination and designating the person responsible for conducting the examination. A copy of the order shall be provided to the examinee.

In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the examiner's handbook adopted by the National Association of Insurance Commissioners. The commissioner may also employ other guidelines or procedures the commissioner considers appropriate.

Subd. 3. [ACCESS TO EXAMINEE.] (a) The commissioner, or the designated person, shall have timely, convenient, and free access ~~during normal business~~ at all reasonable hours to all books, records, securities, accounts, documents, and any or all computer or other

records and papers relating to the property, assets, business, and affairs of any company, applicant, association, or person which may be examined pursuant to this act 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, its officers, directors, and agents, shall provide to the commissioner or the designated person timely, convenient, and free access at all reasonable hours at its office to all its books, records, accounts, papers, securities, documents, any or all ~~papers~~ computer or other records 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.

The refusal of any company, by its officers, directors, employees, or agents, to submit to examination or to comply with any reasonable request of the examiners is grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. Proceedings for suspension, revocation, or refusal of any license or authority shall be conducted pursuant to section 45.027.

(b) The commissioner or any examiners shall have the power to issue subpoenas, to administer oaths, and to examine under oath any person as to any matter pertinent to the examination. Upon the failure or refusal of any person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court.

(c) When making an examination under this section, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the cost of which shall be borne by the company that is the subject of the examination.

(d) Nothing contained in this section shall be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination shall be prima facie evidence in any legal or regulatory action.

(e) Nothing contained in this section shall be construed to limit

the commissioner's authority to use as evidence, any final or preliminary examination report, any examiner or company workpapers or other documents, or any other information discovered or developed during the course of any examination in the furtherance of any legal or administrative action which the commissioner may, in the commissioner's sole discretion, consider appropriate.

Subd. 4. [EXAMINATION REPORT; FOREIGN AND DOMESTIC COMPANIES.] (a) The commissioner shall make a full and true report of every examination conducted pursuant to this chapter, which shall include (1) a statement of findings of fact relating to the financial status and other matters ascertained from the books, papers, records, documents, and other evidence obtained by investigation and examination or ascertained from the testimony of officers, agents, or other persons examined under oath concerning the business, affairs, assets, obligations, ability to fulfill obligations, and compliance with all the provisions of the law of the company, applicant, organization, or person subject to this chapter and (2) a summary of important points noted in the report, conclusions, recommendations and suggestions as may reasonably be warranted from the facts so ascertained in the examinations. The report of examination shall be verified by the oath of the examiner in charge thereof, and shall be prima facie evidence in any action or proceedings in the name of the state against the company, applicant, organization, or person upon the facts stated therein.

(b) No later than 60 days following completion of the examination, the examiner in charge shall file with the department a verified written report of examination under oath. Upon receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to any matters contained in the examination report.

(c) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and enter an order:

(1) adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, rule, or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure the violation;

(2) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional

data, documentation or information, and refiling pursuant to paragraph (a); or

(3) calling for an investigatory hearing with no less than 20 days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(d)(1) All orders entered pursuant to paragraph (c), clause (1), shall be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner workpapers, and any written submissions or rebuttals. The order shall be considered a final administrative decision and may be appealed pursuant to chapter 14, and shall be served upon the company by certified mail, together with a copy of the adopted examination report. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(2) Any hearing conducted under paragraph (c), clause (3), by the commissioner or authorized representative, shall be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies, or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the commissioner's review of relevant workpapers or by the written submission or rebuttal of the company. Within 20 days of the conclusion of the hearing, the commissioner shall enter an order pursuant to paragraph (c), clause (1).

(3) The commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The hearing shall proceed expeditiously with discovery by the company limited to the examiner's workpapers which tend to substantiate any assertions set forth in any written submission or rebuttal. The commissioner or the commissioner's representative may issue subpoenas for the attendance of any witnesses or the production of any documents deemed relevant to the investigation whether under the control of the department, the company, or other persons. The documents produced shall be included in the record and testimony taken by the commissioner or the commissioner's representative shall be under oath and preserved for the record.

Nothing contained in this section shall require the department to disclose any information or records which would indicate or show the existence or content of any investigation or activity of a criminal justice agency.

(4) The hearing shall proceed with the commissioner or the commissioner's representative posing questions to the persons subpoenaed. Thereafter, the company and the department may present testimony relevant to the investigation. Cross-examination shall be

conducted only by the commissioner or the commissioner's representative. The company and the department shall be permitted to make closing statements and may be represented by counsel of their choice.

(e)(1) Upon the adoption of the examination report under paragraph (c), clause (1), the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of 30 days except to the extent provided in paragraph (b). Thereafter, the commissioner may open the report for public inspection so long as no court of competent jurisdiction has stayed its publication.

(2) Nothing contained in this subdivision prevents or shall be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the commerce department or the insurance department of any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time, so long as the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this subdivision.

(3) In the event the commissioner determines that regulatory action is appropriate as a result of any examination, the commissioner may initiate any proceedings or actions as provided by law.

(f) All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the commissioner or any other person in the course of an examination made under this subdivision must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent provided in paragraph (e). Access may also be granted to the National Association of Insurance Commissioners. The parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

Subd. 5. [ORDER; FOREIGN AND DOMESTIC COMPANIES.] Within a reasonable time of receipt of an examination report the commissioner may issue an order to the examinee directing compliance within a time specified in the order or by law with one or more of the following:

(a) to restore within the time and extent prescribed by law or the commissioner's order any deficiency, whenever its capital, reserves or surplus have become impaired,

(b) to cease and desist from transaction of any business or from any business practice which if transacted or continued might result in the examinee's condition or further transaction of business being hazardous to its policyholders, its creditors, or the public,

(c) to cease and desist from any other violation of its charter or any law of the state.

Subd. 6. [PENALTY.] Notwithstanding section 72A.05, any person who violates or aids and abets any violation of a written order issued pursuant to this section may be fined not more than $10,000 for each violation of the order in an action commenced in Ramsey county by the attorney general on behalf of the state of Minnesota and the money so recovered shall be paid into the general fund.

Subd. 7. [ALTERNATIVES TO EXAMINATIONS.] ~~(1) [AUDITS OR ACTUARIAL EVALUATIONS.]~~ In lieu of ~~all or part of an examination under this chapter, or in addition to it, the commissioner may require an independent audit by certified public accountants approved by the commissioner or an actuarial evaluation by actuaries approved by the commissioner of any persons subject to the examination requirement of subdivision 1.~~

~~(2) [REPORTS.] In lieu of all or part of an examination under this section, the commissioner may accept the report of an audit made by certified public accountants approved by the commissioner or actuarial evaluation by actuaries approved by the commissioner or the report of an examination made by the insurance department of another state, of the examination made by another government agency in this state, the federal government or another state.~~ an examination under this section of any foreign or alien insurer licensed in this state, the commissioner may accept an examination report on the company as prepared by the insurance department for the company's state of domicile or port of entry state until January 1, 1994. After that date, the reports may only be accepted if:

(1) the insurance department was at the time of the examination accredited under the National Association of Insurance Commissioners Financial Regulation Standards and Accreditation Program; or

(2) the examination is performed under the supervision of an accredited insurance department or with the participation of one or more examiners who are employed by such an accredited state insurance department and who, after a review of the examination workpapers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

Subd. 7a. [CONFLICT OF INTEREST.] The department shall establish reasonable procedures so that no examiner, either directly

or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any person subject to examination under this chapter. This section shall not be construed to automatically preclude an examiner from being:

(1) a policyholder or claimant under an insurance policy;

(2) a grantor of a mortgage or similar instrument on the examiner's residence to a regulated entity if done under customary terms and in the ordinary course of business;

(3) an investment owner in shares of regulated diversified investment companies; or

(4) a settlor or beneficiary of a "blind trust" into which any otherwise impermissible holdings have been placed.

Notwithstanding the requirements of this section, the commissioner may retain from time to time, on an individual basis, qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions, even though these persons may from time to time be similarly employed or retained by persons subject to examination under this chapter.

Subd. 8. [POWER TO MAKE RULES.] The commissioner may promulgate any rules which may be necessary to the administration of subdivisions 1 to ~~7~~ 9.

Subd. 9. [IMMUNITY FROM LIABILITY.] (a) No cause of action shall arise nor shall any liability be imposed against the commissioner, the commissioner's authorized representatives, or any examiner appointed by the commissioner for any statements made or conduct performed in good faith while carrying out the provisions of this section.

(b) No cause of action shall arise, nor shall any liability be imposed against any person for the act of communicating or delivering information or data to the commissioner or the commissioner's authorized representative or examiner pursuant to an examination made under this section, if the act of communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive.

(c) This section does not abrogate or modify in any way any common law or statutory privilege or immunity enjoyed by any person identified in paragraph (a).

(d) A person identified in paragraph (a) shall be entitled to an award of attorney's fees and costs if the person is the prevailing

party in a civil action for libel, slander, or any other relevant tort arising out of activities in carrying out the provisions of this section and the party bringing the action was not substantially justified in doing so. For purposes of this section, a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

Sec. 3. Minnesota Statutes 1990, section 60A.07, is amended by adding a subdivision to read:

Subd. 5f. [CAPITAL AND SURPLUS REQUIREMENTS.] (a) Capital and surplus requirements are based upon all kinds of insurance transacted by the insurer, whether or not only a portion of the kinds of insurance are transacted in this state. The commissioner may for the protection of the public require an insurer to maintain funds in excess of the amounts required under this section, due to the amount, kind, or combination of kinds of insurance transacted by the insurer. Failure of an insurer to maintain funds as ordered by the commissioner is grounds for suspension or revocation of the insurer's certificate of authority.

(b) After June 30, 1991, an insurer may not renew and continue its certificate of authority unless the insurer possesses at least the basic capital and surplus, and additional surplus required by the commissioner under this section.

Sec. 4. Minnesota Statutes 1990, section 60A.10, subdivision 2a, is amended to read:

Subd. 2a. [SPECIAL DEPOSITS.] The commissioner may require a special deposit of an individual foreign insurer for the protection of its Minnesota policyholders or claimants. ~~The special deposit may be required, to a maximum amount of $500,000.~~ In the event of the filing of a delinquency petition against the insurer in Minnesota, the deposit is subject to chapters 60B, 60C, ~~and~~ 61A, and 61B.

Sec. 5. Minnesota Statutes 1990, section 60A.11, subdivision 9, is amended to read:

Subd. 9. [GENERAL CONSIDERATIONS.] The following considerations apply in the interpretation of this section:

(a) This section applies to the investments of insurance companies other than life insurance companies;

(b) The purpose of this section is to protect and further the interests of policyholders, claimants, creditors and the public by providing standards for the development and administration of programs for the investment of the assets of domestic companies. These standards and the investment programs developed by compa-

nies must take into account the safety of company's principal, investment yield and growth, stability in the value of the investment, the liquidity necessary to meet the company's expected business needs, and investment diversification;

(c) All financial terms relating to insurance companies have the meanings assigned to them under statutory accounting methods. All financial terms relating to noninsurance companies have the meanings assigned to them under generally accepted accounting principles;

(d) Investments must be valued in accordance with the valuation procedures established by the National Association of Insurance Commissioners, unless the commissioner requires or finds another method of valuation reasonable under the circumstances. Other invested assets must be valued according to the procedures promulgated by the NAIC's financial condition (Ex 4) subcommittee, if not addressed in another section, unless the commissioner requires or finds another method of valuation reasonable under the circumstances;

(e) A company may elect to hold an investment which qualifies under more than one subdivision, under the subdivision of its choice. Nothing herein prevents a company from electing to hold an investment under a subdivision different from the one in which it previously held the investment; and

(f) An investment which qualifies under any provision of the law governing investments of insurance companies when acquired will continue to be a qualified investment for as long as it is held by the insurance company.

Sec. 6. Minnesota Statutes 1990, section 60A.13, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL STATEMENTS REQUIRED.] Every insurance company, including fraternal beneficiary associations, and reciprocal exchanges, doing business in this state, shall transmit to the commissioner, annually, on or before March first, ~~in the form prescribed by the commissioner, a verified statement of its entire business and condition during the preceding calendar year~~ the appropriate verified NAIC annual statement blank, prepared in accordance with NAIC's instructions handbook and following those accounting procedures and practices prescribed by the NAIC's Accounting Practices and Procedures manual, unless the commissioner requires or finds another method of valuation reasonable under the circumstances. In addition, the commissioner may require the filing of any other information determined to be reasonably necessary for the continual enforcement of these laws. The statement may be limited to the insurer's business and condition in the United States unless the commissioner finds that the business

conducted outside the United States may detrimentally affect the interests of policyholders in this state. The statements shall also contain a verified schedule showing all details required by law for assessment and taxation. The statement or schedules shall be in the form and shall contain all matters the commissioner may prescribe, and it may be varied as to different types of insurers so as to elicit a true exhibit of the condition of each insurer.

Sec. 7. Minnesota Statutes 1990, section 61A.283, is amended to read:

61A.283 [ADMITTED ASSETS.]

For the purpose of applying any investment limitation based on the amount of a domestic life insurance company's admitted assets, the term "admitted assets" ~~shall mean such assets as shown by the company's annual statement, required by section 60A.13, as of the December 31 immediately preceding the date the company acquires the investment~~ has the meaning given the term in section 60A.02, subdivision 1a, with an adjustment in such admitted asset figure to exclude amounts which on such December 31 are allocated to separate accounts; ~~and the value of stocks and warrants and options to purchase stocks owned by the company on such December 31 shall be based on cost. For other purposes the term "admitted assets" shall mean such assets as shown by the company's annual statement on such December 31, valued in accordance with the valuation regulations prescribed by the National Association of Insurance Commissioners~~.

Sec. 8. Minnesota Statutes 1990, section 62D.044, is amended to read:

62D.044 [ADMITTED ASSETS.]

"Admitted assets" includes the following:

(1) petty cash and other cash funds in the organization's principal or official branch office that are under the organization's control;

(2) immediately withdrawable funds on deposit in demand accounts, in a bank or trust company organized and regularly examined under the laws of the United States or any state, and insured by an agency of the United States government, or like funds actually in the principal or official branch office at statement date, and, in transit to a bank or trust company with authentic deposit credit given before the close of business on the fifth bank working day following the statement date;

(3) the amount fairly estimated as recoverable on cash deposited

in a closed bank or trust company, if the assets qualified under this section before the suspension of the bank or trust company;

(4) bills and accounts receivable that are collateralized by securities in which the organization is authorized to invest;

(5) premiums due from groups or individuals that are not more than 90 days past due;

(6) amounts due under reinsurance arrangements from insurance companies authorized to do business in this state;

(7) tax refunds due from the United States or this state;

(8) principal and interest accrued on mortgage loans not exceeding in aggregate one year's total due and accrued principal and interest on an individual loan;

(9) the rents due to the organization on real and personal property, directly or beneficially owned, not exceeding the amount of one year's total due and accrued rent on each individual property;

(10) principal and interest or rents accrued on conditional sales agreements, security interests, chattel mortgages, and real or personal property under lease to other corporations that do not exceed the amount of one year's total due and accrued principal and interest or rent on an individual investment;

(11) the fixed required principal and interest due and accrued on bonds and other evidences of indebtedness that are not in default;

(12) dividends receivable on shares of stock, provided that the market price for valuation purposes does not include the value of the dividend;

(13) the interest on dividends due and payable, but not credited, on deposits in banks and trust companies or on accounts with savings and loan associations;

(14) principal and interest accrued on secured loans that do not exceed the amount of one year's total due and accrued principal and interest on any loan;

(15) interest accrued on tax anticipation warrants;

(16) the amortized value of electronic computer or data processing machines or systems purchased for use in the business of the organization, including software purchased and developed specifically for the organization's use;

(17) the cost of furniture, equipment, and medical equipment, less accumulated depreciation thereon, and medical and pharmaceutical supplies that are used to deliver health care and are under the organization's control, provided the assets do not exceed 30 percent of admitted assets;

(18) amounts currently due from an affiliate that has liquid assets with which to pay the balance and maintain its accounts on a current basis. Any amount outstanding more than three months is not current;

(19) amounts on deposit under section 62D.041;

(20) accounts receivable from participating health care providers that are not more than 60 days past due; and

(21) investments allowed by section 62D.045, except for investments in securities and properties described under section 61A.284.

Sec. 9. Minnesota Statutes 1990, section 62D.045, subdivision 1, is amended to read:

Subdivision 1. [RESTRICTIONS.] Funds of a health maintenance organization shall be invested only in securities and property designated by law for investment by domestic life insurance companies, except that money may be used to purchase real estate, including leasehold estates and leasehold improvements, for the convenient accommodation of the organization's business operations, including the home office, branch offices, medical facilities, and field office operations, on the following conditions:

(1) a parcel of real estate acquired under this subdivision may include excess space for rent to others if it is reasonably anticipated that the excess will be required by the organization for expansion or if the excess is reasonably required in order to have one or more buildings that will function as an economic unit;

(2) the real estate may be subject to a mortgage; and

(3) the purchase price of the asset, including capitalized permanent improvements, less depreciation spread evenly over the life of the property or less depreciation computed on any basis permitted under the Internal Revenue Code and its regulations, or the organization's equity, plus all encumbrances on the real estate owned by a company under this subdivision, whichever is greater, does not exceed 20 percent of its admitted assets, except if permitted by the commissioner upon a finding that the percentage of the health maintenance organization's admitted assets is insufficient to provide convenient accommodation for the organization's business. However, a health maintenance organization that ~~directly provides medical~~

~~services~~ owns real estate used in the delivery of medical services for its enrollees may invest an additional 20 percent of its admitted assets in real estate, not requiring the permission of the commissioner.

Sec. 10. Minnesota Statutes 1990, section 72A.061, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL STATEMENTS.] Any insurance company licensed to do business in this state, including fraternals, reciprocals and township mutuals, which neglects to file its annual statement in the form prescribed and within the time specified by law shall be subject to a penalty of ~~$25~~ $100 for each day in default. If, at the end of ~~90~~ 45 days, the default has not been corrected, the company shall be given ten days in which to show cause to the commissioner why its license should not be suspended. If the company has not made the requisite showing within the ten-day period, the license and authority of the company may, at the discretion of the commissioner, be suspended during the time the company is in default.

Any insurance company, including fraternals, reciprocals, and township mutuals, willfully making a false annual or other required statement shall pay a penalty to the state not to exceed $5,000. Either or both of the monetary penalties imposed by this subdivision may be recovered in a civil action brought by and in the name of the state.

ARTICLE 11

REINSURANCE INTERMEDIARIES

Section 1. [60A.70] [TITLE.]

Sections 60A.70 to 60A.756 may be cited as the reinsurance intermediary act.

Sec. 2. [60A.705] [DEFINITIONS.]

Subdivision 1. [TERMS.] For purposes of sections 60A.70 to 60A.756, the terms defined in this section have the meanings given them.

Subd. 2. [ACTUARY.] "Actuary" means a person who is a member in good standing of the American Academy of Actuaries.

Subd. 3. [CONTROLLING PERSON.] "Controlling person" means a person, firm, association, or corporation who directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of the reinsurance intermediary.

Subd. 4. [INSURER.] "Insurer" means any person, firm, association, or corporation duly licensed in this state pursuant to the applicable provisions of the insurance law as an insurer.

Subd. 5. [LICENSED PRODUCER.] "Licensed producer" means an agent, broker, or reinsurance intermediary licensed pursuant to the applicable provision of the insurance law.

Subd. 6. [REINSURANCE INTERMEDIARY.] "Reinsurance intermediary" means a reinsurance intermediary-broker or a reinsurance intermediary-manager.

Subd. 7. [REINSURANCE INTERMEDIARY-BROKER.] "Reinsurance intermediary-broker" or "RB" means any person, other than an officer or employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of this insurer.

Subd. 8. [REINSURANCE INTERMEDIARY-MANAGER.] "Reinsurance intermediary-manager" or "RM" means any person, firm, association, or corporation who has authority to bind or manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office, and acts as an agent for that reinsurer whether known as a RM, manager, or other similar term. However, the following persons are not considered a RM, with respect to that reinsurer, for the purposes of sections 60A.70 to 60A.756:

(1) an employee of the reinsurer;

(2) a United States manager of the United States branch of an alien reinsurer;

(3) an underwriting manager which, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to the holding company act, and whose compensation is not based on the volume of premiums written; or

(4) the manager of a group, association, pool, or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the insurance commissioner of the state in which the manager's principal business office is located.

Subd. 9. [REINSURER.] "Reinsurer" means a person, firm, association, or corporation licensed in this state as an insurer with the authority to assume reinsurance.

Subd. 10. [TO BE IN VIOLATION.] "To be in violation" means that the reinsurance intermediary, insurer, or reinsurer for whom the reinsurance intermediary was acting failed to substantially comply with the provisions of sections 60A.70 to 60A.756.

Subd. 11. [QUALIFIED UNITED STATES FINANCIAL INSTITUTION.] "Qualified United States financial institution" means an institution that:

(1) is organized, or in the case of a United States office of a foreign banking organization, is licensed, under the laws of the United States or any state;

(2) is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(3) has been determined by either the commissioner, or the securities valuation office of the National Association of Insurance Commissioners, to meet the standards of financial condition and standing considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

Sec. 3. [60A.71] [LICENSURE.]

Subdivision 1. [REINSURANCE INTERMEDIARY-BROKER REQUIREMENTS.] No person, firm, association, or corporation shall act as a RB in this state if the RB maintains an office either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation:

(1) in this state, unless the RB is a licensed producer in this state; or

(2) in another state, unless the RB is a licensed producer in this state or another state having a law substantially similar to this law or the RB is licensed in this state as a nonresident reinsurance intermediary.

Subd. 2. [REINSURANCE INTERMEDIARY-MANAGER REQUIREMENTS.] No person, firm, association, or corporation shall act as a RM:

(1) for a reinsurer domiciled in this state, unless the RM is a licensed producer in this state;

(2) in this state, if the RM maintains an office either directly or as a member or employee of a firm or association, or an officer, director,

or employee of a corporation in this state, unless the RM is a licensed producer in this state; or

(3) in another state for a nondomestic insurer, unless the RM is a licensed producer in this state or another state having a law substantially similar to this law or the person is licensed in this state as a nonresident reinsurance intermediary.

Subd. 3. [BOND AND INSURANCE REQUIREMENTS FOR REINSURANCE INTERMEDIARY-MANAGER.] The commissioner may require a RM subject to subdivision 2 to:

(1) file a bond in an amount from an insurer acceptable to the commissioner for the protection of the reinsurer; and

(2) maintain an errors and omissions policy in an amount acceptable to the commissioner.

Subd. 4. [TERMS.] (a) The commissioner may issue a reinsurance intermediary license to any person, firm, association, or corporation who has complied with the requirements of sections 60A.70 to 60A.756. The license issued to a firm or association will authorize all the members of the firm or association and any designated employees to act as reinsurance intermediaries under the license, and these persons shall be named in the application and any supplements to it. The license issued to a corporation shall authorize all of the officers, and any designated employees and directors of the corporation to act as reinsurance intermediaries on behalf of the corporation, and all these persons shall be named in the application and any supplements to it.

(b) If the applicant for a reinsurance intermediary license is a nonresident, the applicant, as a condition precedent to receiving or holding a license, shall designate the commissioner as agent for service of process in the manner, and with the same legal effect, provided for by this act for designation of service of process upon unauthorized insurers. The applicant shall also furnish the commissioner with the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting the nonresident reinsurance intermediary may be served. The licensee shall promptly notify the commissioner in writing of every change in its designated agent for service of process, and the change shall not become effective until acknowledged by the commissioner.

Subd. 5. [REFUSAL TO ISSUE.] The commissioner may refuse to issue a reinsurance intermediary license if, in the commissioner's judgment, the applicant, anyone named on the application, or any member, principal, officer, or director of the applicant, is not trustworthy, or that any controlling person of the applicant is not trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of the license,

or has failed to comply with any prerequisite for the issuance of the license. Upon written request, the commissioner will furnish a summary of the basis for refusal to issue a license. This document is privileged and not subject to chapter 13.

Subd. 6. [ATTORNEYS EXEMPTION.] Licensed attorneys at law of this state when acting in their professional capacity as such are exempt from this section.

Sec. 4. [60A.715] [REQUIRED CONTRACT PROVISIONS; REINSURANCE INTERMEDIARY-BROKERS.]

Transactions between a RB and the insurer it represents in this capacity shall only be entered into pursuant to a written authorization, specifying the responsibilities of each party. The authorization must, at a minimum, provide that:

(1) the insurer may terminate the RB's authority at any time;

(2) the RB will render accounts to the insurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to the RB, and remit all funds due to the insurer within 30 days of receipt;

(3) all funds collected for the insurer's account will be held by the RB in a fiduciary capacity in a bank that is a qualified United States financial institution;

(4) the RB will comply with section 5;

(5) the RB will comply with the written standards established by the insurer for the cession or retrocession of all risks; and

(6) the RB will disclose to the insurer any relationship with any reinsurer to which business will be ceded or retroceded.

Sec. 5. [60A.72] [BOOKS AND RECORDS; REINSURANCE INTERMEDIARY-BROKERS.]

Subdivision 1. [RECORDS OF TRANSACTIONS.] For at least ten years after expiration of each contract of reinsurance transacted by the RB, the RB will keep a complete record for each transaction showing:

(1) the type of contract, limits, underwriting restrictions, classes or risks, and territory;

(2) period of coverage, including effective and expiration dates, cancellation provisions, and notice required of cancellation;

(3) reporting and settlement requirements of balances;

(4) rate used to compute the reinsurance premium;

(5) names and addresses of assuming reinsurers;

(6) rates of all reinsurance commissioners, including the commissions on any retrocessions handled by the RB;

(7) related correspondence and memoranda;

(8) proof of placement;

(9) details regarding retrocessions handled by the RB including the identity of retrocessionaires and percentage of each contract assumed or ceded;

(10) financial records, including, but not limited to, premium and loss accounts; and

(11) when the RB procures a reinsurance contract on behalf of a licensed ceding insurer:

(i) directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or

(ii) if placed through a representative of the assuming reinsurer, other than an employee, written evidence that such reinsurer has delegated binding authority to the representative.

Subd. 2. [ACCESS BY INSURER.] The insurer will have access and the right to copy and audit all accounts and records maintained by the RB related to its business in a form usable by the insurer.

Sec. 6. [60A.725] [DUTIES OF INSURERS UTILIZING THE SERVICES OF A REINSURANCE INTERMEDIARY-BROKER.]

(a) An insurer shall not engage the services of a person, firm, association, or corporation to act as a RB on its behalf unless the person is licensed as required by section 3, subdivision 1.

(b) An insurer may not employ an individual who is employed by a RB with which it transacts business, unless the RB is under common control with the insurer and subject to chapter 60D.

(c) The insurer shall annually obtain a copy of statements of the financial condition of each RB with which it transacts business.

Sec. 7. [60A.73] [REQUIRED CONTRACT PROVISIONS; REINSURANCE INTERMEDIARY-MANAGERS.]

Subdivision 1. [APPROVAL BY COMMISSIONER.] Transactions between a RM and the reinsurer it represents in this capacity must only be entered into pursuant to a written contract, specifying the responsibilities of each party. The contract shall be approved by the reinsurer's board of directors. At least 30 days before the reinsurer assumes or cedes business through this producer, a true copy of the approved contract must be filed with the commissioner for approval. The contract must, at a minimum, contain the provisions in subdivisions 2 to 14.

Subd. 2. [TERMINATIONS.] The reinsurer may terminate the contract for cause upon written notice to the RM. The reinsurer may immediately suspend the authority of the RM to assume or cede business during the pendency of any dispute regarding the cause for termination.

Subd. 3. [PERIODIC ACCOUNTING.] The RM will render accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to the RM, and remit all funds due under the contract to the reinsurer on not less than a monthly basis.

Subd. 4. [HANDLING OF FUNDS.] All funds collected for the reinsurer's account will be held by the RM in a fiduciary capacity in a bank which is a qualified United States financial institution as defined herein. The RM may retain no more than three months estimated claims payments and allocated loss adjustment expenses. The RM shall maintain a separate bank account for each reinsurer that it represents.

Subd. 5. [BUSINESS RECORDS.] For at least ten years after expiration of each contract of reinsurance transacted by the RM, the RM will keep a complete record for each transaction showing:

(1) the type of contract, limits, underwriting restrictions, classes or risks, and territory;

(2) period of coverage, including effective and expiration dates, cancellation provisions and notice required of cancellation, and disposition of outstanding reserves on covered risks;

(3) reporting and settlement requirements of balances;

(4) rate used to compute the reinsurance premium;

(5) names and addresses of reinsurers;

(6) rates of all reinsurance commissions, including the commissions on any retrocessions handled by the RM;

(7) related correspondence and memoranda;

(8) proof of placement;

(9) details regarding retrocessions handled by the RM, as permitted by section 9, subdivision 4, including the identity of retrocessionaires and percentage of each contract assumed or ceded;

(10) financial records, including, but not limited to, premium and loss accounts; and

(11) when the RM places a reinsurance contract on behalf of a ceding insurer:

(i) directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or

(ii) if placed through a representative of the assuming reinsurer, other than an employee, written evidence that the reinsurer has delegated binding authority to the representative.

Subd. 6. [REINSURER ACCESS TO RECORDS.] The reinsurer will have access and the right to copy all accounts and records maintained by the RM related to its business in a form usable by the reinsurer.

Subd. 7. [NONASSIGNMENT OF CONTRACT.] The contract cannot be assigned in whole or in part by the RM.

Subd. 8. [UNDERWRITING AND RATING STANDARDS.] The RM will comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection, or cession of all risks.

Subd. 9. [CHARGES AND COMMISSIONS.] The rates, terms and purposes of commission, charges, and other fees which the RM may levy against the reinsurer will be specified in the contract.

Subd. 10. [CLAIMS SETTLEMENT.] If the contract permits the RM to settle claims on behalf of the reinsurer, the contract will specify that:

(1) all claims will be reported to the reinsurer in a timely manner;

(2) a copy of the claim file will be sent to the reinsurer at its request or as soon as it becomes known that the claim:

(i) has the potential to exceed the lesser of an amount determined by the commissioner or the limit set by the reinsurer;

(ii) involves a coverage dispute;

(iii) may exceed the RM's claims settlement authority;

(iv) is open for more than six months; or

(v) is closed by payment of the lesser of an amount set by the commissioner or an amount set by the reinsurer;

(3) all claim files will be the joint property of the reinsurer and RM. However, upon an order of liquidation of the reinsurer the files become the sole property of the reinsurer or its estate. The RM shall have reasonable access to and the right to copy the files on a timely basis; and

(4) settlement authority granted to the RM may be terminated for cause upon the reinsurer's written notice to the RM or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of the dispute regarding the cause of termination.

Subd. 11. [INTERIM PROFITS.] If the contract provides for a sharing of interim profits by the RM, interim profits will not be paid until one year after the end of each underwriting period for property business and five years after the end of each underwriting period for casualty business, or a later period set by the commissioner for specified lines of insurance, and not until the adequacy of reserves on remaining claims has been verified pursuant to section 9, subdivision 3.

Subd. 12. [CERTIFIED FINANCIAL STATEMENT.] The RM will annually provide the reinsurer with a statement of its financial condition prepared by an independent certified accountant.

Subd. 13. [ON-SITE REVIEW BY REINSURER.] The reinsurer shall periodically, at least semiannually, conduct an on-site review of the underwriting and claims processing operations of the RM.

Subd. 14. [DISCLOSURE OF INSURER RELATIONSHIP.] The RM will disclose to the reinsurer any relationship it has with any insurer before ceding or assuming any business with the insurer pursuant to this contract.

Subd. 15. [RESPONSIBILITY OF REINSURER.] Within the scope of its actual or apparent authority, the acts of the RM are considered to be the acts of the reinsurer on whose behalf it is acting.

Sec. 8. [60A.735] [PROHIBITED ACTS.]

The RM shall not:

(1) cede retrocessions on behalf of the reinsurer, except that the RM may cede facultative retrocessions pursuant to obligatory facultative agreements if the contract with the reinsurer contains reinsurance underwriting guidelines for these retrocessions. These guidelines must include a list of reinsurers with which these automatic agreements are in effect, and for each reinsurer, the coverages and amounts or percentages that may be reinsured, and commission schedules;

(2) commit the reinsurer to participate in reinsurance syndicates;

(3) appoint any producer without assuring that the producer is lawfully licensed to transact the type of reinsurance for which the producer is appointed;

(4) without prior approval of the reinsurer, pay or commit the reinsurer to pay a claim, net of retrocessions, that exceeds the lesser of an amount specified by the reinsurer or one percent of the reinsurer's policyholder's surplus as of December 31 of the last complete calendar year;

(5) collect any payment from a retrocessionaire or commit the reinsurer to any claim settlement with a retrocessionaire, without prior approval of the reinsurer. If prior approval is given, a report must be promptly forwarded to the reinsurer;

(6) jointly employ an individual who is employed by the reinsurer unless such RM is under common control with the reinsurer subject to chapter 60D;

(7) appoint a sub-RM.

Sec. 9. [60A.74] [DUTIES OF REINSURER UTILIZING THE SERVICES OF A REINSURANCE INTERMEDIARY-MANAGER.]

Subdivision 1. [LICENSED PERSONS TO BE USED.] A reinsurer shall not engage the services of any person, firm, association, or corporation to act as a RM on its behalf unless the person is licensed as required by section 3, subdivision 2.

Subd. 2. [ANNUAL FINANCIAL STATEMENTS TO BE OBTAINED.] The reinsurer shall annually obtain a copy of statements of the financial condition of each RM which the reinsurer has engaged prepared by an independent certified accountant in a form acceptable to the commissioner.

Subd. 3. [LOSS RESERVE OPINIONS.] If a RM establishes loss reserves, the reinsurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the RM. This opinion must be in addition to any other required loss reserve certification.

Subd. 4. [BINDING AUTHORITY.] Binding authority for all retrocessional contracts or participation in reinsurance syndicates shall rest with an officer of the reinsurer who shall not be affiliated with the RM.

Subd. 5. [NOTIFICATION OF TERMINATION.] Within 30 days of termination of a contract with a RM, the reinsurer shall provide written notification of the termination to the commissioner.

Subd. 6. [RESTRICTION ON BOARD APPOINTMENTS.] A reinsurer shall not appoint to its board of directors, any officer, director, employee, controlling shareholder, or subproducer of its RM. This subdivision does not apply to relationships governed by chapter 60D or, if applicable, the producer controlled property/casualty insurer act, article 13.

Sec. 10. [60A.745] [EXAMINATION AUTHORITY.]

(a) A reinsurance intermediary is subject to examination by the commissioner. The commissioner shall have access to all books, bank accounts, and records of the reinsurance intermediary in a form usable to the commissioner.

(b) A RM may be examined as if it were the reinsurer.

Sec. 11. [60A.75] [VIOLATIONS.]

Subdivision 1. [ADMINISTRATIVE AND CIVIL PENALTIES AND LIABILITIES.] A reinsurance intermediary, insurer, or reinsurer found by the commissioner, after a hearing conducted in accordance with chapter 14, to be in violation of any provision of sections 60A.70 to 60A.756, shall:

(1) for each separate violation, pay a penalty in an amount not exceeding $5,000;

(2) be subject to revocation or suspension of its license; and

(3) if a violation was committed by the reinsurance intermediary, the reinsurance intermediary shall make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to the violation.

Subd. 2. [JUDICIAL REVIEW.] The decision, determination, or order of the commissioner pursuant to subdivision 1 is subject to judicial review pursuant to chapter 14.

Subd. 3. [OTHER PENALTIES.] Nothing contained in this section affects the right of the commissioner to impose any other penalties provided in the insurance laws.

Sec. 12. [60A.755] [SCOPE.]

Nothing contained in sections 60A.70 to 60A.756 is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, creditors, or other third parties or confer any rights to these persons.

Sec. 13. [60A.756] [RULES.]

The commissioner may adopt rules for the implementation and administration of sections 60A.70 to 60A.756.

Sec. 14. [EFFECTIVE DATE.]

Sections 60A.70 to 60A.756 are effective August 1, 1991. No insurer or reinsurer may continue to utilize the services of a reinsurance intermediary on and after that date unless utilization is in compliance with this article.

ARTICLE 12

INSURANCE REGULATORY INFORMATION SYSTEM

Section 1. [60A.90] [SCOPE.]

Sections 60A.90 to 60A.94 apply to all domestic, foreign, and alien insurers who are authorized to transact business in this state.

Sec. 2. [60A.91] [FILING REQUIREMENTS.]

(a) A domestic, foreign, and alien insurer who is authorized to transact insurance in this state shall annually on or before March 1 of each year, file with the National Association of Insurance Commissioners (NAIC) a copy of its annual statement convention blank, along with additional filings prescribed by the commissioner for the preceding year. The information filed with the National Association of Insurance Commissioners must be in the same format and scope as that required by the commissioner and must include the signed jurat page and the actuarial certification. Amendments and addenda to the annual statement filing subsequently filed with the commissioner must also be filed with the NAIC.

(b) Foreign insurers that are domiciled in a state that has a law substantially similar to paragraph (a) is considered to be in compliance with this section.

Sec. 3. [60A.92] [IMMUNITY.]

In the absence of actual malice, members of the NAIC, their duly authorized committees, subcommittees, and task forces, their delegates, NAIC employees, and all others charged with the responsibility of collecting, reviewing, analyzing, and disseminating the information developed from the filing of the annual statement convention blanks are acting as agents of the commissioner under the authority of this act and are not subject to civil liability for libel, slander, or any other cause of action by virtue of their collection, review, and analysis or dissemination of the data and information collected from the filings required under sections 60A.90 to 60A.94.

Sec. 4. [60A.93] [CONFIDENTIALITY.]

All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the department by the National Association of Insurance Commissioners' Insurance Regulatory Information System are confidential and may not be disclosed by the department.

Sec. 5. [60A.94] [REVOCATION OF CERTIFICATE OF AUTHORITY.]

The commissioner may suspend, revoke, or refuse to renew the certificate of authority of an insurer failing to file its annual statement when due or within any extension of time that the commissioner, for good cause, may have granted.

Sec. 6. [EFFECTIVE DATE.]

Sections 60A.90 to 60A.94 are effective the day following final enactment.

ARTICLE 13

BUSINESS TRANSACTED WITH PRODUCER CONTROLLED PROPERTY/CASUALTY INSURER

Section 1. [60J.01] [TITLE.]

Sections 60J.01 to 60J.05 may be cited as the business transacted with producer controlled property/casualty insurer act.

Sec. 2. [60J.02] [DEFINITIONS.]

Subdivision 1. [TERMS.] For the purposes of sections 60J.01 to 60J.05, the terms defined in this section have the meanings given them.

Subd. 2. [PRODUCER.] "Producer" means an insurance broker or brokers or any other person, firm, association, or corporation, when, for any compensation, commission, or other thing of value, the person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of any insurance contract on behalf of an insured other than himself, herself, or itself.

Subd. 3. [REINSURANCE INTERMEDIARY.] "Reinsurance intermediary" means a person, firm, association, or corporation who acts as a producer in soliciting, negotiating, or procuring the making of a reinsurance contract or binder on behalf of a ceding insurer or acts as a producer in accepting any reinsurance contract or binder on behalf of an assuming insurer.

Subd. 4. [CONTROL.] "Control" or "controlled" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a contract for goods or nonmanagement services, or otherwise. Control is presumed to exist if a person, directly or indirectly, owns, controls, holds with the powers to vote, or holds proxies representing a majority of the outstanding voting securities of any other person. No person is considered to control another person solely by reason of being an officer or director of the other person.

Subd. 5. [LICENSED PROPERTY/CASUALTY INSURER.] "Licensed property/casualty insurer" or "insurer" means a person, firm, association, or corporation licensed to transact a property/casualty insurance business in this state and that issues policies covered by chapter 60C. The following are not licensed property/casualty insurers for the purposes of sections 60J.01 to 60J.05:

(1) all nonadmitted insurers;

(2) all risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, Public Law Number 99-499, 100 Stat. 1613 (1986) and the Risk Retention Act, United States Code, title 15, section 3901 et seq. and chapter 60E;

(3) all residual market pools and joint underwriting authorities or associations; and

(4) all captive insurers. This term includes insurance companies owned by another organization whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, insurance organizations owned by

the insureds whose exclusive purpose is to insure risks of member organizations and/or group members and their affiliates.

Subd. 6. [INDEPENDENT CASUALTY ACTUARY.] "Independent casualty actuary" means a casualty actuary who is a member of the American Academy of Actuaries and who is not affiliated with, nor an employee, principal, nor the direct or indirect owner of, or in any way controlled by the insurer or producer.

Subd. 7. [VIOLATION.] "Violation" means a finding by the commissioner that:

(1) the controlling producer did not materially comply with section 3;

(2) the controlled insurer, with respect to business placed by the controlling producer, engaged in a pattern of charging premiums that were lower than those being charged by the insurer or other insurers for similar risks written during the same period and placed by noncontrolling producers. When determining whether premiums were lower than those prevailing in the market, the commissioner shall take into consideration applicable industry or actuarial standards at the time the business was written;

(3) the controlling producer failed to maintain records, sufficient:

(i) to demonstrate that the producer's dealings with its controlled insurer were fair and equitable and in compliance with chapter 60D; and

(ii) to accurately disclose the nature and details of its transactions with the controlled insurer, including information necessary to support the charges or fees to the respective parties;

(4) the controlled insurer, with respect to business placed by the controlling producer, either failed to establish or deviated from its underwriting procedures;

(5) the controlled insurer's capitalization at the time the business was placed by the controlling producer and with respect to this business was not in compliance with criteria established by the commissioner or with the insurance law or rules adopted under it; or

(6) the controlling producer or the controlled insurer failed to substantially comply with the insurance holding company act, chapter 60D and any rules adopted under it.

Sec. 3. [60J.03] [LIMITATION ON BUSINESS PLACED WITH CONTROLLED INSURER.]

Subdivision 1. [PRODUCER LIMITATION.] No producer that has control of a licensed property/casualty insurer may directly or indirectly place business with the insurer in any transaction in which the producer, at the time the business is placed, is acting as such on behalf of the insured for any compensation, commission, or other thing of value, unless:

(1) there is a written contract between the controlling producer and the insurer, which contract has been approved by the board of directors of the insurer;

(2) the producer, before the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the producer and the controlled insurer. The disclosure, signed by the insured, must be retained in the underwriting file until the filing of the report on examination covering the period in which the coverage is in effect. Except that, if the business is placed through a subproducer who is not a controlling producer, the controlling producer shall retain in the producer's records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the producer and that the subproducer has or will notify the insured;

(3) all funds collected for the account of the insurer by the controlling producer must be paid, net of commissions, cancellations, and other adjustments, to the insurer no less often that quarterly;

(4) in addition to any other required loss reserve certification, the controlled insurer shall annually, on April 1 of each year, file with the commissioner an opinion of an independent casualty actuary, or other independent loss reserve specialist acceptable to the commissioner, reporting loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year-end, including incurred but not reported, on business placed by the producer;

(5) the controlled insurer shall annually report to the commissioner the amount of commissions paid to the producer, the percentage the amount represents of the net premiums written and comparable amounts and percentage paid to noncontrolling producers for placements of the same kinds of insurance; and

(6) every controlled insurer shall have an audit committee of the board of directors composed of independent directors. Before approval of the annual financial statement, the audit committee shall meet with management, the insurer's independent certified public accountants, and an independent casualty actuary, or other independent loss reserve specialist acceptable to the commissioner, to review the adequacy of the insurer's loss reserves.

Subd. 2. [REINSURANCE INTERMEDIARY LIMITATION.] No reinsurance intermediary that has control of an assuming insurer may directly or indirectly place business with the insurer in any transaction in which the reinsurance intermediary is acting as a broker on behalf of the ceding insurer. No reinsurance intermediary that has control of a ceding insurer may directly or indirectly accept business from the insurer in any transaction in which the reinsurance intermediary is acting as a producer on behalf of the assuming insurer. The prohibitions in this subdivision do not apply to a reinsurance intermediary that makes a full and complete written disclosure to the parties of its relationship with the assuming or ceding insurer before completion of the transaction.

Sec. 4. [60J.04] [LIABILITY OF CONTROLLING PRODUCER IN THE EVENT OF INSOLVENCY OF CONTROLLED INSURER.]

Subdivision 1. [INITIATION OF ACTION.] If the commissioner has reason to believe that a controlling producer has committed or is committing an act that could be determined to be a violation of sections 60J.01 to 60J.05, the commissioner shall serve upon the controlling producer, in the manner provided by chapter 14, a statement of the charges and notice of a hearing to be conducted in accordance with chapter 14, at a time not less than 30 days after the service of the notice and at a place fixed in the notice.

Subd. 2. [HEARING.] At the hearing, the commissioner shall establish that the controlling producer engaged in a violation of sections 60J.01 to 60J.05. The controlling producer shall have an opportunity to be heard and to present evidence rebutting the charges and to establish that the insolvency of the controlled insurer arose out of events not attributable to the violation. The decision, determination, or order of the commissioner is subject to judicial review pursuant to chapter 14.

