STATE OF MINNESOTA

SEVENTY-SEVENTH SESSION—1991

THIRTY-SIXTH DAY

SAINT PAUL, MINNESOTA, MONDAY, APRIL 22, 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 Michael Hibbs, First Presbyterian Church, Windom, Minnesota.

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

The roll was called and the following members were present:

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

A quorum was present.

The Chief Clerk proceeded to read the Journal of the preceding

day. Winter 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.

PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

April 11, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives
The State of Minnesota

Dear Representative Vanasek:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State the following House Files:

H. F. No. 325, memorializing the President and Congress to increase funding for the low-income home energy assistance program and to maintain its operation in Minnesota.

H. F. No. 646, relating to state government; purchases; amending the definition of "manufactured in the United States."

Warmest regards,

ARNE H. CARLSON
Governor

STATE OF MINNESOTA
OFFICE OF THE SECRETARY OF STATE
ST. PAUL 55155

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	*H.F. No.*	*Session Laws Chapter No.*	*Time and Date Approved 1991*	*Date Filed 1991*
	325	Resolution No. 3	4:32 p.m. April 11	April 12
	646	23	4:30 p.m. April 11	April 12

Sincerely,

JOAN ANDERSON GROWE
Secretary of State

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

April 12, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives
The State of Minnesota

Dear Representative Vanasek:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State the following House File:

H. F. No. 1209, memorializing the President and Congress to condemn the use of Soviet military force in the Baltic Republics and support the Baltic Republics for their self-determination.

Warmest regards,

ARNE H. CARLSON
Governor

STATE OF MINNESOTA
OFFICE OF THE SECRETARY OF STATE
ST. PAUL 55155

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	*H.F. No.*	*Session Laws Chapter No.*	*Time and Date Approved 1991*	*Date Filed 1991*
	1209	Resolution No. 6	6:30 p.m. April 12	April 13

Sincerely,

JOAN ANDERSON GROWE
Secretary of State

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

April 17, 1991

The Honorable Robert E. Vanasek
Speaker of the House of Representatives
The State of Minnesota

Dear Representative Vanasek:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State the following House File:

H. F. No. 661, memorializing Canada to correct the new permit regulations for the Canada-Minnesota border, and to encourage

federal, state, and provincial governments to resolve differences to the mutual benefit and satisfaction of the citizens of both countries.

Warmest regards,

ARNE H. CARLSON
Governor

STATE OF MINNESOTA
OFFICE OF THE SECRETARY OF STATE
ST. PAUL 55155

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1991 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	*H.F. No.*	*Session Laws Chapter No.*	*Time and Date Approved 1991*	*Date Filed 1991*
	661	Resolution No. 4	3:04 p.m. April 17	April 17
611		24	3:00 p.m. April 17	April 17
148		25	3:02 p.m. April 17	April 17
154		26	2:59 p.m. April 17	April 17
5		27	2:55 p.m. April 17	April 17
162		28	2:55 p.m. April 17	April 17
567		29	2:57 p.m. April 17	April 17

Sincerely,

JOAN ANDERSON GROWE
Secretary of State

REPORTS OF STANDING COMMITTEES

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 78, A bill for an act relating to judicial administration; increasing fees; eliminating fees; decreasing the number of certified copies of marriage licenses prepared; expanding the probate surcharge to informal probate matters; amending Minnesota Statutes 1990, sections 357.021, subdivision 2; 517.101; and 525.5501, subdivision 2.

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. 80, A bill for an act relating to human services; requiring increases in rates for salaries of employees of intermediate care facilities for persons with mental retardation, home and community-*based waivered services, developmental* achievement centers, and semi-independent living services programs; amending Minnesota Statutes 1990, sections 245.465; 252.24, by adding a subdivision; 252.275, by adding a subdivision; 252.28, by adding a subdivision; 256B.491, by adding a subdivision; and 268A.06, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 245.465, is amended to read:

245.465 [DUTIES OF COUNTY BOARD.]

Subdivision 1. [DUTIES TO PROVIDE SERVICES.] The county board in each county shall use its share of mental health and community social service act funds allocated by the commissioner according to a biennial local mental health service proposal approved by the commissioner. The county board must:

(1) develop and coordinate a system of affordable and locally available adult mental health services in accordance with sections 245.461 to 245.486;

(2) provide for case management services to adults with serious and persistent mental illness in accordance with sections 245.462, subdivisions 3 and 4; 245.4711; and 245.486;

(3) provide for screening of adults specified in section 245.476 upon admission to a residential treatment facility or acute care hospital *inpatient, or informal admission* to a regional treatment center;

(4) prudently administer grants and purchase-of-service contracts

that the county board determines are necessary to fulfill its responsibilities under sections 245.461 to 245.486; and

(5) assure that mental health professionals, mental health practitioners, and case managers employed by or under contract with the county to provide mental health services have experience and training in working with adults with mental illness.