Subd. 3. [PENALTY.] Upon finding that the controlling producer committed a violation, and the controlling producer failed to establish that the violation did not substantially contribute to the insolvency, the controlling producer shall reimburse the state guaranty funds for all payments made for losses, loss adjustment, and administrative expenses on the business placed by the producer in excess of gross earned premiums and investment income earned on premiums and loss reserves for the business.

Subd. 4. [OTHER PENALTIES.] Nothing contained in this section affects the right of the commissioner to impose any other penalties provided for in the insurance laws.

Sec. 5. [60J.05] [SCOPE.]

Nothing contained in sections 60J.01 to 60J.05 is intended to or in

any manner alters or affects the rights of policyholders, claimants, creditors, or other third parties.

Sec. 6. [EFFECTIVE DATE.]

This article is effective August 1, 1991.

ARTICLE 14

INSURANCE HOLDING COMPANY SYSTEMS

Section 1. Minnesota Statutes 1990, section 60A.07, subdivision 5d, is amended to read:

Subd. 5d. [APPLICATION.] All insurance companies shall meet the requirements of subdivisions 5a to 5d, except as provided in this subdivision. Any company authorized to transact a particular kind of insurance as specified in section 60A.06, subdivision 1, on April 9, 1976 may continue until January 1, 1983 to conduct the same kind of insurance by meeting and maintaining the applicable capital, surplus, and guaranty fund requirements which were in effect immediately prior to April 9, 1976. On and after January 1, 1983, all companies shall be required to meet the applicable capital, constantly maintained surplus, and guaranty fund requirements of subdivisions 5a, 5b, and 5c.

Notwithstanding the foregoing provisions of this subdivision with respect to the deferred date of compliance, after April 9, 1976:

(1) Any insurance company which seeks authority to transact an additional kind of insurance shall, as a condition to the granting of the authority, immediately comply with the applicable capital, constantly maintained surplus, and guaranty fund requirements of subdivisions 5a, 5b, and 5c for all of its authorized kinds of business.

(2) If any person acquires control of an insurance company, the insurance company shall as of the date of the acquisition of control comply with the applicable capital, constantly maintained surplus, and guaranty fund requirements of subdivisions 5a, 5b, and 5c for all of its authorized kinds of business. For purposes of this clause, the term "control" shall be defined as provided in section ~~60D.01~~ 60D.15, subdivision 4, and the term "person" shall be defined as provided in section ~~60D.01~~ 60D.15, subdivision 7.

Sec. 2. [60D.15] [DEFINITIONS.]

Subdivision 1. [TERMS.] For purposes of this article, the terms in subdivisions 2 to 10 have the meanings given them, unless the context otherwise requires.

Subd. 2. [AFFILIATE.] An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

Subd. 3. [COMMISSIONER.] The term "commissioner" means the commissioner of commerce, the commissioner's deputies, or the commerce department, as appropriate.

Subd. 4. [CONTROL.] The term "control," including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by section 6, subdivision 11, that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

Subd. 5. [INSURANCE HOLDING COMPANY SYSTEM.] An "insurance holding company system" consists of two or more affiliated persons, one or more of which is an insurer.

Subd. 6. [INSURER.] The term "insurer" means a company qualified and licensed by the commissioner to transact the business of insurance, but does not include an insurance solicitor, agent, or agency. The term also does not include:

(1) agencies, authorities, or instrumentalities of the United States, its possessions and territories, the commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state;

(2) fraternal benefit societies; or

(3) nonprofit medical and hospital service associations.

Subd. 7. [PERSON.] A "person" is an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but does not include any joint

venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

Subd. 8. [SECURITY HOLDER.] A "security holder" of a specified person is one who owns any security of the person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any security of the person.

Subd. 9. [SUBSIDIARY.] A "subsidiary" of a specified person is an affiliate controlled by the person directly or indirectly through one or more intermediaries.

Subd. 10. [VOTING SECURITY.] The term "voting security" includes any security convertible into or evidencing a right to acquire a voting security.

Sec. 3. [60D.16] [SUBSIDIARIES OF INSURERS.]

Subdivision 1. [AUTHORIZATION.] A domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries engaged in the following kinds of business:

(1) any kind of insurance business authorized by the jurisdiction in which it is incorporated;

(2) acting as an insurance broker or as an insurance agent for its parent or for any of its parent's insurer subsidiaries;

(3) investing, reinvesting, or trading in securities for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary;

(4) management of any investment company subject to or registered pursuant to the Investment Company Act of 1940, as amended, including related sales and services;

(5) acting as a broker-dealer subject to or registered pursuant to the Securities Exchange Act of 1934, as amended;

(6) rendering investment advice to governments, government agencies, corporations, or other organizations or groups;

(7) rendering other services related to the operations of an insurance business including, but not limited to, actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal, and collection services;

(8) ownership and management of assets that the parent corporation could itself own or manage;

(9) acting as administrative agent for a governmental instrumentality which is performing an insurance function;

(10) financing of insurance premiums, agents, and other forms of consumer financing;

(11) any other business activity determined by the commissioner to be reasonably ancillary to an insurance business; and

(12) owning a corporation or corporations engaged or organized to engage exclusively in one or more of the businesses specified in this section.

Subd. 2. [ADDITIONAL INVESTMENT AUTHORITY.] In addition to investments in common stock, preferred stock, debt obligations, and other securities otherwise permitted, a domestic insurer may also:

(a) Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts that do not exceed the lesser of ten percent of the insurer's assets or 50 percent of the insurer's surplus as regards policyholders, provided that after the investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of these investments, investments in domestic or foreign insurance subsidiaries must be excluded, and there must be included:

(1) total net money or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and

(2) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation.

(b) Invest any amount in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer provided that the subsidiary agrees to limit its investments in any asset so that the investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in paragraph (a) or other statutes applicable to the insurer.

For the purpose of this paragraph, "the total investment of the insurer" includes:

(1) any direct investment by the insurer in an asset; and

(2) the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which must be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of the subsidiary.

(c) With the approval of the commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries, if after the investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

Subd. 3. [EXEMPTION FROM INVESTMENT RESTRICTIONS.] Investments in common stock, preferred stock, debt obligations, or other securities of subsidiaries made pursuant to subdivision 2 are not subject to any of the otherwise applicable restrictions or prohibitions applicable to these investments of insurers.

Subd. 4. [QUALIFICATION OF INVESTMENT; WHEN DETERMINED.] Whether any investment pursuant to subdivision 2 meets the applicable requirements is to be determined before the investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, not including dividends.

Subd. 5. [CESSATION OF CONTROL.] If an insurer ceases to control a subsidiary, it shall dispose of any investment in it made pursuant to this section within three years from the time of the cessation of control or within any further time the commissioner prescribes, unless at any time after the investment has been made, the investment meets the requirements for investment under any other provision of law, and the insurer has notified the commissioner of this fact.

Sec. 4. [60D.17] [ACQUISITION OF CONTROL OF OR MERGER WITH DOMESTIC INSURER.]

Subdivision 1. [FILING REQUIREMENTS.] No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities or, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation

thereof, the person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the insurer. No person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time the offer, request, or *invitation* is made or the agreement is entered into, or before the acquisition of the securities if no offer or agreement is involved, the person has filed with the commissioner and has sent to the insurer, a statement containing the information required by this section and the offer, request, invitation, agreement, or acquisition has been approved by the commissioner in the manner prescribed in this section.

For purposes of this section, a domestic insurer includes a person controlling a domestic insurer unless the person as determined by the commissioner is either directly or through its affiliates primarily engaged in business other than the business of insurance. However, the person shall file a preacquisition notification with the commissioner containing the information set forth in section 5, subdivision 3, paragraph (b), 30 days before the proposed effective date of the acquisition. Failure to file is subject to section 5, subdivision 5. For the purposes of this section, "person" does not *include any securities broker holding*, in the usual and customary brokers function, less than 20 percent of the voting securities of an insurance company or of any person that controls an insurance company.

Subd. 2. [CONTENT OF STATEMENT.] The statement to be filed with the commissioner shall be made under oath or affirmation and shall contain the following information:

(a) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subdivision 1 is to be effected, hereinafter called "acquiring party"; and

(1) if the person is an individual, the principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years; and

(2) if the person is not an individual, a report of the nature of its business operations during the past five years or for a lesser period as the person and any predecessors have been in existence; an informative description of the business intended to be done by the person and the person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such positions. The list must include for each individual the information required by clause (1).

(b) The source, nature, and amount of the consideration used or to

be used in effecting the merger or other acquisition of control, a description of any transaction in which funds were or are to be obtained for this purpose, including any pledge of the insurer's stock, or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing the consideration, provided, however, that where a source of the consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing the statement so requests.

(c) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each acquiring party, or for a lesser period as the acquiring party and any predecessors have been in existence, and similar unaudited information as of a date not earlier than 90 days before the filing of the statement.

(d) Any plans or proposals that each acquiring party may have to liquidate the insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

(e) The number of shares of any security referred to in subdivision 1 that each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in subdivision 1, and a statement as to the method by which the fairness of the proposal was arrived at.

(f) The amount of each class of any security referred to in subdivision 1 that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

(g) A full description of any contracts, arrangements, or understandings with respect to any security referred to in subdivision 1 in which any acquiring party is involved, including but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description must identify the persons with whom the contracts, arrangements, or understandings have been entered into.

(h) A description of the purchase of any security referred to in subdivision 1 during the 12 calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid for it.

(i) A description of any recommendations to purchase any security referred to in subdivision 1 made during the 12 calendar months preceding the filing of the statement, by any acquiring party, or by

anyone based upon interviews or at the suggestion of the acquiring party.

(j) Copies of all tender offers for, requests, or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subdivision 1 and, if distributed, of additional soliciting material relating to them.

(k) The term of any agreement, contract, or understanding made with or proposed to be made with any broker-dealer as to solicitation of securities referred to in subdivision 1 for tender, and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard to it.

(l) Additional information the commissioner may by rule prescribe as necessary or appropriate for the protection of policyholders of the insurer or in the public interest.

If the person required to file the statement referred to in subdivision 1 is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by paragraphs (a) to (l) must be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls the partner or member. If a partner, member, or person is a corporation, or the person required to file the statement referred to in subdivision 1 is a corporation the commissioner may require that the information called for by paragraphs (a) to (l) be given with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding voting securities of the corporation.

If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to the insurer pursuant to this section, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, must be filed with the commissioner and sent to the insurer within two business days after the person learns of the change.

Subd. 3. [ALTERNATIVE FILING MATERIALS.] If any offer, request, invitation, agreement, or acquisition referred to in subdivision 1 is proposed to be made by means of a registration statement under the Securities Act of 1933, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subdivision 1 may utilize these documents in furnishing the information called for by that statement.

Subd. 4. [APPROVAL BY COMMISSIONER; HEARINGS.] (a) The commissioner shall approve any merger or other acquisition of control referred to in subdivision 1 unless, after a public hearing, the commissioner finds that:

(1) After the change of control, the domestic insurer referred to in subdivision 1 would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(2) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein in applying the competitive standard in this subdivision:

(i) the informational requirements of section 5, subdivision 3, paragraph (b), and the standards of section 5, subdivision 4, paragraph (c), shall apply;

(ii) the merger or other acquisition shall not be disapproved if the commissioner finds that any of the situations meeting the criteria provided by section 5, subdivision 4, paragraph (c), exist; and

(iii) the commissioner may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;

(3) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(4) The plans or proposals that the acquiring party has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(5) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(6) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

(b) The public hearing referred to in paragraph (a) must be held 30 days after the statement required by subdivision 1 is filed, and at least 20 days notice of it shall be given by the commissioner to the person filing the statement. Not less than seven days notice of the public hearing shall be given by the person filing the statement to

the insurer and to other persons designated by the commissioner. The commissioner shall make a determination within 30 days after the conclusion of the hearing. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interest may be affected by it may present evidence, examine and cross-examine witnesses, and offer oral and written arguments and may conduct discovery proceedings in the same manner as is presently allowed in the district courts of this state. All discovery proceedings must be concluded not later than three days before the start of the public hearing.

(c) The commissioner may retain at the acquiring person's expense any attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed acquisition of control.

Subd. 5. [EXEMPTIONS.] This section does not apply to:

(1) Any transaction that is subject to section 60A.16, dealing with the merger or consolidation of two or more insurers.

(2) Any offer, request, invitation, agreement, or acquisition that the commissioner by order exempts from this section as (i) not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or (ii) as otherwise not comprehended within the purposes of this section.

Subd. 6. [VIOLATIONS.] The following are violations of this section:

(1) the failure to file any statement, amendment, or other material required to be filed pursuant to subdivision 1 or 2; or

(2) the effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic insurer unless the commissioner has approved it.

Subd. 7. [JURISDICTION, CONSENT TO SERVICE OF PROCESS.] The courts of this state have jurisdiction over every person not resident, domiciled, or authorized to do business in this state who files a statement with the commissioner under this section, and overall actions involving the person arising out of violations of this section, and the person is deemed to have performed acts equivalent to and constituting an appointment by the person of the commissioner to be the person's true and lawful attorney upon whom may be served all lawful process in any action, suit, or proceeding arising out of violations of this section. Copies of all lawful process shall be served on the commissioner and transmitted by registered or

certified mail by the commissioner to the person at the person's last known address.

Sec. 5. [60D.18] [ACQUISITIONS INVOLVING INSURERS NOT OTHERWISE COVERED.]

Subdivision 1. [DEFINITIONS.] The following definitions apply for the purposes of this section only:

(a) "Acquisition" means an agreement, arrangement, or activity the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes, but is not limited to, the acquisition of voting securities, the acquisition of assets, bulk reinsurance, and mergers.

(b) An "involved insurer" includes an insurer that either acquires or is acquired, is affiliated with an acquirer or acquired, or is the result of a merger.

Subd. 2. [SCOPE.] (a) Except as exempted in paragraph (b), this section applies to any acquisition in which there is a change in control of an insurer authorized to do business in this state.

(b) This section does not apply to the following:

(1) an acquisition subject to approval or disapproval by the commissioner pursuant to section 4;

(2) a purchase of securities solely for investment purposes so long as such securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in this state. If a purchase of securities results in a presumption of control under section 2, subdivision 4, it is not solely for investment purposes unless the commissioner of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist and such disclaimer action or affirmative finding is communicated by the domiciliary commissioner to the commissioner of this state;

(3) the acquisition of a person by another person when both persons are neither directly nor through affiliates primarily engaged in the business of insurance, if preacquisition notification is filed with the commissioner in accordance with subdivision 3, paragraph (a), 30 days before the proposed effective date of the acquisition. However, the preacquisition notification is not required for exclusion from this section, if the acquisition would otherwise be excluded from this section by any other clause of this paragraph;

(4) the acquisition of already affiliated persons;

(5) an acquisition if, as an immediate result of the acquisition;

(i) in no market would the combined market share of the involved insurers exceed five percent of the total market;

(ii) there would be no increase in any market share; or

(iii) in no market would the combined market share of the involved insurers exceeds 12 percent of the total market; and the market share increases by more than two percent of the total market.

For the purpose of this clause, a market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state;

(6) an acquisition for which a preacquisition notification would be required pursuant to this section due solely to the resulting effect on the ocean marine insurance line of business; and

(7) an acquisition of an insurer whose domiciliary commissioner affirmatively finds that the insurer is in failing condition; there is a lack of feasible alternative to improving the condition; the public benefits of improving the insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition; and the findings are communicated by the domiciliary commissioner to the commissioner of this state.

Subd. 3. [PREACQUISITION NOTIFICATION; WAITING PERIOD.] (a) An acquisition covered by subdivision 2 may be subject to an order pursuant to subdivision 4 unless the acquiring person files a preacquisition notification and the waiting period has expired. The acquired person may file a preacquisition notification. The commissioner shall give confidential treatment to information submitted under this section in the same manner as provided in section 9.

(b) The preacquisition notification must be in the form and contain the information as prescribed by the National Association of Insurance Commissioners relating to those markets that, under subdivision 2, paragraph (b), clause (5), cause the acquisition not to be exempted from the provisions of this section. The commissioner may require the additional material and information as the commissioner deems necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of subdivision 4. The required information may include an opinion of an economist as to the competitive impact of the acquisition in this state accompanied by a summary of the education and experience of

the person indicating that person's ability to render an informed opinion.

(c) The waiting period required begins on the date of receipt of the commissioner of a preacquisition notification and ends on the earlier of the 30th day after the date of its receipt, or termination of the waiting period by the commissioner. Before the end of the waiting period, the commissioner on a one-time basis may require the submission of additional needed information relevant to the proposed acquisition, in which event the waiting period shall end on the earlier of the 30th day after receipt of the additional information by the commissioner or termination of the waiting period by the commissioner.

Subd. 4. [COMPETITIVE STANDARD.] (a) The commissioner may enter an order under subdivision 5 with respect to an acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in any line of insurance in this state or tend to create a monopoly therein or if the insurer fails to file adequate information in compliance with subdivision 3.

(b) In determining whether a proposed acquisition would violate the competitive standard of paragraph (a), the commissioner shall consider the following:

(1) any acquisition covered under subdivision 2 involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standards:

(i) if the market is highly concentrated and the involved insurers possess the following shares of the market:

INSURER A	INSURER B
4 percent	4 percent or more
10 percent	2 percent or more
15 percent	1 percent or more

(ii) or, if the market is not highly concentrated and the involved insurers possess the following shares of the market:

INSURER A	INSURER B
5 percent	5 percent or more
10 percent	4 percent or more
15 percent	3 percent or more
19 percent	1 percent or more

A highly concentrated market is one in which the share of the four largest insurers is 75 percent or more of the market. Percentages not shown in the tables are interpolated proportionately to the percentages that are shown. If more than two insurers are involved,

exceeding the total of the two columns in the table is prima facie evidence of violation of the competitive standard in paragraph (a). For the purpose of this clause, the insurer with the largest share of the market shall be deemed to be insurer A.

(2) There is a significant trend toward increased concentration when the aggregate market share of any grouping of the largest insurers in the market, from the two largest to the eight largest, has increased by seven percent or more of the market over a period of time extending from any base year five to ten years prior to the acquisition up to the time of the acquisition. Any acquisition or merger covered under subdivision 2 involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standard in clause (1) if:

(i) there is a significant trend toward increased concentration in the market;

(ii) one of the insurers involved is one of the insurers in a grouping of such large insurers showing the requisite increase in the market share; and

(iii) another involved insurer's market is two percent or more.

(3) For the purposes of paragraph (b):

(i) The term "insurer" includes any company or group of companies under common management, ownership, or control.

(ii) The term "market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the commissioner shall give due consideration to, among other things, the definitions or guidelines, if any, promulgated by the National Association of Insurance Commissioners and to information, if any, submitted by parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, the line being that used in the annual statement required to be filed by insurers doing business in this state, and the relevant geographical market is assumed to be this state.

(iii) The burden of showing prima facie evidence of violation of the competitive standard rests upon the commissioner.

(iv) Even though an acquisition is not prima facie violative of the competitive standard under paragraph (b), clauses (1) and (2), the commissioner may establish the requisite anticompetitive effect based upon other substantial evidence. Even though an acquisition is prima facie violative of the competitive standard under paragraph

(b), clauses (1) and (2), a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making a determination under this paragraph include, but are not limited to, the following: market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry and exit into the market.

(c) An order may not be entered under subdivision 5 if:

(1) the acquisition will yield substantial economies of scale or economies in resource utilization that cannot be feasibly achieved in any other way, and the public benefits which would arise from such economies exceed the public benefits which would arise from not lessening competition; or

(2) the acquisition will substantially increase the availability of insurance, and the public benefits of such increase exceed the public benefits which would arise from not lessening competition.

Subd. 5. [ORDERS AND PENALTIES.] If an acquisition violates the standards of this section, the commissioner may enter an order:

(1) requiring an involved insurer to cease and desist from doing business in this state with respect to the line or lines of insurance involved in the violation; or

(2) denying the application of an acquired or acquiring insurer for a license to do business in this state.

The order must not be entered unless there is a hearing, the notice of the hearing is issued before the end of the waiting period and not less than 15 days before the hearing, and the hearing is concluded and the order is issued no later than 60 days after the end of the waiting period. Every order must be accompanied by a written decision of the commissioner setting forth findings of fact and conclusions of law.

An order entered under this paragraph shall not become final earlier than 30 days after it is issued, during which time the involved insurer may submit a plan to remedy the anticompetitive impact of the acquisition within a reasonable time. Based upon the plan or other information, the commissioner shall specify the conditions, if any, under the time period during which the aspects of the acquisition causing a violation of the standards of this section would be remedied and the order vacated or modified.

An order pursuant to this subdivision does not apply if the acquisition is not consummated.

Any person who violates a cease and desist order of the commissioner and while the order is in effect, may after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to any one or more of the following:

(1) a monetary penalty of not more than $10,000 for every day of violation;

(2) suspension or revocation of the person's license.

Any insurer or other person who fails to make any filing required by this section and who also fails to demonstrate a good faith effort to comply with the filing requirement, is be subject to a fine of not more than $50,000.

Subd. 6. [INAPPLICABLE PROVISIONS.] Sections 11, paragraphs (b) and (c); and 13 do not apply to acquisitions covered under section 5, subdivision 2.

Sec. 6. [60D.19] [REGISTRATION OF INSURERS.]

Subdivision 1. [REGISTRATION.] Every insurer that is authorized to do business in this state and that is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in:

(1) this section;

(2) section 7, subdivisions 1, paragraph (a), 2, and 4; and

(3) either section 7, subdivision 1, paragraph (b), or a provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within 15 days after the end of the month in which it learns of each such change or addition.

Any insurer that is subject to registration under this section shall register within 15 days after it becomes subject to registration, and annually thereafter by March 1 of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for registration, and then within such extended time. The commissioner may require any insurer authorized to do business in the state that is a member of a holding company system, and that is not subject to registration under this section, to furnish a copy of the registration statement, the summary specified in subdivision 3 or other information filed by the insurance company with the insurance regulatory authority of domiciliary jurisdiction.

Subd. 2. [INFORMATION AND FORM REQUIRED.] Every insurer subject to registration shall file the registration statement on a form prescribed by the National Association of Insurance Commissioners, which shall contain the following current information:

(1) the capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(2) the identity and relationship of every member of the insurance holding company system;

(3) the following agreements in force, and transactions currently outstanding or that have occurred during the last calendar year between the insurer and its affiliates:

(i) loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) purchases, sales, or exchange of assets;

(iii) transactions not in the ordinary course of business;

(iv) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) all management agreements, service contracts, and all cost-sharing arrangements;

(vi) reinsurance agreements;

(vii) dividends and other distributions to shareholders; and

(viii) consolidated tax allocation agreements;

(4) any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system; and

(5) other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner.

Subd. 3. [SUMMARY OF REGISTRATION STATEMENT.] All registration statements must contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

Subd. 4. [MATERIALITY.] No information need be disclosed on the registration statement filed pursuant to subdivision 2 if the information is not material for the purposes of this section. Unless the commissioner by rule or order provides otherwise; sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of one percent or less of an insurer's admitted assets as of the 31st day of December next preceding shall not be deemed material for purposes of this section.

Subd. 5. [REPORTING OF DIVIDENDS TO SHAREHOLDERS.] Subject to section 6, subdivision 2, each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within 15 business days following the declaration thereof.

Subd. 6. [INFORMATION OF INSURERS.] Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer where such information is reasonably necessary to enable the insurer to comply with the provisions of this article.

Subd. 7. [TERMINATION OF REGISTRATION.] The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

Subd. 8. [CONSOLIDATED FILING.] The commissioner may require or allow two or more affiliated insurers subject to registration to file a consolidated registration statement.

Subd. 9. [ALTERNATIVE REGISTRATION.] The commissioner may allow an insurer that is authorized to do business in this state and that is part of an insurance holding company system to register on behalf of any affiliated insurer that is required to register under subdivision 1 and to file all information and material required to be filed under this section.

Subd. 10. [EXEMPTIONS.] The provisions of this section do not apply to any insurer, information, or transaction if and to the extent that the commissioner by rule or order shall exempt the same from the provisions of this section.

Subd. 11. [DISCLAIMER.] Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer or the disclaimer may be filed by the insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section that may arise out of the insurer's relationship with the person unless and

until the commissioner disallows the disclaimer. The commissioner shall disallow the disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support the disallowance.

Subd. 12. [VIOLATIONS.] The failure to file a registration statement or any summary of the registration statement required by this section within the time specified for the filing is a violation of this section.

Sec. 7. [60D.20] [STANDARDS AND MANAGEMENT OF AN INSURER WITHIN A HOLDING COMPANY SYSTEM.]

Subdivision 1. [TRANSACTIONS WITHIN A HOLDING COMPANY SYSTEM.] (a) Transactions within a holding company system to which an insurer subject to registration is a party is subject to the following standards:

(1) the terms shall be fair and reasonable;

(2) charges or fees for services performed shall be reasonable;

(3) expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;

(4) the books, accounts, and records of each party to all such transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions including this accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties; and

(5) the insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) The following transactions involving a domestic insurer and any person in its holding company system may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into the transaction at least 30 days prior thereto, or a shorter period the commissioner permits, and the commissioner has not disapproved it within this period.

(1) sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments provided the transactions are equal to or exceed: (i) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets, or 25 percent of surplus as regards policyholders; (ii) with respect to life insurers, three percent

of the insurer's admitted assets; each as of the 31st day of December next preceding;

(2) loans or extensions of credit to any person who is not an affiliate, where the insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit provided the transactions are equal to or exceed: (i) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders; (ii) with respect to life insurers, three percent of the insurer's admitted assets; each as of the 31st day of December next preceding;

(3) reinsurance agreements or modifications to those agreements in which the reinsurance premium or a change in the insurer's liabilities equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer;

(4) all management agreements, service contracts and all cost-sharing arrangements; and

(5) any material transactions, specified by regulation, which the commissioner determines may adversely affect the interests of the insurer's policyholders.

Nothing contained in this section authorizes or permits any transactions that, in the case of an insurer not a member of the same holding company system, would be otherwise contrary to law.

(c) A domestic insurer may not enter into transactions which are part of a plan or series of like transactions with persons within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that the separate transactions were entered into over any 12-month period for the purpose, the commissioner may exercise the authority under section 12.

(d) The commissioner, in reviewing transactions pursuant to paragraph (b), shall consider whether the transactions comply with the standards set forth in paragraph (a), and whether they may adversely affect the interests of policyholders.

(e) The commissioner shall be notified within 30 days of any investment of the domestic insurer in any one corporation if the total investment in the corporation by the insurance holding company system exceeds ten percent of the corporation's voting securities.

Subd. 2. [DIVIDENDS AND OTHER DISTRIBUTIONS.] (a) No domestic insurer shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until: (1) 30 days after the commissioner has received notice of the declaration of it and has not within the period disapproved the payment; or (2) the commissioner has approved the payment within the 30-day period.

(b) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the greater of (1) ten percent of the insurer's surplus as regards policyholders as of the 31st day of December next preceding; or (2) the net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the 31st day of December next preceding, but does not include pro rata distributions of any class of the insurer's own securities. In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous two calendar years that has not already been paid out as dividends. This carry-forward is computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years.

(c) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution that is conditional upon the commissioner's approval, and the declaration shall confer no rights upon shareholders until: (1) the commissioner has approved the payment of such a dividend or distribution; or (2) the commissioner has not disapproved the payment within the 30-day period referred to above.

Subd. 3. [MANAGEMENT OF DOMESTIC INSURERS SUBJECT TO REGISTRATION.] (a) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to assure its separate operating identity consistent with this article.

(b) Nothing in this article precludes a domestic insurer from having or sharing a common management use of personnel, prop-

erty, or services with one or more other persons under arrangements meeting the standards of section 7, paragraph (a), clause (1).

(c) Not less than one-third of the directors of a publicly traded domestic insurer, and not less than one-third of the members of each committee of the board of directors of any publicly traded domestic insurer shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. At least one such person must be included in any quorum for the transaction of business at any meeting of the board of directors or any committee of the board.

(d) The board of directors of a publicly traded domestic insurer shall establish an audit committee having a majority of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee shall have responsibility for selecting independent certified public accountants and reviewing the scope and results of the independent audit and any internal audit.

(e) Paragraphs (c) and (d) do not apply to a domestic insurer if the person controlling the insurer is an insurer, or a general business corporation the principal business of which is insurance, having a board of directors and committees of the board that meet the requirements of paragraphs (c) and (d).

Subd. 4. [ADEQUACY OF SURPLUS.] For purposes of this article, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, must be considered:

(1) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(2) the extent to which the insurer's business is diversified among the several lines of insurance;

(3) the number and size of risks insured in each line of business;

(4) the extent of the geographical dispersion of the insurer's insured risks;

(5) the nature and extent of the insurer's reinsurance program;

(6) the quality, diversification and liquidity of the insurer's investment portfolio;

(7) the recent past and projected future trend in the size of the insurer's investment portfolio;

(8) the surplus as regards policyholders maintained by other comparable insurers;

(9) the adequacy of the insurer's reserves; and

(10) the quality and liquidity of investments in affiliates. The commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the commissioner's judgment the investment so warrants.

Sec. 8. [60D.21] [EXAMINATION.]

Subdivision 1. [POWER OF COMMISSIONER.] Subject to the limitation contained in this section and in addition to the powers that the commissioner has under chapter 60A relating to the examination of insurers, the commissioner shall also have the power to order any insurer registered under section 60D.19 to produce records, books, or other information papers in the possession of the insurer or its affiliates as are reasonably necessary to ascertain the financial condition of the insurer or to determine compliance with this article. In the event the insurer fails to comply with the order, the commissioner shall have the power to examine the affiliates to obtain the information.

Subd. 2. [USE OF CONSULTANTS.] The commissioner may retain at the registered insurer's expense the attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff that are reasonably necessary to assist in the conduct of the examination under subdivision 1. Any person so retained shall be under the direction and control of the commissioner and shall act in a purely advisory capacity.

Subd. 3. [EXPENSES.] Each registered insurer producing for examination records, books, and papers pursuant to subdivision 1 is liable for and shall pay the expense of the examination in accordance with section 60A.03.

Sec. 9. [60D.22] [CONFIDENTIAL TREATMENT.]

All information, documents, and copies of them obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 7 and all information reported pursuant to sections 5 and 6, shall be given

confidential treatment and shall not be subject to subpoena and shall not be made public by the commissioner, the National Association of Insurance Commissioners, or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected, notice and opportunity to be heard, determines that the interest of policyholders, shareholders, or the public will be served by the publication, in which event the commissioner may publish all or any part in the manner the commissioner considers appropriate.

Sec. 10. [60D.23] [RULES.]

The commissioner may adopt the rules and orders that are necessary to carry out the provisions of this article.

Sec. 11. [60D.24] [INJUNCTIONS, PROHIBITIONS AGAINST VOTING SECURITIES, SEQUESTRATION OF VOTING SECURITIES.]

Subdivision 1. [INJUNCTIONS.] Whenever it appears to the commissioner that any insurer or any director, officer, employee, or agent of the insurer has committed or is about to commit a violation of this article or of any rule or order issued by the commissioner, the commissioner may apply to the district court for the county in which the principal office of the insurer is located or if the insurer has no such office in this state then to the district court for Ramsey county for an order enjoining the insurer or the director, officer, employee, or agent of the insurer from violating or continuing to violate this article or any rule or order, and for other equitable relief as the nature of the case and the interest of the insurer's policyholders, creditors and shareholders, or the public requires.

Subd. 2. [VOTING OF SECURITIES; WHEN PROHIBITED.] No security that is the subject of any agreement or arrangement regarding acquisition, or that is acquired or to be acquired, in contravention of the provisions of this article or of any rule or order issued by the commissioner may be voted at any shareholder's meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though the securities were not issued and outstanding. No action taken at the meeting shall be invalidated by the voting of the securities, unless the action would materially affect control of the insurer or unless the courts of this state have so ordered. If an insurer or the commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this article or of any rule or order issued by the commissioner, the insurer or the commissioner may apply to the district court for the county in which the insurer has its principal place of business to enjoin any offer, request, invitation, agreement, or acquisition made in contravention of section 3 or any

rule or order issued by the commissioner to enjoin the voting of any security so acquired, to void any vote of the security already cast at any meeting of shareholders and for other equitable relief as the nature of the case and the interest of the insurer's policyholders, creditor and shareholders, or the public requires.

Subd. 3. [SEQUESTRATION OF VOTING SECURITIES.] In any case where a person has acquired or is proposing to acquire any voting securities in violation of this article or any rule or order issued by the commissioner, the district court for Ramsey county or the district court for the county in which the insurer has its principal place of business may, on such notice as the court considers appropriate, upon the application of the insurer or the commissioner seize or sequester any voting securities of the insurer owned directly or indirectly by the person, and issue any order with respect thereto as may be appropriate to effectuate the provisions of this article.

Notwithstanding any other provisions of law, for the purposes of this article the sites of the ownership of the securities of domestic insurers shall be considered to be in this state.

Sec. 12. [60D.25] [RECEIVERSHIP.]

Whenever it appears to the commissioner that any person has committed a violation of this article that so impairs the financial condition of a domestic insurer as to threaten insolvency or make the further transaction of business by it hazardous to its policyholders, creditors, shareholders, or the public, then the commissioner may proceed as provided in chapter 60B to take possessions of the property of the domestic insurer and to conduct the business of that insurer.

Sec. 13. [60D.26] [RECOVERY.]

(a) If an order for liquidation or rehabilitation of a domestic insurer has been entered, the receiver appointed under the order shall have a right to recover on behalf of the insurer, (1) from any parent corporation or holding company or person or affiliate who otherwise controlled the insurer, the amount of distributions, other than distributions of shares of the same class of stock, paid by the insurer on its capital stock, or (2) any payment in the form of a bonus, termination settlement or extraordinary lump sum salary adjustment made by the insurer or its subsidiary(s) to a director, officer, or employee, where the distribution or payment pursuant to clause (1) or (2) is made at any time during the one year preceding the petition for liquidation, conservation, or rehabilitation, as the case may be, subject to the limitations of paragraphs (b), (c), and (d).

(b) No such distribution shall be recoverable if the parent or affiliate shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not

reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(c) Any person who was a parent corporation or holding company or a person who otherwise controlled the insurer or affiliate at the time such distributions were paid shall be liable up to the amount of distributions or payments under paragraph (a), the person received. Any person who otherwise controlled the insurer at the time the distributions were declared is liable up to the amount of distributions the person would have received if they had been paid immediately. If two or more persons are liable with respect to the same distributions, they are jointly and severally liable.

(d) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer and to reimburse any guaranty funds.

(e) To the extent that any person liable under paragraph (c) is insolvent or otherwise fails to pay claims due from it pursuant to this paragraph, its parent corporation or holding company or person who otherwise controlled it at the time the distribution was paid, is jointly and severely liable for any resulting deficiency in the amount recovered from the parent corporation or holding company or person who otherwise controlled it.

Sec. 14. [60D.27] [REVOCATION, SUSPENSION, OR NONRENEWAL OF INSURER'S LICENSE.]

Whenever it appears to the commissioner that any person has committed a violation of this article that makes the continued operation of an insurer contrary to the interests of policyholders or the public, the commissioner may, after giving notice and an opportunity to be heard, determine to suspend, revoke, or refuse to renew the insurer's license or authority to do business in this state for the period the commissioner finds is required for the protection of policyholders or the public. The determination must be accompanied by specific findings of fact and conclusions of law.

Sec. 15. [60D.28] [JUDICIAL REVIEW, MANDAMUS.]

(a) Any person aggrieved by any act, determination, rule or order, or any other action of the commissioner pursuant to this article may appeal therefrom to the district court for Ramsey county. The court shall conduct its review without a jury and by trial de novo, except that if all parties, including the commissioner, so stipulate, the review shall be confined to the record. Portions of the record may be introduced by stipulation into evidence in a trial de novo as to those parties so stipulated.

(b) The filing of an appeal pursuant to this section shall stay the application of the rule, order, or other action of the commissioner to the appealing party unless the court, after giving the party notice and an opportunity to be heard, determines that the stay would be detrimental to the interest of policyholders, shareholders, creditors, or the public.

(c) Any person aggrieved by any failure of the commissioner to act or make a determination required by this article may petition the district court for Ramsey county for a writ in the nature of a mandamus or a peremptory mandamus directing the commissioner to act or make this determination immediately.

Sec. 16. [60D.29] [CONFLICT WITH OTHER LAWS.]

All laws and parts of laws of this state inconsistent with this article are superseded with respect to matters covered by this article.

Sec. 17. Minnesota Statutes 1990, section 79.34, subdivision 1, is amended to read:

Subdivision 1. [CONDITIONS REQUIRING MEMBERSHIP.] The nonprofit association known as the workers' compensation reinsurance association may be incorporated under chapter 317A with all the powers of a corporation formed under that chapter, except that if the provisions of that chapter are inconsistent with sections 79.34 to 79.40, sections 79.34 to 79.40 govern. Each insurer as defined by section 79.01, subdivision 2, shall, as a condition of its authority to transact workers' compensation insurance in this state, be a member of the reinsurance association and is bound by the plan of operation of the reinsurance association; provided, that all affiliated insurers within a holding company system as defined in ~~sections 60D.01 to 60D.13~~ chapter 60D are considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association. Each self-insurer approved under section 176.181 and each political subdivision that self-insures shall, as a condition of its authority to self-insure workers' compensation liability in this state, be a member of the reinsurance association and is bound by its plan of operation; provided that:

(1) all affiliated companies within a holding company system, as determined by the commissioner in a manner consistent with the standards and definitions in ~~sections 60D.01 to 60D.13~~ chapter 60D, are considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association; and

(2) all group self-insurers granted authority to self-insure pursuant to section 176.181 are considered single entities for purposes of the exercise of all the rights and duties of membership in the reinsurance association. As a condition of its authority to self-insure

workers' compensation liability, and for losses incurred after December 31, 1983, the state is a member of the reinsurance association and is bound by its plan of operation. The commissioner of employee relations represents the state in the exercise of all the rights and duties of membership in the reinsurance association. The state treasurer shall pay the premium to the reinsurance association from the state compensation revolving fund upon warrants of the commissioner of employee relations. For the purposes of this section, "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The commissioner of finance may calculate, prorate, and charge a department or agency the portion of premiums paid to the reinsurance association for employees who are paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The reinsurance association is not a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of labor and industry with respect to the reinsurance association are not subject to chapters 13, 14, and 15. All property owned by the association is exempt from taxation. The reinsurance association is not obligated to make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.

Sec. 18. [REPEALER.]

Minnesota Statutes 1990, sections 60D.01; 60D.02; 60D.03; 60D.04; 60D.05; 60D.06; 60D.07; 60D.08; 60D.10; 60D.11; 60D.12; and 60D.13, are repealed.

Sec. 19. [EFFECTIVE DATE.]

This article is effective 30 days after its final enactment.

ARTICLE 15

LIFE REINSURANCE AGREEMENTS

Section 1. [60A.80] [ACCOUNTING REQUIREMENTS.]

Subdivision 1. [STANDARDS.] No life insurer subject to this article shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

(1) the primary effect of the reinsurance agreement is to transfer deficiency reserves or excess interest reserves to the books of the reinsurer for a "risk charge" and the agreement does not provide for significant participation by the reinsurer in one or more of the

following risks: mortality, morbidity, investment, or surrender benefit;

(2) the reserve credit taken by the ceding insurer is not in compliance with the insurance law or rules, including actuarial interpretations or standards adopted by the department;

(3) the reserve credit taken by the ceding insurer is greater than the underlying reserve of the ceding company supporting the policy obligations transferred under the reinsurance agreement;

(4) the ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against prior years' losses nor payment by the ceding insurer of an amount equal to prior years' losses upon voluntary termination of in-force reinsurance by that ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience;

(5) the ceding insurer can be deprived of surplus at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums shall not be considered to be such a deprivation of surplus;

(6) the ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

(7) no cash payment is due from the reinsurer, throughout the lifetime of the reinsurance agreement, with all settlements prior to the termination date of the agreement made only in a "reinsurance account," and no funds in such account are available for the payment of benefits; or

(8) the reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies.

Subd. 2. [EXCEPTION.] Notwithstanding subdivision 1, a life insurer subject to this article may, with the prior approval of the commissioner of commerce take such reserve credit as the commissioner considers consistent with the insurance law or rules adopted under it, including actuarial interpretations or standards adopted by the department.

Sec. 2. [60A.801] [WRITTEN AGREEMENTS.]

Subdivision 1. [REINSURANCE AGREEMENTS AND AMEND-

MENTS.] No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the department, unless the agreement, amendment, or a letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

Subd. 2. [LETTERS OF INTENT.] In the case of a letter of intent, a reinsurance agreement, or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding 90 days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

Sec. 3. [60A.802] [EXISTING AGREEMENTS.]

Life insurers subject to this article may continue to reduce liabilities or establish assets in financial statements filed with the department for reinsurance ceded under types of reinsurance agreements that would violate section 60A.13, subdivision 1, relating to financial statements of insurers, thus, resulting in distorted financial statements which do not properly reflect the financial condition of the ceding life insurer; section 60A.09, relating to reinsurance reserve credits, thus, resulting in a ceding insurer improperly reducing liabilities or establishing assets for reinsurance ceded; and article 3, relating to creating a situation that may be hazardous to policyholders and the people of this state provided that:

(1) the agreements were executed and in force before the effective date of this article;

(2) no new business is ceded under the agreements after the effective date of this article;

(3) the reduction of the liability or the asset established for the reinsurance ceded is reduced to zero by December 31, 1992, or a later date approved by the commissioner of commerce as a result of an application made by the ceding insurer prior to December 31 of the year in which this article becomes effective;

(4) the reduction of the liability or the establishment of the asset is otherwise permissible under all other applicable provisions of the insurance law or rules adopted under it, including actuarial interpretations or standards adopted by the department; and

(5) the department is notified, within 90 days after the effective date of this chapter, of the existence of these reinsurance agreements and all corresponding credits taken in the ceding insurer's 1990 annual statement.

Sec. 4. [EFFECTIVE DATE.]

This article is effective January 1, 1992.

ARTICLE 16

LOSS RESERVE CERTIFICATION

Section 1. Minnesota Statutes 1990, section 60A.12, is amended by adding a subdivision to read:

Subd. 10. [LOSS RESERVE CERTIFICATION.] Each domestic company engaged in providing the types of coverage described in section 60A.06, subdivision 1, clause (1), (2), (3), (5)(b), (6), (8), (9), (10), (11), (12), (13), or (14), must have its loss reserves certified to annually by a qualified actuary. The company must file the certification with the commissioner within 30 days of completion of the certification. The actuary providing the certification must not be an employee of the company. This subdivision does not apply to township mutual companies.

ARTICLE 17

RICO

Section 1. Minnesota Statutes 1990, section 609.902, subdivision 4, is amended to read:

Subd. 4. [CRIMINAL ACT.] "Criminal act" means conduct constituting, or a conspiracy or attempt to commit, a felony violation of chapter 152, or a felony violation of section 297D.09; 299F.79; 299F.80; 299F.811; 299F.815; 299F.82; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.228; 609.235; 609.245; 609.25; 609.27; 609.322; 609.323; 609.342; 609.343; 609.344; 609.345; 609.42; 609.48; 609.485; 609.495; 609.496; 609.497; 609.498; 609.52, subdivision 2, if the offense is punishable under subdivision 3, clause (3)(b), or clause ~~(4)(c) or (f)~~ 3(d)(v) or (vi); 609.53; 609.561; 609.562; 609.582, subdivision 1 or 2; 609.67; 609.687; 609.713; 609.86; 624.713; or 624.74. "Criminal act" also includes conduct constituting, or a conspiracy or attempt to commit, a felony violation of section 609.52, subdivision 2, clause (3), (4), (15), or (16) if the violation involves an insurance company as defined in section 60A.02, subdivision 4, a nonprofit health service plan corporation regulated under chapter 62C, a health maintenance organization regulated under chapter 62D, or a fraternal beneficiary association regulated under chapter 64B.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective August 1, 1991, and applies to crimes committed on or after that date.

ARTICLE 18

INVESTMENT POLICY

Section 1. [60A.112] [INVESTMENT POLICY REQUIRED.]

Each domestic company must have a written investment policy, designed to provide guidance for investment decisions by management. The policy must be approved by its board of directors. The policy must be reviewed by the company's board of directors and reapproved no less often than once every 12 months. The investment policy must address asset type diversification, diversification within asset types, concentration risks, interest rate risk, liquidity, foreign investments, loans secured by real estate, and investment real estate. The policy must set forth, in detail, company practices relating to internal controls regarding the delegation of investment authority within the company.

The board of directors must also determine at least annually the extent to which the company has complied with its investment policy within the preceding 12 months and shall adopt a written determination.

The company must file, as an attachment to its annual statement, a certification that:

(1) the company has a written investment policy meeting the requirements of this section;

(2) the company's board of directors has reviewed and approved or reapproved the policy within the period covered by the annual statement; and

(3) the company's board of directors performed the compliance review and made the written determination required by this section within the period covered by the annual statement.

A company's failure to meet the requirements of this section does not affect its ability to enforce its legal or equitable rights with respect to its investments.

Sec. 2. Minnesota Statutes 1990, section 62D.045, subdivision 2, is amended to read:

Subd. 2. [AUTHORIZATION AND WRITTEN INVESTMENT POLICY REQUIRED.] A health maintenance organization shall not make or engage in a loan or investment unless the loan or investment has been authorized or ratified by the board of directors or by a committee supervising investments and loans. In addition, a

health maintenance organization must comply with section 60A.112.

ARTICLE 19

VALUATION OF REAL ESTATE LOANS AND INVESTMENTS

Section 1. [60A.121] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] The definitions in this section apply to sections 60A.121 to 60A.127.

Subd. 2. [COMMERCIAL MORTGAGE LOAN.] "Commercial mortgage loan" means a loan by an insurer secured by a mortgage on commercial real estate. "Commercial mortgage loan" does not include loans secured by residential real estate containing four or fewer dwelling units or agricultural real estate.

Subd. 3. [DELINQUENT MORTGAGE LOAN.] "Delinquent mortgage loan" means a loan 90 days delinquent on a required payment of principal or interest.

Subd. 4. [DISTRESSED MORTGAGE LOAN.] "Distressed mortgage loan" means a loan, other than a delinquent loan, that is determined by the management of the insurer, in the exercise of its prudent investment judgment, to involve circumstances that create a reasonable probability that the loan may become a delinquent mortgage loan or a mortgage loan in foreclosure.

Subd. 5. [INDEPENDENT APPRAISER.] "Independent appraiser" means a person, not employed by the insurer or by an investment advisor to the insurer, who develops and communicates real estate appraisals and holds a current, valid license issued under section 82B.02, or a similar law enacted by another state.

Subd. 6. [INTERNAL APPRAISAL.] "Internal appraisal" means an appraisal to determine current market value made by an internal appraiser and based upon an evaluation of:

(1) the property based upon a physical inspection of the premises;

(2) the current and expected stabilized cash flow generated by the property;

(3) the current and expected stabilized market rents in the geographic market where the property is located; and

(4) the current and stabilized occupancy rates for the geographic market where the property is located.

Subd. 7. [INTERNAL APPRAISER.] "Internal appraiser" means an individual:

(1) employed by an insurer or investment advisor to an insurer;

(2) who has training and experience qualifying the individual to appraise the value of commercial real estate;

(3) whose direct or indirect compensation is not dependent upon the outcome of the appraisals performed under sections 60A.121 to 60A.126; and

(4) who has direct reporting access to the chief investment officer of the insurer.

Subd. 8. [INSURER.] "Insurer" means a domestic insurance company.

Subd. 9. [MORTGAGE LOAN IN FORECLOSURE.] "Mortgage loan in foreclosure" means (1) a loan in the process of foreclosure including the time required for expiration of any equitable or statutory redemption rights; (2) a loan to a mortgagor who is the subject of a bankruptcy petition and who is not making regular monthly payments; or (3) a loan secured by a mortgage on real estate that is subject to a senior mortgage or other lien that is being foreclosed.

Subd. 10. [PERFORMING MORTGAGE LOAN.] "Performing mortgage loan" means a mortgage loan current in payment or not in distress.

Subd. 11. [REAL ESTATE OWNED.] "Real estate owned" means real property owned and acquired by an insurer through or in lieu of foreclosure and as to which all equitable or statutory rights of redemption have expired.

Subd. 12. [RESTRUCTURED MORTGAGE LOAN.] "Restructured mortgage loan" means a loan where:

(1) material delinquent payments or accrued interest are capitalized and added to the balance of an outstanding loan; or

(2) the insurer has abated or reduced interest payments below market rates existing at the date of restructuring.

Sec. 2. [60A.122] [REQUIRED WRITTEN PROCEDURES.]

An insurer shall establish written procedures, approved by the company's board of directors, for the valuation of commercial mortgage loans and real estate owned. The procedures must be

made available to the commissioner upon request. The commissioner shall review the insurer's compliance with the procedures in any examination of the insurer under section 60A.031.

Sec. 3. [60A.123] [VALUATION PROCEDURE.]

Subdivision 1. [REQUIREMENT.] An insurer shall value its commercial mortgage loans and real estate acquired through foreclosure of commercial mortgage loans as provided in this section for the purpose of establishing reserves or carrying values of the investments and for statutory accounting purposes.

Subd. 2. [PERFORMING MORTGAGE LOAN.] A performing mortgage loan must be carried at its amortized acquisition cost.

Subd. 3. [DISTRESSED MORTGAGE LOAN.] (a) The insurer shall make an evaluation of the appropriate carrying value of its commercial mortgage loans which it classifies as distressed mortgage loans. The carrying value must be based upon one or more of the following procedures:

(1) an internal appraisal;

(2) an appraisal made by an independent appraiser;

(3) the value of guarantees or other credit enhancements related to the loan; or

(4) other quantitative data which provides meaningful information to the management of the insurer regarding the market value of the property.

(b) The insurer may determine the carrying value of its distressed mortgage loans through either an evaluation of each specific distressed mortgage loan or by a sampling methodology. Insurers using a sampling methodology shall identify a sampling of its distressed mortgage loans that represents a cross section of all of its distressed mortgage loans. The insurer shall make an evaluation of the appropriate carrying value for each sample loan. The carrying value of all of the insurer's distressed mortgage loans must be the same percentage of their amortized acquisition cost as the sample loans. The carrying value must be based upon an internal appraisal or an appraisal conducted by an independent appraiser.

(c) The insurer shall either take a charge against its surplus or establish a reserve for the difference between the carrying value and the amortized acquisition cost of its distressed mortgage loans.

Subd. 4. [DELINQUENT MORTGAGE LOAN.] (a) The insurer shall make an evaluation of the appropriate carrying value of each

delinquent mortgage loan. The carrying value must be based upon one or more of the following procedures:

(1) an internal appraisal;

(2) an appraisal by an independent appraiser;

(3) the value of guarantees or other credit enhancements related to the loan; or

(4) other quantitative data which provides meaningful information to the management of the insurer regarding the market value of the property.

(b) The insurer shall either take a charge against its surplus or establish a reserve for the difference between the carrying value and the amortized acquisition cost of its delinquent mortgage loans.

Subd. 5. [RESTRUCTURED MORTGAGE LOAN.] (a) The insurer shall make an evaluation of the appropriate carrying value of each restructured mortgage loan. The carrying value must be based upon one or more of the following procedures:

(1) an internal appraisal;

(2) an appraisal by an independent appraiser;

(3) the value of guarantees or other credit enhancements related to the loan; or

(4) other quantitative data which provides meaningful information to the management of the insurer regarding the market value of the property.

(b) The insurer shall either take a charge against its surplus or establish a reserve for the difference between the carrying value and the amortized acquisition cost of its restructured mortgage loans.

Subd. 6. [MORTGAGE LOAN IN FORECLOSURE.] (a) The insurer shall make an evaluation of the appropriate carrying value of each mortgage loan in foreclosure. The carrying value must be based upon an appraisal made by an independent appraiser.

(b) The insurer shall take a charge against its surplus for the difference between the carrying value and the amortized acquisition cost of its mortgage loans in the process of foreclosure.

Subd. 7. [REAL ESTATE OWNED.] (a) The insurer shall make an evaluation of the appropriate carrying value of real estate owned.

The carrying value must be based upon an appraisal made by an independent appraiser.

(b) The insurer shall take a charge against its surplus for the difference between the carrying value and the amortized acquisition cost of real estate owned.

Sec. 4. [60A.124] [INDEPENDENT AUDIT.]

The audit report of the independent certified public accountant which prepares the audit of an insurer's annual statement as required under section 60A.13, subdivision 3, paragraph (a), must contain findings by the auditor that:

(1) the insurer has adopted valuation procedures meeting the minimum standards required in section 60A.123; and

(2) the procedures adopted by the board of directors have been uniformly applied by the insurer in conformance with this section.

Sec. 5. [60A.125] [APPRAISAL BY INDEPENDENT APPRAISER.]

Subdivision 1. [MORTGAGE LOANS IN THE PROCESS OF FORECLOSURE.] An insurer may rely upon an appraisal by an independent appraiser to determine the carrying value of mortgage loans in the process of foreclosure only if the date of the appraisal is within six months of the date the foreclosure procedure is begun. If no appraisal exists, the insurer shall acquire an appraisal within six months after the foreclosure proceeding has begun.

Subd. 2. [REAL ESTATE OWNED.] An insurer may rely upon an appraisal by an independent appraiser to determine the carrying value of real estate owned only if the date of the appraisal is within six months of the date when title to the property was acquired. If no appraisal exists, the insurer shall acquire an appraisal within six months after title to the property is acquired.

Subd. 3. [CHARGE TAKEN.] An insurer shall take a charge against the surplus for mortgage loans in the process of foreclosure and real estate owned in the first calendar year in which it holds a current appraisal made by an independent appraiser as provided in this section.

Sec. 6. [60A.126] [BOARD REPORT.]

The management of the insurer shall make periodic reports, at least annually, to its board of directors, or an appropriate committee of the board, as to the application of the insurer's valuation procedures adopted under sections 60A.121 to 60A.127.

Sec. 7. [60A.127] [INDEPENDENT APPRAISALS OF CERTAIN PROPERTIES.]

Each domestic insurer that does not obtain independent appraisals of all distressed, delinquent, and restructured mortgage loans shall obtain independent appraisals of a random sample of those loans. The independent appraisals must be obtained by the insurer no later than 60 days after the insurer determines the appropriate carrying value. The loans to be included in the sample do not include loans for which the carrying value was determined on the basis of guarantees or other credit enhancements. The independent appraisals must be kept in the insurer's records and must be available to the commissioner upon request. Each insurer must file with the commissioner an annual report listing each mortgage loan for which the insurer obtained an independent appraisal under this section and showing for each of those loans the appraisal value, the carrying value determined by the insurer, and other information required by the commissioner. The commissioner may by rule specify the percentage of distressed, delinquent, and restructured loans for which the insurer must obtain an independent appraisal and may by rule specify a procedure for determining how to identify the specific loans for which an appraisal is required. Unless and until such rules are adopted, each domestic insurer must:

(1) obtain an independent appraisal of five percent of its distressed, delinquent, or restructured loans that qualify under this section; and

(2) establish a uniform system of assigning sequential numbers to its distressed, delinquent, or restructured loans that qualify under this section, based upon the date on which a loan first enters one of those categories, and then obtain an independent appraisal of every twentieth loan.

ARTICLE 20

ASSUMPTION REINSURANCE

Section 1. Minnesota Statutes 1990, section 60A.09, is amended by adding a subdivision to read:

Subd. 4a. [ASSUMPTION REINSURANCE REGULATED.] No life company, whether domestic, foreign, or alien, shall perform an assumption reinsurance agreement, with respect to a policy issued to a Minnesota resident, unless:

(1) the assumption reinsurance agreement has been filed with the commissioner;

(2) the assumption reinsurance agreement specifically provides

that the original insurer remains liable to the insured or the original insurer acknowledges in writing to the commissioner that it remains liable to the insured;

(3) the proposed certificate of assumption to be provided to the policyholder has been filed with the commissioner for review and approval as provided in section 61A.02; and

(4) the proposed certificate of assumption contains, in bold face type, the following language:

"Policyholder: Please be advised that you retain all rights with respect to your policy against your original insurer. Your original insurer remains liable to you notwithstanding the terms of its assumption agreement."

Clauses (2) and (4) above do not apply if the policyholder consents in a signed writing to a release of the original insurer from liability, provided that the consent form signed by the policyholder has been filed with and approved by the commissioner.

ARTICLE 21

MISCELLANEOUS

Section 1. Minnesota Statutes 1990, section 60A.03, subdivision 5, is amended to read:

Subd. 5. [EXAMINATION FEES AND EXPENSES.] When any visitation, examination, or appraisal is made by order of the commissioner, the company being examined, visited, or appraised, including fraternals, township mutuals, reciprocal exchanges, nonprofit service plan corporations, health maintenance organizations, vendors of risk management services licensed under section 60A.23, or self-insurance plans or pools established under section 176.181 or 471.982, shall pay to the department of commerce the necessary expenses of the persons engaged in the examination, visit, or appraisal or desk audits of annual statements and records performed by the department other than at the company's premises plus the per diem salary fees of the employees of the department of commerce who are conducting or participating in the examination, visitation, or appraisal. The per diem salary fees may be based upon the approved examination fee schedules of the National Association of Insurance Commissioners or otherwise determined by the commissioner. All of these fees and expenses must be paid into the department of commerce revolving fund.

Sec. 2. Minnesota Statutes 1990, section 60A.27, is amended to read:

60A.27 [DISCIPLINE OF INSURER BY ANOTHER STATE; NOTICE TO COMMISSIONER.]

Subdivision 1. An insurance company licensed to transact business in this state is hereby required to notify the commissioner of commerce within ~~30~~ ten business days of the happening of any one or more of the following:

(1) the suspension or revocation of its right to transact business in another state;

(2) the receipt by the insurance company of an order to show why its license should not be suspended or revoked; or

(3) the imposition of a penalty by any other state for any violation of the insurance laws of such other state.

Subd. 2. Any insurance company which fails to notify the commissioner of commerce within ~~30 days of the happening of any of the foregoing shall be~~ *the time* period specified in subdivision 1 is subject to a penalty of not more than $500, or suspension, or both.

Sec. 3. Minnesota Statutes 1990, section 60C.03, subdivision 8, is amended to read:

Subd. 8. "Insolvent insurer" means an insurer licensed to transact insurance in this state, either at the time the policy was issued, or when the insured event occurred, and against whom an order of liquidation with a finding of insolvency has been entered after April 30, 1979 by a *court of competent jurisdiction,* in the insurer's state of domicile or of this state, under the provisions of chapter 60B, and which order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order. An insurer placed under administrative supervision under article 2 or determined to be in hazardous financial condition under article 3 is not an insolvent insurer as a result of that placement or determination.

Sec. 4. Minnesota Statutes 1990, section 60C.14, subdivision 2, is amended to read:

Subd. 2. [OPTIONAL POWERS AND DUTIES.] The commissioner may:

(a) Require the association to notify the insureds of any insurer undergoing liquidation and any other interested parties of their possible rights under Laws 1971, chapter 145. Notification shall be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.

(b) Suspend or revoke, after notice and hearing, the certificate of authority to transact insurance or to execute surety bonds in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer which fails to pay an assessment when due. The fine shall not exceed five percent of the unpaid assessment per month, except that no fine shall be less than $100 per month.

(c) Revoke the designation of any servicing facility if the commissioner finds claims are being handled unsatisfactorily.

(d) Disclose to the board of directors information regarding any member insurer, or any company seeking admission to transact insurance business in this state, whose financial condition may be hazardous to policyholders or to the public. This disclosure does not violate any data privacy requirement or any obligation to treat the information as privileged. This disclosure does not change the data privacy or privileged status of the information. Board members shall not disclose the information to anyone else or use the information for any purpose other than their duties as board members.

Sec. 5. Minnesota Statutes 1990, section 60E.04, subdivision 7, is amended to read:

Subd. 7. [EXAMINATION REGARDING FINANCIAL CONDITION.] A risk retention group must submit to an examination by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered has not initiated an examination or does not initiate an examination within ~~60~~ ten business days after a request by the commissioner of commerce. The examination must be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the National Association of Insurance Commissioner's Examiner Handbook.

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

Subd. 4c. [INSURER INSOLVENCY; WAIVER OF PREEXISTING CONDITIONS.] A Minnesota resident who is otherwise eligible may enroll in the comprehensive health insurance plan with a waiver of the preexisting condition limitation described in subdivision 3, if that person applies for coverage within 90 days of termination of prior coverage due to the insolvency of the insurer.

Coverage in the comprehensive insurance plan is effective on the date of termination of prior coverage. The availability of conversion rights does not affect a person's rights under this subdivision.

Sec. 7. Minnesota Statutes 1990, section 68A.01, subdivision 2, is amended to read:

Subd. 2. [GUARANTY FUND AND INVESTMENT THEREOF.] Before issuing any policy or other contract of guaranty or insurance, every real estate title insurance company shall set apart and keep separate a guaranty fund of $100,000 or an amount equal to two-fifths of its capital stock whichever is the greater~~, but in no event shall a company be required to deposit in excess of $2,500,000~~. The guaranty fund shall be invested according to law.

Sec. 8. [72A.206] [IMPAIRMENT OR INSOLVENCY; NOTICE OF LIMITATIONS AND EXCLUSIONS OF PROTECTION.]

(a) No person, including an insurer, agent, or affiliate of an insurer or agent shall sell, or offer for sale, a policy or contract of insurance of any kind unless a separate notice conforming to the requirements of paragraph (b) is delivered with the application for that policy or contract. The notice is considered part of the policy or contract and must be signed by the applicant and kept on file by the insurer. A copy of the signed notice must be given to the applicant. This section does not apply to renewals, unless the renewal increases the dollar amount of a coverage by more than 100 percent.

(b) The notice must clearly state the limitations and exclusions relating to the protection afforded the policy or contract holder should the insurer become financially impaired or insolvent, including coverages afforded by any guaranty fund.

(c) The notice requirements of section 61B.28 supersede the requirements of this section. With respect to combination fixed-variable policies, the notice requirement of section 61B.12, subdivision 6, supersedes the requirements of this section, provided that the notice provided under section 61B.12, subdivision 6, clearly describes what portions of the policy are not covered by the guaranty fund.

(d) This section does not apply to fraternal benefit societies regulated under chapter 64B.

Sec. 9. [COMPLEMENT.]

The approved complement of the department of commerce is increased by ... positions in the classified service."

Delete the title and insert:

"A bill for an act relating to insurance; regulating reinsurance and other insurance practices, investments, guaranty funds, and holding

company systems; providing examination authority and reporting requirements; adopting various NAIC model acts and regulations; prescribing penalties; amending Minnesota Statutes 1990, sections 60A.02, by adding a subdivision; 60A.03, subdivision 5; 60A.031; 60A.07, subdivision 5d, and by adding a subdivision; 60A.09, subdivision 5, and by adding a subdivision; 60A.10, subdivision 2a; 60A.11, subdivisions 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, and by adding a subdivision; 60A.12, by adding a subdivision; 60A.13, subdivision 1; 60A.27; 60B.25; 60B.37, subdivision 2; 60C.02, subdivision 1; 60C.03, subdivisions 6, 8, and by adding a subdivision; 60C.04; 60C.06, subdivision 1; 60C.09, subdivision 1; 60C.13, subdivision 1; 60C.14, subdivision 2; 60E.04, subdivision 7; 61A.25, subdivisions 3, 5, 6, and by adding subdivisions; 61A.28, subdivisions 1, 2, 3, 6, 8, 11, 12, and by adding a subdivision; 61A.281, by adding a subdivision; 61A.283; 61A.29; 61A.31; 62E.14, by adding a subdivision; 61B.12, by adding subdivisions; 62D.044; 62D.045, subdivision 1; 68A.01, subdivision 2; 72A.061, subdivision 1; 79.34, subdivision 1; and 609.902, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 60A, 60D, and 72A; proposing coding for new law as Minnesota Statutes, chapters 60H, 60I, and 60J; repealing Minnesota Statutes 1990, sections 60A.076; 60A.09, subdivision 4; 60A.12, subdivision 2; 60D.01 to 60D.08; 60D.10 to 60D.13; and 61A.28, subdivisions 4 and 5."

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. 258, A bill for an act relating to Dakota county; authorizing development of a mental health service delivery system; 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.

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

H. F. No. 293, A bill for an act relating to health; establishing a traumatic brain injury and spinal cord injury registry; requiring reporting of injuries; providing for use of information; amending Minnesota Statutes 1990, sections 171.29, subdivision 2; and

268A.03; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Page 4, line 17, strike "$200" and insert "$250"

Page 4, line 19, strike "25" and insert "20"

Page 4, line 20, strike "50" and insert "40"

Page 4, line 34, delete "11" and insert "25"

Page 5, line 4, after the period, insert "At least $70,000 must be awarded in grants to local school districts."

Page 5, line 7, delete "four" and insert "five"

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. 309, A bill for an act relating to human services; authorizing counties to retain one-half of the nonfederal share of child support recoveries that are directly attributable to county effort; amending Minnesota Statutes 1990, section 256.019.

Reported the same back with the recommendation that 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. 340, A bill for an act relating to signs; requiring recycling centers and junk yards to accept certain hazard signs; amending Minnesota Statutes 1990, sections 115A.555; and 161.242, subdivision 2, and 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 115A.555, is amended to read:

115A.555 [RECYCLING CENTER DESIGNATION.]

The agency shall designate recycling centers for the purpose of section 173.086. To be designated as a recycling center, a recycling facility must be open a minimum of 12 operating hours each week, 12 months each year, and must accept for recycling:

(1) at least four different materials such as paper, glass, plastic, and metal.; and

(2) if the recycling center accepts metal, road signs, as defined in section 161.242, subdivision 2, paragraph (h), to the same extent that a junk yard dealer must accept road signs under section 161.242, subdivision 6a.

Sec. 2. Minnesota Statutes 1990, section 161.242, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] ~~(1)~~ (a) For the purposes of this section, the terms defined in this subdivision ~~shall~~ have the meanings given them.

~~(2) Junk yard~~ (b) "Junk yard" means an establishment, place of business, or place of storage or deposit, which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and shall include garbage dumps and sanitary fills not regulated by the Minnesota pollution control agency, any of which are wholly or partly within one half mile of any right-of-way of any state trunk highway, including the interstate highways, whether maintained in connection with another business or not, where the waste, body, or discarded material stored is equal in bulk to five or more motor vehicles and which are to be resold for used parts or old iron, metal, glass, or other discarded material.

~~(3) Dealer~~ (c) "Dealer" means any person, partnership, or corporation engaged in the operation of a junk yard.

~~(4) Junk~~ (d) "Junk" means old or scrap road signs, copper, brass, rope, rags, batteries, paper, synthetic or organic, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles or farm or construction machinery or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

~~(5) Automobile graveyard~~ (e) "Automobile graveyard" means any

establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

~~(6) Unzoned industrial area~~ (f) "Unzoned industrial area" means the land occupied by the regularly used building, parking lot, storage or processing area of an industrial activity, and the land within 1,000 feet thereof which is located on the same side of the highway as the principal part of said activity, and not predominantly used for residential or commercial purposes, and not zoned by state or local law, regulation or ordinance.

~~(7) Industrial activities~~ (g) "Industrial activities" means those activities permitted only in industrial zones, or in less restrictive zones by the nearest zoning authority within the state, or prohibited by said authority but generally recognized as industrial by other zoning authorities within the state, except that none of the following shall be considered industrial activities:

~~(a)~~ (1) outdoor advertising devices as defined in Minnesota Statutes 1969, section 173.02, subdivision 2~~.~~;

~~(b)~~ (2) agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands~~.~~;

~~(c)~~ (3) activities normally and regularly in operation less than three months of the year~~.~~;

~~(d)~~ (4) activities not visible from the traffic lanes of the main traveled way~~.~~;

~~(e)~~ (5) activities conducted in a building principally used as a residence~~.~~;

~~(f)~~ (6) railroad tracks, minor sidings, and passenger depots~~.~~; or

~~(g)~~ (7) junk yards, as defined ~~herein~~ in paragraph (b).

(h) "Road signs" means signs listed in the Minnesota drivers' manual published by the department of public safety, signs required by the state fire code, and other signs related to road or fire hazards and approved for use by the state or a political subdivision.

Sec. 3. Minnesota Statutes 1990, section 161.242, is amended by adding a subdivision to read:

Subd. 6a. [ROAD SIGNS MUST BE ACCEPTED.] A dealer shall accept road signs only from a properly identified elected official or employee of the state or a political subdivision, who is acting within

the scope of the person's official duties. A dealer is not required to pay or otherwise compensate any person or organization other than a properly identified elected official or employee of the state or a political subdivision, who is acting within the scope of the person's official duties, for taking possession of a road sign and is not required to take possession at a place away from the site of the dealer's junk yard."

Amend the title as follows:

Page 1, line 3, delete "hazard" and insert "road"

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. 378, A bill for an act relating to state lands; authorizing exchange of real property.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [EXCHANGE OF REAL PROPERTY.]

Subdivision 1. [AUTHORIZATION.] Notwithstanding Minnesota Statutes, sections 94.341 to 94.349, chapter 282, or other law to the contrary, the state of Minnesota shall exchange the real property described in subdivision 3 for the property of Thomas Godward of Aitkin, Minnesota, described in subdivision 4, without delay.

Subd. 2. [FORM OF EXCHANGE.] The exchange must be in a form approved by the attorney general. The conveyances must be for the mutual consideration of the lands received in the exchange.

Subd. 3. [STATE PROPERTY.] The state shall exchange the property described in this subdivision for the property owned by Thomas Godward, which is described in subdivision 4.

W1/2 NE 18-48-26; E1/2 SWSE 7-48-26; W1/2 SE 13-48-27 less the South 66 feet, containing 176 acres, more or less.

Subd. 4. [GODWARD PROPERTY.] Thomas Godward may exchange the real property described in this subdivision for the real property owned by the state and described in subdivision 3.

S1/2 NE, SENW, 33-48-24, less the RRROW and less 1 acre; and the N1/2 NW 22-46-23 containing 175 acres, more or less.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

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. 401, A bill for an act relating to retirement; legislators retirement plan; eliminating the requirement of the discontinuation of surviving spouse benefits in the event of the remarriage of the surviving spouse; amending Minnesota Statutes 1990, section 3A.04, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

SURVIVING SPOUSE BENEFIT MODIFICATIONS

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

Subdivision 1. [SURVIVING SPOUSE.] Upon the death of a member of the legislature while serving as a member, or upon the death of a former legislator who has rendered at least the number of years of service as required by section 3A.02, subdivision 1, clause (1) and who was not receiving a retirement allowance, the surviving spouse shall be entitled to receive a survivor benefit in the amount ~~of one-half of~~ equal to the retirement allowance of the member of the legislature or former legislator computed as though the member or former legislator had attained at least the normal retirement age on the date of death and based upon the average monthly salary as of the date of death or as of the date of termination, whichever is applicable, and the allowable service of the member or the former legislator or eight years, whichever is greater. The augmentation provided in section 3A.02, subdivision 4, if applicable, shall be applied from the first day of the month next following the date of

termination of service as a member of the legislature to the month of death. Upon the death of a former legislator who was receiving a retirement allowance, the surviving spouse shall be entitled to ~~one-half~~ ~~of~~ the amount of the allowance being paid to the former legislator. The surviving spouse benefit shall be paid during the lifetime of the surviving spouse~~, but shall cease and terminate upon the remarriage of the surviving spouse~~.

Sec. 2. Minnesota Statutes 1990, section 352B.11, subdivision 2, is amended to read:

Subd. 2. [DEATH; PAYMENT TO SPOUSE AND CHILDREN.] If a member serving actively as a member, a member receiving the disability benefit provided by section 352B.10, subdivision 1, or a former member receiving a disability benefit as provided by section 352B.10, subdivision 2, dies from any cause, the surviving spouse and dependent children are entitled to benefit payments as follows:

(a) A member with at least three years of allowable service is deemed to have elected a 100 percent joint and survivor annuity payable to a surviving spouse only on or after the date the member or former member became or would have become 55.

(b) The surviving spouse of a member who had credit for less than three years of service shall receive, for life, a monthly annuity equal to 50 percent of that part of the average monthly salary of the member from which deductions were made for retirement. ~~If the surviving spouse remarries, the annuity shall cease as of the date of the remarriage.~~

(c) The surviving spouse of a member who had credit for at least three years service and who died after becoming 55 years old, may elect to receive a 100 percent joint and survivor annuity, for life, notwithstanding a subsequent remarriage, in lieu of the annuity prescribed in paragraph (b).

(d) The surviving spouse of any member who had credit for three years or more and who was not 55 years old at death, shall receive the benefit equal to 50 percent of the average monthly salary as described in clause (b) until the deceased member would have become 55 years old, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity. ~~If the surviving spouse remarries before the deceased member's 55th birth date, benefits or annuities shall cease as of the date of remarriage. Remarriage after the deceased member's 55th birthday shall not affect the payment of the benefit.~~

(e) Each dependent child shall receive a monthly annuity equal to ten percent of that part of the average monthly salary of the former member from which deductions were made for retirement. A dependent child over 18 and under 23 years of age also may receive the

monthly benefit provided in this section, if the child is continuously attending an accredited school as a full-time student during the normal school year as determined by the director. If the child does not continuously attend school but separates from full-time attendance during any part of a school year, the annuity shall cease at the end of the month of separation. In addition, a payment of $20 per month shall be prorated equally to surviving dependent children when the former member is survived by one or more dependent children. Payments for the benefit of any qualified dependent child must be made to the surviving spouse, or if there is none, to the legal guardian of the child. The maximum monthly benefit for any one family must not be less than 50 nor exceed 70 percent of the average monthly salary for any number of children.

(f) If the member dies under circumstances that entitle the surviving spouse and dependent children to receive benefits under the workers' compensation law, the workers' compensation benefits received by them must not be deducted from the benefits payable under this section.

(g) The surviving spouse of a deceased former member who had credit for three or more years of allowable service, but not the spouse of a former member receiving a disability benefit under section 352B.10, subdivision 2, is entitled to receive the 100 percent joint and survivor annuity at the time the deceased member would have become 55 years old, if the surviving spouse has not remarried before that date. If a former member dies who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs are entitled to a refund of the accumulated deductions left in the fund plus interest at the rate of six percent per year compounded annually.

Sec. 3. Minnesota Statutes 1990, section 352C.04, subdivision 1, is amended to read:

Subdivision 1. [SURVIVING SPOUSE BENEFIT.] Upon the death of a constitutional officer or commissioner while actively serving in office, or a former constitutional officer or commissioner with at least eight years of allowable service, the surviving spouse is entitled to a survivor benefit in the amount of one-half of the retirement allowance of the constitutional officer or commissioner or the former constitutional officer or commissioner computed as though the constitutional officer or commissioner or the former constitutional officer or commissioner were at least age 62 on the date of death and based upon the attained allowable service or eight years, whichever is greater. The augmentation provided in section 352C.033, if applicable, shall be applied to the month of death. Upon the death of a former constitutional officer or commissioner receiving a retirement allowance, the surviving spouse shall be entitled to one-half of the amount of the retirement allowance being paid to the former constitutional officer or commissioner as of the date of death.

The benefit shall be paid to a surviving spouse eligible therefor during the remainder of the spouse's natural life ~~or until remarriage. Upon remarriage, the spouse shall no longer be eligible for the benefit except as provided in section 356.31~~.

Sec. 4. Minnesota Statutes 1990, section 352C.04, subdivision 4, is amended to read:

Subd. 4. [APPLICATION FOR SURVIVOR BENEFITS.] A surviving spouse or a guardian of the estate of the dependent child or children entitled to the payment of benefits under this section shall file an application for the benefit with the director, and payment shall commence as of the first day of the month next following the filing of the application and shall be retroactive to the first of the month following the death of the constitutional officer or commissioner or the former constitutional officer or commissioner; provided, however, that no payment shall be retroactive for more than 12 months prior to the month in which the application is filed with the director. Such benefits shall be paid on the first day of each calendar month for that month. The surviving spouse benefit shall cease with the payment for the month in which the surviving spouse dies ~~or remarries as the case may be~~. The dependent child's benefit shall cease with the payment for the month in which the child no longer qualifies for payment as a dependent child.

Sec. 5. Minnesota Statutes 1990, section 353.01, subdivision 20, is amended to read:

Subd. 20. [SURVIVING SPOUSE.] "Surviving spouse" means the ~~unremarried~~ 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. 6. 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 section 353.33 at the time of death who has had at least 18 months of credited allowable service, the surviving spouse and dependent children of the member, as defined in section 353.01, subdivisions 15 and 20, shall be 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

Payments for the benefit of any dependent child, as defined in section 353.01, subdivision 15, shall 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 not exceed $1,000, and the minimum benefit per family shall 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. Prior to payment of any survivor benefit pursuant to this subdivision, in lieu of that benefit, the surviving dependent spouse may elect to receive the joint and survivor annuity provided pursuant to section 353.32, subdivision 1a.

Except for any benefits provided pursuant to section 353.32, subdivisions 1 and 1a, there are no survivor benefits payable to the surviving spouse or dependent children of a deceased coordinated member.

Sec. 7. Minnesota Statutes 1990, section 353.657, subdivision 2, is amended to read:

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.

Sec. 8. Minnesota Statutes 1990, section 353B.11, subdivision 6, is amended to read:

Subd. 6. [DISCONTINUATION; SURVIVING SPOUSE BENEFIT.] (a) Except as specified in paragraph (b) or (c), a surviving spouse benefit shall terminate upon the death or the subsequent marriage of the person entitled to receive or receiving a surviving spouse benefit.

(b) A surviving spouse benefit shall terminate upon the subsequent marriage of the person entitled to receive or receiving a surviving spouse benefit but shall recommence at the appropriate

amount without any retroactive payments in the event of the termination of the subsequent marriage for any reason for the former members of the following consolidating relief associations:

(1) Albert Lea firefighters relief association;

(2) Albert Lea police relief association;

(3) Duluth firefighters relief association;

(4) ~~Duluth police pension association;~~

~~(5)~~ Minneapolis fire department relief association;

~~(6)~~ (5) St. Paul fire department relief association; and

~~(7)~~ (6) St. Paul police relief association.

(c) A surviving spouse benefit shall terminate only upon the death of the person entitled to receive or receiving a surviving spouse benefit for the former members of the following consolidating relief associations:

(1) Anoka police relief association;

(2) Buhl police relief association;

(3) Chisholm fire department relief association;

(4) Chisholm police relief association;

(5) Crookston fire department relief association;

(6) Duluth police relief association;

(7) Faribault fire department relief association;

(8) Hibbing firefighters relief association;

(9) Hibbing police relief association;

(10) Mankato fire department relief association;

~~(2)~~ (11) Red Wing fire department relief association;

(12) Red Wing police relief association;

(13) Rochester fire department relief association;

(14) Rochester police relief association;

(15) St. Cloud fire department relief association;

(16) St. Louis Park fire department relief association;

(17) St. Louis Park police relief association;

(18) South St. Paul firefighters relief association;

~~(3)~~ (19) South St. Paul police relief association;

~~(4)~~ (20) West St. Paul firefighters relief association; ~~and~~

~~(5)~~ (21) Winona fire department relief association; and

(22) Winona police relief association.

Sec. 9. Minnesota Statutes 1990, section 354.05, subdivision 15, is amended to read:

Subd. 15. [DEPENDENT SPOUSE.] "Dependent spouse" means the spouse of a deceased member who ~~has not remarried and~~ was living with and dependent upon the member at the time of death.

Sec. 10. Minnesota Statutes 1990, section 354.46, subdivision 1, is amended to read:

Subdivision 1. [BASIC PROGRAM; BENEFITS FOR SPOUSE AND CHILDREN OF TEACHER.] If a basic member who has at least 18 months of allowable service credit and who has an average salary as defined in section 354.44, subdivision 6, equal to or greater than $75 dies prior to retirement or if a former basic member who, at the time of death, was totally and permanently disabled and receiving disability benefits pursuant to section 354.48 dies prior to attaining the age of 65 years, the surviving dependent spouse and dependent children of the basic member or former basic member shall be entitled to receive a monthly benefit as follows:

(a) Surviving dependent spouse.....	50 percent of the basic member's monthly average salary paid in the last full fiscal year preceding death
(b) Each dependent child ...	ten percent of the basic member's monthly average salary paid in the last full fiscal year preceding death

Payments for the benefit of any dependent child under the age of 22 years shall be made to the surviving parent, or if there be none, to the legal guardian of the child. The maximum monthly benefit shall not exceed $1,000 for any one family, and the minimum benefit

per family shall not be less than 50 percent of the basic member's average salary, subject to the foregoing maximum. The ~~surviving dependent spouse benefit shall terminate upon remarriage, and the~~ surviving dependent children's benefit shall be reduced pro tanto when any surviving child is no longer dependent.

If the basic member and the surviving dependent spouse are killed in a common disaster and if the total of all survivors benefits payable pursuant to this subdivision is less than the accumulated deductions plus interest payable, the surviving dependent children shall receive the difference in a lump sum payment.

If the survivor benefits provided in this subdivision exceed in total the monthly average salary of the deceased basic member, these benefits shall be reduced to an amount equal to the deceased basic member's monthly average salary.

Prior to payment of any survivor benefit pursuant to this subdivision, in lieu of that benefit, the surviving dependent spouse may elect to receive the joint and survivor annuity provided pursuant to subdivision 2, or may elect to receive a refund of accumulated deductions with interest in a lump sum as provided pursuant to section 354.47, subdivision 1. If there are any surviving dependent children, the surviving dependent spouse may elect to receive the refund of accumulated deductions only with the consent of the district court of the district in which the surviving dependent child or children reside.

Sec. 11. Minnesota Statutes 1990, section 354A.011, subdivision 26, is amended to read:

Subd. 26. [SPOUSE.] "Spouse" means the person who was legally married to and living with the member immediately prior to the member's death ~~and who has not remarried subsequent to the member's death~~.

Sec. 12. [EFFECTIVE DATE; RETROACTIVE EFFECT.]

(a) Sections 1 to 11 are effective on the day following final enactment.

(b) The elimination of the surviving spouse benefit discontinuation requirement provided for in sections 1 to 11 also applies to any surviving spouse receiving a surviving spouse benefit on the date of final enactment of the act and the potential surviving spouse of active, deferred, or retired plan members who have that status on the effective date of the change. Sections 1 to 11 do not apply to persons who formerly were receiving surviving spouse benefits and had those benefits discontinued by virtue of a remarriage and may

not be considered to authorize the payment of any retroactive survivor benefit amounts to any person or to an estate.

ARTICLE 2

PUBLIC PENSION PLAN ACTUARIAL REPORTING REVISIONS

Section 1. Minnesota Statutes 1990, section 3.85, subdivision 11, is amended to read:

Subd. 11. [VALUATIONS AND REPORTS TO LEGISLATURE.] (a) The commission shall contract with an established actuarial consulting firm to conduct annual actuarial valuations ~~and financial adequacy studies~~ for the retirement plans named in paragraph (b). The contract ~~shall~~ must include provisions for performing cost analyses of proposals for changes in benefit and funding policies.

(b) The contract for actuarial valuation ~~and analysis shall~~ must include the following retirement plans:

(1) the ~~statewide~~ teachers retirement plan, teachers retirement association;

(2) the general state employees retirement plan, Minnesota state retirement system;

(3) the correctional employees retirement plan, Minnesota state retirement system;

(4) the state patrol retirement plan, Minnesota state retirement system;

(5) the judges retirement plan, Minnesota state retirement system;

(6) the Minneapolis employees retirement plan, Minneapolis employees retirement fund;

(7) the ~~general~~ public employees retirement plan, public employees retirement association;

(8) the public employees police and fire plan, public employees retirement association;

(9) the Duluth teachers retirement plan, Duluth teachers retirement fund association;

(10) the Minneapolis teachers retirement plan, Minneapolis teachers retirement fund association;

(11) the St. Paul teachers retirement plan, St. Paul teachers retirement fund association;

(12) the legislator's retirement plan, Minnesota state retirement system; ~~and~~

(13) the elective state officers retirement plan, Minnesota state retirement system; and

(14) the public employees local government correctional service retirement plan, public employees retirement association, if there are any participants in that plan.

(c) ~~Every year~~ The contract ~~shall~~ must specify completion of ~~standard~~ annual actuarial ~~valuations for the~~ valuation calculations on a fiscal year basis with their contents as ~~described~~ specified in section 356.215, ~~subdivisions 4 to 4k, and cash flow forecasts through the amortization target date~~ and the standards for actuarial work adopted by the commission.

~~For every plan year~~ The contract ~~shall~~ must specify ~~preparation~~ completion of ~~an exhibit on the experience of the fund for inclusion in the annual actuarial valuation and completion of a periodic experience study~~ annual experience data collection and processing and a quadrennial published experience study for the plans listed in paragraph (b), clauses (1), (2), and (7), as provided for in the standards for actuarial work adopted by the commission. The experience ~~study shall~~ data collection, processing, and analysis must evaluate ~~the appropriateness of continuing to use for future valuations the assumptions relating to~~ the following:

(1) individual salary progression;

(2) rate of return on investments based on current asset value;

(3) payroll growth;

(4) mortality; ~~withdrawal; disability;~~

(5) retirement; ~~and any other experience-related factor that could impact the future financial condition of the retirement funds~~ age;

(6) withdrawal; and

(7) disablement.

(d) The actuary retained by the commission shall annually prepare a report to the legislature, including the commentary on the actuarial valuation calculations for the plans named in paragraph (b) and summarizing the results of the ~~valuations and cash flow projections~~ actuarial valuation calculations. ~~It~~ The commission-retained actuary shall include with ~~its~~ the report the actuary's recommendations concerning the appropriateness of the support rates to achieve proper funding of the retirement funds by the required funding dates. ~~It~~ The commission-retained actuary shall, ~~within two months of the completion~~ as part of the ~~periodic~~ quadrennial published experience ~~studies~~ study, ~~prepare a report~~ include recommendations to the legislature on the appropriateness of the actuarial valuation assumptions required for evaluation in the ~~periodic experience~~ study.

(e) If the actuarial gain and loss analysis in the actuarial valuation calculations indicate a persistent pattern of sizable gains or losses, as directed by the commission, the actuary retained by the commission shall prepare a special experience study for a plan listed in paragraph (b), clause (3), (4), (5), (6), (8), (9), (10), (11), (12), (13), or (14), in the manner provided for in the standards for actuarial work adopted by the commission.

(f) The term of the contract between the commission and the actuary retained by the commission is two years, plus not to exceed two one-year extensions before competitive bidding. The contract is subject to competitive bidding procedures as specified by the commission.

Subd. 12. [ALLOCATION OF ACTUARIAL COST.] (a) The commission shall assess each retirement plan specified in subdivision 11, paragraph (b), ~~other than clauses (12) and (13),~~ for a portion of the compensation paid to the actuary retained by the commission for the ~~cost of its~~ actuarial ~~valuations~~ valuation calculations and quadrennial experience studies. The assessment ~~shall be that part~~ is 72 percent of the amount of contract compensation for the actuarial consulting firm retained by the commission for ~~those functions that bears the same relationship that the total active, deferred, inactive, and benefit recipient membership of the retirement plan bears to the total active, deferred, inactive, and benefit recipient membership of all retirement plans specified in paragraph (b)~~ actuarial valuation calculations, including the public employees police and fire plan consolidation accounts of the public employees retirement association, annual experience data collection and processing, and quadrennial experience studies.

The portion of the total assessment payable by each retirement system or pension plan must be determined as follows:

(1) Each pension plan specified in subdivision 11, paragraph (b), clauses (1) to (14), must pay the following indexed amount based on

its total active, deferred, inactive, and benefit recipient membership:

up to 2,000 members, inclusive	$2.55 per member
2,001 through 10,000 members	$1.13 per member
over 10,000 members	$0.11 per member

The amount specified is applicable for the assessment of the July 1, 1991, to June 30, 1992, fiscal year actuarial compensation amounts. For the July 1, 1992, to June 30, 1993, fiscal year and subsequent fiscal year actuarial compensation amounts, the amount specified must be increased at the same percentage increase rate as the implicit price deflator for state and local government purchases of goods and services for the 12-month period ending with the first quarter of the calendar year following the completion date for the actuarial valuation calculations, as published by the federal Department of Commerce, and rounded upward to the nearest full cent.

(2) The total per-member portion of the allocation must be determined, and that total per-member amount must be subtracted from the total amount for allocation. Of the remainder dollar amount, the following per-retirement system and per-pension plan charges must be determined and the charges must be paid by the system or plan:

(i) 37.87 percent is the total additional per-retirement system charge, of which one-seventh must be paid by each retirement system specified in subdivision 11, paragraph (b), clauses (1), (2), (6), (7), (9), (10), and (11).

(ii) 62.13 percent is the total additional per-pension plan charge, of which one-thirteenth must be paid by each pension plan specified in subdivision 11, paragraph (b), clauses (1) to (13), if there are not any participants in the plan specified in subdivision 11, paragraph (b), clause (14), or of which one-fourteenth must be paid by each pension plan specified in subdivision 11, paragraph (b), clauses (1) to (14), if there are participants in the plan specified in subdivision 11, paragraph (b), clause (14).

(b) The assessment ~~shall~~ must be made ~~upon~~ following the completion of the actuarial ~~valuations~~ valuation calculations and the experience ~~studies~~ analysis. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan. Receipts from assessments ~~shall~~ must be deposited in the state treasury and credited to the general fund.

Sec. 2. Minnesota Statutes 1990, section 356.20, subdivision 4, is amended to read:

Subd. 4. [CONTENTS OF FINANCIAL REPORT.] The financial report required by this section ~~shall include:~~

~~(1)~~ must contain financial statements and disclosures that indicate the financial operations and position of the retirement plan and fund. The report must conform with generally accepted governmental accounting principles, applied on a consistent basis. The report must be audited. The report must include, as part of its exhibits or footnotes, an ~~exhibit~~ actuarial disclosure item based on the actuarial valuation calculations prepared by the commission-retained actuary or by the actuary retained by the retirement fund or plan, if applicable, according to applicable actuarial requirements enumerated in section 356.215, and specified in the most recent standards for actuarial work adopted by the legislative commission on pensions and retirement. The ~~exhibit shall show the~~ accrued assets ~~of the fund~~, the accrued liabilities, including accrued reserves, and the unfunded actuarial accrued liability of the fund or plan must be disclosed. The ~~exhibit shall~~ disclosure item must contain ~~the certificate of~~ a declaration by the actuary retained by the legislative commission on pensions and retirement or the actuary retained by the fund or plan, whichever applies, specifying that the required reserves for any retirement, disability, or survivor benefits provided under a benefit formula are computed in accordance with the entry age actuarial cost method and ~~any~~ with the most recent applicable standards for actuarial work adopted by the legislative commission on pensions and retirement.

(a) Assets ~~shown in the exhibit shall~~ of the fund or plan contained in the disclosure item must include the following ~~items of actual assets:~~

~~Cash in office~~

~~Deposits in banks~~

~~Accounts receivable:~~

~~Accrued members' contributions~~

~~Accrued employer contributions~~

~~Other~~

~~Accrued interest on investments~~

~~Dividends on stocks, declared but not yet received~~

~~Investment in bonds at cost~~

~~Investment in stocks at cost~~

~~Investment in real estate~~

~~Equipment at cost, less depreciation~~

~~Other~~

~~Total assets ..... .~~

~~(b) The exhibit shall include a~~ statement of the actuarial value of current assets as ~~specified~~ defined in section 356.215, subdivision ~~4, including:~~

~~Cash, cash equivalents, and short-term securities~~

~~Fixed income investments~~

~~Equity investments~~

~~Real estate investments~~

~~Equity in the Minnesota postretirement investment fund~~

~~Other~~ 1:

	Value at cost	Value at market
Cash, cash equivalents, and short-term securities	.....	.....
Accounts receivable	.....	.....
Accrued investment income	.....	.....
Fixed income investments	.....	.....
Equity investments other than real estate	.....	.....
Real estate investments	.....	.....
Equipment	.....	.....
Equity in the Minnesota postretirement investment fund	.....	.....
Other	.....	.....
Total assets		
value at cost		.....
value at market		.....
value of current assets		..... .

~~(c)~~ (b) The ~~exhibit shall include a statement of the~~ unfunded actuarial accrued liability of the fund ~~which shall~~ or plan contained in the disclosure item must include the following measures of unfunded actuarial accrued liability, using the ~~actuarial~~ value of current assets ~~as specified in section 356.215, subdivision 1~~:

~~(i)~~ (1) unfunded actuarial accrued liability, ~~which shall be~~ determined by subtracting the current assets and the present value of future normal costs from the total current and expected future benefit obligations; and

~~(ii) current~~ (2) unfunded ~~actuarial liability~~ pension benefit obligation, ~~which is the total current benefit obligations less~~ determined by subtracting the ~~total~~ current assets~~; and~~

~~(iii) current and future unfunded actuarial liability, which is the total current and expected future benefit obligations less the total current and expected future assets~~ from the actuarial present value of credited projected benefits.

If the current assets of the fund or plan exceed the actuarial accrued liabilities, the excess ~~shall~~ must be ~~listed~~ disclosed and indicated as a surplus ~~and indicated in the exhibit following the itemization of benefit obligations~~.

~~(d) The exhibit shall include a footnote showing accumulated member contributions without interest.~~

~~(e) Current liabilities shown in the exhibit shall include the following items:~~

~~Current:~~

~~Accounts payable~~

~~Retirement annuity payments~~

~~Disability benefit payments~~

~~Survivor benefit payments~~

~~Refund to members~~

~~Accrued expenses~~

~~Suspense items~~

~~Total current liabilities ..... .~~

~~(f)~~ (c) The ~~exhibit shall include a schedule which shall be listed as the "current and expected future~~ pension benefit obligations.~~"~~ ~~The~~ schedule ~~shall~~ included in the disclosure must contain the following information on the benefit obligations:

~~1. Current~~ (1) The pension benefit ~~obligations~~ obligation, ~~which shall be~~ determined as the actuarial present value of ~~benefit obligations~~ credited projected benefits on account of service rendered to date, separately identified as follows:

~~(a)~~ (i) For annuitants
Retirement annuities
Disability benefits Surviving spouse and child benefits
~~(b)~~ (ii) For former members without vested rights
~~(c)~~ (iii) For deferred annuitants' benefits, including any augmentation
~~(d)~~ (iv) For active employees
~~Retirement annuities~~
~~Disability benefits~~
~~Refund liability due to death or withdrawal~~
~~Survivors' benefits~~
Accumulated employee contributions, including allocated investment income
Employer – financed benefits vested
Employer – financed benefits nonvested

Total ~~current benefits obligations~~ pension benefit obligation;

~~2. Expected future benefit obligations which shall be the actuarial value of benefit obligations on account of future service for active employees~~

~~3. Total current and expected future benefit obligations~~

~~4. In addition to the foregoing,~~ (2) If there are additional benefits not appropriately covered by the foregoing ~~three~~ items of benefit obligations, ~~they shall be listed separately~~ a separate identification of the obligation.

~~(2) An income statement prepared on an accrual basis showing all income and all deductions from income for the fiscal year. The statement shall show separate items for employee contributions, employer regular contributions, employer additional contributions if provided by law, investment income, profit on the sale of investments, and other income, if any.~~

~~(3) A statement of deductions from income, which shall include separate items for the payment of retirement annuities, disability benefits, surviving spouse benefits, surviving children's benefits, refunds to members terminating employment, refunds due to death of members and due to death of annuitants, the increase in total reserves required, general administrative expense incurred, loss on sale of investments, and any other deductions.~~

~~(4) A statement showing appropriate statistics concerning the~~

~~membership and beneficiaries of the fund, with indications of changes in the statistical data which may result from the current year's operation.~~

~~(5)~~ (d) Any additional statements or exhibits ~~which~~ or more detailed or subdivided itemization of a disclosure item that will enable the management of the fund to portray a true interpretation of the fund's financial condition~~, except that the term "surplus" or the term "excess of assets" shall not be used except as otherwise specifically provided for in this section, nor shall any representation of assets and liabilities other than as provided for in this section be included in the additional statements or exhibits.~~

~~(6) A more detailed or subdivided itemization of any of the items required by this section, if the management of the fund so desires.~~

Sec. 3. Minnesota Statutes 1990, section 356.215, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of sections 3.85 and 356.20 to 356.23, each of the following terms ~~shall~~ have the meaning given:

(1) "Actuarial valuation" or "actuarial valuation calculations" means a set of calculations prepared by the actuary retained by the legislative commission on pensions and retirement if so required under section 3.85, or otherwise, by an approved actuary, to determine the normal cost and the accrued actuarial liabilities of a benefit plan, according to ~~a stated~~ the entry age actuarial cost method and based upon stated assumptions including, but not limited to rates of interest, mortality, salary increase, disability, withdrawal, and retirement and to determine the payment necessary to amortize over a stated period any unfunded accrued actuarial liability disclosed as a result of the actuarial valuation ~~and the resulting actuarial balance sheet~~ of the benefit plan.

(2) "Approved actuary" means a person who is regularly engaged in the business of providing actuarial services and who has at least 15 years of service to major public employee pension or retirement funds or who is a fellow in the society of actuaries.

(3) "Entry age actuarial cost method" means an actuarial cost method under which the actuarial present value of the projected benefits of each individual currently covered by the benefit plan and included in the actuarial valuation is allocated on a level basis over the service of the individual if the benefit plan is governed by section 69.773 or over the earnings of the individual if the benefit plan is governed by any other law between the entry age and the assumed exit age, with the portion of this actuarial present value which is allocated to the valuation year to be the normal cost and the portion of this actuarial present value not provided for at the valuation date

by the actuarial present value of future normal costs to be the actuarial accrued liability, with aggregation in the calculation process to be the sum of the calculated result for each covered individual and with recognition given to any different benefit formulas which may apply to various periods of service.

(4) "Experience study" means a report ~~which provides~~ providing experience data and an actuarial analysis ~~which substantiate~~ of the adequacy of the actuarial assumptions on which actuarial valuations are based.

(5) ~~"Expected future statutory supplemental contributions" means the sum of future employee and employer contributions at the rates specified in statute when the valuation is completed, reduced by the present value of future normal costs.~~

~~(6)~~ "Current assets" means the value of all assets at cost, ~~which includes~~ including realized capital gains or losses, plus one-third of any unrealized capital gains or losses.

~~(7)~~ (6) "Unfunded actuarial accrued liability" means the total current and expected future benefit obligations ~~less~~, reduced by the sum of current assets and the present value of future normal costs.

(7) "Pension benefit obligation" means the actuarial present value of credited projected benefits, determined as the actuarial present value of benefits estimated to be payable in the future as a result of employee service attributing an equal benefit amount, including the effect of projected salary increases and any step rate benefit accrual rate differences, to each year of credited and expected future employee service.

Sec. 4. Minnesota Statutes 1990, section 356.215, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENTS.] It is the policy of the legislature that it is necessary and appropriate to determine annually the financial status of tax supported retirement and pension plans for public employees. To achieve this goal, the legislative commission on pensions and retirement shall have prepared by the actuary retained by the commission annual actuarial ~~valuations and periodic experience studies~~ valuation calculations of the ~~public pension and~~ retirement plans enumerated in section 3.85, subdivision ~~12~~ 11, ~~clause~~ paragraph (b), and quadrennial experience studies of the retirement plans enumerated in section 3.85, subdivision 11, paragraph (b), clauses (1), (2), and (7). The governing or managing board or administrative officials of each public pension and retirement fund or plan enumerated in section 356.20, subdivision 2, clauses (9), (10), and (12) shall have prepared by an approved actuary annual actuarial valuations ~~and periodic experience studies~~ of their respective funds as provided in this section. This requirement ~~shall~~

also ~~apply~~ applies to any fund ~~which may be a~~ that is the successor to any organization enumerated in section 356.20, subdivision 2, or to the governing or managing board or administrative officials of any newly formed retirement fund or association operating under the control or supervision of any public employee group, governmental unit, or institution receiving a portion of its support through legislative appropriations, and any local police or fire fund coming within the provisions of section 356.216.

Sec. 5. Minnesota Statutes 1990, section 356.215, subdivision 3, is amended to read:

Subd. 3. [REPORTS.] The actuarial ~~valuations~~ valuation calculations required annually ~~shall~~ must be made as of the beginning of each fiscal year. Two copies of the valuation ~~shall~~ calculations must be delivered to the executive director of the legislative commission on pensions and retirement, to the commissioner of finance and to the legislative reference library, not later than the first day of the sixth month occurring after the end of the previous fiscal year. Two copies of ~~any~~ a quadrennial experience study ~~prepared periodically as provided for in the standards adopted by the commission shall~~ must be filed with the executive director of the legislative commission on pensions and retirement, with the commissioner of finance, and with the legislative reference library, not later than the first day of the 11th month occurring after the end of the last fiscal year of the four-year period which the experience study covers. For actuarial ~~valuations~~ valuation calculations and experience studies prepared at the direction of the legislative commission on pensions and retirement, two copies of the document ~~shall~~ must be delivered to the governing or managing board or administrative officials of the applicable public pension and retirement fund or plan.

Sec. 6. Minnesota Statutes 1990, section 356.215, subdivision 4, is amended to read:

Subd. 4. [ACTUARIAL VALUATION; CONTENTS.] The actuarial valuation ~~shall~~ calculations must be made in conformity with the requirements of the definition contained in subdivision 1 and the most recent standards for actuarial work adopted by the legislative commission on pensions and retirement. The actuarial valuation ~~shall~~ calculations must measure all aspects of the benefit plan of the fund in accordance with changes in benefit plans, if any, and salaries ~~as will or can~~ reasonably ~~be~~ anticipated to be in force during the ensuing fiscal year. The actuarial valuation ~~shall~~ calculations must be prepared in accordance with the entry age actuarial cost method.

The actuarial valuation calculations required under this section ~~shall~~ must include the information required in subdivisions 4a to 4k.

Sec. 7. Minnesota Statutes 1990, section 356.215, subdivision 4a, is amended to read:

Subd. 4a. [NORMAL COST.] For ~~each~~ a fund providing ~~any~~ benefits in whole or in part under a defined benefit plan, the actuarial valuation ~~shall contain an exhibit indicating~~ calculations must indicate the level normal cost of the benefits provided by the laws governing the fund as of the date of the valuation calculations, calculated in accordance with the entry age actuarial cost method. The normal cost ~~shall~~ must be expressed as a level percentage of the present value of future ~~payroll~~ payrolls of the active participants of the fund as of the date of the valuation.

Sec. 8. Minnesota Statutes 1990, section 356.215, subdivision 4b, is amended to read:

Subd. 4b. [ACCRUED LIABILITY.] For ~~each~~ a fund providing ~~any~~ benefits under a defined benefit plan, the actuarial valuation ~~shall~~ calculations must contain an exhibit indicating the actuarial accrued liabilities of the fund~~, which shall be equal to~~. This figure is the present value of ~~all~~ future benefits ~~minus~~, reduced by the present value of future normal costs, calculated in accordance with the entry age actuarial cost method.

Sec. 9. Minnesota Statutes 1990, section 356.215, subdivision 4d, is amended to read:

Subd. 4d. [INTEREST AND SALARY ASSUMPTIONS.] (a) For funds governed by chapters ~~3A,~~ 352, 352B, ~~352C,~~ 353, 353C, and 354 ~~other than the variable annuity fund governed by section 354.62, and 490~~, the actuarial valuation ~~shall~~ calculations must use a preretirement interest assumption of 8.5 percent, a postretirement interest assumption of five percent, and ~~an~~ a future salary increase assumption ~~that in each future year the salary on which a retirement or other benefit is based is 1.065 multiplied by the salary for the preceding year~~ of 6.5 percent.

(b) For funds governed by chapter 354A, the actuarial valuation ~~shall~~ calculations must use preretirement and postretirement assumptions of 8.5 percent and ~~an~~ a future salary increase assumption ~~that in each future year the salary on which a retirement or other benefit is based is 1.065 multiplied by the salary for the preceding year~~ of 6.5 percent, but the actuarial valuation ~~shall~~ must reflect the payment of postretirement adjustments to retirees ~~shall be~~, based on the methods specified in the bylaws of the fund as approved by the legislature.

(c) For all other funds not specified in paragraph (a), (b), or (d), the actuarial valuation ~~shall~~ calculations must use a preretirement interest assumption of five percent, a postretirement interest assumption of five percent, and ~~an~~ a future salary increase assumption ~~that in each future year the salary on which a retirement or other benefit is based is 1.035 multiplied by the salary for the preceding year~~ of 3.5 percent.

(d) For funds governed by chapters 3A, 352C, and 490, the actuarial valuation ~~shall~~ calculations must use a preretirement interest assumption of 8.5 percent, a postretirement interest assumption of five percent, and ~~an~~ a future salary increase assumption ~~that~~ of 6.5 percent in each future year in which the salary amount payable is not determinable from section 3.099, 15A.081, subdivision 6, or 15A.083, subdivision 1, whichever ~~is applicable,~~ applies or from applicable compensation council recommendations under section 15A.082~~, the salary on which a retirement or other benefit is based is 1.065 multiplied by the known or computed salary for the preceding year, whichever is applicable~~.

Sec. 10. Minnesota Statutes 1990, section 356.215, subdivision 4e, is amended to read:

Subd. 4e. [OTHER ASSUMPTIONS.] The actuarial valuation ~~shall~~ calculations must use assumptions concerning mortality, disability, retirement, withdrawal, retirement age, and any other relevant demographic or economic factor~~, which shall~~. These must be set at levels consistent with those determined in the most recent quadrennial experience study completed ~~pursuant to~~ under subdivision 5, if required, or representative of the best estimate of future experience, if a quadrennial experience study is not required. The actuarial valuation ~~shall~~ calculations must contain an exhibit indicating any actuarial assumptions used in preparing the valuation report.

Sec. 11. Minnesota Statutes 1990, section 356.215, subdivision 4f, is amended to read:

Subd. 4f. [~~ACTUARIAL BALANCE SHEET~~ PUBLIC SECTOR ACCOUNTING DISCLOSURE INFORMATION.] The actuarial valuation ~~shall~~ calculations must contain ~~an actuarial balance sheet, which shall indicate current and expected future benefit obligations, current and expected future assets, unfunded actuarial accrued liability, current unfunded actuarial liability, and current and future unfunded actuarial liability. Specifically, the balance sheet for all funds, except local police, salaried firefighter, and specified volunteer firefighter funds, shall include the following:~~

~~CURRENT AND EXPECTED FUTURE ASSETS~~

~~Current assets~~	
~~Cash, cash equivalents, and short-term securities~~	~~$...~~
~~Fixed income investments~~	~~...~~
~~Equity investments~~	~~...~~
~~Real estate investments~~	~~...~~
~~Equity in the Minnesota~~	

~~postretirement investment fund~~	...	
~~Other~~	...	
~~Total current assets~~		$...
~~Expected future assets~~		
~~Present value of expected future statutory supplemental contributions~~	...	
~~Present value of future normal costs~~	...	
~~Total expected future assets~~		$...
~~Total current and expected future assets~~		$...

~~CURRENT AND EXPECTED FUTURE BENEFIT OBLIGATIONS~~

~~Current benefit obligations~~		
~~Actuarial present value of credited projected benefit obligations on account of service rendered to date:~~		
~~For annuitants~~		
~~Retirement annuities~~	$...	
~~Disability benefits~~	...	
~~Surviving spouse and child benefits~~	...	
~~For former members without vested rights~~	...	
~~For deferred annuitants' benefits, including any augmentation~~	...	
~~For active employees~~		
~~Retirement benefits~~	...	
~~Disability benefits~~	...	
~~Refund liability due to death or withdrawal~~	...	
~~Survivors' benefits~~	...	
~~Total current benefit obligations~~		$...
~~Expected future benefit obligations~~		
~~Actuarial value of benefit obligations on account of future service for active employees~~		$...
~~Total current and expected future benefit obligations~~		$...
~~Current unfunded actuarial liability (Total current benefit obligations less total current assets):~~		$...

~~Current and future unfunded actuarial liability~~
~~(Total current and expected future benefit obligations less total current and expected future assets):~~ ~~$...~~

~~In addition to that itemization of benefit obligations, separate items shall be shown for additional benefits, if any, which may not be appropriately included in that itemization~~ those actuarial calculations necessary to allow the retirement plan administration or participating employing units to prepare the pension-related portions of annual financial reporting that meet generally accepted accounting principles for the public sector.

Sec. 12. Minnesota Statutes 1990, section 356.215, subdivision 4g, is amended to read:

Subd. 4g. [AMORTIZATION CONTRIBUTIONS.] (a) In addition to the exhibit indicating the level normal cost, the actuarial valuation ~~shall~~ calculations must contain an exhibit indicating the additional annual contribution ~~which would be required~~ sufficient to amortize the unfunded actuarial accrued liability. For funds governed by chapters 3A, 352, 352B, 352C, 353, 353C, 354, 354A, and 490, the additional contribution ~~shall~~ must be calculated on a level percentage of covered payroll basis by the established date for full funding ~~which is~~ in effect when the valuation is prepared. The level percent additional contribution ~~shall~~ must be calculated assuming annual payroll growth of 6.5 percent. For all other funds, the additional annual contribution ~~shall~~ must be calculated on a level annual dollar amount basis.

~~If,~~ (b) For any fund other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, 1989, if there has not been a change in the actuarial assumptions used for calculating the actuarial accrued liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, which change or changes by themselves without inclusion of any other items of increase or decrease produce a net increase in the unfunded actuarial accrued liability of the fund, the established date for full funding for the first actuarial valuation made after June 1, 1989, and each successive actuarial valuation ~~shall be~~ is the first actuarial valuation date ~~which occurs~~ occurring after June 1, 2020.

~~If,~~ (c) For any fund or plan other than the Minneapolis employees retirement fund, after the first actuarial valuation date occurring after June 1, 1989, if there has been a change in any or all of the actuarial assumptions used for calculating the actuarial accrued

liability of the fund, a change in the benefit plan governing annuities and benefits payable from the fund, a change in the actuarial cost method used in calculating the actuarial accrued liability of all or a portion of the fund, or a combination of the three, and the change or changes, by themselves and without inclusion of any other items of increase or decrease, produce a net increase in the unfunded actuarial accrued liability in the fund, the established date for full funding ~~shall~~ must be determined using the following procedure:

(i) the unfunded actuarial accrued liability of the fund ~~shall~~ must be determined in accordance with the plan provisions governing annuities and retirement benefits and the actuarial assumptions in effect before an applicable change;

(ii) the level annual dollar contribution or level percentage, whichever is applicable, ~~which~~ ~~is~~ needed to amortize the unfunded actuarial accrued liability amount determined ~~pursuant to subclause~~ under item (i) by the established date for full funding in effect ~~prior to~~ before the change ~~shall~~ must be calculated using the interest assumption specified in subdivision 4d in effect before the change;

(iii) the unfunded actuarial accrued liability of the fund ~~shall~~ must be determined in accordance with any new plan provisions governing annuities and benefits payable from the fund and any new actuarial assumptions and the remaining plan provisions governing annuities and benefits payable from the fund and actuarial assumptions in effect before the change;

(iv) the level annual dollar contribution or level percentage, whichever is applicable, ~~which~~ ~~is~~ needed to amortize the difference between the unfunded actuarial accrued liability amount calculated ~~pursuant to subclause~~ under item (i) and the unfunded actuarial accrued liability amount calculated ~~pursuant to subclause~~ under item (iii) over a period of 30 years from the end of the plan year in which the applicable change is effective ~~shall~~ must be calculated using the applicable interest assumption specified in subdivision 4d in effect after any applicable change;

(v) the level annual dollar or level percentage amortization contribution ~~pursuant to subclause~~ under item (iv) ~~shall~~ must be added to the level annual dollar amortization contribution or level percentage calculated ~~pursuant to subclause~~ under item (ii);

(vi) the period in which the unfunded actuarial accrued liability amount determined in ~~subclause~~ item (iii) ~~will be~~ is amortized by the total level annual dollar or level percentage amortization contribution computed ~~pursuant to subclause~~ under item (v) ~~shall~~ must be calculated using the interest assumption specified in subdivision 4d in effect after any applicable change, rounded to the

nearest integral number of years, but ~~which shall~~ not to exceed ~~a period of~~ 30 years from the end of the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ~~which shall~~ not to be less than the period of years beginning in the plan year in which the determination of the established date for full funding using the procedure set forth in this clause is made and ending by the date for full funding in effect before the change; and

(vii) the period determined ~~pursuant to subclause~~ under item (vi) ~~shall~~ must be added to the date as of which the actuarial valuation was prepared and the date obtained ~~shall be~~ is the new established date for full funding.

(d) For the Minneapolis employees retirement fund, the established date for full funding ~~shall be~~ is June 30, 2017.

Sec. 13. Minnesota Statutes 1990, section 356.215, subdivision 4h, is amended to read:

Subd. 4h. [ACTUARIAL GAINS AND LOSSES.] The actuarial valuation ~~shall~~ calculations must contain an exhibit consisting of an analysis by the actuary explaining the net increase or decrease in the unfunded actuarial accrued liability since the last valuation ~~must be provided~~. The explanation ~~shall~~ must subdivide the net increase or decrease in the unfunded actuarial accrued liability into at least the following parts:

(a) increases or decreases in the unfunded actuarial accrued liability because of changes in benefits;

(b) increases and decreases in the unfunded actuarial accrued liability because of ~~each change, if any,~~ changes in actuarial assumptions;

(c) increases or decreases in the unfunded actuarial accrued liability ~~separately by source~~ attributable to actuarial gains or losses resulting from any experience deviations ~~of~~ from the assumptions on which the valuation is based, as follows:

(i) actual investment earnings~~,~~;

(ii) actual postretirement mortality rates~~, and~~;

(iii) actual salary increase rates ~~from the assumptions on which the valuations are based~~; and

(iv) the remainder of the increase or decrease not attributable to any separate source;

(d) increases or decreases in unfunded actuarial accrued liability because of other reasons, including the effect of any amortization contribution paid or additional amortization contribution previously calculated but unpaid; and

(e) increases or decreases in unfunded actuarial accrued liability because of changes in eligibility requirements or groups included in the membership of the fund.

Sec. 14. Minnesota Statutes 1990, section 356.215, subdivision 4i, is amended to read:

Subd. 4i. [MEMBERSHIP TABULATION.] The actuarial valuation ~~shall~~ calculations must contain ~~an exhibit consisting of~~ a tabulation of active membership and annuitants in the fund. If the membership of a fund is under more than one general benefit program, a separate tabulation ~~shall~~ must be made for each general benefit program. The tabulations ~~shall~~ must be prepared by the administration of the pension fund and must contain the following information:

~~(a)~~ (1) Active members	Number
As of last valuation date	
new entrants	
Total	
Separations from active service	
Refund of contributions	
Separation with deferred annuity	
Separation with neither refund nor deferred annuity	
Disability	
Death	
Retirement with service annuity	
Total separations	
As of current valuation date	

~~(b)~~ (2) Annuitants	Number
As of last valuation date	
New entrants	
Total	
Terminations	
Deaths	
Other	
Total terminations	
As of current valuation date	

The tabulation required under ~~subclause (b) shall~~ clause (2) must be made separately for each of the following classes of ~~annuitants~~ benefit recipients:

~~(a)~~ (1) service retirement annuitants;
~~(b)~~ (2) disability benefit recipients;
~~(c)~~ (3) ~~Surviving spouse~~ survivor benefit recipients
~~(d) Surviving child benefit recipients~~; and
~~(e)~~ (4) deferred annuitants.

Sec. 15. Minnesota Statutes 1990, section 356.215, subdivision 4j, is amended to read:

Subd. 4j. [ADMINISTRATIVE EXPENSES.] The actuarial valuation ~~shall contain an exhibit indicating a statement of~~ calculations must indicate the administrative expenses of the fund, expressed both in dollars and ~~also~~ as a percentage of covered payroll.

Sec. 16. Minnesota Statutes 1990, section 356.215, subdivision 4k, is amended to read:

Subd. 4k. [PLAN SUMMARY.] The actuarial valuation ~~shall~~ calculations must contain ~~an exhibit indicating~~ a summary of the principal provisions of the plan upon which the valuation is based.

Sec. 17. Minnesota Statutes 1990, section 356.215, subdivision 5, is amended to read:

Subd. 5. [QUADRENNIAL EXPERIENCE STUDY; CONTENTS.] ~~Each~~ A quadrennial experience study ~~shall~~, if required, must contain an actuarial analysis of the experience of the fund ~~or association~~ and a comparison of the experience with the actuarial assumptions on which the most recent actuarial valuation of the retirement fund ~~or relief association~~ was based~~, and shall also contain a statement of the average ages at which service retirements have taken place~~.

Sec. 18. Minnesota Statutes 1990, section 356.215, subdivision 6, is amended to read:

Subd. 6. [ACTUARIAL SERVICES BY APPROVED ACTUARIES.] ~~Each~~ (a) The actuarial valuation calculations or quadrennial experience study ~~shall~~ must be made and any actuarial consulting services for a retirement fund or plan ~~shall~~ must be provided by an approved actuary. The actuarial valuation calculations or quadrennial experience study ~~shall~~ must include a ~~certification~~ declaration that it has been prepared ~~in accordance with the provisions of~~ according to sections 356.20 to 356.23 and the most recent standards for actuarial work adopted by the legislative commission on pensions and retirement.

(b) Actuarial valuations, actuarial valuation calculations, or experience results prepared by an actuary retained by a retirement

fund or plan must be submitted to the legislative commission on pensions and retirement within ten days of the submission of the document to the retirement fund or plan.

Sec. 19. Minnesota Statutes 1990, section 356.215, subdivision 7, is amended to read:

Subd. 7. [ESTABLISHMENT OF ACTUARIAL ASSUMPTIONS.] Actuarial assumptions used for actuarial valuations under this section that are other than those set forth in this section may be changed only with the approval of the legislative commission on pensions and retirement. A change in the applicable actuarial assumptions may be proposed by the governing board of the applicable pension fund or relief association, by the actuary retained by the legislative commission on pensions and retirement, by the actuarial advisor ~~retained by~~ to a pension fund governed by chapter 352, 353, 354, or 354A, or by the actuary retained by a local police or firefighters relief association governed by sections 69.77 or 69.771 to 69.776, if one is retained.

Sec. 20. [MODIFICATIONS IN ACTUARIAL SERVICES.]

(a) The actuary retained by the legislative commission on pensions and retirement is not required to prepare actuarial valuation calculations of the public employees local government correctional employees retirement plan unless the plan is implemented by a county under Minnesota Statutes, section 353C.04.

(b) The cost of any requested benefit projections by the commission-retained actuary relating to the Minnesota postretirement investment fund for the state board of investment is payable by the state board of investment.

(c) Actuarial valuation calculations under Minnesota Statutes, section 356.215, for July 1, 1991, and thereafter, are not required to have an individual commentary section. The commentary section, if omitted from the individual plan actuarial valuation calculations, must be included in an appropriate generalized format as part of the report to the legislature under Minnesota Statutes, section 3.85, subdivision 11.

(d) Actuarial valuation calculations under Minnesota Statutes, section 356.215, for July 1, 1991, and thereafter, are not required to contain separate actuarial valuation results for basic and coordinated programs unless each program has a membership of at least ten percent of the total membership of the fund. Actuarial valuation calculations under Minnesota Statutes, section 356.215, for July 1, 1991, and thereafter, are not required to contain cash flow forecasts.

(e) Actuarial valuation calculations of the public employees police

and fire fund local consolidation accounts for July 1, 1991, and thereafter, are not required to contain separate tabulations or summaries of active member, service retirement, disability retirement, and survivor data for each local consolidation account.

(f) The commission-retained actuary is:

(1) required to publish experience findings for plans for which experience findings are required only on a quadrennial basis for the four-year period ending June 30, 1992, and every four years thereafter;

(2) not required to prepare a separate experience analysis or publish separate experience findings for basic and coordinated programs if separate actuarial valuation results for the programs are not required; and

(3) not required to calculate investment rate of return experience results on any basis other than current asset value as defined in Minnesota Statutes, section 356.215, subdivision 1, clause (6).

Sec. 21. [REPEALER.]

Minnesota Statutes 1990, sections 352.85, subdivision 6; 352.86, subdivision 4; and 353A.09, subdivision 7, are repealed.

Sec. 22. [EFFECTIVE DATE.]

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

Delete the title and insert:

"A bill for an act relating to retirement; various public employee pension plans; providing for the continuation of surviving spouse benefits in the event of remarriage; modifying the surviving spouse benefit of the legislators retirement plan; modifying the duties and functions of the consulting actuary retained by the legislative commission on pensions and retirement; modifying the various public pension plan actuarial reporting requirements; amending Minnesota Statutes 1990, sections 3.85, subdivision 11; 3A.04, subdivision 1; 352B.11, subdivision 2; 352C.04, subdivisions 1 and 4; 353.01, subdivision 20; 353.31, subdivision 1; 353.657, subdivision 2; 353B.11, subdivision 6; 354.05, subdivision 15; 354.46, subdivision 1; 354A.011, subdivision 26; 356.20, subdivision 4; and 356.215, subdivisions 1, 2, 3, 4, 4a, 4b, 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 5, 6, and 7; repealing Minnesota Statutes 1990, sections 352.85, subdivision 6; 354.86, subdivision 4; and 353A.09, subdivision 7."

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. 587, A bill for an act relating to security guards; requiring the registration of the employees of private detectives and protective agents, and proprietary guards; precluding local regulation of private detectives and protective agents; providing penalties; amending Minnesota Statutes 1990, sections 326.32, subdivision 14, and by adding subdivisions; 326.3341; and 326.3381, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 326.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 326.32, subdivision 13, is amended to read:

Subd. 13. (a) "Security guard" means a person who wears or carries any insignia that identifies the person to the public as security, who is paid a fee, wage, or salary to do one or more of the following:

(1) prevent or detect intrusion, unauthorized entry or activity, vandalism, or trespass on private property;

(2) prevent or detect theft, loss, embezzlement, misappropriation, or concealment of merchandise, money, bonds, stocks, notes, or other valuable documents or papers;

(3) control, regulate, or direct the flow or movements of the public, whether by vehicle or otherwise, to assure protection of private property;

(4) protect individuals from bodily harm; or

(5) enforce policies and rules of the security guard's employer related to crime reduction to the extent that the enforcement falls within the scope of the security guard's duties.

(b) The term "security guard" does not include:

(1) an auditor, accountant, or accounting clerk performing audits or accounting functions;

(2) an employee of a firm licensed under section 326.3381 whose duties are primarily administrative or clerical in nature;

(3) a person employed by a proprietary company to conduct plain-clothes surveillance or investigation;

(4) a person temporarily employed under *statute or ordinance* by political subdivisions to provide protective services at social functions;

(5) an employee of an air or rail carrier;

(6) a customer service representative or sales clerk employed in a retail establishment; ~~or~~

(7) a person employed to perform primarily maintenance or custodial functions;

(8) a person employed as an usher or ticket taker; or

(9) a person performing security services for a nuclear facility or defense contractor for which federal law requires a facility security clearance.

Sec. 2. Minnesota Statutes 1990, section 326.32, subdivision 14, is amended to read:

Subd. 14. [ARMED EMPLOYEE.] "Armed employee" means ~~an employee of~~ a security guard or a private detective or protective agent license holder or employee who at any time in the performance of the employee's duties wears, carries, possesses, or has access to a firearm.

Sec. 3. [326.3312] [LOCAL REGULATION PRECLUDED.]

No political subdivision of the state may enact or enforce an ordinance regulating, licensing, or taxing license holders or employees of license holders governed by sections 326.32 to 326.339.

Sec. 4. Minnesota Statutes 1990, section 326.3341, is amended to read:

326.3341 [EXEMPTIONS.]

~~Sections 326.32 to 326.339~~ The licensing requirements of section 326.3381 do not apply to:

(1) an employee while providing security or conducting an inves-

tigation of a pending or potential claim against the employee's employer;

(2) a peace officer or employee of the United States, this state or one of its political subdivisions, while engaged in the discharge of official duties for the government employer, or a confidential informant working under a law enforcement agency;

(3) persons engaged exclusively in obtaining and furnishing information as to the financial standing, rating, and credit responsibility of persons ~~or as to the personal habits~~, and the financial responsibility of applicants for insurance, indemnity bonds, or commercial credit;

(4) an attorney-at-law while performing the duties of an attorney-at-law or an investigator ~~employed exclusively by an attorney or~~ who is an employee of a law firm ~~engaged in investigating legal matters~~;

(5) a collection agency or finance company licensed to do business under the laws of this state or an employee of one of those companies while acting within the scope of employment when making an investigation incidental to the business of the agency, including an investigation as to location of a debtor, of the debtor's assets or property, provided the client has a financial interest in or a lien upon the assets or property of the debtor;

(6) an insurance adjuster employed exclusively by an insurance company, or licensed as an adjuster with the state of Minnesota and engaged in the business of adjusting insurance claims; or

(7) persons engaged in responding to alarm signals including, but not limited to, fire alarms, industrial process failure alarms and burglary alarms, for purposes of maintaining, repairing or resetting the alarm, or for opening the premises for law enforcement personnel or responding agents.

Sec. 5. [326.3342] [REGISTRATION OF EMPLOYEES WITH ACCESS TO WEAPONS.]

Subdivision 1. [REGISTRATION PROCESS.] (a) When a license holder hires a person to perform armed security services as a private detective or security guard, or a proprietary employer hires a person to perform armed security services as a security guard, the employer shall submit to the bureau of criminal apprehension a full set of fingerprints of each employee and the written consent of the employee to enable the bureau to determine whether that person has a criminal record. The person is a conditional employee in the position requiring registration until the employer receives a report from the bureau that, based on a check of the criminal records

maintained by the bureau, the prospective employee has not been convicted in Minnesota of a felony or any offense listed in section 326.3381, subdivision 3, other than a misdemeanor or gross misdemeanor assault. During the period of conditional employment, the person may not serve in an armed security services position as a private detective, protective agent, or security guard, but may be trained by the employer.

(b) When the employee ceases to be a conditional employee, the employer shall apply to the board for registration of the employee as required by this section.

(c) When the bureau receives employee fingerprints under this section, the bureau shall immediately request the Federal Bureau of Investigation to conduct a check of each conditional employee's criminal record, and the bureau of criminal apprehension shall immediately forward the results to the employer when they are received.

(d) If the bureau report or Federal Bureau of Investigation report indicates that the employee was convicted of a disqualifying offense, the employer shall immediately remove the employee from job duties involving the performance of armed security services.

(e) For purposes of this section, "armed security services" means the duties of a person acting as an armed employee or performing the duties of a position in which the person uses or has regular access to any type of weapon, including a bludgeon, nightstick, baton, chemical weapon, or electronic incapacitation device.

Subd. 2. [REGISTRATION QUALIFICATIONS.] A license holder or an employer of a security guard shall apply to the board for registration of a new employee who performs armed security services. To qualify for registration under this section, a person must:

(1) be at least 18 years old or, if employed as an armed employee, at least 21 years old;

(2) be a citizen of the United States or a legally registered alien; and

(3) not have been convicted in any jurisdiction of a violent offense that would be a felony under the laws of this state, or, during the previous ten years, of a nonviolent offense that would be a felony under the laws of this state, or, during the previous five years, of an offense that would be a gross misdemeanor listed in section 326.3381, subdivision 3, under the laws of this state.

Subd. 3. [APPLICATION; CONTENTS.] (a) An applicant for registration under this section shall provide to the applicant's

employer, for forwarding to the board and on a form furnished by the board, the following information with respect to the applicant:

(1) full name, full current address, and residence telephone number;

(2) date and place of birth;

(3) proof of United States citizenship or work authorization;

(4) full addresses of all residences in the last three years;

(5) names and addresses of all employers during the last five years;

(6) a list of any past or pending criminal charges, arrests, and convictions in any jurisdiction, including the dates, locations, and specific nature of the offenses and a description of any sentence;

(7) if an applicant was in military service, the type of discharge;

(8) a general physical description; and

(9) a list of any name or names, other than the name used on the application, used by the applicant or by which the applicant was known, along with an explanation of where and when the name or names were used and the reason for the use.

(b) In addition, the applicant shall furnish to the applicant's employer for forwarding to the board:

(1) one classifiable set of fingerprints;

(2) one color photograph, taken within the last three months, that shows the hair style, facial hair, and eyeglasses worn by the applicant at the time of application, and an additional color photograph, in a size and format prescribed by the employer, for use on the employer's identification card;

(3) a sworn statement whether the applicant has been denied registration for comparable employment in this state or in any other jurisdiction, or has had a registration suspended or revoked, and, if so, an explanation of the date and place of the action and the reason for it; and

(4) a sworn statement that the applicant will notify the board in writing within 14 days of any material change in any of the information furnished on the application form.

(c) An applicant who submits false information of a material nature under paragraph (a) or (b) or subdivision 4 will not be permitted to reapply for registration for a period of two years from the date of the application containing the false information.

Subd. 4. [TRAINING REQUIREMENTS.] In addition to the information and materials required by subdivision 3, an applicant for registration shall furnish to the employer, for forwarding to the board, evidence of having successfully completed the training required under section 326.3361 in a program approved by the board.

Subd. 5. [FEES.] A nonrefundable money order or cashier's check in an amount prescribed by the board under section 16A.128, but not to exceed $3, must accompany an application for registration or reregistration under this section.

Sec. 6. [326.3343] [PROCESSING OF EMPLOYEE APPLICATIONS.]

Subdivision 1. [APPLICATION.] Within ten days after receiving a complete application from an applicant's employer, the board shall issue the applicant a registration certificate, including a registration certificate as an armed employee if the applicant meets the requirements of section 5, subdivision 4, after the applicant has provided evidence of having successfully completed the preassignment or on-the-job training, or the equivalent, required by section 5, subdivision 4. A registration is valid for one year from its date of issuance and may be renewed for additional one-year periods upon application prescribed by the board and the payment of a fee prescribed by the board under section 16A.128, but not to exceed $3.

Subd. 2. [TERMINATION OF EMPLOYMENT.] If a registrant's employment is terminated for any reason, the employer shall notify the board of the termination within 30 days. If a registrant is again employed by a license holder while the registrant's registration is valid, the employer shall notify the board within ten days of the start of the new employment. An employer who fails to comply with this section is subject to disciplinary action under section 326.3387.

Sec. 7. Minnesota Statutes 1990, section 326.336, subdivision 1, is amended to read:

Subdivision 1. A license holder may employ, in connection with the business of private detective or protective agent, as many unlicensed persons as may be necessary; provided that every license holder is at all times accountable for the good conduct of every person employed. Registration of persons to perform armed security services is governed by section 5. For other employees, when a license holder hires a person to perform services as a private detective or ~~protective agent~~ security guard, the employer shall submit to the bureau of criminal apprehension a full set of finger-

prints of each employee and the written consent of the employee to enable the bureau to determine whether that person has a criminal record. The employee is a conditional employee until the employer receives a report from the bureau that, based on a check of the criminal records maintained by the bureau, the prospective employee has not been convicted in Minnesota of a felony or any offense listed in section 326.3381, subdivision 3, other than a misdemeanor or gross misdemeanor assault. During the period of conditional employment, the person may not serve as a private detective or ~~protective agent~~ security guard, but may be trained by the employer. The bureau shall immediately request the Federal Bureau of Investigation to conduct a check of each conditional employee's criminal record, and the bureau of criminal apprehension shall immediately forward the results to the employer when they are received. If the bureau report or Federal Bureau of Investigation report indicates that the employee was convicted of a disqualifying offense, the employer shall immediately dismiss the employee.

Sec. 8. Minnesota Statutes 1990, section 326.336, subdivision 2, is amended to read:

Subd. 2. An identification card must be issued by the license holder to each employee. The card must be in the possession of the employee to whom it is issued at all times. The identification card must contain the license holder's name, logo (if any), address or Minnesota office address, and the employee's photograph and physical description. The card must be signed by the employee and by the license holder, qualified representative, or Minnesota office manager. The card must indicate when the employee successfully completed certified training and certified continuing training, as prescribed by section 326.3361 and any rules adopted under section 326.3361.

Sec. 9. Minnesota Statutes 1990, section 326.3361, subdivision 1, is amended to read:

Subdivision 1. [RULES.] The board shall, by rule, prescribe the requirements, duration, contents, and standards for successful completion of certified training programs for license holders, qualified representatives, Minnesota managers, partners, security guards, and employees, including:

(1) first aid and firearms training required for armed employees, including training in the legal limitations on the justifiable use of force and deadly force as specified in sections 609.06 and 609.065;

(2) training in the use of weapons other than firearms, including bludgeons, nightsticks, batons, chemical weapons, and electronic incapacitation devices, and in the use of restraint or immobilization techniques, including the carotid neck restraint;

(3) training in the use of alternatives to the use of force;

(4) standards for weapons and equipment issued to or carried or used by license holders, qualified representatives, Minnesota managers, partners, security guards, or employees;

~~(4)~~ (5) preassignment or on-the-job training, or its equivalent, required before applicants may be certified; and

~~(5)~~ (6) continuing training for license holders, qualified representatives, Minnesota managers, partners, security guards, employees, and armed employees.

Sec. 10. Minnesota Statutes 1990, section 326.3361, subdivision 2, is amended to read:

Subd. 2. [REQUIRED CONTENTS.] The rules adopted by the board must require:

(1) 12 hours of preassignment or on-the-job certified training within the first 21 days of employment, or evidence that the employee has successfully completed equivalent training before the start of employment;

(2) standards for certification of ~~an~~ a license holder, qualified representative, Minnesota manager, partner, security guard, or employee, by the board, ~~as qualified~~ to carry or use a firearm, a weapon other than a firearm, or an immobilizing or restraint technique; and

(3) six hours a year of certified continuing training for all license holders, qualified representatives, Minnesota managers, partners, security guards, and employees, and an additional six hours a year for armed employees, which must include annual certification of the armed employee.

An employee may not carry or use a weapon while undergoing on-the-job training under this subdivision.

Sec. 11. Minnesota Statutes 1990, section 326.3361, subdivision 3, is amended to read:

Subd. 3. [USE OF WEAPONS; CERTIFICATION REQUIRED.] The rules must provide that no license holder, qualified representative, Minnesota manager, partner, security guard, or employee may carry or use a weapon or immobilizing or restraint technique without ~~being certified~~ having successfully completed certified training as directed by the board ~~as qualified to do so~~. The ~~board shall issue an~~ identification card ~~to a person certified under this subdivision~~ issued by the license holder under section 326.336,

subdivision 2, shall indicate when the person successfully completed the required certified training and certified continuing training. A certified license holder, qualified representative, Minnesota manager, partner, or employee shall have the card in ~~the employee's~~ possession while ~~working as an armed employee~~ acting within the scope of the licensed activity as a private detective or protective agent as defined in section 326.338.

Sec. 12. Minnesota Statutes 1990, section 326.3381, subdivision 1a, is amended to read:

Subd. 1a. [PROPRIETARY EMPLOYERS.] A proprietary employer is not required to obtain a license, but must comply with section ~~326.336, subdivision 1~~ 5, with respect to the hiring of security guards.

Sec. 13. Minnesota Statutes 1990, section 326.3381, subdivision 2, is amended to read:

Subd. 2. [APPLICATION PROCEDURE.] The board shall issue a license upon application to any person qualified under sections 326.32 to 326.339 and under the rules of the board to engage in the business of private detective or protective agent. The license shall remain effective for two years as long as the license holder complies with sections 326.32 to 326.339, the laws of Minnesota, and the rules of the board. Upon receipt of an application for private detective or protective agent license, the board shall:

(1) post notice of the application in its office for a period of 20 days, and notify all persons who have requested notification of applications;

(2) conduct an investigation as it considers necessary to determine the qualifications of the applicant, qualified representative, Minnesota manager, and if appropriate, a partner or corporate officer, including, when appropriate, a criminal history record check; and

(3) notify the applicant of the date on which the board will conduct a review of the license application.

Sec. 14. Minnesota Statutes 1990, section 326.3381, subdivision 3, is amended to read:

Subd. 3. [DISQUALIFICATION.] No person is qualified to hold a license who has:

(1) been convicted of (i) a felony by the courts of this or any other state or of the United States; (ii) ~~acts which~~ an act that, if done in Minnesota, would be any of the following offenses at the felony or gross misdemeanor level: criminal sexual conduct; assault; theft;

larceny; burglary; robbery; unlawful entry; extortion; defamation; buying or receiving stolen property; using, possessing, manufacturing, or carrying weapons unlawfully; using, possessing, or carrying burglary tools unlawfully; escape; ~~possession~~ possessing, ~~production~~ producing, ~~sale~~ selling, or ~~distribution of narcotics~~ distributing controlled substances unlawfully; or (iii) in any other country of acts which, if done in Minnesota, would be a felony or would be any of the other offenses provided in this clause and for which a full pardon or similar relief has not been granted;

(2) made any false statement in an application for a license or any document required to be submitted to the board; or

(3) failed to demonstrate to the board good character, honesty, and integrity.

Sec. 15. Minnesota Statutes 1990, section 326.3386, subdivision 2, is amended to read:

Subd. 2. [LICENSE FEE.] Each applicant for a private detective or protective agent license shall pay to the board a license fee, as determined by the board. In the event that an applicant is denied licensing by the board, one-half of the license fee shall be refunded to the applicant. The board may also collect from license applicants an appropriate fee to cover the cost of a criminal history record check.

Sec. 16. Minnesota Statutes 1990, section 326.3388, is amended to read:

326.3388 [ADMINISTRATIVE PENALTIES.]

The board shall, by rule, establish a graduated schedule of administrative penalties for violations of sections 326.32 to 326.339 or the board's rules. The schedule must include minimum and maximum penalties for each violation and be based on and reflect the culpability, frequency, and severity of the violator's actions. The board may impose a penalty from the schedule on a license holder or on any other person for a violation of sections 326.32 to 326.339 or the rules of the board. In addition, the board may seek court orders against violators requiring them to cease operations that violate sections 326.32 to 326.339. The penalty is in addition to any criminal penalty imposed for the same violation. Administrative penalties imposed by the board must be paid to the general fund.

Sec. 17. [EXISTING EMPLOYEES.]

Notwithstanding sections 5 and 6, a person employed as a security guard performing armed security services, as defined in section 5, on the effective date of sections 5 and 6 shall register with the board

within six months after the effective date. A person employed as an armed employee shall successfully complete the training required for registration as an armed employee within 60 days of the effective date. A person covered by this section shall also comply with the continuing training requirements prescribed by the board.

Sec. 18. [REVISOR INSTRUCTION.]

The revisor of statutes shall arrange the definitions in Minnesota Statutes 1992, section 326.32, in alphabetical order.

Sec. 19. [EFFECTIVE DATE.]

Sections 1 to 18 are effective July 1, 1992."

Delete the title and insert:

"A bill for an act relating to security guards; requiring the registration of certain employees of private detectives and protective agents, and proprietary employers; precluding local regulation of private detectives and protective agents; providing penalties; amending Minnesota Statutes 1990, sections 326.32, subdivisions 13 and 14; 326.3341; 326.336, subdivisions 1 and 2; 326.3361, subdivisions 1, 2, and 3; 326.3381, subdivisions 1a, 2, and 3; 326.3386, subdivision 2; and 326.3388; proposing coding for new law in Minnesota Statutes, chapter 326."

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

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 723, A bill for an act relating to transportation; establishing state transportation goals and requiring periodic revisions of the state transportation plan; establishing a Minnesota highway board and prescribing its powers and duties; directing a study of rail-highway grade crossings and requiring a report; authorizing the commissioner of transportation to make grants for the improvement of commercial navigation facilities; authorizing local units of government to advance funds for the completion of trunk highway projects; authorizing cities to assess up to 35 percent of a street improvement without regard to benefits conferred; authorizing cities to impose street access charges on building permits; authorizing road authorities to enter into agreements for the construction, maintenance, and operation of toll roads and bridges; creating a

transportation services fund and providing for its uses; specifying percentage of unrefunded motor fuel tax revenue that is attributable to use on forest roads; authorizing the commissioner of transportation to plan, acquire, construct and equip light rail transit facilities, and restricting authority of regional rail authorities; directing a study of highway corridors; creating a legislative advisory commission on transportation and directing it to conduct certain studies; amending Minnesota Statutes 1990, sections 162.02, subdivision 3a; 168.54, subdivisions 5 and 6; 169.09, subdivision 13; 169.86, subdivision 5; 169.862; 170.23; 171.185; 171.26; 171.36; 173.13, subdivision 4; 173.231; 174.01; 174.03, subdivision 2, and by adding a subdivision; 221.036, subdivision 14; 296.16, subdivision 1a; 296.421, subdivision 8; 299D.03, subdivision 5; 398A.04, subdivision 8; 473.399, by adding a subdivision; 473.3993, subdivisions 2, 3, and by adding a subdivision; 473.3994; 473.3996; proposing coding for new law in Minnesota Statutes, chapters 3; 160; 161; 162; 174; 221; 471; and 473; proposing coding for new law as Minnesota Statutes, chapter 457A; repealing Minnesota Statutes 1990, section 473.3994, subdivision 6; and Laws 1989, chapter 339, section 21.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

TRANSPORTATION PLANNING

Section 1. Minnesota Statutes 1990, section 174.01, is amended to read:

174.01 [CREATION; POLICY.]

Subdivision 1. [DEPARTMENT CREATED.] In order to provide a balanced transportation system, which system includes aeronautics, highways, motor carriers, ports, public transit, railroads and pipelines, a department of transportation is created. The department shall be the principal agency of the state for development, implementation, administration, consolidation, and coordination of state transportation policies, plans and programs.

Subd. 2. [TRANSPORTATION GOALS.] The legislature establishes the following goals of the state transportation system:

(1) to provide safe transportation for all users throughout the state;

(2) to provide multimodal transportation that enhances mobility and economic development and that provides access to all persons

and businesses in Minnesota while ensuring that there is no undue burden placed on any community;

(3) to provide a reasonable travel time for commuters to and from work or school;

(4) to provide for the economical, efficient, and safe movement of goods to and from markets by rail, highway, and waterway;

(5) to encourage tourism by providing appropriate transportation to Minnesota facilities designed to attract tourist;

(6) to provide transit services throughout the state to meet the mobility needs of transit users;

(7) to manage the transportation system to ensure the highest levels of productivity;

(8) to provide safe and efficient air transportation in Minnesota;

(9) to maximize the benefits received for each state transportation investment;

(10) to provide funding for transportation that, at a minimum, ensures no further deterioration of the transportation infrastructure;

(11) to ensure that the planning and implementation of all modes of transportation are consistent with the environmental and energy goals of the state; and

(12) to increase high occupancy vehicle use; and

(13) to increase transit use in urban areas by giving highest priority to the transportation modes with the greatest people-moving capacity, to the extent practicable.

Sec. 2. Minnesota Statutes 1990, section 174.03, is amended by adding a subdivision to read:

Subd. 1a. [REVISION OF STATE TRANSPORTATION PLAN.] The commissioner shall revise the state transportation plan not later than July 1, 1993, and not later than July 1 of each odd-numbered year afterward. The revised state transportation plan must:

(1) incorporate the goals of the state transportation system as enumerated in section 174.01; and

(2) provide for objectives, policies, and strategies for achieving those goals.

Sec. 3. Minnesota Statutes 1990, section 174.03, subdivision 2, is amended to read:

Subd. 2. [IMPLEMENTATION OF PLAN.] After the adoption and each revision of the statewide transportation plan, the commissioner and the transportation regulation board shall take no action inconsistent with that revised plan.

ARTICLE 2

RAILROAD CROSSINGS

Section 1. [RAIL-HIGHWAY CROSSING IMPROVEMENT.]

Subdivision 1. [STATE RAIL CORRIDOR STUDY.] The commissioner of transportation shall conduct a study of railroad crossing safety and improvement in Minnesota.

Subd. 2. [CONTENT OF STUDY.] The rail-highway grade crossing study must include:

(1) a method of determining the relative benefits of grade crossing protection and improvement to the railroad, the road authority, and the public and cost-sharing guidelines;

(2) sources of funding for grade crossing protection and improvement;

(3) research needs for grade crossing safety; and

(4) recommendations for statutory changes to improve grade crossing safety.

Subd. 3. [REPORT.] The commissioner shall report to the governor and legislature not later than February 1, 1992, on the results of the study.

Sec. 2. Minnesota Statutes 1990, section 169.26, is amended to read:

169.26 [SPECIAL STOPS AT RAILROADS.]

Subdivision 1. [REQUIREMENTS.] (a) When any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this paragraph, the driver shall stop the vehicle not less than ten feet from the nearest railroad track and shall not proceed until safe to do so. These requirements apply when:

(1) a clearly visible electric or mechanical signal device warns of the immediate approach of a railroad train;

(2) a crossing gate is lowered warning of the immediate approach or passage of a railroad train; or

(3) an approaching railroad train is plainly visible and is in hazardous proximity.

(b) The driver of a vehicle shall stop and remain standing and not traverse the grade crossing when a human flagger signals the approach or passage of a train. No person may drive a vehicle past a flagger at a railroad crossing until the flagger signals that the way is clear to proceed.

(c) The fact that a train approaching a railroad grade crossing is visible from the crossing shall be prima facie evidence that it is not safe to proceed.

Subd. 1a. [VIOLATION.] (a) A peace officer may arrest the driver of a motor vehicle if the peace officer has probable cause to believe that the driver has operated the vehicle in violation of subdivision 1 within the past four hours.

(b) The owner or, in the case of a leased vehicle, the lessee of a motor vehicle is subject to the penalties in subdivision 2 if a motor vehicle owned or leased by the person is operated in violation of subdivision 1. This subdivision does not apply to a lessor of a motor vehicle if the lessor keeps a record of the name and address of the lessee. This subdivision does not prohibit or limit the prosecution of a motor vehicle operator for violating subdivision 1. A violation of this paragraph does not constitute grounds for revocation or suspension of the owner's driver's license.

Subd. 2. [PENALTY.] A person who violates this section is guilty of a misdemeanor and subject to the following penalties:

(1) for the first offense, a fine of $100 and four hours of community service in an operation life saver program;

(2) for the second offense, a fine of $150 and eight hours of community service in an operation life saver program; and

(3) for the third and subsequent offenses, a fine of $250 and 12 hours of community service in an operation life saver program.

Subd. 3. [DRIVER TRAINING.] All driver education courses approved by the commissioner of education and the commissioner of public safety must include instruction on railroad-highway grade crossing safety. The commissioner of education and the commis-

sioner of public safety shall by rule provide minimum standards of course content relating to operation of vehicles at railroad and highway grade crossings.

Subd. 4. [APPROPRIATION.] The fines collected for a violation of subdivision 1 must be deposited in the state treasury and appropriated to the rail service improvement account under section 222.49 for public education on railroad grade crossing safety.

Sec. 3. Minnesota Statutes 1990, section 171.13, subdivision 1, is amended to read:

Subdivision 1. [APPLICANTS.] Except as otherwise provided in this section, the commissioner shall examine each applicant for a driver's license by such agency as the commissioner directs. This examination must include a test of applicant's eyesight; ability to read and understand highway signs regulating, warning, and directing traffic; knowledge of traffic laws; knowledge of the effects of alcohol and drugs on a driver's ability to operate a motor vehicle safely and legally; knowledge of railroad grade crossing safety; an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle; and other physical and mental examinations as the commissioner finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways, provided, further however, no driver's license shall be denied an applicant on the exclusive grounds that the applicant's eyesight is deficient in color perception. Provided, however, that war veterans operating motor vehicles especially equipped for handicapped persons, shall, if otherwise entitled to a license, be granted such license. The commissioner shall make provision for giving these examinations either in the county where the applicant resides or at a place adjacent thereto reasonably convenient to the applicant.

Sec. 4. Minnesota Statutes 1990, section 171.13, is amended by adding a subdivision to read:

Subd. 1d. [RAILROAD CROSSING SAFETY.] The commissioner shall include in each edition of the driver's manual published by the department a section relating to safe operation of vehicles at railroad grade crossings.

Sec. 5. Minnesota Statutes 1990, section 219.074, is amended by adding a subdivision to read:

Subd. 3. [CROSSING INVENTORY.] By December 31, 1993, the commissioner shall complete an inventory of all public and private grade crossings in the state and shall annually revise the inventory to reflect grade crossing changes made under this section.

Sec. 6. [219.165] [SAFETY RULES AT PRIVATE RAILROAD GRADE CROSSINGS.]

By December 31, 1992, the commissioner shall adopt rules establishing minimum safety standards at all private railroad grade crossings in the state.

Sec. 7. [219.384] [REMOVAL OF DANGEROUS OBSTRUCTIONS.]

Subdivision 1. [REMOVAL ORDERED.] If a railroad company, road authority, or abutting property owner fails to control the growth of trees or vegetation or the placement of structures or other obstructions on its right-of-way or property so as to interfere with the safety of the public traveling on a public or private grade crossing, the local governing body of the town or municipality where the grade crossing is located may, by notice, require the obstruction to be removed as necessary to provide an adequate view of oncoming trains at the crossings. The commissioner shall adopt rules establishing minimum standards for visibility at public and private grade crossings.

Subd. 2. [PENALTY.] A railroad company, road authority, or property owner that fails to comply with this section within 30 days after being notified in writing is subject to a fine of $50 for each day that the condition is uncorrected.

Sec. 8. Minnesota Statutes 1990, section 219.402, is amended to read:

219.402 [ADEQUATE CROSSING PROTECTION.]

Crossing safety devices or improvements installed or maintained under this chapter as approved by the board, or the commissioner, whether by order or otherwise, are adequate and appropriate protection for the crossing.

Sec. 9. Minnesota Statutes 1990, section 222.50, subdivision 7, is amended to read:

Subd. 7. The commissioner may expend money from the rail service improvement account for the following purposes:

(a) To pay interest adjustments on loans guaranteed under the state rail user loan guarantee program;

(b) To pay a portion of the costs of capital improvement projects designed to improve rail service including construction or improvement of short segments of rail line such as side track, team track and connections between existing lines, and construction and improve-

ment of loading, unloading, storage and transfer facilities of a rail user;

(c) To acquire, maintain, manage and dispose of railroad right-of-way pursuant to the state rail bank program;

(d) To provide for aerial photography survey of proposed and abandoned railroad tracks for the purpose of recording and reestablishing by analytical triangulation the existing alignment of the inplace track; or

(e) To pay a portion of the costs of acquiring a rail line by a regional railroad authority established pursuant to chapter 398A.

(f) To promote research and public education in railroad grade crossing safety, in an amount not exceeding one percent of the money in the account in a fiscal year. The commissioner shall use part of the funds available under this paragraph to determine and demonstrate the feasibility and desirability of increasing the visibility of trains at railroad grade crossings including adding reflectorized materials or strobe lights to rail cars. The commissioner shall report to the chairs of the senate and house of representatives committees on transportation on the results of any such demonstration project.

All money derived by the commissioner from the disposition of railroad right-of-way or of any other property acquired pursuant to sections 222.46 to 222.62 shall be deposited in the rail service improvement account.

ARTICLE 3

PORT DEVELOPMENT ASSISTANCE

Section 1. [457A.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For purposes of sections 1 to 6, the following terms have the meanings given them.

Subd. 2. [COMMERCIAL NAVIGATION FACILITY.] "Commercial navigation facility" means (1) terminals and docks used for the transfer of property or passengers between commercial vessels and land, and supporting equipment, structures, and transportation facilities, (2) disposal facilities for dredging material produced by port development projects, and (3) buildings and related structures and facilities used by commercial vessels under construction or repair. "Commercial navigation facility" does not include any commercial navigation facility that is (1) not on the commercial navigation system, or (2) the responsibility of the United States corps of army engineers or the United States coast guard.

Subd. 3. [COMMERCIAL VESSEL.] "Commercial vessel" means a vessel used for the transportation of passengers or property. "Commercial vessel" does not include a vessel used primarily for recreational or sporting purposes.

Subd. 4. [COMMISSIONER.] "Commissioner" means the commissioner of transportation.

Subd. 5. [DREDGING.] "Dredging" means excavating harbor sediment or bottom materials, including mobilizing or operating equipment for excavating and transporting dredged material to the placing dredged material in a disposal facility.

Subd. 6. [NAVIGATION SYSTEM.] "Navigation system" means (1) the commercially navigable waters of the Mississippi River, the Minnesota, and the St. Croix rivers, (2) the commercial harbors on Minnesota's Lake Superior shoreline, and (3) the commercial navigation facilities on those waterways.

Sec. 2. [457A.02] [PROGRAM ESTABLISHED.]

Subdivision 1. [PURPOSE OF PROGRAM.] A port development assistance program is established for the purpose of:

(1) expediting the movement of commodities and passengers on the commercial navigation system;

(2) enhancing the commercial vessel construction and repair industry in Minnesota; and

(3) promoting economic development in and around ports and harbors in the state.

Subd. 2. [COMMISSIONER TO ADMINISTER.] The commissioner shall administer the port development assistance program to advance the purposes of subdivision 1. In administering the program, the commissioner may:

(1) make grants and loans to persons eligible under section 3, subdivision 1, to apply for them; (2) make assistance agreements with recipients of grants and loans; and (3) adopt rules authorized by section 5.

Sec. 3. [457A.03] [PORT ASSISTANCE.]

Subdivision 1. [ELIGIBLE APPLICANTS.] Any person, political subdivision, or port authority, that owns a commercial navigation facility, may apply to the commissioner for assistance under this chapter.

Subd. 2. [TYPES OF ASSISTANCE.] The commissioner may make loans to an eligible applicant if the commissioner determines that the project submitted by the applicant for assistance will serve either or both of the purposes stated in section 2, subdivision 1, clauses (1) and (2). The commissioner may make grants, or a combination of grants and loans, to an eligible applicant if the commissioner determines that the project submitted by the applicant for assistance will serve either or both of the purposes stated in section 2, subdivision 1, clauses (1) and (2), and will also enhance economic development in and around the commercial navigation facility being assisted.

Subd. 3. [STATE PARTICIPATION; LIMITATIONS.] The commissioner may not provide any assistance under this chapter for more than 50 percent of the non-federal share of any project. Assistance provided under this chapter may not be used to match any other state funds, regardless of source. The commissioner shall not assume continuing funding responsibility for any commercial navigation facility project.

Sec. 4. [ASSISTANCE AGREEMENTS.]

Subdivision 1. [AGREEMENTS REQUIRED.] The commissioner may not provide any assistance to a project under this chapter unless the commissioner has signed an assistance agreement with the recipient of the assistance.

Subd. 2. [COSTS.] An assistance agreement must specify those project costs which may be paid in whole or in part with assistance from the commissioner. Assistance agreements may provide that only the following costs may be so paid:

(1) final engineering costs on a commercial navigation facility project;

(2) capital improvements to a commercial navigation facility; and (3) costs of dredging necessary to open a new commercial navigation facility project, and for disposal of dredged material.

The following costs may not be paid with assistance from the commissioner:

(1) the applicant's administrative, insurance, and legal costs;

(2) costs of acquiring permits for a project;

(3) costs of preparing environmental documents, feasibility studies, or project designs;

(4) interest on money borrowed by the applicant or interest charged to the applicant for late payment of project costs;

(5) any costs related to the routine maintenance or repair, or operation of a commercial navigation facility;

(6) costs of dredging to maintain an existing channel; and (7) any costs for a project that consists exclusively of dredging.

Subd. 3. [INSURANCE; LIABILITY.] An assistance agreement must require the applicant to:

(1) provide a comprehensive general liability insurance policy, complying with minimum amount prescribed by the commissioner by rule, naming the commissioner and officers, employees, and agents of the department of transportation as additional insureds; and

(2) save and hold the commissioner harmless from and against all liability, damage, loss, claims, demands, and actions related to the project being assisted.

Subd. 4. [PERFORMANCE AND PAYMENT BONDS.] An assistance agreement must require an assistance recipient to provide evidence of performance and payment bonds, satisfying all applicable legal requirements for the full amount of any and all construction contracts let by the applicant in connection with the project.

Subd. 5. [REPAYMENT.] An assistance agreement must require the recipient to repay all or part of any assistance received, in an amount determined by the commissioner, if the project for which the assistance is provided:

(1) is not completed according to the terms of the assistance agreement, or

(2) is converted, during the period of time specified in the assistance agreement, to a use that is (1) inconsistent with the purposes of this chapter, or (2) inconsistent with the terms of the assistance agreement, or (3) not approved in writing by the commissioner.

Sec. 5. [457A.05] [RULES.]

The commissioner may adopt rules that provide for:

(1) application procedures for assistance under this chapter;

(2) procedures for establishing deadlines for applications, and for notifying potential recipients of those deadlines;

(3) eligibility criteria for projects to be assisted;

(4) information required to be submitted with applications;

(5) contents of assistance agreements;

(6) any other requirement of this chapter; and

(7) any other requirement the commissioner deems necessary for the administration of this chapter.

Sec. 6. [457A.06] [REVOLVING FUND.]

Subdivision 1. [FUND ESTABLISHED.] A port development revolving fund is established in the state treasury. The fund consists of (1) all money appropriated to the commissioner for the purposes of this chapter, (2) all money received by the commissioner from repayment of loans made under this chapter, and (3) all interest earned on money deposited in the fund.

Subd. 2. [APPROPRIATION.] Money in the port development revolving fund is appropriated to the commissioner for expenditure for the purposes of this chapter.

Sec. 7. [EFFECTIVE DATE.] Sections 1 to 6 are effective July 1, 1991.

ARTICLE 4

LOCAL HIGHWAY FINANCE

Section 1. [160.82] [RUSTIC ROADS PROGRAM.]

Subdivision 1. [DESIGNATION.] A road authority other than the commissioner may, by resolution, designate a road or highway under its jurisdiction as a rustic road. A rustic road must have the characteristics of outstanding natural features or rustic or scenic beauty; a daily traffic volume of less than 150 vehicles per day; year-round use as a local access road; and maximum allowable speed of 45 miles per hour.

Subd. 2. [LOCAL AUTHORITY.] The road authority has the same authority over rustic roads as over other highways and roads under its jurisdiction. The road authority may designate the type and character of vehicles that may be operated on the rustic road; designate a rustic road or portion of the road as a pedestrian way or bicycle way, or both; and establish priority of right-of-way, paint lines, and construct dividers to physically separate vehicular, bicycle, or pedestrian traffic.

Subd. 3. [JOINT DESIGNATION.] Two or more road authorities may jointly designate a rustic road along a common boundary or into or through their jurisdictions. The road authorities may enter into agreements to divide the costs and responsibility for maintaining the rustic road.

Subd. 4. [COSTS.] A rustic road must be maintained by the road authority having jurisdiction over the road and is not eligible for state-aid funding. State money must not be spent to construct, reconstruct, maintain, or improve a rustic road, except that the commissioner shall pay from the transportation services fund the costs of publishing a map of rustic roads within the state and installing and maintaining signs designating rustic roads.

Sec. 2. [160.83] [STREETS AND HIGHWAYS WITHIN PARKS.]

Subdivision 1. [DEFINITION.] "Park road" means that portion of a street or highway located entirely within the park boundaries of or abutting a city, county, regional, or state park.

Subd. 2. [RESTRICTIONS.] A road authority may not make any changes in the width, grade, or alignment of a park road, other than a county state-aid highway or municipal state-aid street, that would affect the wildlife habitat or aesthetic characteristics of the park road or its adjacent vegetation or terrain, other than changes required to permit the safe travel of vehicles at the speed lawfully designated for that park road. A road authority may not make any changes in the width, grade, or alignment of a park road that is a county state-aid highway or municipal state-aid street that would affect the wildlife habitat or aesthetic characteristics of the park road or its adjacent vegetation or terrain, other than changes required by the minimum state-aid standard applicable to that road.

Subd. 3. [LIABILITY.] A road authority making changes in a park road described in subdivision 1, and its officers and employees, are exempt from liability for any tort claim for injury to persons or property arising from travel on that park road and related to the design of that park road, where the design has been adopted to conform to this section.

Sec. 3. [161.361] [ADVANCE FUNDING FOR TRUNK HIGHWAY PROJECTS.]

Subdivision 1. [ADVANCE FUNDING.] A road authority other than the commissioner may by agreement with the commissioner make advances from any available funds to the commissioner to expedite construction of all or part of a trunk highway within its boundaries. Money may be advanced under this section only for projects already included in the commissioner's highway work program.

Subd. 2. [REPAYMENT.] Subject to the availability of state money, the commissioner shall repay without interest the amount advanced under subdivision 1, up to the state's share of project costs, at the time the project is scheduled for completion in the highway work program. The total amount of annual repayment to road authorities under this section must never exceed the amount stated in the department's debt management policy or $10 million, whichever is less.

Subd. 3. [LOCAL COST SHARING FOR TRUNK HIGHWAY IMPROVEMENTS.] The commissioner may accept gifts, contributions, or grants from a local government body for trunk highway construction, reconstruction, improvement, or maintenance of trunk highways within its boundaries. Money accepted by the commissioner under this subdivision must not adversely affect the scheduling of other trunk highway projects that are not funded in whole or in part by local contributions.

Sec. 4. Minnesota Statutes 1990, section 162.02, subdivision 3a, is amended to read:

Subd. 3a. [VARIANCES, RULES AND ENGINEERING STANDARDS.] The commissioner may grant variances from the rules and from the engineering standards developed pursuant to section 162.021 or 162.07, subdivision 2. A political subdivision in which a county state-aid highway is located or is proposed to be located may submit a written request to the commissioner for a variance for that highway. The commissioner shall publish notice of the request in the state register and give notice to all persons known to the commissioner to have an interest in the matter. The commissioner may grant or deny the variance within 30 days of providing notice of the request. If a written objection to the request is received within 20 days of providing notice, the variance shall be granted or denied only after a contested case hearing has been held on the request. If no timely objection is received and the variance is denied without hearing, the political subdivision may request, within 30 days of receiving notice of denial, and shall be granted a contested case hearing. For purposes of this subdivision, with respect to a variance required for a county state-aid highway that is a park road as defined in section 160.83, subdivision 1, "political subdivision" includes (1) an agency of a political subdivision which has jurisdiction over parks, and (2) a regional park agency.

Sec. 5. [162.021] [NATURAL PRESERVATION ROUTES.]

Subdivision 1. [NATURAL PRESERVATION ROUTES ESTABLISHED.] The commissioner shall create within the county state-aid highway system a system of natural preservation routes. The commissioner shall provide for criteria for inclusion in the system and for the adoption of standards for the design, construction, and reconstruction of routes on the system.

Subd. 2. [CRITERIA.] The criteria for inclusion on the natural preservation route system must provide for the inclusion in the system of those county state-aid highways that possess unique scenic, environmental, aesthetic, recreational, or historic characteristics that would be harmed by construction or reconstruction using standards applicable to county state-aid highways that are not part of the natural preservation route system.

Subd. 3. [STANDARDS.] The design, construction, and reconstruction standards adopted by the commissioner for natural preservation routes must provide for the preservation of the characteristics described in subdivision 2, to the extent consistent with public safety. The standards must provide for minimum width of vehicle recovery areas, minimum slopes, and minimum ditch widths, consistent with anticipated speed and volume of traffic on the highway.

Subd. 4. [DESIGNATION.] The commissioner may designate a county state-aid highway as a natural preservation route only on petition of the governing body of the county having jurisdiction over the road. On receiving a petition for designation the commissioner shall appoint an advisory committee consisting of seven members. An advisory committee must include at least one representative of the department of natural resources or the United States department of agriculture forest service, one county commissioner, one county highway engineer, and one representative of a recognized environmental organization. The advisory committee shall consider the petition for designation and make a recommendation to the commissioner. Following receipt of the committee's recommendation the commissioner may designate the highway as a natural preservation route.

Subd. 5. [SIGNS.] The county having jurisdiction over a natural preservation route must post signs at each entry point to the route informing the public that the highway is a natural preservation route. Signs erected under this subdivision are prima facie evidence of adequate notice to the public that the highway has been designated a natural preservation route.

Subd. 6. [LIABILITY.] When a county state-aid highway has been designated a natural preservation route and signs have been erected as provided in subdivision 5, the state and the county having jurisdiction over the highway, and their officers and employees, are exempt from liability for any tort claim for injury to persons or property arising from travel on the highway and related to the standards for its design, construction, or reconstruction.

Sec. 6. Minnesota Statutes 1990, section 162.09, subdivision 3a, is amended to read:

Subd. 3a. [VARIANCES, RULES AND ENGINEERING STAN-

DARDS.] The commissioner may grant variances from the rules and from the engineering standards developed pursuant to section 162.13, subdivision 2. A political subdivision in which a municipal state-aid street is located or is proposed to be located may submit a written request to the commissioner for a variance for that street. The commissioner shall publish notice of the request in the state register and give notice to all persons known to the commissioner to have an interest in the matter. The commissioner may grant or deny the variance within 30 days of providing notice of the request. If a written objection to the request is received within 20 days of providing notice, the variance shall be granted or denied only after a contested case hearing has been held on the request. If no timely objection is received and the variance is denied without hearing, the political subdivision may request, within 30 days of receiving notice of denial, and shall be granted a contested case hearing. For purposes of this subdivision, with respect to a variance requested for a municipal state-aid street that is a park road as defined in section 160.83, subdivision 1, "political subdivision" includes (1) an agency of a political subdivision which has jurisdiction over parks, and (2) a regional park authority.

ARTICLE 5

TOLL ROADS

Section 1. [160.82] [LEGISLATIVE FINDINGS.]

The legislature finds that the economic well-being of and quality of life in the state depend on an efficient transportation system; that public sources of revenue have not kept pace with the state's growing highway transportation needs; and that alternative funding, ownership, and operating forms, including private participation and public-private partnerships, can stimulate the rapid formation of capital necessary to respond to some of the state's pressing highway needs.

Sec. 2. [160.83] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The terms used in sections 1 to 8 have the meanings given them in this section and section 160.02.

Subd. 2. [BOT FACILITY.] "BOT facility" means a build-operate-transfer toll facility constructed, improved, or rehabilitated and operated by a private operator that holds title to the facility subject to a development agreement that provides that title will be transferred to the road authority on expiration of an agreed term.

Subd. 3. [BTO FACILITY.] "BTO facility" means a build-transfer-operate toll facility constructed, improved, or rehabilitated by a private operator who: (1) transfers any interest it may have in the

toll facility to the road authority before operation begins; and (2) operates the toll facility for an agreed term under a lease, management, or toll-concession agreement.

Subd. 4. [COMMISSIONER.] "Commissioner" means the commissioner of the department of transportation.

Subd. 5. [DEVELOPMENT AGREEMENT.] "Development agreement" means a written agreement between a road authority and a private operator that provides for the construction, improvement, rehabilitation, and ownership or operation of a toll facility. A development agreement must satisfy the requirements of section 5.

Subd. 6. [PRIVATE OPERATOR.] "Private operator" means an individual, a corporation or partnership, a cooperative or unincorporated association, a joint venture, or a consortium that constructs, improves, rehabilitates, owns, leases, operates, or manages a toll facility subject to sections 1 to 8. The term includes related parties and entities that together perform some or all of these functions for the same toll facility.

Subd. 7. [ROAD AUTHORITY.] "Road authority" has the meaning given it in section 160.02, subdivision 9, and also refers to a joint powers authority formed under section 7.

Subd. 8. [TOLL FACILITY.] "Toll facility" means a bridge, causeway, or tunnel, and its approaches; a road, street, or highway; an appurtenant building, structure, or other improvement; land lying within applicable rights-of-way; and other appurtenant rights or hereditaments that together comprise a project for which a private operator is authorized to operate and impose tolls under sections 1 to 8.

Sec. 3. [160.84] [AUTHORITY.]

Subdivision 1. [PRIVATE OPERATORS.] Notwithstanding other law to the contrary, private operators are authorized to construct, improve, rehabilitate, own, lease, manage, and operate toll facilities subject to the terms of sections 1 to 8. Private operators may mortgage, grant security interests in, and pledge their interests in: (1) toll facilities and their components; (2) development, lease, toll concessions, and other related agreements; and (3) income, profits, and proceeds of the toll facility.

Subd. 2. [ROAD AUTHORITY MAY ENTER INTO DEVELOPMENT AGREEMENTS.] A road authority may solicit or accept proposals from, and enter into development agreements with, private operators for constructing, improving, rehabilitating, operating, and managing toll facilities wholly or partly within the road

authority's jurisdiction. A road authority soliciting toll facility proposals must publish a notice of solicitation in the state register.

Subd. 3. [CONTENTS OF DEVELOPMENT AGREEMENTS.] Development agreements for toll facilities entered into under sections 1 to 9 may provide for operating the facilities under leases or management contracts; for BOT or BTO facilities; and for any other mode of ownership or operation approved by the road authority. Development agreements may permit the private operator to: (1) assemble funds from any available source, including federal, state, and local grants, bond revenues, contributions, and pledges; and (2) incorporate an existing road or highway, a bridge, and approach structures, and related improvements into the toll facility. If an existing highway, bridge, or approach structure, or related improvements, are incorporated into a toll facility, the development agreement must provide that the private operator reimburse the road authority that constructed the highway, bridge, approach structure, or related improvement, for the cost of constructing the incorporated entity and the cost of any rehabilitation of the entity required to make the entity suitable for incorporation. Development agreements may include grants of title, easements, rights-of-way, and leasehold estates that are necessary to the toll facility. A development agreement may authorize the private operator to charge variable rate tolls based on time of day, vehicle characteristics, or other factors approved by the road authority. A development agreement shall require a road authority to provide routine maintenance, snow removal, and police services to the toll facility at the operator's expense.

Subd. 4. [RIGHT-OF-WAY ACQUISITION.] A private operator may acquire right-of-way by donation, lease, or purchase. A road authority may acquire right-of-way by condemnation and may donate, sell, or lease a right-of-way to a private operator.

Subd. 5. [LEASE TERM.] A lease for toll facilities must be for a term of not more than 50 years.

Subd. 6. [WHEN TOLL FACILITY ACQUIRED BY ROAD AUTHORITY.] A development agreement must require that ownership of the toll facility be transferred to the road authority at no cost to the road authority, at a time specified in the agreement. The operator shall establish an escrow account with sufficient funds to ensure that the facility meets applicable construction and maintenance standards of the road authority upon transfer.

Subd. 7. [APPLICATION OF OTHER LAW.] A private operator must obtain all required environmental, navigational, design, or safety approvals that would be required if the toll facility was constructed or operated by a public body.

Subd. 8. [RESTRICTION.] No toll facility may be used for any

purpose other than the transportation purposes specified in the development agreement for the term of the agreement.

Subd. 9. [TAX INCREMENT FINANCING.] Revenue from tax increments may not be used to pay any part of the costs of constructing or reconstructing a toll facility, or for the repayment of any bonds issued for those purposes.

Subd. 10. [SALES TAX.] The purchase of any goods and materials used for the construction or reconstruction of a toll facility is subject to the tax imposed by section 297A.02.

Sec. 4. [160.85] [DEVELOPMENT AGREEMENTS; MANDATORY PROVISIONS.]

A development agreement must require:

(1) that the toll facility meet the commissioner of transportation's standards of design and construction for trunk highways and trunk highway bridges of the same functional classification;

(2) that the commissioner review and approve, at the operator's expense, the location and design of a bridge over navigable waters as if the bridge were constructed by a road authority;

(3) that the private operator manage and operate the toll facility in cooperation with the applicable road authority and subject to the development agreement and any amendments mutually agreed upon;

(4) that the toll facility be subject to regular safety inspections by the road authority and the commissioner, at the operator's expense; and

(5) that the road authority must provide maintenance, snow removal, and the police services to the toll facility, at the expense of the private operator.

Sec. 5. [160.86] [COMMISSIONER'S APPROVAL.]

Subdivision 1. [APPROVAL REQUIRED.] A development agreement entered into by a road authority, other than the commissioner, and a private operator is not effective until the agreement has been approved in writing by the commissioner.

Subd. 2. [CONDITIONS.] The commissioner shall not approve a development agreement unless the commissioner is satisfied that:

(1) the development agreement adequately provides that all construction on the toll facility performed by contract will be

performed only by a road authority or by contractors who are qualified to provide comparable services to the department of transportation;

(2) the development agreement adequately provides for maintenance and law enforcement on the facility;

(3) the development agreement adequately provides that all obligations assumed by, and all responsibilities imposed on, a private operator by law and under the agreement will not be affected by a change of ownership, management, or control of the private operator;

(4) the toll facility is consistent with the state transportation plan, the commissioner's trunk highway work plans and development programs, and the transportation plan adopted by the appropriate regional development commission, other than the metropolitan council;

(5) the toll facility will be constructed to standards comparable to the commissioner's standards for comparable trunk highways; and

(6) the requirements of section 6 have been met.

Sec. 6. [160.87] [LOCAL APPROVAL.]

Subdivision 1. [MUNICIPALITIES.] A toll facility may not be constructed without the prior approval, by resolution, of the governing board of each county, city and town through which the facility will pass. All such resolutions of approval must have been adopted within three years of the date on which construction of the toll facility is begun. The validity of a resolution of approval of a toll facility by a county, city, or town is not affected by any subsequent resolution, including a subsequent rescission, withdrawal, or annulment of a resolution of approval.

Subd. 2. [METROPOLITAN COUNCIL.] In the case of a toll facility to be constructed wholly or partly within the metropolitan area as defined in section 473.121, subdivision 2, the facility may not be constructed unless the private operator has first submitted the proposed facility to the metropolitan council and has obtained the council's approval in the manner provided in section 473.167, subdivision 1.

Sec. 7. [160.88] [COST RECOVERY.]

Subdivision 1. [USE OF TOLL REVENUES.] A development agreement may authorize a private operator of a toll facility to impose toll charges for the use of the facility and must require that toll revenues be applied to: (1) repayment of indebtedness incurred

for the toll facility; (2) any lease or toll concessions payments; (3) costs of operation, administration, and maintenance of the toll facility; and (4) any reasonable reserves for future capital outlays necessary to cover costs of maintaining, preserving, and reconstructing the facility to all applicable standards. The enumeration of uses in this subdivision may not be construed directly or indirectly to state priorities for the use of these revenues.

Subd. 2. [TOLLS NOT TO BE COLLECTED.] A toll may not be collected on any facility that is owned and managed by a road authority.

Sec. 8. [160.89] [JOINT AUTHORITY.]

Two or more road authorities with jurisdiction over a toll facility may enter into a joint powers agreement under section 471.59 to exercise the powers, duties, and functions of the road authorities related to the toll facility, including negotiation and administration of the development agreement and related lease and toll concession agreements. If all road authorities with jurisdiction over a toll facility concur, title to or authority over the facility may be tendered to the commissioner who may accept the title or authority pursuant to the development agreement and this section.

Sec. 9. [160.90] [TOLL REGULATION.]

Subdivision 1. [TOLLS TO BE FILED.] A private operator who charges and collects tolls on a toll facility must file with the commissioner a schedule of all tolls charged.

Subd. 2. [TOLLS PRESCRIBED.] The transportation regulation board, on its own motion or on petition of a road authority, may investigate the tolls charged on a toll facility built or operated under sections 1 to 8. If the board determines on the basis of its investigation that public welfare, safety, and mobility require regulation of tolls on the facility, the board may after a public hearing prescribe just, reasonable, and nondiscriminatory tolls for the facility. The board may prescribe tolls under this subdivision without regard to whether a development agreement covering the toll facility regulates or otherwise provides for tolls. No person may directly or indirectly charge a toll on a toll facility that is different from a toll prescribed for the facility by the board.

Subd. 3. [LOCAL TOLL REGULATION.] No road authority or political subdivision may, separately or as part of a joint powers agreement, regulate tolls on a toll facility except as authorized in a development agreement.

Sec. 10. [TOLL FACILITY REPLACEMENT PROJECTS.]

When the commissioner removes from the commissioner's six-year highway improvement program, a highway project that is located within the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2, because the project is or in the commissioner's determination will become a toll facility, the commissioner must replace the project in the work program with a comparable highway project that is also located within the metropolitan area.

ARTICLE 6

TRANSPORTATION SERVICES FUND

Section 1. [161.041] [TRANSPORTATION SERVICES FUND.]

Subdivision 1. [FUND CREATED.] A transportation services fund is created in the state treasury. The fund consists of all money required by law to be deposited in the fund, and other money made available to the fund by law.

Subd. 2. [USES OF FUND.] Money in the transportation services fund may only be expended by appropriation for

(1) activities of the commissioner of public safety relating to (i) driver licensing, (ii) motor vehicle registration and licensing, (iii) the accident reporting system; and (iv) the state patrol;

(2) activities of the commissioner of transportation relating to oversize and overweight permits, including the cost of necessary highway maintenance and preservation related to granting those permits;

(3) activities of the commissioner of transportation related to junkyard screening and control of outdoor advertising devices;

(4) activities of the transportation regulation board related to motor carrier regulation; and

(5) repayment of money borrowed for new buildings, and improvements to existing buildings, of the department of transportation.

Sec. 2. Minnesota Statutes 1990, section 168.54, subdivision 5, is amended to read:

Subd. 5. The proceeds of the fee imposed under the provisions of this section shall be collected by the commissioner of public safety and paid into the ~~general~~ transportation services fund.

Sec. 3. Minnesota Statutes 1990, section 168.54, subdivision 6, is amended to read:

Subd. 6. The unobligated balances in excess of $4,000 in said revolving fund as of June 30 of each fiscal year shall be canceled into the ~~general~~ transportation services fund.

Sec. 4. 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.

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~~ commissioner of public safety may charge authorized persons a $5 fee for a copy of an accident report. Proceeds from the fee must be deposited into the transportation services fund.

Sec. 5. Minnesota Statutes 1990, section 170.23, is amended to read:

170.23 [ABSTRACTS; FEE; ADMISSIBLE IN EVIDENCE.]

The commissioner shall upon request furnish any person a certified abstract of the operating record of any person subject to the provisions of this chapter, and, if there shall be no record of any conviction of such person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by such person, the commissioner shall so certify. Such abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident. A fee of $5 shall be paid for each such abstract. The commissioner shall permit a person to inquire into the operating record of any person by means of the inquiring person's own computer facilities for a fee to be determined by the commissioner of at least $2 for each inquiry. The commissioner shall furnish an abstract that is not certified for a fee

to be determined by the commissioner in an amount less than the fee for a certified abstract but more than the fee for an inquiry by computer. Fees collected under this section must be paid into the state treasury with 90 percent of the money credited to the ~~trunk highway~~ transportation services fund and ten percent credited to the general fund.

Sec. 6. Minnesota Statutes 1990, section 171.185, is amended to read:

171.185 [COSTS PAID FROM ~~TRUNK HIGHWAY~~ TRANSPORTATION SERVICES FUND.]

All costs incurred by the commissioner in carrying out the provisions of sections 171.182 to 171.184 shall be paid from the ~~trunk highway~~ transportation services fund.

Sec. 7. Minnesota Statutes 1990, section 171.26, is amended to read:

171.26 [MONEY CREDITED TO ~~TRUNK HIGHWAY~~ TRANSPORTATION SERVICES FUND AND TO GENERAL FUND.]

All money received under the provisions of this chapter shall be paid into the state treasury with 90 percent of such money credited to the ~~trunk highway~~ transportation services fund, and ten percent credited to the general fund, except as provided in section 171.29, subdivision 2.

Sec. 8. Minnesota Statutes 1990, section 171.36, is amended to read:

171.36 [LICENSE RENEWAL AND FEES.]

All licenses shall expire one year from date of issuance and may be renewed upon application to the commissioner. Each application for an original or renewal school license shall be accompanied by a fee of $150 and each application for an original or renewal instructor's license shall be accompanied by a fee of $50. The license fees collected under sections 171.33 to 171.41 shall be paid into the ~~trunk highway~~ transportation services fund. No license fee shall be refunded in the event that the license is rejected or revoked.

Sec. 9. Minnesota Statutes 1990, section 173.13, subdivision 4, is amended to read:

Subd. 4. The annual fee for each such permit or renewal thereof shall be as follows:

(1) If the advertising area of the advertising device does not exceed 50 square feet, the fee shall be ~~$20~~ $40.

(2) If the advertising area exceeds 50 square feet but does not exceed 300 square feet, the fee shall be ~~$40~~ $80.

(3) If the advertising area exceeds 300 square feet, the fee shall be ~~$80~~ $160.

(4) No fee shall be charged for a permit for official signs and notices as they are defined in section 173.02, except that a fee may be charged for a star city sign erected under section 173.085.

Sec. 10. Minnesota Statutes 1990, section 173.231, is amended to read:

173.231 [FEES.]

All fees collected under sections 173.07 and 173.13, ~~shall~~ must be paid into the ~~trunk highway~~ transportation services fund.

Sec. 11. Minnesota Statutes 1990, section 221.036, subdivision 14, is amended to read:

Subd. 14. [~~TRUNK HIGHWAY~~ TRANSPORTATION SERVICES FUND.] Penalties collected under this section must be deposited in the state treasury and credited to the ~~trunk highway~~ transportation services fund.

Sec. 12. [221.297] [DISPOSITION OF RECEIPTS.]

All money deposited in the state treasury from fees and penalties under this chapter must be credited to the transportation services fund.

Sec. 13. Minnesota Statutes 1990, section 296.16, *subdivision* 1a, is amended to read:

Subd. 1a. [INTENT; FOREST ROADS.] ~~$675,000~~ Approximately 0.116 percent of the total annual unrefunded revenue from the gasoline fuel tax on all gasoline and special fuel received in, produced, or brought into this state, except gasoline and special fuel used for aviation purposes, is derived from the operation of motor vehicles on state forest roads and county forest access roads~~, and~~. Of this ~~sum, $400,000~~ amount, 0.0605 percent is annually derived from motor vehicles operated on state forest roads and ~~$275,000~~ 0.0555 percent is annually derived from motor vehicles operated on county forest access roads in this state.

Sec. 14. Minnesota Statutes 1990, section 296.421, subdivision 8, is amended to read:

Subd. 8. [COMPUTATION AND DISTRIBUTION OF UNREFUNDED TAXES FOR FOREST ROADS.] The amount of unrefunded tax paid on gasoline and special fuel used to operate motor vehicles on forest roads, except gasoline and special fuel used for aviation purposes, is ~~$675,000 annually~~ 0.116 percent of the total unrefunded revenue from the tax on all gasoline and special fuel received in, produced, or brought into the state, and this revenue is appropriated from the highway user tax distribution fund and must be transferred and credited in equal installments on July 1 and January 1 to the state forest road account established in section 89.70. ~~$275,000 of this amount~~ An amount equal to 0.0555 percent of the unrefunded revenue must be annually transferred to counties for management and maintenance of county forest roads.

Sec. 15. Minnesota Statutes 1990, section 299D.03, subdivision 5, is amended to read:

Subd. 5. [FINES AND FORFEITED BAIL MONEY.] (a) All fines and forfeited bail money, from traffic and motor vehicle law violations, collected from persons apprehended or arrested by officers of the state patrol, shall be paid by the person or officer collecting the fines, forfeited bail money or installments thereof, on or before the tenth day after the last day of the month in which these moneys were collected, to the county treasurer of the county where the violation occurred. Three-eighths of these receipts shall be credited to the general revenue fund of the county. The other five-eighths of these receipts shall be transmitted by that officer to the state treasurer and shall be credited to the ~~trunk highway~~ transportation services fund. If, however, the violation occurs within a municipality and the city attorney prosecutes the offense, and a plea of not guilty is entered, one-third of the receipts shall be credited to the general revenue fund of the county, one-third of the receipts shall be paid to the municipality prosecuting the offense, and one-third shall be transmitted to the state treasurer as provided in this subdivision. All costs of participation in a nationwide police communication system chargeable to the state of Minnesota shall be paid from appropriations for that purpose.

(b) Notwithstanding any other provisions of law, all fines and forfeited bail money from violations of statutes governing the maximum weight of motor vehicles, collected from persons apprehended or arrested by employees of the state of Minnesota, by means of stationary or portable scales operated by these employees, shall be paid by the person or officer collecting the fines or forfeited bail money, on or before the tenth day after the last day of the month in which the collections were made, to the county treasurer of the county where the violation occurred. Five-eighths of these receipts shall be transmitted by that officer to the state treasurer and shall

be credited ~~to the highway user tax distribution fund~~ as follows: 62 percent to the transportation services fund; 29 percent to the county state-aid highway fund; and 9 percent to the municipal state-aid street fund. Three-eighths of these receipts shall be credited to the general revenue fund of the county.

Sec. 16. [EFFECTIVE DATE.]

Sections 1 to 17 are effective July 1, 1991.

ARTICLE 7

METROPOLITAN TRANSPORTATION DEVELOPMENT

Section 1. [174.35] [LIGHT RAIL TRANSIT.]

The commissioner of transportation may plan, acquire, construct, and equip light rail transit facilities in the metropolitan area as provided in this section, sections 473.399 to 473.3996, and sections 3 to 13 and may exercise the powers granted in chapter 174 as necessary for this purpose.

Sec. 2. Minnesota Statutes 1990, section 398A.04, subdivision 8, is amended to read:

Subd. 8. [TAXATION.] Before deciding to exercise the power to tax, the authority shall give six weeks published notice in all municipalities in the region. If a number of voters in the region equal to five percent of those who voted for candidates for governor at the last gubernatorial election present a petition within nine weeks of the first published notice to the secretary of state requesting that the matter be submitted to popular vote, it shall be submitted at the next general election. The question prepared shall be:

"Shall the regional rail authority have the power to impose a property tax?

Yes .....
No ....."

If a majority of those voting on the question approve or if no petition is presented within the prescribed time the authority may levy a tax at any annual rate not exceeding ~~0.04835~~ 0.024175 percent of market value of all taxable property situated within the municipality or municipalities named in its organization resolution. Its recording officer shall file in the office of the county auditor of each county in which territory under the jurisdiction of the authority is located a certified copy of the board of commissioners' resolution levying the tax, and each county auditor shall assess and extend

upon the tax rolls of each municipality named in the organization resolution the portion of the tax that bears the same ratio to the whole amount that the net tax capacity of taxable property in that municipality bears to the net tax capacity of taxable property in all municipalities named in the organization resolution. Collections of the tax shall be remitted by each county treasurer to the treasurer of the authority.

Sec. 3. Minnesota Statutes 1990, section 473.399, is amended by adding a subdivision to read:

Subd. 4. [FEDERAL FUNDING.] The regional transit board and the commissioner of transportation shall jointly seek federal assistance for light rail transit facilities in the metropolitan area in accordance with the board's regional transit plan. No political subdivision in the metropolitan area may apply for or be a recipient of federal assistance for light rail transit planning or facilities, except in conjunction with an application for assistance by the board and the commissioner.

An application for federal assistance must be reviewed and approved by the metropolitan council before it is submitted by the board and the commissioner. The board and the commissioner must consult with the council in preparing the application.

Sec. 4. Minnesota Statutes 1990, section 473.3993, subdivision 2, is amended to read:

Subd. 2. [PRELIMINARY DESIGN PLAN.] "Preliminary design plan" means a light rail transit plan that ~~identifies~~ includes:

(1) preliminary plans for the physical design of facilities, at approximately the ten percent engineering level, including location, length, and termini of routes; general dimension, elevation, alignment, and character of routes and crossings; whether the track is elevated, on the surface, or below ground; approximate station locations; and related park and ride, parking, and other transportation facilities; and a plan for handicapped access; and

(2) preliminary plans for intermodal coordination with bus operations and routes; ridership; capital costs; operating costs and revenues; and funding ~~for final design, construction, and operation; and an implementation method~~.

Sec. 5. Minnesota Statutes 1990, section 473.3993, is amended by adding a subdivision to read:

Subd. 2a. [PRELIMINARY ENGINEERING PLAN.] "Preliminary engineering plan" means a light rail transit engineering plan that

includes the items in the preliminary design plan, but with greater detail and specificity including, at a minimum:

(1) preliminary engineering plans for the physical design of the facilities, at approximately the 30 percent engineering level, and appropriate performance specifications for the elements required for final design plans under subdivision 3, clause (1); and

(2) plans for the physical design of facilities, at approximately the 30 percent level, and appropriate specifications for all elements required for final design plans under subdivision 3, clause (2); a funding plan for final design, construction, and operation; and an implementation method.

Sec. 6. Minnesota Statutes 1990, section 473.3993, subdivision 3, is amended to read:

Subd. 3. [FINAL DESIGN PLAN.] "Final design plan" means a light rail transit plan that includes the items in the preliminary design and preliminary engineering plan for the facilities proposed for construction, but with greater detail and specificity. The final design plan must include, at a minimum:

(1) final plans for the physical design of facilities, including the right-of-way definition; environmental impacts and mitigation measures; intermodal coordination with bus operations and routes; and civil engineering plans for vehicles, track, stations, parking, and access, including handicapped access; and

(2) final plans for civil engineering for electrification, communication, and other similar facilities; operational rules, procedures, and strategies; capital costs; ridership; operating costs and revenues; financing for construction and operation; an implementation method; and other similar matters.

The final design plan must be stated with sufficient particularity and detail to allow the proposer to begin the acquisition and construction of operable facilities. If a turn-key implementation method is proposed, instead of civil engineering plans the final design plan must state detailed design criteria and performance standards for the facilities.

Sec. 7. Minnesota Statutes 1990, section 473.3994, is amended to read:

473.3994 [LIGHT RAIL TRANSIT; ~~DESIGN~~ FACILITY PLANS.]

Subd. 1a. [PRELIMINARY DESIGN PLANS.] The regional transit board shall establish a procedure for preparing preliminary design plans for light rail transit facilities in the metropolitan area.

The board shall ensure the completion of preliminary design plans that are needed to implement the board's regional transit plan, to qualify for federal funds in accordance with the board's plan, and to prepare proposals for engineering and construction projects in a timely and cost-effective manner. The board shall consult the joint light rail transit advisory committee in preparing the preliminary design plans.

Subd. 2. [PRELIMINARY DESIGN PLANS; PUBLIC HEARING.] ~~Before preparing final design plans for a light rail transit facility, the~~ A political subdivision ~~proposing the~~ that has prepared preliminary design plans for a proposed facility must hold a public hearing on the physical design component of the preliminary design plans. The proposer must provide appropriate public notice of the hearing and publicity to ensure that affected parties have an opportunity to present their views at the hearing.

Subd. 3. [PRELIMINARY DESIGN PLANS; LOCAL APPROVAL.] At least 30 days before the hearing under subdivision 2, the proposer shall submit the physical design component of the preliminary design plans to the governing body of each statutory and home rule charter city, county, and town in which the route is proposed to be located. The city, county, or town shall hold a public hearing, except that a county board need not hold a hearing if the county board membership is identical to the membership of the regional railroad authority submitting the plan for review. Within 45 days after the hearing under subdivision 2, the city, county, or town shall review and approve or disapprove the plans for the route to be located in the city, county, or town. A local unit of government that disapproves the plans shall describe specific amendments to the plans that, if adopted, would cause the local unit to withdraw its disapproval. Failure to approve or disapprove the plans in writing within 45 days after the hearing is deemed to be approval, unless an extension of time is agreed to by the city, county, or town and the proposer.

Subd. 4. [PRELIMINARY DESIGN PLANS; REGIONAL TRANSIT BOARD REFERRAL.] If the governing body of one or more cities, counties, or towns disapproves the preliminary design plans within the period allowed under subdivision 3, the proposer may refer the plans, along with any comments of local jurisdictions, to the regional transit board. The board shall hold a hearing on the plans, giving the proposer, any disapproving local governmental units, and other persons an opportunity to present their views on the plans. The board may conduct independent study as it deems desirable and may mediate and attempt to resolve disagreements about the plans. Within 90 days after the referral, the board shall review the plans submitted by the proposer and may recommend amended plans to accommodate the objections presented by the disapproving local governmental units.

Subd. 4a. [PRELIMINARY ENGINEERING PLANS.] (a) Before

beginning final design on a proposed facility, the commissioner shall submit the physical design component of preliminary engineering plans to the governing body of each statutory and home rule city, county, and town in which the route is proposed to be located. Within 60 days after the submission of the plans, the city, county, or town shall review and approve or disapprove the plans for the route located in the city, county, or town. A local unit of government that disapproves the plans shall describe specific amendments to the plans that, if adopted, would cause the local unit to withdraw its disapproval. Failure to approve or disapprove the plans in writing within the time period is considered to be approval, unless an extension is agreed to by the city, county, or town and the commissioner.

(b) If the governing body of one or more cities, counties, or towns disapproves the plans within the period allowed under paragraph (a), the commissioner may refer the plans, along with any comments of local jurisdictions, to the regional transit board. The board shall review the preliminary engineering plans under the same procedure and with the same effect as provided in subdivision 4 for preliminary design plans.

Subd. 5. [FINAL DESIGN PLANS.] (a) Before beginning construction, the ~~proposer~~ commissioner shall submit the physical design component of final design plans to the governing body of each statutory and home rule city, county, and town in which the route is proposed to be located. Within 60 days after the submission of the plans, the city, county, or town shall review and approve or disapprove the plans for the route located in the city, county, or town. A local unit of government that disapproves the plans shall describe specific amendments to the plans that, if adopted, would cause the local unit to withdraw its disapproval. Failure to approve or disapprove the plans in writing within the time period is deemed to be approval, unless an extension is agreed to by the city, county, or town and the ~~proposer~~ commissioner.

(b) If the governing body of one or more cities, counties, or towns disapproves the plans within the period allowed under paragraph (a), the ~~proposer~~ commissioner may refer the plans, along with any comments of local jurisdictions, to the regional transit board. The board shall review the final design plans under the same procedure and with the same effect as provided in subdivision 4 for preliminary design plans.

Subd. 6. [COUNTY APPROVAL.] The proposer of a light rail transit facility in the metropolitan area ~~must~~ shall submit the preliminary and final design plans for the facility to the governing board of the county in which the route is proposed to be located for approval or disapproval. The proposer of the facility may not proceed with construction of the facility without the approval of the county.

Subd. 7. [COUNCIL REVIEW.] Before proceeding with construction of a light rail transit facility, ~~a regional rail authority established under chapter 398A must~~ the proposer of the facility shall submit preliminary design plans, preliminary engineering plans, and final design plans to the metropolitan council. The council ~~must~~ shall review the plans for consistency with the council's development guide and comment on the plans.

Subd. 8. [METROPOLITAN SIGNIFICANCE.] This section does not diminish or replace the authority of the council under section 473.173.

Sec. 8. Minnesota Statutes 1990, section 473.3996, is amended to read:

473.3996 [LIGHT RAIL TRANSIT FACILITY ~~DESIGN~~ PLANS; REVIEW ~~BY BOARD~~.]

Subdivision 1. [PRELIMINARY DESIGN AND ENGINEERING PLANS; BOARD REVIEW.] Before submitting the physical design component of final design plans of a light rail transit facility for local review under section 473.3994, subdivision 5, the proposer shall submit preliminary design and preliminary engineering plans to the regional transit board for review. The board shall review the ~~preliminary design~~ plans to determine the compatibility of the plans with other light rail transit plans and facilities in the metropolitan area, the adequacy of the plans for operation and maintenance of facilities, the adequacy of the plans for handicapped accessibility, and the conformity of the plans with the council's transportation policy plan and the board's regional light rail transit plan prepared under section 473.399. The board shall submit the plans to the transit commission for review and recommendations on specifications and other matters affecting operation and maintenance of facilities. The board shall submit the plans to the council for review and recommendations on the conformity of the plans with the council's transportation policies. The board may comment on any aspect of the plans. The board has 90 days to complete its review, unless an extension of time is agreed to by the proposer. If the board determines that the plans do not satisfy the standards stated in this subdivision, the board shall recommend modifications in the plans that are necessary in order to satisfy the board. After adopting or amending the regional plan required by section 473.399, the board may again review any previously reviewed preliminary design plans and recommend modifications that are necessary to satisfy the board.

Subd. 2. [FINAL DESIGN PLANS; BOARD APPROVAL.] Before acquiring or constructing light rail transit facilities, other than land for right of way, the proposer shall submit final design plans to the regional transit board for review. The board shall review the final design plans under the same procedure and schedule and according

to the same standards as provided for its review of preliminary design plans. The board shall either approve the plans, or if it determines that the plans do not satisfy the standards, disapprove the plans, in whole or in part, and recommend modifications in the plans that are necessary to secure approval. A proposer may not proceed with acquisition or construction of a light rail transit facility, other than land for right of way, unless the final design plans for the facility have been approved by the board. ~~Following approval of final design plans by the board, if a regional railroad authority wishes to select a bid or a response to a request for proposal that is more than ten percent higher than the capital costs indicated in the final design plans for the facility, the authority may not proceed with construction until it has resubmitted the final design plans to the transit board for further review and approval or disapproval. The board has ten working days to review and approve or disapprove and recommend modification, unless an extension of time is agreed to by the authority.~~

Subd. 3. [PRELIMINARY DESIGN PLANS; DEPARTMENT REVIEW.] Preliminary design plans adopted after the effective date of this subdivision must be submitted to the commissioner of transportation for review. The commissioner shall review the plans for engineering and financial feasibility and may recommend modifications. The commissioner shall complete the review within 90 days, unless the agency submitting the plan agrees to an extension of time.

Sec. 9. [473.3997] [LIGHT RAIL DESIGN AND CONSTRUCTION; DEPARTMENT OF TRANSPORTATION.]

Subdivision 1. [RESPONSIBILITY.] All light rail transit facilities in the metropolitan area must be constructed by or under contract with the commissioner of transportation. The commissioner shall prepare all preliminary engineering plans and final design plans for light rail transit facilities in the metropolitan area. The commissioner may authorize a regional railroad authority in the metropolitan area to prepare preliminary engineering plans for light rail transit facilities projects approved by the regional transit board. A regional railroad authority may not prepare final design plans for light rail transit facilities except under a contract with the commissioner.

Subd. 2. [INTERGOVERNMENTAL COORDINATION.] The commissioner shall incorporate into the engineering and final design plans appropriate elements of the preliminary design plans of regional railroad authorities. The commissioner shall consult with regional and local agencies of government in preparing the plans. The commissioner may enter into agreements for engineering, design, and construction services with a city or a regional agency. The commissioner may enter into agreements for engineering or design services with a regional railroad authority. The commis-

sioner shall include the metropolitan transit commission in planning and engineering decisions, particularly the system components of light rail facilities. The commissioner may by agreement authorize the transit commission to complete project components, including acquisition and testing of vehicles or system components.

Sec. 10. [CENTRAL CORRIDOR FACILITIES.]

Subdivision 1. [PRELIMINARY ENGINEERING PLAN.] The commissioner of transportation shall review and approve or disapprove the preliminary engineering plans of the regional railroad authorities for light rail transit facilities in the central corridor and the two downtowns and for associated yards, shops, and system support facilities. The commissioner shall submit the approved plans for review in the manner provided under sections 473.3994 and 473.3996 by July 1, 1992.

Subd. 2. [TUNNEL.] The commissioner may not construct underground light rail transit facilities, except that the commissioner may enter into agreements providing for underground construction if the additional cost of underground construction are paid by the city or the regional railroad authority in which the facility is located.

Subd. 3. [OWNERSHIP.] By January 1, 1993, the commissioner shall present to the legislature a plan for transferring or sharing ownership in the land and facilities for light rail transit in the corridor, and providing for maintenance of the facilities. The plan must be prepared in consultation with the regional transit board, the metropolitan transit commission, and affected local government units.

Subd. 4. [REPORT TO LEGISLATIVE COMMISSION.] The commissioner shall report to the transportation study board on the status of the preliminary engineering plans, including cost estimates, for the central corridor by November 15, 1991.

Sec. 11. [REPEALER.]

Minnesota Statutes 1990, section 473.3994, subdivision 6, and Laws 1989, chapter 339, section 21, is repealed.

Sec. 12. [EFFECTIVE DATE.]

Section 2 is effective for taxes levied in 1991, payable in 1992, and thereafter.

Sec. 13. [APPLICATION.]

Sections 1 to 12 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

ARTICLE 8

TRANSPORTATION STUDIES

Section 1. [161.53] [RESEARCH ACTIVITIES.]

The commissioner may set aside for transportation research in each fiscal year an amount up to one percent of the total amount of all funds appropriated to the commissioner other than county state-aid and municipal state-aid highway funds. The commission shall expend this money for (1) research to improve the design, construction, maintenance, management, and environmental compatibility of transportation systems; (2) research to improve the development of transportation policies with respect to energy efficiency and economic development; (3) programs for implementing and monitoring research results; and (4) developing transportation education and outreach activities. Of all funds appropriated to the commissioner other than state-aid funds, the commissioner shall expend 0.1 percent, but not exceeding $800,000 in any fiscal year, for research and related activities performed by the center for transportation studies of the University of Minnesota. The center shall establish a technology transfer and training center for Minnesota transportation professionals.

Sec. 2. [DEPARTMENT OF TRANSPORTATION; CORRIDOR STUDIES.]

Subdivision 1. [FINDING.] The legislature finds that a system of improved highways between regional centers in greater Minnesota and the Twin Cities metropolitan area is needed to promote economic development and to enhance commercial access, personal mobility, and traffic safety in Minnesota. It is therefore in the public interest to provide financing methods that accelerate construction of trunk highways linking regional centers in greater Minnesota with the Twin Cities metropolitan area.

Subd. 2. [STUDY.] The commissioner of transportation shall study and report to the governor and legislature the feasibility and desirability of establishing a comprehensive system of multilane divided highways connecting all regional centers with the Twin Cities metropolitan area. The study must include:

(1) existing highways on corridors between regional centers and the metropolitan area;

(2) improvements to bring all highways in these corridors to expressway standards;

(3) the cost of these improvements;

(4) the role of these improvements in the department of transportation's trunk highway programming priorities; and

(5) a schedule for completing these improvements.

The commissioner shall complete the study and submit the report not later than January 15, 1992.

Sec. 3. [3.862] [TRANSPORTATION STUDY BOARD.]

Subdivision 1. [BOARD EXTENDED; MEMBERSHIP.] The transportation study board created under Laws 1988, chapter 603, section 6, is hereby extended. The board shall consist of the following members:

(1) five members of the senate, with not more than three of the same political party, appointed by the senate committee on committees; and

(2) five members of the house of representatives, with not more than three of the same political party, appointed by the speaker of the house. Appointments are for two-year terms beginning July 1 of each odd-numbered year. Vacancies must be filled in the same manner as the original appointments.

Subd. 2. [OFFICERS.] The board shall elect a chair and vice-chair from among its members. The chair must alternate biennially between a member of the house and a member of the senate. The vice-chair must be a house member when the chair is a senate member, and a senate member when the chair is a house member.

Subd. 3. [STAFF.] The board may employ professional, technical, consulting, and clerical services. The board may use legislative staff to provide legal counsel, research, secretarial, and clerical assistance.

Subd. 4. [EXPENSES AND REIMBURSEMENT.] The members of the board may receive per diem when attending meetings and other commission business. Members, employees, and legislative staff must be reimbursed for expenses actually and necessarily incurred in the performance of their duties under the rules governing legislators and legislative employees.

Sec. 4. [3.863] [DUTIES.]

The transportation study board shall perform the following duties:

(1) review and participate with the house and senate transportation committees in developing recommendations for state transportation policies;

(2) monitor state transportation programs, expenditures, and activities;

(3) review and participate in the coordination of legislative initiatives that affect state and local transportation agencies; and

(4) propose special studies to the legislature and conduct studies at the direction of the legislature.

Sec. 5. [3.864] [SPECIAL STUDIES.]

Subdivision 1. [STUDIES.] The board shall conduct the studies in subdivisions 2 to 7 by January 1, 1993. The board may request the commissioner of transportation to conduct any of the studies and report to the board and the legislature.

Subd. 2. [HIGHWAY PLANNING PROCESS.] The board shall review the department of transportation's policies and procedures for identifying, evaluating, prioritizing, and implementing trunk highway development projects. The board shall not propose, identify, or otherwise select any specific project or category of projects. The board shall report to the legislature and the commissioner of transportation on the results of the study with recommendations:

(1) to the commissioner of transportation with respect to changes in the department's policies and procedures; and

(2) to the legislature with respect to changes in law governing those policies and procedures.

Subd. 3. [HIGHWAY JURISDICTION.] The board shall conduct a study of the functional classification of all streets and highways in Minnesota. The study shall include:

(1) development of a state jurisdiction plan, which must include:

(i) criteria for determining the functional class of each street and highway in the state;

(ii) identification of the appropriate jurisdiction of each street and highway, based on functional class; and

(iii) criteria for determining when jurisdiction should be based on factors other than functional class;

(2) recommendations for implementing the jurisdiction plan; and

(3) recommendations for changes in law to facilitate future jurisdiction transfers.

The board shall report to the legislature and the commissioner of transportation on the results of the study.

Subd. 4. [LIGHT RAIL TRANSIT.] The board shall review and report to the legislature on any preliminary engineering plans for light rail transit adopted by the commissioner of transportation under article 7.

Subd. 5. [STATE-AID DISTRIBUTION.] The board shall study all unresolved issues relating to distribution of the county state-aid highway fund and the municipal state-aid street fund. These issues may include, but need not be limited to:

(1) formulas for distributing money in these funds;

(2) methods of measuring and quantifying factors used in those formulas;

(3) the role of screening boards in this distribution;

(4) methods of mitigating reductions in state aid that might result to one or more counties from various changes in state aid formulas and distribution procedures; and

(5) appropriate levels of state participation in the cost of constructing and maintaining county state-aid highways and municipal state-aid streets.

Subd. 6. [LOCAL PARTICIPATION IN TRUNK HIGHWAY PROJECTS.] The board shall study the appropriate role of local units of government in assisting in the cost of projects to construct or reconstruct trunk highways. The study must include a recommendation of guidelines to govern the extent of that participation and the types of projects for which participation is feasible and desirable.

Subd. 7. [INCREASED USE OF HIGH-OCCUPANCY VEHICLES.] The board shall study the feasibility and desirability of increasing incentives for the use of high-occupancy vehicles such as carpools, vanpools, and transit. The board shall study and evaluate, among other things, each of the following incentives:

(1) tax incentives to employees;

(2) tax incentives and other incentives to employers;

(3) parking charges designed to discourage single-occupant vehicles and promote high-occupancy vehicles;

(4) road pricing on freeways and other commuting routes;

(5) staggered work hours;

(6) expanded availability and reduced cost of regular-route transit; and

(7) increased use of demand-responsive transit to meet the needs of persons otherwise automobile dependent.

Subd. 8. [LOCAL FINANCE STUDY.] The board shall study and report to the legislature by February 15, 1992, the use and effect of methods other than property tax revenues to finance local transportation improvements, including impact fees, transportation utility fees, and similar methods.

Sec. 6. [APPROPRIATION.]

$..... is appropriated from the highway user tax distribution fund to the transportation study board.

Sec. 7. [REPEALER.]

Laws 1988, chapter 603, section 6, is repealed.

ARTICLE 9

METROPOLITAN TRANSIT SERVICE

Section 1. Minnesota Statutes 1990, section 473.375, subdivision 13, is amended to read:

Subd. 13. [FINANCIAL ASSISTANCE.] The board may provide financial assistance to the commission and other providers as provided in sections 473.371 to 473.377 and 473.382 to 473.449 in furtherance of and in conformance with the implementation plan of the board, and shall provide financial assistance to transit service programs as provided in section 473.388. The board may not use the proceeds of bonds issued by the council under section 473.39 to provide capital assistance to private, for-profit operators of public transit.

Sec. 2. Minnesota Statutes 1990, section 473.375, subdivision 15, is amended to read:

Subd. 15. [PERFORMANCE STANDARDS.] The board may establish performance standards for recipients of financial assistance, except that performance standards for recipients of financial assistance under section 473.388 shall be established after consultation with such recipients.

Sec. 3. Minnesota Statutes 1990, section 473.377, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] The transit board shall prepare, submit to the council, and adopt an implementation plan as provided in section 473.161. The services and systems management component of the board's plan must include a description of the special transportation service provided under section 473.386. The board shall prepare an implementation plan meeting the requirements of this section and submit the plan to the council by August 1, 1986, and thereafter at a time prescribed by the council. The components of the implementation plan that are applicable to recipients of financial assistance under section 473.388 shall be prepared after consultation with such recipients.

Sec. 4. Minnesota Statutes 1990, section 473.388, is amended to read:

473.388 [~~REPLACEMENT~~ OPT-OUT TRANSIT SERVICE PROGRAM.]

Subdivision 1. [PROGRAM ESTABLISHED.] ~~A replacement~~ An opt-out transit service program is established to continue the metropolitan transit service demonstration program established in Minnesota Statutes 1982, section 174.265, as provided in this section.

Subd. 2. [~~REPLACEMENT~~ OPT-OUT TRANSIT SERVICE; ELIGIBILITY.] The transit board ~~may~~ shall provide assistance under the program to a statutory or home rule charter city or town or combination thereof, that:

(a) is located in the metropolitan transit taxing district;

(b) is not served by the transit commission or is served only with transit commission bus routes which begin or end within the applying city or town or combination thereof; and

(c) has fewer than four scheduled runs of metropolitan transit commission bus service during off-peak hours defined in section 473.408, subdivision 1.

Eligible cities or towns or combinations thereof may apply on

behalf of a transit operator with whom they propose to contract for service.

The board may not provide assistance under this section to a statutory or home rule charter city or town unless the city or town,

(i) was receiving assistance under Minnesota Statutes 1982, section 174.265 by July 1, 1984,

(ii) had submitted an application for assistance under that section by July 1, 1984, or

(iii) had submitted a letter of intent to apply for assistance under that section by July 1, 1984, and submits an application for assistance under this section by July 1, 1988. A statutory or home rule charter city or town has an additional 12-month extension if it has notified the board before July 1, 1988, that the city or town is in the process of completing a transportation evaluation study that includes an assessment of the local transit needs of the city or town.

Subd. 3. [APPLICATION FOR ASSISTANCE.] An application for assistance under this section must:

(a) describe the existing service provided to the applicant by the transit commission, including the estimated number of passengers carried and the routes, schedules, and fares;

(b) describe the transit service proposed for funding under the demonstration program, including the anticipated number of passengers and the routes, schedules, and fares; and

(c) indicate the total amount of available local transit funds, the portion of the available local transit funds proposed to be used to subsidize ~~replacement~~ opt-out services, and the amount of assistance requested for the ~~replacement~~ opt-out services.

Subd. 4. [FINANCIAL ASSISTANCE.] The board ~~may~~ shall grant the ~~requested financial assistance~~ available local transit funds if it determines that the proposed service is ~~consistent with the approved implementation plan and~~ is intended to replace the service to the applying city or town or combination thereof by the transit commission ~~and that the proposed service will meet the needs of the applicant at least as efficiently and effectively as the existing service~~, if any, and that the proposed service will provide transportation of persons for hire, or that the assistance will be used for transit-related purposes.

The amount of assistance which the board ~~may~~ shall provide under this section ~~may not exceed the sum of:~~

~~(a) the portion of the available local transit funds which the applicant proposes to use to subsidize the proposed service; and~~

~~(b) an amount of financial assistance bearing an identical proportional relationship to the amount under clause (a) as the total amount of financial assistance to the transit commission bears to the total amount of taxes collected by the board under section 473.446. The board shall pay the amount to be provided to the recipient from the assistance the board would otherwise pay to the transit commission.~~ is the total amount of available local transit funds. The board shall disburse assistance to the recipient in advance by semiannual payments on or before January 1 and on or before July 1 of the year for which assistance is requested by the recipient.

Assistance provided by the board to the recipient must be spent for transit-related purposes. Assistance that is not spent in the budget year in which it is provided may be retained by the recipient and carried over to the next budget year. Assistance that is not spent in the budget year in which it is provided may not be retained for more than two additional years. After that time, the recipient must deposit any unspent assistance with the board, who will place emphasis on the expenditure of these funds for suburban transit service.

For purposes of this section "available local transit funds" means 90 percent of the tax revenues which would accrue to the board from the ~~tax it levies~~ certified tax levy under section 473.446 in the applicant city or town or combination thereof, including the revenues which would accrue from the homestead and agricultural credit aid and disparity reduction aid.

Subd. 5. [OTHER ASSISTANCE.] A city or town receiving assistance under this section may also receive assistance from the board under section 473.384. In applying for assistance under that section an applicant must describe the portion of the available local transit funds which are not obligated to subsidize replacement service and which the applicant proposes to use to subsidize additional service. An applicant which has exhausted its available local transit funds may use any other local subsidy funds to complete the required local share.

Subd. 6. [ASSUMPTION OF PROGRAM.] The board shall certify to the commissioner of transportation when it ~~has adopted an approved interim implementation plan and~~ is ready to assume responsibility for the metropolitan transit service demonstration program administered by the commissioner under Minnesota Statutes 1982, section 174.265. On receipt of the certification the commissioner shall make no further contracts under that program and shall assign all contracts then in effect under that program to

the board, and the contracts at that time become obligations of the board.

Subd. 7. [BUDGET.] A recipient of assistance under this section each year shall prepare an annual budget, and, after holding a public hearing on the budget, shall submit the budget to the board and to the legislature for review. The board shall review and comment on the consistency of the budget with its implementation plan.

Subd. 8. [ANNUAL REPORTS.] Before December 1 of each year, the recipient of assistance under this section shall prepare a report for the preceding fiscal year containing, in addition to other matters as the recipient may consider proper, the following:

(a) the activities of the recipient during the period covered by the report; and

(b) a complete accounting of the financial accounts and affairs of the recipient during the fiscal year.

A copy of each report must be filed with the board, the metropolitan council, the legislature, and the governor by November 30 of each year.

Sec. 5. [STUDIES REQUIRED.]

(a) The metropolitan council, in consultation with the board and after consultation with participants in the opt-out transit service program, must conduct a study of the costs of planning, administering and managing transit services in the metropolitan area, including the costs of coordinating and integrating services provided by different transit operators or authorities. The council, in consultation with the board, must direct its staff to examine whether the percentage of property tax revenues raised in communities participating in the program under Minnesota Statutes, section 473.388, which accrues to the board from the tax it levies under Minnesota Statutes, section 473.446, is adequate to finance those communities' prorated share of these costs. The council, in consultation with the board, must make a recommendation to the legislature on the appropriate percentage of property tax revenues to be used to finance these costs.

(b) The council, in consultation with the board and after consultation with participants in the opt-out transit service program, must conduct a study of the interaction between the funding mechanisms of the program under Minnesota Statutes, section 473.388, and the reductions of levied taxes made pursuant to Minnesota Statutes, section 473.446, subdivision 1. The council, in consultation with the board, must direct its staff to study the interaction of these provi-

sions, including the effect of the interaction on the financing of transit services in the metropolitan area, and to report its findings to the board.

(c) The council must report to the legislature on the results of these studies on or before February 15, 1992.

Sec. 6. [APPLICATION.]

Sections 1 to 5 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington."

Amend the title accordingly

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

The report was adopted.

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

H. F. No. 765, A bill for an act relating to certain state employees; establishing eligibility for state-paid insurance after retirement in certain circumstances.

Reported the same back with the following amendments:

Page 1, line 18, delete "the effective date of this section" and insert "May 5, 1990,"

Page 2, line 20, before the period insert ", and is retroactive to May 5, 1990"

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. 817, A bill for an act relating to natural resources; revising certain provisions regarding the leasing of state-owned iron ore and related minerals; amending Minnesota Statutes 1990, sections 93.16; 93.17, subdivisions 1 and 3; and 93.20, by adding a

subdivision; repealing Minnesota Statutes 1990, section 93.20, subdivision 9.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 93.16, is amended to read:

93.16 [PERMITS; SALE, NOTICE.]

Except as otherwise expressly provided by law, prospecting permits for iron ore or other minerals belonging to the state shall be issued only upon public sale as herein provided. The sale of permits may be held ~~annually, at the discretion of~~ at such times and places as designated by the commissioner~~, on the second Monday in August~~. The commissioner shall give public notice of each sale by publication for ~~four~~ three successive weeks in a daily newspaper printed and published in each of the cities of St. Paul, Minneapolis, Duluth, Hibbing, and Virginia. The last publication shall be not less than seven days nor more than 30 days before ~~August 1 next preceding~~ the date of sale. Like notice may be published in not to exceed two additional newspapers and two trade magazines, as the commissioner may direct.

Each notice shall contain the following information:

(1) Time and place of holding the sale;

(2) The general requirements of law affecting bidders and purchasers of permits;

(3) The place or places where the list of mining units, to be offered for sale will be available for inspection and where forms for bids and applications for prospecting permits may be obtained;

(4) Such other information as the commissioner may direct.

Sec. 2. Minnesota Statutes 1990, section 93.17, subdivision 1, is amended to read:

Subdivision 1. Applications for permits to prospect for iron ore shall be presented to the commissioner in writing in such form as the commissioner may prescribe at any time ~~prior to the time of opening the bids as hereinafter provided~~ before 4:30 p.m., St. Paul, Minnesota time, on the last business day before the day specified for the opening of bids, and no bids submitted after that time shall be considered. The application shall be accompanied by a certified

check payable to the state treasurer in the sum of $50 for each mining unit as set out above. Each application shall be accompanied also by a sealed bid setting forth the amount of royalty per gross ton of crude ore based upon the iron content of the ore when dried at 212 degrees Fahrenheit, in its natural condition or when concentrated, as set out in detail hereafter, that the applicant proposes to pay to the state of Minnesota in case the permit shall be awarded.

Sec. 3. Minnesota Statutes 1990, section 93.17, subdivision 3, is amended to read:

Subd. 3. ~~On the date~~ At the time and place fixed for the sale ~~at 11 o'clock in the forenoon in the office of the governor in the state capitol in St. Paul~~, the commissioner shall publicly announce the number of applications and bids received~~, and none received thereafter shall be considered~~. The commissioner, together with at least one member of the executive council as designated by the council, shall then publicly open the bids~~,~~ and announce the amount of each bid separately~~, and~~. Thereafter, the commissioner, together with the executive council, shall award the permits to the highest bidders for the respective mining units, but no bids shall be accepted that shall not equal or exceed the minimum amounts provided for in section 93.20, nor shall any bid be accepted that shall not comply with the law and be accompanied by a certified check for the faithful performance of the terms of each permit as hereinbefore set out. The right is reserved to the state to reject any and all bids. All applications for permits and bids not accepted at such sale shall become void at the close of the sale and the checks accompanying the applications and bids shall be returned to the applicants entitled to them. Upon the award of a permit, the certified check submitted with the application as provided by subdivision 1, shall be deposited with the state treasurer as a fee for the permit, to be credited to the same fund as the rental or royalty from the mining unit affected, and the certified check submitted with the bid as provided by subdivision 2, shall be deposited with the state treasurer and held for further disposition as provided by law.

Sec. 4. Minnesota Statutes 1990, section 93.20, is amended by adding a subdivision to read:

Subd. 9a. (1) The royalties to be paid by the part.... of the second part to the party of the first part on ore removed in each calendar quarter that the lease remains in force as hereinbefore specified shall be subject to increase by fifty percent (50%) of the sum of the amounts determined in accordance with subparagraphs (a) and (b) below:

(a) Reference shall be made to the Producer Price Index for Iron Ores (December 1984 = 100) (Industry Code No. 1011), as originally published (unrevised) by the Bureau of Labor Statistics of the United States Department of Labor, or any succeeding federal

agency publishing such index, for the first month in the calendar quarter for which royalty payment is to be made. If the Producer Price Index for Iron Ores exceeds ....., which was the level of such index for the month in which this lease was issued (hereafter called the "PPI – IO Base Index"), the excess shall be computed and this excess shall become the numerator of a fraction, the denominator of which shall be the PPI – IO Base Index, and the resulting fraction shall be multiplied by the royalty rate per ton payable on the ore mined and removed during any such quarter.

For example, if the PPI – IO Base Index under this lease was 119.2, and if the Producer Price Index for Iron Ores for January, 19.. was 125.3, the additional amount for the calendar quarter of January, February, and March 19.. would be computed as follows:

[(125.3-119.2)/119.2] × base royalty rate = additional amount

(b) Reference shall be made to the Producer Price Index for the Iron and Steel Subgroup of the Metals and Metal Products Group (1982–100) (Commodity Code No. 101), as originally published (unrevised) by the Bureau of Labor Statistics of the United States Department of Labor, or any succeeding federal agency publishing such index, for the first month in the calendar quarter for which royalty payment is to be made. If the Producer Price Index for the Iron and Steel Subgroup of the Metals and Metal Products Group exceeds ....., which was the level of such index for the month in which this lease was issued (hereafter called the "PPI – I&S Base Index)", the excess shall be computed and this excess shall become the numerator of a fraction, the denominator of which shall be the PPI – I&S Base Index, and the resulting fraction shall be multiplied by the royalty rate per ton payable on the ore mined and removed during any such quarter.

For example, if the PPI – I&S Base Index under this lease was 129.5, and if the Producer Price Index for the Iron and Steel Subgroup of the Metals and Metal Products Group for January, 19.. was 139.5, the additional amount for the calendar quarter of January, February, and March 19.. would be computed as follows:

[(139.5-129.5)/129.5] × base royalty rate = additional amount

(2) In the event some other period than December 1984 is used as a base of 100 in determining the Producer Price Index for Iron Ores or some other period than 1982 is used as a base of 100 in determining the Producer Price Index for the Iron and Steel Subgroup of the Metals and Metal Products Group, for the purposes of this lease these indexes shall be adjusted so as to be in correct relationship to the appropriate base. In the event either such index is not published by any federal agency, the index to be used as aforesaid shall be that index independently published, which, after necessary adjustments, if any, provides the most reasonable substitute for the appropriate index during any period subsequent to the

month in which this lease is issued; it being intended to substitute for the Producer Price Index for Iron Ores an index that most accurately reflects fluctuations in the prices of Great Lakes iron ores in the manner presently reported by the Producer Price Index for Iron Ores (December 1984=100), as originally published (unrevised) by the Bureau of Labor Statistics of the United States Department of Labor, and it being intended to substitute for the Producer Price Index for the Iron and Steel Subgroup of the Metals and Metal Products Group an index that most accurately reflects fluctuations in the prices of iron and steel in the manner presently reported by the Producer Price Index for the Iron and Steel Subgroup of the Metals and Metal Products Group (1982=100), as originally published (unrevised) by the Bureau of Labor Statistics of the United States Department of Labor.

If the parties to this lease cannot agree upon substitute indexes which accomplish these purposes, each shall choose an arbitrator and the two thus selected shall choose a third. The decision of the arbitrators or any two of them shall be final and binding on the parties in interest. The agreement or the decision of the arbitrators shall be attached as a supplement to the lease. Each party to the arbitration shall bear their representative share of the costs for the arbitration.

Sec. 5. [REPEALER.]

Minnesota Statutes 1990, section 93.20, subdivision 9, is repealed.

Sec. 6. [EFFECTIVE DATE.]

This act is effective the day following its final enactment."

Delete the title and insert:

"A bill for an act relating to natural resources; revising certain provisions regarding the leasing of state-owned iron ore and related minerals; amending Minnesota Statutes 1990, sections 93.16; 93.17, subdivisions 1 and 3; and 93.20, by adding a subdivision; repealing Minnesota Statutes 1990, section 93.20, subdivision 9."

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. 920, A bill for an act relating to the environment;

requiring recycled CFCs used in refrigerant applications to comply with certain standards; proposing coding for new law in Minnesota Statutes, chapter 239.

Reported the same back with the following amendments:

Page 1, after line 17, insert:

"Sec. 2. [REFRIGERATION EQUIPMENT AND SYSTEMS; TRAINING AND LICENSING RECOMMENDATIONS.]

The pollution control agency shall by January 1, 1992, make recommendations to the legislature on methods for the use, recapture, and recycling of CFCs and appropriate training and licensing provisions for persons engaged in the installation or repair of refrigeration equipment and systems that use CFC refrigerants. The agency shall consult with contractors and representatives of these installations and repair workers before making these recommendations.

Sec. 3. [REPEALER.]

Minnesota Statutes 1990, section 116.734, is repealed."

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 4, after the semicolon insert "requiring recommendations on training and licensure of installers;"

Page 1, line 5, before the period insert "; repealing Minnesota Statutes 1990, section 116.734"

With the recommendation that when so amended the bill pass.

The report was adopted.

Ogren from the Committee on Taxes to which was referred:

H. F. No. 956, A bill for an act relating to state government; providing an early retirement incentive for public employees; amending Minnesota Statutes 1990, sections 275.125, by adding a subdivision; and 275.50, subdivision 5.

Reported the same back with the following amendments:

Page 1, line 14, delete "5" and insert "3"

Page 1, line 20, before "Minnesota" insert "state university system, community college system,"

Page 2, line 28, delete "August" and insert "July"

Page 2, line 33, after "for" insert "an employer-paid health insurance benefit provided as"

Pages 3 to 11, delete sections 3 and 4

Page 11, line 14, delete "5" and insert "3"

Page 11, line 15, delete "to 4" and insert "and 2"

Amend the title as follows:

Page 1, line 3, delete "; amending" and insert a period

Page 1, delete lines 4 and 5

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. 978, A bill for an act relating to the environment; requiring the governor to submit a biennial policy report to the legislature on energy and the environment; proposing coding for new law in Minnesota Statutes, chapter 116D; repealing Minnesota Statutes 1990, section 116D.07.

Reported the same back with the following amendments:

Page 1, line 12, delete "detailed" and insert "concise"

Page 1, line 15, delete "detailed" and insert "comprehensive"

Page 1, line 19, after "a" insert "concise,"

Page 2, line 5, after "a" insert "concise,"

Page 2, line 8, before "discussion" insert "concise"

Page 2, line 18, after "a" insert "concise"

Page 2, line 25, after "a" insert "concise"

Page 3, line 32, delete "an" and insert "a concise"

Page 3, line 34, before "description" insert "concise"

Page 4, lines 22, 25, and 31 after "describe" insert "concisely"

Page 5, delete lines 26 to 33 and insert:

"Subd. 4. [STRATEGY AND FINAL REPORTS.] (a) Any department or agency of the state required to submit a biennial report to the legislature in an even-numbered year under section 15.063 may reference part or all of the discussion and information contained in a preliminary strategy report of that department or agency prepared in the prior odd-numbered year in fulfillment of providing any of the substantially equivalent material required to be in the biennial report to the legislature.

(b) It is the intent of the legislature that any preliminary strategy report by a department or agency, the draft energy and environmental strategy report of the state prepared by the environmental quality board, and the final report on the energy and environmental strategy of the state as transmitted by the governor should be written in as concise and easily understood a manner as possible while being sufficiently comprehensive to assist the legislature in allocating funds to support the policies, plans, and programs of the state related to energy and the environment. All preliminary, draft, and final reports shall contain minimal extraneous and irrelevant material.

(c) It is the intent of the legislature that the primary responsibility for preparing the preliminary strategy report relating to energy shall be the responsibility of the department of public service and that the primary responsibility for preparing the preliminary strategy report relating to the environment shall be the responsibility of the pollution control agency.

(d) To aid in effectuating the goal of the legislature that all preparatory and final reports be written in a concise and understandable manner, no preliminary strategy report of any department or agency shall exceed, without the prior approval of the environmental quality board, 30 double-spaced pages or the equivalent, 8-1/2 x 11 inches in size, including all appendices, addenda,

and attachments, except those that contain primarily charts, graphs, tabulations, or contain other numerical or pictorial information. Notwithstanding the foregoing, preliminary strategy reports of the department of public service and the pollution control agency may not exceed 50 double-spaced pages or the equivalent, 8-1/2 x 11 inches in size, including all appendices, addenda, and attachments, except those that contain primarily charts, graphs, tabulations or contain other numerical or pictorial information."

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. 983, A bill for an act relating to Ramsey county; changing Ramsey county special laws to make them consistent with the county home rule charter; amending Minnesota Statutes 1990, sections 383A.06, subdivision 2; 383A.16, subdivision 4; 383A.20, subdivision 10; 383A.32, subdivision 1; and 383A.50, subdivision 4; repealing Minnesota Statutes 1990, sections 383A.04; 383A.06, subdivision 3; 383A.07, subdivisions 6, 15, and 20; 383A.16, subdivision 5; 383A.20, subdivisions 1, 6 to 9, and 11; 383A.23, subdivision 1; 383A.24; 383A.25; 383A.45; 383A.46; 383A.48; 383A.49; and 383A.50, subdivisions 1 and 3.

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. 1038, A bill for an act relating to checks; increasing bank verification requirements for opening checking accounts; regulating check numbering procedures; requiring the commissioner of commerce to adopt rules regarding verification procedure requirements; authorizing fees for obtaining certain information from financial institutions; modifying procedures and liability for civil restitution for holders of worthless checks; authorizing service charges for use of law enforcement agencies; clarifying criminal penalties; increasing information that banks must provide to holders of worthless checks; imposing penalties; amending Minnesota Statutes 1990, sections 48.512, subdivisions 4, 5, and by adding subdivisions; 332.50, subdivisions 1 and 2; and 609.535, subdivisions 2a, 6, and 7; proposing coding for new law in Minnesota Statutes, chapter 48.

Reported the same back with the following amendments:

Page 1, delete section 1 and insert:

"Section 1. Minnesota Statutes 1990, section 48.512, subdivision 3, is amended to read:

Subd. 3. [CONFIRM NO INVOLUNTARY CLOSING.] Before opening or authorizing signatory power over a transaction account, the financial intermediary shall attempt to verify the information disclosed for subdivision 2, clause (i). Inquiries made to verify this information through persons in the business or providing such information shall include an inquiry based on the applicant's identification number provided under subdivision 2, clause (g). The financial intermediary may not open or authorize signatory power over a transaction account if (i) the applicant had a transaction account closed by a financial intermediary without consent because of issuance by the applicant of dishonored checks within 12 months immediately preceding the application, or (ii) the applicant has been convicted of a criminal offense because of the use of a check or other similar item within 24 months immediately preceding the application.

If the transaction account is refused pursuant to this subdivision, the reasons for the refusal shall be given to the applicant in writing and the applicant shall be allowed to provide additional information.

Sec. 2. Minnesota Statutes 1990, section 48.512, subdivision 4, is amended to read:

Subd. 4. [IDENTIFICATION IS REQUIRED.] A financial intermediary shall not open or authorize *signatory power over a transaction account if none of the applicants provides a driver's license, identification card, or identification document as required by subdivision 2. If the applicant provides a driver's license or identification card issued under section 171.07, the financial intermediary must confirm the identification number and name on that card through the records of the department of public safety. The financial intermediary need not confirm this information if an employee of the financial intermediary has known the identity of the applicant for at least one year prior to the time of the application, and the employee provides a signed statement confirming that fact. When a minor is the applicant and the minor does not have a driver's license or identification card issued pursuant to section 171.07, the identification requirements of subdivision 2, clause (g), and this subdivision are satisfied if the minor's parent or guardian provides identification of that person's own that meets the identification requirement. The financial intermediary may waive the identification requirement if the applicant has had another type of account with the financial intermediary for at least one year immediately preceding the time of application."

Page 3, line 33, before "amount" insert "aggregate" and strike "check" and insert "checks"

Page 3, line 35, delete "Before bringing an action, a payee" and insert "If the amount of the dishonored check plus any service charges which have been incurred under paragraphs (d) and (e) have not been paid within 30 days after having mailed a notice of dishonor in compliance with subdivision 3 but before initiating a cause of action, the holder"

Page 4, line 4, after "(c)" insert "After notice has been sent but"

Page 4, line 16, before the period insert "if the service charge is used to reimburse the law enforcement agency for its expenses"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete everything after the semicolon

Page 1, delete line 5

Page 1, line 6, delete "procedure requirements;"

Page 1, line 14, after "subdivisions" insert "3,"

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. 1080, A bill for an act relating to education; requiring the higher education coordinating board to make certain recommendations to the legislature.

Reported the same back with the recommendation that 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. 1105, A bill for an act relating to Ramsey county; providing for additional civil service certification of underrepresented groups; amending Minnesota Statutes 1990, section 383A.291, subdivision 2.

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. 1119, A bill for an act relating to education; requiring the development of policies for students with disabilities in postsecondary institutions; proposing coding for new law in Minnesota Statutes, chapter 135A.

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. 1134, A bill for an act relating to human services; clarifying membership requirements for the advisory committee for regional service centers for hearing impaired persons; authorizing fees for interpreter referral services; amending Minnesota Statutes 1990, sections 256C.24, subdivisions 2 and 3; and 256C.25.

Reported the same back with the following amendments:

Page 2, delete section 2

Page 2, line 18, delete "3" and insert "2"

Page 2, line 25, strike "The commissioner of human services" and before "may" insert "Within the seven-county metro area, the commissioner shall contract for these services; outside the metro area, the commissioner shall directly coordinate these services but"

Page 2, line 32, before the period insert "or hearing-impaired consumers or interpreters"

Delete the title and insert:

"A bill for an act relating to human services; authorizing fees for interpreter referral services; amending Minnesota Statutes 1990, sections 256C.24, subdivision 2; and 256C.25."

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. 1150, A bill for an act relating to crimes; increasing the penalty for assaulting a correctional officer; amending Minnesota Statutes 1990, section 609.2231, subdivision 3.

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

The report was adopted.

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

H. F. No. 1173, A bill for an act relating to natural resources; amending certain provisions concerning mineral exploration, exploratory boring, and data acquired in connection therewith; authorizing the adoption of rules establishing minimum standards for wells to explore for or produce oil, gas, and related hydrocarbons; amending Minnesota Statutes 1990, sections 13.793, subdivision 2; 103I.601, subdivision 4; and 103I.605, subdivision 4.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 13.793, subdivision 2, is amended to read:

Subd. 2. [DATA BECOME PUBLIC.] (a) Data under subdivision 1, clause (1), become public data three years after the date the lease sale was held or, if not held, within three years after the date the

lease sale was scheduled to be held. Except as provided in paragraph (b), data under subdivision 1, clause (2), become public data ~~90 days~~ one year after receipt by the commissioner.

(b) If data under subdivision 1, clause (2), relate to private land that is under mineral lease to the person submitting the data, and the mineral lease is in force at the time the data are submitted, the data become public data only after the mineral lease is no longer in force. The person submitting the data that relate to private land that is under mineral lease shall provide to the commissioner at the time the data are submitted and annually thereafter, in a format designated by the commissioner, satisfactory evidence that the mineral lease is in effect. If, in a given year, satisfactory evidence that the mineral lease is still in effect is not provided to the commissioner before the anniversary date of receipt of the data by the commissioner, the data immediately become public data.

Sec. 2. Minnesota Statutes 1990, section 103I.601, subdivision 4, is amended to read:

Subd. 4. [MAP OF BORINGS.] By ten days before beginning exploratory boring, an explorer must submit to the commissioners of health and natural resources *a county road map having a scale of* one-half inch equal to one mile, as prepared by the department of transportation, showing the location of each proposed exploratory boring to the nearest estimated 40 acre parcel. Exploratory boring that is proposed on the map may not be commenced later than 180 days after submission of the map, unless a new map is submitted.

Sec. 3. Minnesota Statutes 1990, section 103I.605, subdivision 4, is amended to read:

Subd. 4. [EXPLORATION DATA.] (a) By ~~six months~~ 180 days after termination by the explorer of a lease or other type of exploration agreement on a property the data from the exploration must be submitted to the commissioner of natural resources. The data is public data and persons submitting or releasing the data are not subject to civil or criminal liability for its use by others.

(b) Data that will become public under paragraph (a) may be submitted, with the prior written permission of the commissioner of natural resources, before the termination. *If the data are submitted* earlier than the required time, data do not become public data until 180 days after termination by the explorer of the lease or other type of exploration agreement on the property from which the data is obtained. An explorer submitting data before the time required by paragraph (a) shall provide to the commissioner of natural resources at the time the data are submitted and every 180 days thereafter, in a format designated by the commissioner of natural resources, satisfactory evidence that the lease or other type of exploration agreement is in effect. If satisfactory evidence that the mineral lease

or other exploration agreement is still in effect is not provided to the commissioner of natural resources for a given 180-day period by the required date, the data immediately become public data. The explorer may waive, in writing, the data privacy requirements and agree that data submitted before the time required by paragraph (a) are public data.

(c) Notwithstanding paragraph (b), exploration drill core and samples submitted before the time required by paragraph (a) become public data no later than five years after receipt of the exploration drill core and samples by the commissioner of natural resources even if the lease or other type of exploration agreement on the property from which the exploration drill core and samples were obtained has not terminated."

Delete the title and insert:

"A bill for an act relating to natural resources; amending certain provisions concerning mineral exploration, exploratory boring, and data acquired in connection therewith; amending Minnesota Statutes 1990, sections 13.793, subdivision 2; 103I.601, subdivision 4; and 103I.605, subdivision 4."

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

The report was adopted.

Anderson, I., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1189, A bill for an act relating to counties; permitting counties to spend money for broadcast facilities; amending Minnesota Statutes 1990, section 375.164.

Reported the same back with the following amendments:

Page 1, line 8, reinstate the stricken "TELEVISION TRANSLATOR" and before "BROADCAST" insert "OR"

Page 1, line 13, reinstate the stricken language and before "broadcast" insert "or"

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. 1208, A bill for an act relating to game and fish; extending the date by which fish houses and dark houses must be removed from certain state waters; amending Minnesota Statutes 1990, section 97C.355, subdivision 7.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 97C.355, subdivision 7, is amended to read:

Subd. 7. [DATES AND TIMES HOUSES MAY REMAIN ON ICE.] (a) ~~After February 28,~~ A fish house or dark house may not be on the ice between 12:00 a.m. and one hour before sunrise after the following dates:

(1) February 28, for state waters south of a line starting at the Minnesota-North Dakota border and formed by rights-of-way of Trunk Highway No. 200, then east along Trunk Highway No. 200 to U.S. Route No. 2, then east along U.S. Route No. 2 to the Minnesota-Wisconsin border; and

(2) March 15, for other state waters.

A fish house or dark house on the ice in violation of this subdivision is subject to the enforcement provisions of paragraph (b). The commissioner may, by order, ~~extend~~ change the ~~date beyond February 28~~ dates in this paragraph for any part of ~~international boundary~~ state waters. Copies of the order must be conspicuously posted on the shores of the waters as prescribed by the commissioner.

(b) A conservation officer must confiscate a fish house or dark house in violation of paragraph (a). The officer may remove, burn, or destroy the house. The officer shall seize the contents of the house and hold them for 60 days. If the seized articles have not been claimed by the owner, they may be retained for the use of the division or sold at the highest price obtainable in a manner prescribed by the commissioner."

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. 1227, A bill for an act relating to agriculture; changing certain food licensing fees; amending Minnesota Statutes 1990, section 28A.08.

Reported the same back with the following amendments:

Page 4, after line 7, insert:

"Sec. 2. [FEE INCREASE LIMIT.]

If the fee increases in section 1 will raise more than $271,000 in additional revenue in the fiscal biennium ending June 30, 1993, the commissioner of agriculture shall reduce the fees so that the additional revenue raised is no more than $271,000. Additionally, all license fees collected under Minnesota Statutes, section 28A.08, shall be dedicated funds to this section."

With the recommendation that when so amended 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. 1241, A bill for an act relating to agriculture; eliminating certain requirements for processing of farmstead cheese; amending Minnesota Statutes 1990, section 32.486, subdivision 1a.

Reported the same back with the following amendments:

Page 1, line 9, reinstate the stricken "(a)"

Page 1, line 12, reinstate the stricken "(b)"

Page 1, line 14, after the stricken period insert "The commissioner may require pasteurization if test samples demonstrate cheese and cultured dairy foods are not free of pathogens. The commissioner must inspect facilities at least four times each year."

Amend the title as follows:

Page 1, line 2, delete "eliminating" and insert "permitting"

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. 1277, A bill for an act relating to eminent domain; providing for exercise of eminent domain power over properties owned by railroads.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [117.57] [AUTHORITIES; RAILROAD PROPERTIES.]

The power of eminent domain of an authority, as defined in section 469.174, subdivision 2, extends to railroad properties located within the authority's limits, provided:

(1) the railroad property is not a line of track for which abandonment is required under federal law, or if it is a line of track for which abandonment is required under federal law, abandonment has been approved;

(2) some part of the property contains land pollution as defined in section 116.06, or contains a release or threatened release of petroleum, as provided in chapter 115C, or contains a release or threatened release of a pollutant, contaminant, hazardous substance, or hazardous waste, as provided in chapter 115B; and

(3) the authority intends to develop the property and has a plan for its cleanup and development within five years.

Upon a showing by the petitioner in condemnation proceedings that the conditions described in clauses (1) to (3) exist, then the public use to which the authority would put the property is adjudged a superior public use to railroad use or any other past, present, or proposed future use, regardless of whether the property is held in trust, was previously acquired by condemnation, or is owned by a railroad.

Sec. 2. [117.571] [RELATION TO STATE RAIL BANK.]

Nothing in section 1 shall supersede the provisions of section 222.63."

Amend the title as follows:

Page 1, line 4, before the period insert "; proposing coding for new law in Minnesota Statutes, chapter 117"

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. 1282, A bill for an act relating to local government; providing procedures for storm sewer improvements; amending Minnesota Statutes 1990, section 444.18, by adding a subdivision; repealing Minnesota Statutes 1990, section 444.18, subdivision 2.

Reported the same back with the following amendments:

Page 1, line 25, before the period insert "except as to the parties who were not given prescribed notice and were materially prejudiced by the failure to give such notice"

Page 2, line 2, delete "council" and insert "governing body" and delete "city" and insert "municipal"

Page 2, line 11, delete "council" and insert "governing body"

With the recommendation that when so amended 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. 1305, A bill for an act relating to agriculture; changing the livestock market agency and dealer licensing act; amending Minnesota Statutes 1990, sections 17A.01; 17A.03, subdivisions 1 and 7; 17A.04, subdivision 1; 17A.14; proposing coding for new law in Minnesota Statutes, chapter 17A; repealing Minnesota Statutes 1990, section 17A.15.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 17A.01, is amended to read:

17A.01 [CITATION.]

~~Sections 17A.01 to 17A.15~~ This chapter may be cited as the Minnesota livestock market agency and dealer licensing act.

Sec. 2. Minnesota Statutes 1990, section 17A.03, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] As used in ~~sections 17A.01 to 17A.15~~ this chapter, the terms defined in this section have the meanings given them.

Sec. 3. Minnesota Statutes 1990, section 17A.03, subdivision 5, is amended to read:

Subd. 5. [LIVESTOCK.] "Livestock" means cattle, sheep, swine, horses intended for slaughter, mules, and goats.

Sec. 4. Minnesota Statutes 1990, section 17A.03, subdivision 7, is amended to read:

Subd. 7. [LIVESTOCK DEALER.] "Livestock dealer" means any person, including a packing company, engaged in the business of buying or selling livestock on a regular basis for the person's own account or for the account of others.

"Livestock dealer" does not include:

(a) persons licensed under section 28A.04 who are primarily engaged in the sale of meats at retail and persons operating as frozen food processing plants as defined in section 31.185; and

(b) persons engaged in the business of farming, when purchasing livestock for breeding or herd replacement purposes or feeding programs, and when selling the livestock they have owned and raised, fed out or fattened for slaughter in their specific farming program.

Sec. 5. Minnesota Statutes 1990, section 17A.04, subdivision 1, is amended to read:

Subdivision 1. [LICENSING PROVISIONS.] Licenses shall be issued to livestock market agencies and public stockyards annually and shall expire on December 31 each year, renewable annually thereafter. The license issued to a livestock market agency and public stockyard shall be conspicuously posted at the licensee's place of business. Licenses shall be required for livestock dealers and their

agents for the period beginning July 1 each year and ending June 30. The license issued to a livestock dealer or the agent of a livestock dealer shall be carried by the person so licensed. The livestock dealer shall be responsible for the acts of the dealer's agents. Licensed livestock market agencies, public stockyards, and livestock dealers shall be responsible for the faithful performance of duty of the public livestock weighers at their places of business. The license issued to a livestock market agency, public stockyard or livestock dealer or agent of a livestock dealer is not transferable. The operation of livestock market agencies, livestock dealers, agents and packers at a public stockyard are exempt from sections 17A.01 to ~~17A.09~~ 17A.091, and 17A.12 to ~~17A.15~~ 17A.17.

Sec. 6. Minnesota Statutes 1990, section 17A.14, is amended to read:

17A.14 [PENALTIES.]

Subdivision 1. [CRIMINAL PENALTIES.] Any person, duly licensed or otherwise, who violates ~~the provisions of sections 17A.01 to 17A.15~~ this chapter, for which violation a penalty has not been specifically set out, is guilty of a misdemeanor. Any subsequent violation is a gross misdemeanor.

Subd. 2. [CIVIL PENALTIES.] (a) The commissioner, as an alternate to misdemeanor prosecution, may impose a civil penalty on a person who violates a statute or rule enforceable by the commissioner. For a first violation, the commissioner may impose a civil penalty of not more than $500 for each violation. For a second or succeeding violation, the commissioner may impose a penalty of not more than $1,000 for each violation.

(b) In determining the amount of the civil penalty, the commissioner may consider:

(1) the willfulness of the violation;

(2) the gravity of the violation;

(3) the person's history of past violations;

(4) the number of violations;

(5) the economic benefit from the violations; and

(6) other factors identified in the commissioner's citation.

(c) For a second or succeeding violation, the commissioner shall determine the amount of a penalty by considering the factors in paragraph (b) and:

(1) similarity between the violations;

(2) time elapsed since the last violation; and

(3) the person's response to the most recent violation.

Sec. 7. [17A.145] [CIVIL PENALTY PROCEDURES.]

Subdivision 1. [CITATION.] If the commissioner believes that a person has violated this chapter or a rule or order adopted under this chapter, the commissioner shall issue a written citation to the person by personal service or by certified mail. The citation must describe with particularity the nature of the violation, including a reference to the statute, rule, or order alleged to have been violated. In addition, the citation must fix a reasonable time for the abatement of the violation and notify the person of the penalty, if any, proposed to be assessed. The citation must also advise that the person has 30 working days within which to notify the commissioner in writing that the person wishes to contest the citation, proposed penalty assessment, or time allowed for correction. The commissioner may issue notices instead of citations with respect to minor violations if the commissioner believes a notice will best serve the public interest.

Subd. 2. [FINAL ORDER.] If within 30 working days after receiving the commissioner's notice or citation the person fails to notify the commissioner in writing that the person intends to contest the citation, proposed penalty, assessment, or time allowed for correction in the citation, the citation and assessment as proposed become a final order and are not subject to further review. For good cause shown the commissioner may extend the time period for responding.

Subd. 3. [APPEAL.] The time allowed for correcting a violation does not begin to run until the entry of a final order if the person has initiated review proceedings under this section in good faith. If the commissioner has reason to believe that a person has failed to correct a violation for which a citation has been issued within the time allowed, the commissioner shall notify the person by certified mail of the failure. The notification must state the penalty proposed to be assessed for the failure under section 17A.14 and must state that the person has 30 working days to notify the commissioner in writing that the person wishes to contest the notification or the proposed penalty assessment. If within 30 working days after receiving the notification the person fails to notify the commissioner in writing that the person intends to contest the notification or proposed penalty assessment, the notification and assessment as proposed become a final order and are not subject to further review. For good cause shown the commissioner may extend the time period for responding.

Subd. 4. [CITATION CONTEST.] If a person who has received a citation or a proposed penalty assessment notifies the commissioner that the person intends to contest the citation or the proposed penalty assessment within the time limits in subdivisions 2 and 3, the commissioner shall file a complaint with the office of administrative hearings and serve a copy on the respondent by first class mail. The complaint must be served and copies filed within 40 days of receiving the notice of contest. The complaint must set forth all alleged violations and proposed penalties that are contested.

Subd. 5. [CONTESTED CASE HEARING.] Notwithstanding chapter 14, after an answer has been timely filed the case must be heard as a contested case except that the report of the administrative law judge is the final decision of the department of agriculture.

Sec. 8. [17A.151] [DUTY TO PROSECUTE.]

It is the duty of each county attorney or city attorney to whom the commissioner reports a violation of this chapter to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before a violation of this chapter is reported to a county attorney or city attorney for the institution of a criminal proceeding, the person against whom the proceeding is contemplated must be given appropriate notice and an opportunity to present views before the commissioner or the commissioner's designated agent, either orally or in writing, in person, or by attorney, with regard to the contemplated proceeding."

Delete the title and insert:

"A bill for an act relating to agriculture; changing the livestock market agency and dealer licensing act; amending Minnesota Statutes 1990, sections 17A.01; 17A.03, subdivisions 1, 5, and 7; 17A.04, subdivision 1; 17A.14; proposing coding for new law in Minnesota Statutes, chapter 17A."

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. 1310, A bill for an act relating to crimes; creating the gross misdemeanor offense of assaulting a public employee who is engaged in mandated duties; amending Minnesota Statutes 1990, section 609.2231, by adding a subdivision.

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

The report was adopted.

Wenzel from the Committee on Agriculture to which was referred:

H. F. No. 1352, A bill for an act relating to state government; requiring that the principal offices of the department of agriculture be located in Waseca; proposing coding for new law in Minnesota Statutes, chapter 17.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [AGRICULTURE DEPARTMENT RELOCATION; STUDY.]

(a) The commissioner of administration, in consultation with the commissioner of agriculture and the regents of the University of Minnesota, shall propose a plan for relocating the principal offices of the department of agriculture to the former Waseca campus or other suitable locations in rural Minnesota.

(b) Not later than February 15, 1992, the commissioner must report on the relocation plan to the legislature.

(c) The plan must:

(1) include provisions for laboratory space as needed for the department of agriculture; and

(2) include classroom and meeting room space for the department of agriculture sufficient to meet present and future needs of the department and the Minnesota extension service.

Sec. 2. [APPROPRIATION.]

$..... is appropriated from the general fund to the commissioner of administration for the study in section 1.

Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to state government; requiring a plan for the relocation of the principal offices of the department of agriculture; 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.

Anderson, I., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1396, A bill for an act relating to local government; allowing Pine county to transfer money from the county welfare fund to the general fund to support a hospital.

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

The report was adopted.

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

H. F. No. 1418, A bill for an act relating to human services; Minnesota comprehensive health association; clarifying the calculation of contributing members' share of expenses; excluding medical assistance and general assistance medical care payments from the calculation; amending Minnesota Statutes 1990, section 62E.11, subdivision 5.

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. 1450, A bill for an act relating to agriculture; changing certain deadlines of the agricultural chemical response compensation board; amending Minnesota Statutes 1990, sections 18E.04, subdivision 5; and 18E.05, subdivision 3.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 18E.04, subdivision 4, is amended to read:

Subd. 4. [REIMBURSEMENT PAYMENTS.] (a) The board shall pay a person that is eligible for reimbursement or payment under subdivisions 1, 2, and 3 from the agricultural chemical response and reimbursement account for:

(1) 90 percent of the total reasonable and necessary corrective action costs greater than $1,000 and less than or equal to $100,000; and

(2) 100 percent of the total reasonable and necessary corrective action costs ~~equal to or~~ greater than $100,000 but less than or equal to $200,000.

(b) A reimbursement or payment may not be made until the board has determined that the costs are reasonable and are for a reimbursement of the costs that were actually incurred.

(c) The board may make periodic payments or reimbursements as corrective action costs are incurred upon receipt of invoices for the corrective action costs.

(d) Money in the agricultural chemical response and reimbursement account is appropriated to the commissioner to make payments and reimbursements directed by the board under this subdivision.

Sec. 2. Minnesota Statutes 1990, section 18E.04, subdivision 5, is amended to read:

Subd. 5. [REIMBURSEMENT OR PAYMENT DECISIONS.] (a) The board may issue a letter of intent on whether a person is eligible for payment or reimbursement. The letter is not binding on the board.

(b) The board must issue an order granting or denying a request within 30 days following the board meeting at which the board votes to grant or deny a request for reimbursement or for payment under subdivision 1, 2, or 3.

(c) After an initial request is made for reimbursement, notwithstanding subdivisions 1 to 4, the board may deny additional requests for reimbursement.

(d) If a request is denied, the eligible person may appeal the decision as a contested case hearing under chapter 14.

Sec. 3. Minnesota Statutes 1990, section 18E.05, subdivision 3, is amended to read:

Subd. 3. [PROCEDURES.] The board must ~~issue an order granting or denying a request within 30 days of receipt of a completed application unless the applicant and the commissioner agree to a longer time period.~~ receive a completed application at least 30 days before a board meeting for a request for reimbursement or payment to be considered at that meeting. The board may waive the 30-day requirement if it determines that undue financial hardship to the applicant will result if action is delayed until the next regular meeting. The board must consider a completed application request at the next regular board meeting, unless additional information is required from the applicant or the commissioner. If the board denies reimbursement or payment, its decision may be appealed in a contested case proceeding under chapter 14."

Delete the title and insert:

"A bill for an act relating to agriculture; changing certain numerical figures and deadlines of the agricultural chemical response compensation board; amending Minnesota Statutes 1990, sections 18E.04, subdivisions 4 and 5; and 18E.05, subdivision 3."

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. 1514, A bill for an act relating to economic development; establishing the Minnesota marketplace program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116J.

Reported the same back with the following amendments:

Page 4, after line 8, insert:

"The commissioner of trade and economic development shall review the services to determine if they duplicate other state services and communicate this information to the proper legislative committees."

With the recommendation that when so amended 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. 1545, A bill for an act relating to agriculture; appropriating money for farm advocates within the farmer-lender mediation act.

Reported the same back with the following amendments:

Page 1, line 6, delete "$....." and insert "$400,000"

With the recommendation that when so amended 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. 1549, A resolution memorializing the President and Congress of the United States to ensure that the federal milk marketing order is modified.

Reported the same back with the following amendments:

Delete page 1, line 6 to page 2, line 24, and insert:

"*Whereas*, the health of Minnesota's dairy industry, which is now in crisis, is key to the economic well-being of the state of Minnesota; and

Whereas, agriculture is the number one revenue-producing industry in Minnesota, and the dairy industry produces the largest share of this revenue; and

Whereas, the current milk price is the lowest farmers have received since September, 1978; and

Whereas, the present milk support price of $10.10 per hundredweight fails to meet dairy farmers' minimum costs of production; and

Whereas, Minnesota has lost 10,000 dairy farmers since 1980, has lost 40 more in the past two weeks, and in the face of the present crisis will continue to lose dairy farmers at an alarming rate, threatening the very existence of the dairy industry in the state; and

Whereas, the income of dairy farmers will be further reduced by an assessment of five cent per hundredweight on nearly ten billion pounds of Minnesota milk in 1991, which is just the latest in a continuing string of increases in fees and assessments paid by dairy farmer; and

Whereas, federal milk marketing orders are discriminatory and skewed to give unfair advantage to large corporate farms of the West and South, suppressing milk prices in the Upper Midwest and inflating prices by several dollars per hundredweight in nontraditional dairy areas; and

Whereas, the dairy farmer has taken more substantial cuts in federal support than any other sector of our economy and agriculture itself, starting with repeal of the April, 1991, six-month price support adjustment for inflation and a continuous series of cuts and reductions in the price support base and fee and assessment increases paid by dairy farmers on milk production in every decision made by the President and Congress; and

Whereas, the Minnesota House and Senate and the Minnesota Governor are committed to preserving the family farm structure and Minnesota's small dairy farmers, *Now, Therefore,*

Be It Resolved by the Legislature of the State of Minnesota that it urges the President, Congress, and the Secretary of Agriculture to immediately respond to the crisis in the Midwest dairy industry by reopening the dairy provisions of the 1990 federal farm law to insure that Minnesota and Midwest dairy farmers receive cost of production plus a reasonable profit for their products.

Be It Further Resolved that the United States Secretary of Agriculture should immediately take action to alleviate the Minnesota and Midwestern dairy crisis by modifying and changing the federal milk marketing order system so as to eliminate the discriminatory provisions from the orders that pay more for milk to Western and Southern producers than paid to Midwest dairy farmers and encourage increased dairy production in markets distant from the Upper Midwest, depressing prices for Minnesota producers.

Be It Further Resolved that Congress take immediate action to alleviate the crisis in the Midwest dairy industry by increasing milk price supports by $2.30 per hundredweight, an increase that will allow Midwest producers to break even on costs of production.

Be It Further Resolved that the Secretary of State of the State of Minnesota is directed to prepare certified copies of this memorial and transmit them to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, the Chair of the House of Representatives Committee on Agriculture, the Chair of the Dairy Division of the House of Representatives Committee on Agriculture, Minnesota's Senators and Representatives in Congress, and the United States Secretary of Agriculture."

Delete the title and insert:

"A resolution memorializing the President and the Congress of the United States to take action to alleviate the crisis in the Midwest dairy industry."

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

The report was adopted.

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

S. F. No. 6, A bill for an act relating to insurance; clarifying policy requirement provisions relating to Medicare supplement insurance plans; amending Minnesota Statutes 1990, section 62A.31, subdivision 1.

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

The report was adopted.

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

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.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 144A.071, is amended by adding a subdivision to read:

Subd. 3a. [CERTIFICATION OF LICENSED BEDS IN A CERTIFIED FACILITY.] Nothing in this section prohibits the commissioner of health from certifying licensed nursing home beds in a facility certified for medical assistance, provided that these beds meet the certification requirements and the facility enters into a written agreement with the commissioner of human services specifying that medical assistance reimbursement shall not be requested for a greater number of residents than the facility had medical assistance certified beds on April 1, 1991."

Delete the title and insert:

"A bill for an act relating to health; allowing licensed nursing home beds to be certified under certain conditions; amending Minnesota Statutes 1990, section 144A.071, 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.

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

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.

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

The report was adopted.

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

S. F. No. 561, A bill for an act relating to natural resources; authorizing certain minors to harvest wild rice without a license; amending Minnesota Statutes 1990, sections 84.091, subdivision 2.

Reported the same back with the following amendments:

Page 1, line 15, before the period insert ", if accompanied by a person with a wild rice license"

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:

S. F. No. 636, A bill for an act relating to local government; enlarging authority to participate in certain federal loan programs; amending Minnesota Statutes 1990, section 465.73.

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:

S. F. No. 774, A bill for an act relating to health; clarifying licensing requirements for certain residential programs for persons with chemical dependency; establishing procedures for contesting a transfer or discharge from a nursing home; setting a time limit for appeals of civil penalties under the nursing home licensing laws; providing procedures for contesting findings under the vulnerable adults act; amending Minnesota Statutes 1990, sections 144.50, subdivision 6; 144.653, subdivision 5; 144A.10, subdivisions 4 and 6d; 144A.135; 144A.45, subdivision 2; 144A.46, subdivision 2, and by adding a subdivision; 144A.53, subdivision 1; 144A.61, subdivisions 3, 3a, and 6a; 144A.611, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 144A.

Reported the same back with the following amendments:

Page 1, after line 17, insert:

"Section 1. Minnesota Statutes 1990, section 62D.044, is amended to read:

62D.044 [ADMITTED ASSETS.]

"Admitted assets" includes the following:

(1) petty cash and other cash funds in the organization's principal or official branch office that are under the organization's control;

(2) immediately withdrawable funds on deposit in demand accounts, in a bank or trust company organized and regularly examined under the laws of the United States or any state, and insured by an agency of the United States government, or like funds actually in the principal or official branch office at statement date, and, in transit to a bank or trust company with authentic deposit credit given before the close of business on the fifth bank working day following the statement date;

(3) the amount fairly estimated as recoverable on cash deposited in a closed bank or trust company, if the assets qualified under this section before the suspension of the bank or trust company;

(4) bills and accounts receivable that are collateralized by securities in which the organization is authorized to invest;

(5) premiums due from groups or individuals that are not more than 90 days past due;

(6) amounts due under reinsurance arrangements from insurance companies authorized to do business in this state;

(7) tax refunds due from the United States or this state;

(8) interest accrued on mortgage loans not exceeding in aggregate one year's total due and accrued interest on an individual loan;

(9) the rents due to the organization on real and personal property, directly or beneficially owned, not exceeding the amount of one year's total due and accrued rent on each individual property;

(10) interest or rents accrued on conditional sales agreements, security interests, chattel mortgages, and real or personal property under lease to other corporations that do not exceed the amount of one year's total due and accrued interest or rent on an individual investment;

(11) the fixed required interest due and accrued on bonds and other evidences of indebtedness that are not in default;

(12) dividends receivable on shares of stock, provided that the market price for valuation purposes does not include the value of the dividend;

(13) the interest on dividends due and payable, but not credited, on deposits in banks and trust companies or on accounts with savings and loan associations;

(14) interest accrued on secured loans that do not exceed the amount of one year's interest on any loan;

(15) interest accrued on tax anticipation warrants;

(16) the amortized value of electronic computer or data processing machines or systems purchased for use in the business of the organization, including software purchased and developed specifically for the organization's use;

(17) the cost of furniture, equipment, and medical equipment, less accumulated depreciation thereon, and medical and pharmaceutical supplies that are used to deliver health care and are under the organization's control, provided ~~the~~ such assets do not exceed 30 percent of admitted assets;

(18) amounts currently due from an affiliate that has liquid assets with which to pay the balance and maintain its accounts on a current basis. Any amount outstanding more than three months is not current;

(19) amounts on deposit under section 62D.041;

(20) accounts receivable from participating health care providers that are not more than 60 days past due; and

(21) investments allowed by section 62D.045, except for investments in securities and properties described under section 61A.284.

Sec. 2. Minnesota Statutes 1990, section 62D.045, subdivision 1, is amended to read:

Subdivision 1. [RESTRICTIONS.] Funds of a health maintenance organization shall be invested only in securities and property designated by law for investment by domestic life insurance companies, except that money may be used to purchase real estate, including leasehold estates and leasehold improvements, for the convenient accommodation of the organization's business operations, including the home office, branch offices, medical facilities, and field office operations, on the following conditions:

(1) a parcel of real estate acquired under this subdivision may include excess space for rent to others if it is reasonably anticipated that the excess will be required by the organization for expansion or if the excess is reasonably required in order to have one or more buildings that will function as an economic unit;

(2) the real estate may be subject to a mortgage; and

(3) the purchase price of the asset, including capitalized permanent improvements, less depreciation spread evenly over the life of the property or less depreciation computed on any basis permitted under the Internal Revenue Code and its regulations, or the organization's equity, plus all encumbrances on the real estate owned by a company under this subdivision, whichever is greater, does not exceed 20 percent of its admitted assets, except if, when calculated in combination with the assets described in section 62D.044, clause (17), the total of said assets and the real estate assets described hereunder do not exceed the total combined percent limitations allowable under this section and section 62D.044, clause (17), or, if permitted by the commissioner upon a finding that the percentage of the health maintenance organization's admitted assets is insufficient to provide convenient accommodation for the organization's business. However, a health maintenance organization that directly provides medical services may invest an additional 20 percent of its admitted assets in real estate, not requiring the permission of the commissioner."

Page 8, line 34, after the period insert "After January 1, 1992,"

Page 11, after line 17, insert:

"Sec. 18. [EFFECTIVE DATE.]

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

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after "health;" insert "defining "admitted assets";"

Page 1, line 10, after "sections" insert "62D.044; 62D.045, subdivision 1;"

With the recommendation that when so amended the bill pass.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 340, 378, 401, 765, 817, 920, 978, 983, 1038, 1105, 1119, 1150, 1189, 1208, 1241, 1277, 1282, 1305, 1310, 1396, 1418 and 1549 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 6, 531, 561, 636 and 774 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Jefferson introduced:

H. F. No. 1638, A bill for an act relating to employment; providing a wage subsidy program for unemployed persons in a category with high unemployment; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 268.

The bill was read for the first time and referred to the Committee on Economic Development.

Orenstein, Trimble, Dawkins, Mariani and Hausman introduced:

H. F. No. 1639, A bill for an act relating to Ramsey county; increasing the payment to the city of St. Paul by Ramsey county for streets; amending Minnesota Statutes 1990, section 383A.16, subdivision 1.

The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs.

Dawkins, Trimble, Orenstein, Mariani and Hausman introduced:

H. F. No. 1640, A bill for an act relating to taxation; excluding property in the city of St. Paul from the levy for county roads and bridges.

The bill was read for the first time and referred to the Committee on Taxes.

Steensma, Kalis, Welle, Uphus and Lasley introduced:

H. F. No. 1641, A bill for an act relating to transportation; authorizing the use of local bridge grant funds to construct drainage structures; amending Laws 1990, chapter 610, article 1, section 13, subdivision 5.

The bill was read for the first time and referred to the Committee on Transportation.

Krinkie, Sarna, O'Connor, Welle and Bettermann introduced:

H. F. No. 1642, A bill for an act relating to state government; requiring a study of occupational and professional licensing.

The bill was read for the first time and referred to the Committee on Governmental Operations.

Schafer introduced:

H. F. No. 1643, A bill for an act relating to taxation; removing the requirement of bulk purchases by governmental entities in order to qualify for the tax credit on gasohol; amending Minnesota Statutes 1990, section 296.02, subdivision 8.

The bill was read for the first time and referred to the Committee on Taxes.

Smith, Limmer and Erhardt introduced:

H. F. No. 1644, A bill for an act relating to pesticides; changing duties and operations of the metropolitan mosquito control district; providing for public pest management techniques; giving duties to the commissioner of health; amending Minnesota Statutes 1990, sections 18B.063; 144.05; 473.702; 473.704, by adding subdivisions; 473.706; and 473.711, subdivision 2, and by adding a subdivision.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Tunheim introduced:

H. F. No. 1645, A bill for an act relating to taxation; increasing the rate of interest on certain delinquent property taxes; reducing the period for redemption of certain tax-forfeited property; amending Minnesota Statutes 1990, sections 279.03, subdivision 1a; and 281.17.

The bill was read for the first time and referred to the Committee on Taxes.

Pauly and Gutknecht introduced:

H. F. No. 1646, A bill for an act relating to taxation; allowing home rule and statutory cities to impose a sales tax; proposing coding for new law in Minnesota Statutes, chapter 469.

The bill was read for the first time and referred to the Committee on Taxes.

Blatz, Jennings, Lynch, Rukavina and Winter introduced:

H. F. No. 1647, A bill for an act relating to environment; providing for printouts of vehicle emissions tests; allowing qualified service stations and garages to inspect motor vehicles for emissions violations and specifying a maximum labor charge for the inspection; amending Minnesota Statutes 1990, section 116.62, subdivisions 2 and 3.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Pauly and Waltman introduced:

H. F. No. 1648, A bill for an act relating to state government; creating the office of victim services and rights within the office of the attorney general; providing for its duties; transferring powers and duties of the commissioners of corrections and public safety relating to victim services and rights to the office of victim services and rights; establishing the sexual violence and general crime victims advisory councils; authorizing the director of the office of victim services and rights to provide and administer grants-in-aid for sexual violence, battered women, and other crime victim programs; establishing a family violence task force; amending Minnesota Statutes 1990, sections 611A.0311, subdivision 2; 611A.20, subdivision 2; 611A.21; 611A.22; 611A.31, by adding a subdivision; 611A.32, subdivisions 1, 1a, 4, and by adding a subdivision; 611A.33; 611A.34, subdivision 1, and by adding a subdivision; 611A.41, subdivision 1; 611A.43; 611A.55, subdivision 1; 611A.56, subdivision 1; 611A.71, subdivisions 1, 2, and 6; 611A.73, by adding a subdivision; and 611A.74, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 611A; repealing Minnesota Statutes 1990, sections 611A.02; 611A.221; 611A.23; 611A.31, subdivision 5; 611A.32, subdivisions 2, 3, and 5; 611A.34, subdivision 3; 611A.35; 611A.36, subdivisions 1 and 2; 611A.41, subdivision 2; 611A.42; and 611A.44.

The bill was read for the first time and referred to the Committee on Governmental Operations.

MESSAGES FROM THE SENATE

The following message was received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 598, A bill for an act relating to insurance; regulating agent rehabilitations and cancellations of agency contracts by fire and casualty companies; amending Minnesota Statutes 1990, sections 60A.171; and 60A.175.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Pugh moved that the House concur in the Senate amendments to H. F. No. 598 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 598, A bill for an act relating to insurance; regulating agent rehabilitations and cancellations of agency contracts by fire and casualty companies; amending Minnesota Statutes 1990, sections 60A.171; and 60A.175.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Cooper	Hartle	Kalis	McEachern
Anderson, I.	Dauner	Hasskamp	Kelso	McGuire
Anderson, R. H.	Davids	Haukoos	Kinkel	McPherson
Battaglia	Dawkins	Hausman	Knickerbocker	Milbert
Bauerly	Dempsey	Heir	Koppendrayer	Morrison
Beard	Dille	Henry	Krinkie	Munger
Begich	Dorn	Hufnagle	Krueger	Murphy
Bertram	Erhardt	Hugoson	Lasley	Nelson, K.
Bettermann	Farrell	Jacobs	Leppik	Nelson, S.
Bishop	Frerichs	Janezich	Lieder	Newinski
Blatz	Garcia	Jaros	Limmer	O'Connor
Bodahl	Girard	Jefferson	Long	Ogren
Boo	Goodno	Jennings	Lourey	Olsen, S.
Brown	Greenfield	Johnson, A.	Lynch	Olson, E.
Carlson	Gruenes	Johnson, R.	Macklin	Olson, K.
Carruthers	Gutknecht	Johnson, V.	Mariani	Omann
Clark	Hanson	Kahn	Marsh	Onnen

Orenstein	Pugh	Scheid	Steensma	Vellenga
Orfield	Reding	Seaberg	Sviggum	Wagenius
Osthoff	Rest	Segal	Swenson	Waltman
Ostrom	Rice	Simoneau	Thompson	Wejcman
Ozment	Rodosovich	Skoglund	Tompkins	Welker
Pauly	Rukavina	Smith	Trimble	Welle
Pellow	Runbeck	Solberg	Tunheim	Wenzel
Pelowski	Sarna	Sparby	Uphus	Winter
Peterson	Schafer	Stanius	Valento	Spk. Vanasek

The bill was repassed, as amended by the Senate, and its title agreed to.

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 following Special Orders pending for today, Thursday, April 18, 1991:

H. F. Nos. 921, 287, 932, 887, 877, 74, 870, 459, 526, 244, 592, 414, 584, 806, 832, 825, 1070, 744, 181, 683 and 875.

CONSENT CALENDAR

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 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	Bodahl	Dille	Gutknecht	Jaros
Anderson, I.	Boo	Dorn	Hanson	Jefferson
Anderson, R. H.	Brown	Erhardt	Hartle	Jennings
Battaglia	Carlson	Farrell	Hasskamp	Johnson, A.
Bauerly	Carruthers	Frederick	Haukoos	Johnson, R.
Beard	Clark	Frerichs	Hausman	Johnson, V.
Begich	Cooper	Garcia	Heir	Kahn
Bertram	Dauner	Girard	Henry	Kalis
Bettermann	Davids	Goodno	Hufnagle	Kelso
Bishop	Dawkins	Greenfield	Hugoson	Kinkel
Blatz	Dempsey	Gruenes	Janezich	Knickerbocker

Koppendrayer	Milbert	Osthoff	Scheid	Uphus
Krinkie	Morrison	Ostrom	Seaberg	Valento
Krueger	Munger	Ozment	Segal	Vellenga
Lasley	Murphy	Pauly	Simoneau	Wagenius
Leppik	Nelson, K.	Pellow	Skoglund	Waltman
Lieder	Nelson, S.	Pelowski	Smith	Weaver
Limmer	Newinski	Peterson	Solberg	Wejcman
Long	O'Connor	Pugh	Sparby	Welker
Lourey	Ogren	Reding	Stanius	Welle
Lynch	Olsen, S.	Rest	Steensma	Wenzel
Macklin	Olson, E.	Rice	Sviggum	Winter
Mariani	Olson, K.	Rodosovich	Swenson	Spk. Vanasek
Marsh	Omann	Rukavina	Thompson	
McEachern	Onnen	Runbeck	Tompkins	
McGuire	Orenstein	Sarna	Trimble	
McPherson	Orfield	Schafer	Tunheim	

The bill was passed and its title agreed to.

SPECIAL ORDERS

H. F. No. 977 was reported to the House.

Solberg moved that H. F. No. 977 be continued on Special Orders. The motion prevailed.

H. F. No. 739, A bill for an act relating to corporations; deleting consideration of the effect of insurance company takeovers on shareholders and creditors; limiting application of fair price provisions to domestic corporations; deleting nexus requirements for application of control share acquisition and business combination statutes; exempting employee stock ownership plans from takeover statutes; modifying limitations on corporate share purchases above market value; amending Minnesota Statutes 1990, sections 60D.02, subdivisions 1, 2, and 4; 60D.06; 60D.08, subdivisions 1 and 2; 60D.11; 60D.12, subdivision 2; 302A.011, subdivisions 38, 39, 49, and by adding subdivisions; and 302A.553, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 302A; repealing Minnesota Statutes 1990, sections 60D.02, subdivision 5; and 80B.06, subdivision 7.

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	Bauerly	Bettermann	Boo	Clark
Anderson, I.	Beard	Bishop	Brown	Cooper
Anderson, R. H.	Begich	Blatz	Carlson	Dauner
Battaglia	Bertram	Bodahl	Carruthers	Davids

Dawkins	Janezich	Mariani	Ozment	Steensma
Dempsey	Jaros	Marsh	Pauly	Sviggum
Dille	Jefferson	McEachern	Pellow	Swenson
Dorn	Jennings	McGuire	Pelowski	Thompson
Erhardt	Johnson, A.	McPherson	Peterson	Tompkins
Farrell	Johnson, R.	Milbert	Pugh	Trimble
Frerichs	Johnson, V.	Morrison	Reding	Tunheim
Garcia	Kahn	Munger	Rest	Uphus
Girard	Kalis	Murphy	Rice	Valento
Goodno	Kelso	Nelson, K.	Rodosovich	Vellenga
Greenfield	Kinkel	Nelson, S.	Rukavina	Wagenius
Gruenes	Knickerbocker	Newinski	Runbeck	Waltman
Gutknecht	Koppendrayer	O'Connor	Sarna	Weaver
Hanson	Krinkie	Ogren	Schafer	Wejcman
Hartle	Krueger	Olsen, S.	Scheid	Welker
Hasskamp	Lasley	Olson, E.	Seaberg	Welle
Haukoos	Leppik	Olson, K.	Segal	Wenzel
Hausman	Lieder	Omann	Simoneau	Winter
Heir	Limmer	Onnen	Skoglund	Spk. Vanasek
Henry	Long	Orenstein	Smith	
Hufnagle	Lourey	Orfield	Solberg	
Hugoson	Lynch	Osthoff	Sparby	
Jacobs	Macklin	Ostrom	Stanius	

The bill was passed and its title agreed to.

H. F. No. 756 was reported to the House.

Rukavina moved that H. F. No. 756 be returned to General Orders. The motion prevailed.

The Speaker called Rodosovich to the Chair.

H. F. No. 921 was reported to the House.

Olsen, S., moved to amend H. F. No. 921, the first engrossment, as follows:

Page 1, line 17, delete "unavailable to vote" and insert "disqualified from voting"

The motion prevailed and the amendment was adopted.

H. F. No. 921, A bill for an act relating to education; permitting school district employees to be reimbursed for the costs of defending against criminal charges; amending Minnesota Statutes 1990, section 123.35, by adding a subdivision.

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 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frerichs	Kinkel	Olsen, S.	Skoglund
Anderson, I.	Garcia	Knickerbocker	Olson, E.	Smith
Anderson, R.	Girard	Koppendrayer	Olson, K.	Solberg
Anderson, R. H.	Goodno	Krinkie	Omann	Sparby
Battaglia	Greenfield	Krueger	Onnen	Stanius
Bauerly	Gruenes	Lasley	Orenstein	Steensma
Beard	Gutknecht	Leppik	Orfield	Sviggum
Begich	Hanson	Lieder	Osthoff	Swenson
Bertram	Hartle	Limmer	Ostrom	Thompson
Bettermann	Hasskamp	Long	Ozment	Tompkins
Blatz	Haukoos	Lourey	Pauly	Trimble
Bodahl	Hausman	Lynch	Pellow	Tunheim
Boo	Heir	Macklin	Pelowski	Uphus
Brown	Henry	Mariani	Peterson	Valento
Carlson	Hufnagle	Marsh	Pugh	Vellenga
Carruthers	Hugoson	McEachern	Reding	Wagenius
Clark	Jacobs	McGuire	Rest	Waltman
Cooper	Janezich	McPherson	Rice	Weaver
Dauner	Jaros	Milbert	Rodosovich	Wejcman
Davids	Jefferson	Morrison	Rukavina	Welker
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	Seaberg	
Farrell	Kalis	O'Connor	Segal	
Frederick	Kelso	Ogren	Simoneau	

The bill was passed, as amended, and its title agreed to.

H. F. No. 287 was reported to the House.

Nelson, K.; Morrison; Weaver and Kelso moved to amend H. F. No. 287, the second engrossment, as follows:

Page 3, after line 1, insert:

"Sec. 2. [171.3215] [CANCELLING A SCHOOL BUS DRIVER'S ENDORSEMENT FOR CRIMES AGAINST MINORS.]

Subdivision 1. [DEFINITIONS.] As used in this section, the following terms have the meanings given them.

(1) "School bus driver" means a person possessing a school bus driver's endorsement on a valid Minnesota driver's license or a person possessing a valid Minnesota driver's license who drives a vehicle with a seating capacity of ten or less persons used as a school bus.

(2) "Crime against a minor" means an act committed against a

minor victim that constitutes a violation of section 609.185, 609.19, 609.195, 609.20, 609.205, 609.21, subdivision 1, 609.221, 609.222, 609.223, 609.342, 609.343, 609.344, 609.345, 609.352, or a felony violation of section 609.322, 609.323, 609.324, or 609.377.

Subd. 2. [CANCELLATION.] The commissioner within 10 days of receiving notice under section 631.40, subdivision 1a, that a school bus driver has committed a crime against a minor shall permanently cancel the school bus driver's endorsement on the offender's driver's license. Upon cancelling the offender's school bus driver's endorsement, the department shall immediately notify the licensed offender of the cancellation in writing, by depositing in the United States post office a notice addressed to the licensed offender at the licensed offender's last known address, with postage prepaid thereon.

Subd. 3. [BACKGROUND CHECK.] Before issuing or renewing a driver's license with a school bus driver's endorsement, the department shall conduct an investigation to determine whether the applicant has been convicted of committing a crime against a minor. The department shall not issue a new bus driver's endorsement and shall not renew an existing bus driver's endorsement if the applicant has been convicted of committing a crime against a minor."

Page 4, after line 29, insert:

"Subd. 1a. When a person is convicted of committing a crime against a minor as defined in section 171.3215, subdivision 1, the court shall order that the presentence investigation include information about whether the offender is a school bus driver as defined in section 171.3215, subdivision 1, whether the offender possesses a school bus driver's endorsement on the offender's driver's license and in what school districts the offender drives a school bus. If the offender is a school bus driver or possesses a school bus driver's endorsement, the court administrator shall send a certified copy of the conviction to the department of public safety and to the school districts in which the offender drives a school bus."

Page 5, line 6, delete "4" and insert "5"

Renumber subsequent sections

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 287, A bill for an act relating to occupations; granting the attorney general's office access to certain private data; requiring cancellation of school bus driver's endorsement on a driver's license when driver has committed a crime against a minor; requiring background investigations on school bus drivers; requiring certain licensing boards to consider revoking the license or endorsement of

a licensee convicted of certain felonies involving a minor; exempting licensing of the board of teaching and the state board of education from certain requirements with respect to the rehabilitation of criminal offenders; amending Minnesota Statutes 1990, sections 125.09, subdivision 4; 214.10, by adding a subdivision; 364.09; and 631.40; proposing coding for new law in Minnesota Statutes, chapter 171.

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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frederick	Kelso	Ogren	Simoneau
Anderson, I.	Frerichs	Kinkel	Olsen, S.	Skoglund
Anderson, R.	Garcia	Knickerbocker	Olson, E.	Smith
Anderson, R. H.	Girard	Koppendrayer	Olson, K.	Solberg
Battaglia	Goodno	Krinkie	Omann	Sparby
Bauerly	Greenfield	Krueger	Onnen	Stanius
Beard	Gruenes	Lasley	Orenstein	Steensma
Begich	Gutknecht	Leppik	Orfield	Sviggum
Bertram	Hanson	Lieder	Osthoff	Swenson
Bettermann	Hartle	Limmer	Ostrom	Thompson
Bishop	Hasskamp	Long	Ozment	Tompkins
Blatz	Haukoos	Lourey	Pauly	Trimble
Bodahl	Hausman	Lynch	Pellow	Tunheim
Boo	Heir	Macklin	Pelowski	Uphus
Brown	Henry	Mariani	Peterson	Valento
Carlson	Hufnagle	Marsh	Pugh	Vellenga
Carruthers	Hugoson	McEachern	Reding	Wagenius
Clark	Jacobs	McGuire	Rest	Waltman
Cooper	Janezich	McPherson	Rice	Weaver
Dauner	Jaros	Milbert	Rodosovich	Wejcman
Davids	Jefferson	Morrison	Rukavina	Welker
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	Seaberg	
Farrell	Kalis	O'Connor	Segal	

The bill was passed, as amended, and its title agreed to.

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.

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	Skoglund
Anderson, I.	Frerichs	Kinkel	Olsen, S.	Smith
Anderson, R.	Garcia	Knickerbocker	Olson, E.	Solberg
Anderson, R. H.	Girard	Koppendrayer	Olson, K.	Sparby
Battaglia	Goodno	Krinkie	Omann	Stanius
Bauerly	Greenfield	Krueger	Onnen	Steensma
Beard	Gruenes	Lasley	Orenstein	Sviggum
Begich	Gutknecht	Leppik	Orfield	Swenson
Bertram	Hanson	Lieder	Ostrom	Thompson
Bettermann	Hartle	Limmer	Ozment	Tompkins
Bishop	Hasskamp	Long	Pauly	Trimble
Blatz	Haukoos	Lourey	Pellow	Tunheim
Bodahl	Hausman	Lynch	Pelowski	Uphus
Boo	Heir	Macklin	Peterson	Valento
Brown	Henry	Mariani	Pugh	Vellenga
Carlson	Hufnagle	Marsh	Reding	Wagenius
Carruthers	Hugoson	McEachern	Rest	Waltman
Clark	Jacobs	McGuire	Rice	Weaver
Cooper	Janezich	McPherson	Rodosovich	Wejcman
Dauner	Jaros	Milbert	Rukavina	Welker
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.	Seaberg	
Erhardt	Kahn	Newinski	Segal	
Farrell	Kalis	O'Connor	Simoneau	

The bill was passed and its title agreed to.

H. F. No. 887, A bill for an act relating to game and fish; setting conditions under which a hunter may take two deer; amending Minnesota Statutes 1990, section 97B.301, subdivision 4.

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 130 yeas and 2 nays as follows:

Those who voted in the affirmative were:

Abrams	Carruthers	Greenfield	Jennings	Lourey
Anderson, I.	Clark	Gruenes	Johnson, A.	Lynch
Anderson, R.	Cooper	Gutknecht	Johnson, R.	Macklin
Anderson, R. H.	Dauner	Hanson	Johnson, V.	Mariani
Battaglia	Davids	Hartle	Kalis	Marsh
Bauerly	Dawkins	Hasskamp	Kelso	McEachern
Beard	Dempsey	Haukoos	Kinkel	McGuire
Begich	Dille	Hausman	Knickerbocker	McPherson
Bertram	Dorn	Heir	Koppendrayer	Milbert
Bettermann	Erhardt	Henry	Krinkie	Morrison
Bishop	Farrell	Hufnagle	Krueger	Munger
Blatz	Frederick	Hugoson	Lasley	Murphy
Bodahl	Frerichs	Jacobs	Leppik	Nelson, S.
Boo	Garcia	Janezich	Lieder	Newinski
Brown	Girard	Jaros	Limmer	O'Connor
Carlson	Goodno	Jefferson	Long	Ogren

Olsen, S.	Pauly	Runbeck	Stanius	Vellenga
Olson, E.	Pellow	Sarna	Steensma	Wagenius
Olson, K.	Pelowski	Schafer	Sviggum	Waltman
Omann	Peterson	Scheid	Swenson	Weaver
Onnen	Pugh	Segal	Thompson	Wejcman
Orenstein	Reding	Simoneau	Tompkins	Welker
Orfield	Rest	Skoglund	Trimble	Welle
Osthoff	Rice	Smith	Tunheim	Wenzel
Ostrom	Rodosovich	Solberg	Uphus	Winter
Ozment	Rukavina	Sparby	Valento	Spk. Vanasek

Those who voted in the negative were:

Nelson, K.	Seaberg

The bill was passed and its title agreed to.

H. F. No. 877 was reported to the House.

Gruenes, Rukavina and Johnson, A., moved to amend H. F. No. 877, the first engrossment, as follows:

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 1990, section 97B.055, subdivision 3, is amended to read:

Subd. 3. [HUNTING FROM VEHICLE BY DISABLED HUNTERS.] The commissioner may issue a special permit, without a fee, to discharge a firearm or bow and arrow from a stationary motor vehicle to a licensed hunter that is physically unable to walk with or without crutches, braces, or other mechanical support. A person with a temporary disability may be issued an annual permit and a person with a permanent disability may be issued a permanent permit. A permanent permit authorizes the holder of a deer license to take deer of either sex."

Page 1, line 8, delete "Section 1" and insert "Sec. 2."

Amend the title as follows:

Page 1, line 2, after the semicolon insert "authorizing certain disabled permit holders to take deer of either sex;"

Page 1, line 5, after the semicolon insert "amending Minnesota Statutes 1990, section 97B.055, subdivision 3;"

The motion prevailed and the amendment was adopted.

H. F. No. 877, A bill for an act relating to game and fish; authorizing certain disabled permit holders to take deer of either sex; authorizing the commissioner to establish special seasons for persons with a physical disability to take game with firearms and by archery; amending Minnesota Statutes 1990, section 97B.055, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 97B.

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

The bill was passed, as amended, and its title agreed to.

H. F. No. 74, A bill for an act relating to municipal tort liability; specifying liability for injuries caused by beach and swimming pool equipment; amending Minnesota Statutes 1990, section 466.03, 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 1 nay as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Dempsey

The bill was passed and its title agreed to.

H. F. No. 870, A bill for an act relating to retirement; public employees retirement fund police and fire consolidation accounts; permitting survivors of account members killed in the line of duty to elect coverage; proposing coding for new law in Minnesota Statutes, chapter 353A.

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	Bertram	Carruthers	Dorn	Greenfield
Anderson, I.	Bettermann	Clark	Erhardt	Gruenes
Anderson, R.	Bishop	Cooper	Farrell	Gutknecht
Anderson, R. H.	Blatz	Dauner	Frederick	Hanson
Battaglia	Bodahl	Davids	Frerichs	Hartle
Bauerly	Boo	Dawkins	Garcia	Hasskamp
Beard	Brown	Dempsey	Girard	Haukoos
Begich	Carlson	Dille	Goodno	Hausman

Heir	Krueger	O'Connor	Rest	Swenson
Henry	Lasley	Ogren	Rice	Thompson
Hufnagle	Leppik	Olsen, S.	Rodosovich	Tompkins
Hugoson	Lieder	Olson, E.	Rukavina	Trimble
Jacobs	Limmer	Olson, K.	Runbeck	Tunheim
Janezich	Lourey	Omann	Sarna	Uphus
Jaros	Lynch	Onnen	Schafer	Valento
Jefferson	Macklin	Orenstein	Scheid	Vellenga
Jennings	Mariani	Orfield	Seaberg	Wagenius
Johnson, A.	Marsh	Osthoff	Segal	Waltman
Johnson, R.	McEachern	Ostrom	Simoneau	Weaver
Johnson, V.	McGuire	Ozment	Skoglund	Wejcman
Kahn	McPherson	Pauly	Smith	Welker
Kelso	Milbert	Pellow	Solberg	Wenzel
Kinkel	Morrison	Pelowski	Sparby	Winter
Knickerbocker	Murphy	Peterson	Stanius	Spk. Vanasek
Koppendrayer	Nelson, K.	Pugh	Steensma	
Krinkie	Nelson, S.	Reding	Sviggum	

The bill was passed and its title agreed to.

H. F. No. 459 was reported to the House.

Macklin moved to amend H. F. No. 459, the first engrossment, as follows:

Page 2, lines 18 and 19, reinstate the old language

Page 2, lines 19 to 21, delete the new language

A roll call was requested and properly seconded.

The question was taken on the Macklin amendment and the roll was called. There were 66 yeas and 56 nays as follows:

Those who voted in the affirmative were:

Abrams	Frederick	Knickerbocker	Omann	Steensma
Bertram	Frerichs	Koppendrayer	Onnen	Sviggum
Bettermann	Girard	Krinkie	Orfield	Swenson
Bishop	Goodno	Leppik	Osthoff	Tompkins
Blatz	Gruenes	Limmer	Ozment	Uphus
Boo	Gutknecht	Lynch	Pauly	Valento
Carruthers	Hanson	Macklin	Pellow	Waltman
Cooper	Hartle	Marsh	Pelowski	Weaver
Dauner	Heir	McPherson	Peterson	Welker
Davids	Henry	Morrison	Runbeck	Wenzel
Dempsey	Hufnagle	Nelson, S.	Sarna	
Dille	Hugoson	Newinski	Schafer	
Dorn	Johnson, R.	Olsen, S.	Smith	
Erhardt	Johnson, V.	Olson, K.	Stanius	

Those who voted in the negative were:

Anderson, I.	Anderson, R. H.	Beard	Bodahl	Carlson
Anderson, R.	Battaglia	Begich	Brown	Clark

Dawkins	Jennings	Mariani	Rest	Trimble
Farrell	Kahn	McGuire	Rice	Tunheim
Garcia	Kalis	Munger	Rodosovich	Vellenga
Greenfield	Kelso	Murphy	Rukavina	Wagenius
Haukoos	Kinkel	Nelson, K.	Seaberg	Wejcman
Hausman	Krueger	O'Connor	Segal	Spk. Vanasek
Jacobs	Lasley	Ogren	Simoneau	
Janezich	Lieder	Ostrom	Skoglund	
Jaros	Long	Pugh	Solberg	
Jefferson	Lourey	Reding	Thompson	

The motion prevailed and the amendment was adopted.

Greenfield moved that H. F. No. 459, the first engrossment, as amended, be continued on Special Orders. The motion prevailed.

H. F. No. 526, A bill for an act relating to corporations; clarifying and modifying provisions governing divisions and combinations of shares and rights of shareholders; clarifying meeting notice requirements; authorizing electronic communications by shareholders; modifying access to corporate records; clarifying and modifying provisions governing mergers and dissolutions; amending Minnesota Statutes 1990, sections 302A.111, subdivision 2; 302A.139; 302A.401, subdivisions 3 and 4; 302A.405, subdivision 1; 302A.413, subdivision 3; 302A.435, subdivision 1; 302A.437, subdivision 1; 302A.449, subdivision 1, and by adding a subdivision; 302A.461, subdivisions 2, 4, and 4a; 302A.471, subdivision 1; 302A.551, subdivision 4; 302A.613, subdivision 2; 302A.621; 302A.651, subdivision 1; 302A.701; 302A.723, subdivision 3; 302A.725, subdivision 1; 302A.727; and 302A.781; proposing coding for new law in Minnesota Statutes, chapter 302A; repealing Minnesota Statutes 1990, sections 302A.729; 302A.730; and 302A.733.

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 1 nay as follows:

Those who voted in the affirmative were:

Abrams	Brown	Frerichs	Hufnagle	Knickerbocker
Anderson, I.	Carlson	Garcia	Hugoson	Koppendrayer
Anderson, R.	Carruthers	Girard	Jacobs	Krinkie
Anderson, R. H.	Clark	Goodno	Janezich	Krueger
Battaglia	Cooper	Greenfield	Jaros	Lasley
Bauerly	Dauner	Gruenes	Jefferson	Leppik
Beard	Davids	Gutknecht	Jennings	Lieder
Begich	Dawkins	Hanson	Johnson, A.	Limmer
Bertram	Dempsey	Hartle	Johnson, R.	Long
Bettermann	Dille	Hasskamp	Johnson, V.	Lourey
Bishop	Dorn	Haukoos	Kahn	Lynch
Blatz	Erhardt	Hausman	Kalis	Macklin
Bodahl	Farrell	Heir	Kelso	Mariani
Boo	Frederick	Henry	Kinkel	Marsh

McEachern	Olson, E.	Reding	Smith	Vellenga
McGuire	Omann	Rest	Solberg	Wagenius
McPherson	Onnen	Rice	Sparby	Waltman
Milbert	Orenstein	Rodosovich	Stanius	Weaver
Morrison	Orfield	Rukavina	Steensma	Wejcman
Munger	Osthoff	Runbeck	Sviggum	Welker
Murphy	Ostrom	Sarna	Swenson	Welle
Nelson, K.	Ozment	Schafer	Thompson	Wenzel
Nelson, S.	Pauly	Scheid	Tompkins	Winter
Newinski	Pellow	Seaberg	Trimble	Spk. Vanasek
O'Connor	Pelowski	Segal	Tunheim	
Ogren	Peterson	Simoneau	Uphus	
Olsen, S.	Pugh	Skoglund	Valento	

Those who voted in the negative were:

Olson, K.

The bill was passed and its title agreed to.

H. F. No. 244 was reported to the House.

Vellenga moved to amend H. F. No. 244, the second engrossment, as follows:

Page 8, line 7, delete "the" and insert "a motor"

Page 8, line 9, after "bus" insert "in a motor vehicle"

Page 8, line 11, after "bus" insert "in a motor vehicle"

The motion prevailed and the amendment was adopted.

H. F. No. 244, A bill for an act relating to traffic regulations; regulating traffic safety concerning school buses and the safety of school children; providing penalties; amending Minnesota Statutes 1990, sections 169.01, subdivision 6; 169.45; 169.451; 171.07, by adding a subdivision; 171.17; and 171.18; proposing coding for new law in Minnesota Statutes, chapter 169; repealing Minnesota Statutes 1990, sections 169.44; and 169.64, subdivision 7.

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.	Battaglia	Beard	Bertram
Anderson, I.	Anderson, R. H.	Bauerly	Begich	Bettermann

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

The bill was passed, as amended, and its title agreed to.

H. F. No. 592 was reported to the House.

Brown moved that H. F. No. 592 be continued on Special Orders. The motion prevailed.

H. F. No. 414, A bill for an act relating to peace officers; requiring reports on the discharge of firearms by peace officers to be sent to the board of peace officer standards and training; requiring law enforcement agencies to adopt written policies governing the use of deadly force; requiring initial and continuing peace officer training on deadly force and the use of firearms; amending Minnesota Statutes 1990, section 626.553, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 626.

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	Begich	Brown	Dawkins	Frerichs
Anderson, I.	Bertram	Carlson	Dempsey	Garcia
Anderson, R.	Bettermann	Carruthers	Dille	Girard
Anderson, R. H.	Bishop	Clark	Dorn	Goodno
Battaglia	Blatz	Cooper	Erhardt	Greenfield
Bauerly	Bodahl	Dauner	Farrell	Gruenes
Beard	Boo	Davids	Frederick	Gutknecht

Hanson	Kinkel	Munger	Peterson	Sviggum
Hartle	Knickerbocker	Murphy	Pugh	Swenson
Hasskamp	Koppendrayer	Nelson, K.	Reding	Thompson
Haukoos	Krinkie	Nelson, S.	Rest	Tompkins
Hausman	Krueger	Newinski	Rice	Trimble
Heir	Lasley	O'Connor	Rodosovich	Tunheim
Henry	Leppik	Ogren	Rukavina	Uphus
Hufnagle	Lieder	Olsen, S.	Runbeck	Valento
Hugoson	Limmer	Olson, E.	Sarna	Vellenga
Jacobs	Long	Olson, K.	Schafer	Wagenius
Janezich	Lourey	Omann	Scheid	Waltman
Jaros	Lynch	Onnen	Seaberg	Weaver
Jefferson	Macklin	Orenstein	Segal	Wejcman
Jennings	Mariani	Orfield	Simoneau	Welker
Johnson, A.	Marsh	Osthoff	Skoglund	Welle
Johnson, R.	McEachern	Ostrom	Smith	Wenzel
Johnson, V.	McGuire	Ozment	Solberg	Winter
Kahn	McPherson	Pauly	Sparby	Spk. Vanasek
Kalis	Milbert	Pellow	Stanius	
Kelso	Morrison	Pelowski	Steensma	

The bill was passed and its title agreed to.

H. F. No. 584, A bill for an act relating to local government; authorizing municipalities to enter into joint ventures with telecommunications organizations; amending Minnesota Statutes 1990, section 237.19.

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 1 nay as follows:

Those who voted in the affirmative were:

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

Wenzel	Winter	Spk. Vanasek

Those who voted in the negative were:

Osthoff

The bill was passed and its title agreed to.

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.

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 118 yeas and 13 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Bettermann	Dille	Haukoos	Schafer	Welker
Dauner	Frerichs	Hufnagle	Sviggum	
Dempsey	Girard	Johnson, V.	Waltman	

The bill was passed and its title agreed to.

H. F. No. 832, A bill for an act relating to commerce; regulating heavy and utility equipment dealership agreements; providing for

returns and repurchases under certain circumstances; providing remedies; amending Minnesota Statutes 1990, section 325E.0681, by adding subdivisions.

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	Simoneau
Anderson, I.	Frerichs	Kinkel	Olsen, S.	Skoglund
Anderson, R.	Garcia	Knickerbocker	Olson, E.	Smith
Anderson, R. H.	Girard	Koppendrayer	Olson, K.	Solberg
Battaglia	Goodno	Krinkie	Omann	Sparby
Bauerly	Greenfield	Krueger	Onnen	Stanius
Beard	Gruenes	Lasley	Orenstein	Steensma
Begich	Gutknecht	Leppik	Orfield	Sviggum
Bertram	Hanson	Lieder	Osthoff	Swenson
Bettermann	Hartle	Limmer	Ostrom	Thompson
Bishop	Hasskamp	Long	Ozment	Tompkins
Blatz	Haukoos	Lourey	Pauly	Trimble
Bodahl	Hausman	Lynch	Pellow	Tunheim
Boo	Heir	Macklin	Pelowski	Uphus
Brown	Henry	Mariani	Peterson	Valento
Carlson	Hufnagle	Marsh	Pugh	Vellenga
Carruthers	Hugoson	McEachern	Reding	Wagenius
Clark	Jacobs	McGuire	Rest	Waltman
Cooper	Janezich	McPherson	Rice	Weaver
Dauner	Jaros	Milbert	Rodosovich	Wejcman
Davids	Jefferson	Morrison	Rukavina	Welker
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	Seaberg	
Farrell	Kalis	O'Connor	Segal	

The bill was passed and its title agreed to.

H. F. No. 825, A bill for an act relating to traffic regulations; amending the implied consent law advisory; simplifying the contents of a petition for judicial review under the implied consent law; amending Minnesota Statutes 1990, section 169.123, subdivisions 2 and 5c.

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	Simoneau
Anderson, I.	Frerichs	Kinkel	Olsen, S.	Skoglund
Anderson, R.	Garcia	Knickerbocker	Olson, E.	Smith
Anderson, R. H.	Girard	Koppendrayer	Olson, K.	Solberg
Battaglia	Goodno	Krinkie	Omann	Sparby
Bauerly	Greenfield	Krueger	Onnen	Stanius
Beard	Gruenes	Lasley	Orenstein	Steensma
Begich	Gutknecht	Leppik	Orfield	Sviggum
Bertram	Hanson	Lieder	Osthoff	Swenson
Bettermann	Hartle	Limmer	Ostrom	Thompson
Bishop	Hasskamp	Long	Ozment	Tompkins
Blatz	Haukoos	Lourey	Pauly	Trimble
Bodahl	Hausman	Lynch	Pellow	Tunheim
Boo	Heir	Macklin	Pelowski	Uphus
Brown	Henry	Mariani	Peterson	Valento
Carlson	Hufnagle	Marsh	Pugh	Vellenga
Carruthers	Hugoson	McEachern	Reding	Wagenius
Clark	Jacobs	McGuire	Rest	Waltman
Cooper	Janezich	McPherson	Rice	Weaver
Dauner	Jaros	Milbert	Rodosovich	Wejcman
Davids	Jefferson	Morrison	Rukavina	Welker
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	Seaberg	
Farrell	Kalis	O'Connor	Segal	

The bill was passed and its title agreed to.

There being no objection, H. F. No. 459, as amended, which was continued earlier today was again reported to the House.

Dawkins and Greenfield moved to amend H. F. No. 459, the first engrossment, as amended, as follows:

Page 2, line 8, after the period insert "YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE."

Page 2, line 19, before the period insert "unless the petitioner has the right to sue in forma pauperis under section 563.01"

The motion prevailed and the amendment was adopted.

H. F. No. 459, A bill for an act relating to crimes; providing that a claimant in a forfeiture proceeding does not have to pay a filing fee; providing for appointment of qualified interpreters in forfeiture proceedings; amending Minnesota Statutes 1990, sections 609.5314, subdivisions 2 and 3; 611.31; and 611.32.

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 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frerichs	Kinkel	Olsen, S.	Skoglund
Anderson, I.	Garcia	Knickerbocker	Olson, E.	Smith
Anderson, R.	Girard	Koppendrayer	Olson, K.	Solberg
Anderson, R. H.	Goodno	Krinkie	Omann	Sparby
Battaglia	Greenfield	Krueger	Onnen	Stanius
Bauerly	Gruenes	Lasley	Orenstein	Steensma
Beard	Gutknecht	Leppik	Orfield	Sviggum
Begich	Hanson	Lieder	Osthoff	Swenson
Bertram	Hartle	Limmer	Ostrom	Thompson
Bettermann	Hasskamp	Long	Ozment	Tompkins
Bishop	Haukoos	Lourey	Pauly	Trimble
Blatz	Hausman	Lynch	Pellow	Tunheim
Bodahl	Heir	Macklin	Pelowski	Uphus
Boo	Henry	Mariani	Peterson	Valento
Brown	Hufnagle	Marsh	Pugh	Vellenga
Carlson	Hugoson	McEachern	Reding	Wagenius
Carruthers	Jacobs	McGuire	Rest	Waltman
Clark	Janezich	McPherson	Rice	Weaver
Cooper	Jaros	Milbert	Rodosovich	Wejcman
Dauner	Jefferson	Morrison	Rukavina	Welker
Davids	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	Seaberg	
Erhardt	Kalis	O'Connor	Segal	
Farrell	Kelso	Ogren	Simoneau	

The bill was passed, as amended, and its title agreed to.

H. F. No. 1070, A bill for an act relating to agricultural finance; changing certain provisions of the rural finance authority's beginning farmer program; amending Minnesota Statutes 1990, sections 41.55; 41.57, subdivision 3; 41B.03, subdivision 3; 41B.036; and 41B.039, 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 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Blatz	Dawkins	Goodno	Henry
Anderson, I.	Bodahl	Dempsey	Greenfield	Hufnagle
Anderson, R.	Boo	Dille	Gruenes	Hugoson
Anderson, R. H.	Brown	Dorn	Gutknecht	Jacobs
Battaglia	Carlson	Erhardt	Hanson	Janezich
Bauerly	Carruthers	Farrell	Hartle	Jaros
Beard	Clark	Frederick	Hasskamp	Jefferson
Bertram	Cooper	Frerichs	Haukoos	Jennings
Bettermann	Dauner	Garcia	Hausman	Johnson, A.
Bishop	Davids	Girard	Heir	Johnson, R.

Johnson, V.	Mariani	Onnen	Sarna	Tunheim
Kahn	Marsh	Orenstein	Schafer	Uphus
Kalis	McEachern	Orfield	Scheid	Valento
Kelso	McGuire	Osthoff	Seaberg	Vellenga
Kinkel	McPherson	Ostrom	Segal	Wagenius
Knickerbocker	Milbert	Ozment	Simoneau	Waltman
Koppendrayer	Morrison	Pauly	Skoglund	Weaver
Krinkie	Munger	Pellow	Smith	Wejcman
Krueger	Murphy	Pelowski	Solberg	Welker
Lasley	Nelson, S.	Peterson	Sparby	Welle
Leppik	Newinski	Pugh	Stanius	Wenzel
Lieder	O'Connor	Reding	Steensma	Winter
Limmer	Ogren	Rest	Sviggum	Spk. Vanasek
Long	Olsen, S.	Rice	Swenson	
Lourey	Olson, E.	Rodosovich	Thompson	
Lynch	Olson, K.	Rukavina	Tompkins	
Macklin	Omann	Runbeck	Trimble	

The bill was passed and its title agreed to.

H. F. No. 744 was reported to the House.

Sparby moved to amend H. F. No. 744, the first engrossment, as follows:

Page 2, line 7, delete "shall" and insert "may" and delete "training" and insert "certification"

Page 2, line 8, delete "and contractors"

Page 4, lines 18 and 19, reinstate the stricken language

The motion prevailed and the amendment was adopted.

Welker, Cooper and Peterson offered an amendment to H. F. No. 744, the first engrossment, as amended.

POINT OF ORDER

Skoglund raised a point of order pursuant to rule 3.09 that the Welker et al amendment was not in order. Speaker pro tempore Rodosovich ruled the point of order well taken and the amendment out of order.

H. F. No. 744, A bill for an act relating to the environment; petrofund; amending Minnesota Statutes 1990, sections 115C.07, subdivision 3; 115C.09, subdivisions 1, 2, 3, 3b, 5, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 103I.

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 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Frerichs	Kinkel	Olsen, S.	Skoglund
Anderson, I.	Garcia	Knickerbocker	Olson, E.	Smith
Anderson, R.	Girard	Koppendrayer	Olson, K.	Solberg
Anderson, R. H.	Goodno	Krinkie	Omann	Sparby
Battaglia	Greenfield	Krueger	Onnen	Stanius
Bauerly	Gruenes	Lasley	Orenstein	Steensma
Beard	Gutknecht	Leppik	Orfield	Sviggum
Begich	Hanson	Lieder	Osthoff	Swenson
Bertram	Hartle	Limmer	Ostrom	Thompson
Bettermann	Hasskamp	Long	Ozment	Tompkins
Bishop	Haukoos	Lourey	Pauly	Trimble
Blatz	Hausman	Lynch	Pellow	Tunheim
Bodahl	Heir	Macklin	Pelowski	Uphus
Boo	Henry	Mariani	Peterson	Valento
Brown	Hufnagle	Marsh	Pugh	Vellenga
Carlson	Hugoson	McEachern	Reding	Wagenius
Carruthers	Jacobs	McGuire	Rest	Waltman
Clark	Janezich	McPherson	Rice	Weaver
Cooper	Jaros	Milbert	Rodosovich	Wejcman
Dauner	Jefferson	Morrison	Rukavina	Welker
Davids	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	Seaberg	
Erhardt	Kalis	O'Connor	Segal	
Farrell	Kelso	Ogren	Simoneau	

The bill was passed, as amended, and its title agreed to.

H. F. No. 181, A bill for an act relating to the environment; adding reimbursement requirements for the petroleum tank release cleanup account; providing for insurance subrogation rights; amending Minnesota Statutes 1990, sections 115C.04, subdivision 3; 115C.09, subdivision 3; and 115C.10, 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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Bauerly	Bishop	Carlson	Davids
Anderson, I.	Beard	Blatz	Carruthers	Dawkins
Anderson, R.	Begich	Bodahl	Clark	Dempsey
Anderson, R. H.	Bertram	Boo	Cooper	Dille
Battaglia	Bettermann	Brown	Dauner	Dorn

Erhardt	Jefferson	Marsh	Ozment	Stanius
Farrell	Jennings	McEachern	Pauly	Steensma
Frederick	Johnson, A.	McGuire	Pellow	Sviggum
Frerichs	Johnson, R.	McPherson	Pelowski	Swenson
Garcia	Johnson, V.	Milbert	Peterson	Thompson
Girard	Kahn	Morrison	Pugh	Tompkins
Goodno	Kalis	Munger	Reding	Trimble
Greenfield	Kelso	Murphy	Rest	Tunheim
Gruenes	Kinkel	Nelson, K.	Rice	Uphus
Gutknecht	Knickerbocker	Nelson, S.	Rodosovich	Valento
Hanson	Koppendrayer	Newinski	Rukavina	Vellenga
Hartle	Krinkie	O'Connor	Runbeck	Wagenius
Hasskamp	Krueger	Ogren	Sarna	Waltman
Haukoos	Lasley	Olsen, S.	Schafer	Weaver
Hausman	Leppik	Olson, E.	Scheid	Wejcman
Heir	Lieder	Olson, K.	Seaberg	Welker
Henry	Limmer	Omann	Segal	Welle
Hufnagle	Long	Onnen	Simoneau	Wenzel
Hugoson	Lourey	Orenstein	Skoglund	Winter
Jacobs	Lynch	Orfield	Smith	Spk. Vanasek
Janezich	Macklin	Osthoff	Solberg	
Jaros	Mariani	Ostrom	Sparby	

The bill was passed and its title agreed to.

H. F. No. 683 was reported to the House.

Jacobs moved to amend H. F. No. 683, the first engrossment, as follows:

Page 4, line 2, strike "or"

Page 4, line 3, after "repute" strike the period and insert "; or"

Page 4, after line 3, insert:

"(5) a person who has a direct or indirect interest in a manufacturer, brewer, or wholesaler."

Page 4, line 10, delete "; or"

Page 4, delete line 11

Page 4, line 12, delete everything before the period

Page 14, line 3, delete everything after the period

Page 14, delete line 4

Page 14, line 5, delete everything through the period

Page 15, delete section 24 and renumber the remaining sections

Page 17, line 5, delete "27" and insert "26" and delete "25" and insert "24"

Page 17, line 7, delete "26" and insert "25"

Amend the title as follows:

Page 1, line 6, delete everything after the semicolon

Page 1, delete line 7

Page 1, line 8, delete "only;"

Page 1, line 41, delete everything after the semicolon

Page 1, delete line 42

Page 1, line 43, delete "beverages;"

The motion prevailed and the amendment was adopted.

Jacobs moved to amend H. F. No. 683, the first engrossment, as amended, as follows:

Page 6, line 12, after "issue a" insert "new"

The motion prevailed and the amendment was adopted.

H. F. No. 683, A bill for an act relating to alcoholic beverages; prohibiting a retailer from having an interest in a manufacturer, brewer, or wholesaler; prohibiting a retailer from renting space to a manufacturer, brewer, or wholesaler; providing that brand registration is for a three-year period; specifying that club on-sale licenses are subject to approval of the commissioner of public safety; consolidating provisions of law relating to seasonal on-sale licenses; providing extended duration of seasonal licenses in certain counties; removing certain restrictions on location of off-sale and combination licenses issued by counties; clarifying law on issuance of off-sale licenses by counties; allowing gambling on licensed premises when governed by tribal ordinance or a tribal-state compact; clarifying language on certain prohibitions on issuance of multiple licenses and repealing obsolete provisions relating thereto; prohibiting off-site storage of intoxicating liquor; specifying applicability of license limits to certain fourth-class cities; changing the expiration date for consumption and display permits; raising the minimum age for keeping intoxicating liquor in bottle clubs; authorizing commissioner of public safety to impose civil penalties for conducting or permitting unlawful gambling on licensed premises, or for failure to remove impure products; specifying applicability to municipal liquor stores of prohibitions against permitting consumption of alcoholic beverages by underage persons; clarifying language on sales of intoxicating liquor on Christmas day; providing for Sunday liquor elections in counties; prohibiting sale of certain beverages of more than 50 percent alcohol content; authorizing commissioner of public safety to inspect alcoholic beverages for purity of contents and to order the removal of impure products; specifying that a split liquor referendum is not required for issuance of club licenses; repealing restrictions on wine sales at Minneapolis-St. Paul International

Airport; authorizing issuance of an on-sale intoxicating malt liquor license in St. Louis county; authorizing the issuance of an on-sale intoxicating liquor license to a location in Duluth; amending Minnesota Statutes 1990, sections 340A.301, subdivision 7; 340A.311; 340A.402; 340A.404, subdivisions 1 and 6; 340A.405, subdivisions 2 and 6; 340A.408, subdivision 2; 340A.410, subdivision 5; 340A.412, subdivisions 2, 3, and by adding a subdivision; 340A.413, subdivision 1; 340A.414, subdivisions 4 and 8; 340A.415; 340A.503, subdivision 1; 340A.504, subdivisions 2 and 3; 340A.506; 340A.508, by adding a subdivision; 340A.601, subdivision 5; and 340A.604; proposing coding for new law in Minnesota Statutes, chapter 340A; repealing Minnesota Statutes 1990, section 340A.404, subdivision 6a.

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 17 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Brown	Hanson	McEachern	Rice	Wejcman
Dille	Hugoson	Munger	Skoglund	
Dorn	Johnson, R.	Onnen	Steensma	
Gutknecht	Kalis	Orfield	Wagenius	

The bill was passed, as amended, and its title agreed to.

H. F. No. 875, A bill for an act relating to insurance; rental

vehicles; increasing property damage liability coverage; amending Minnesota Statutes 1990, section 65B.49, subdivision 5a.

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 126 yeas and 6 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Girard	Onnen	Stanius
Leppik	Pellow	Welker

The bill was passed and its title agreed to.

The Speaker resumed the Chair.

GENERAL ORDERS

Long moved that the bills on General Orders for today be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

McGuire moved that the names of Trimble and Waltman be added as authors on H. F. No. 767. The motion prevailed.

Bertram moved that the name of Marsh be added as an author on H. F. No. 1150. The motion prevailed.

Winter moved that his name be stricken as an author on H. F. No. 1540. The motion prevailed.

Jaros moved that the name of Haukoos be added as an author on H. F. No. 1597. The motion prevailed.

Runbeck moved that the name of Morrison be added as second author on H. F. No. 1618. The motion prevailed.

Valento moved that the name of Kalis be added as an author on H. F. No. 1627. The motion prevailed.

Kahn moved that H. F. No. 1542 be recalled from the Committee on Transportation and be re-referred to the Committee on Environment and Natural Resources. The motion prevailed.

Segal moved that H. F. No. 1099 be recalled from the Committee on Health and Human Services and be re-referred to the Committee on Judiciary. The motion prevailed.

SUSPENSION OF RULES

Lasley moved that the rules be so far suspended that S. F. No. 437 be recalled from the Committee on Appropriations, be given its second reading and be advanced to General Orders. The motion prevailed.

S. F. No. 437 was read for the second time.

ADJOURNMENT

Long moved that when the House adjourns today it adjourn until 2:30 p.m., Monday, April 22, 1991. The motion prevailed.

Long moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:30 p.m., Monday, April 22, 1991.

EDWARD A. BURDICK, Chief Clerk, House of Representatives