Subd. 2. [RESIDENTIAL AND COMMUNITY SUPPORT PROGRAMS; SALARY ADJUSTMENTS.] In establishing, operating, or contracting for the provision of programs licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, and programs funded under Minnesota Rules, parts 9535.0100 to 9535.1600, a county board shall contract at rates computed by increasing the total salaries, payroll taxes, and fringe benefits related to personnel below top management by the percentage increase in Standard Industrial Code 805 (average hourly earnings of nursing and personal care workers) forecast by Data Resources, Inc., for the rate year compared to the previous rate year in the forecast published in the second quarter of the calendar year preceding the rate year, plus five percent each year of the biennium, and then dividing the resulting amount by the contracted total number of days of service. All increased revenue produced by this calculation must be used for salaries and related costs of personnel in positions below top management. The state shall provide counties with proper reimbursement to cover these increased costs.

Sec. 2. Minnesota Statutes 1990, section 252.24, is amended by adding a subdivision to read:

Subd. 3a. [DEVELOPMENTAL ACHIEVEMENT CENTERS; SALARY ADJUSTMENTS.] In contracting with a developmental achievement center, beginning on October 1, 1991, a county board must contract at rates computed by increasing the total salaries, payroll taxes, and fringe benefits related to personnel below top management by the percentage increase in Standard Industrial Code 805 (average hourly earnings of nursing and personal care workers) forecast by Data Resources, Inc., for the rate year compared to the previous rate year in the forecast published in the second quarter of the calendar year preceding the rate year, plus five percent each year of the biennium, and then dividing the resulting amount by the contracted total number of days of service. All increased revenue produced by this calculation must be used for salary and related costs of personnel in positions below top management. The state shall provide counties with proper reimbursement to cover these increased costs.

Sec. 3. Minnesota Statutes 1990, section 252.275, is amended by adding a subdivision to read:

Subd. 9. [SEMI-INDEPENDENT LIVING SERVICES; SALARY

ADJUSTMENTS.] In establishing, operating, or contracting for the provision of semi-independent living services under this section, a county board must contract at rates computed by increasing the total salaries, payroll taxes, and fringe benefits related to personnel below top management by the percentage increase in Standard Industrial Code 805 (average hourly earnings of nursing and personal care workers) forecast by Data Resources, Inc., for the rate year compared to the previous rate year in the forecast published in the second quarter of the calendar year preceding the rate year, plus five percent each year of the biennium, and then dividing the resulting amount by the contracted total number of service units of service. These increases in rates shall continue in future rate years. All increased revenue produced by this calculation must be used for salary and related costs of personnel in positions below top management. The state shall provide counties with proper reimbursement to cover these increased costs.

Sec. 4. Minnesota Statutes 1990, section 252.28, is amended by adding a subdivision to read:

Subd. 5. [ICF/MR; SALARY ADJUSTMENTS.] (a) The commissioner shall increase rates for each intermediate care facility for persons with mental retardation or related conditions by a salary adjustment computed by increasing the total salaries, payroll taxes, and fringe benefits related to personnel below top management by the percentage increase in Standard Industrial Code 805 (average hourly earnings of nursing and personal care workers) forecast by Data Resources, Inc., for the rate year compared to the previous rate year in the forecast published in the second quarter of the calendar year preceding the rate year, plus five percent each year of the biennium. All increased revenue produced by this calculation must be used for salary and related costs of personnel in positions below top management.

(b) The commissioner shall allow an additional 1.5 percent increase in rates for those agencies demonstrating that staff salaries below top management are the lowest 30 percent of intermediate care facilities for persons with mental retardation or related conditions. All increased revenue produced by this calculation must be used for salary and related costs of personnel in positions below top management.

Sec. 5. Minnesota Statutes 1990, section 256B.491, is amended by adding a subdivision to read:

Subd. 3. [WAIVERED SERVICES; SALARY ADJUSTMENTS.] In establishing, operating, or contracting for the provision of services covered under the home and community-based waiver under this section, a county board must contract at rates computed by increasing the total salaries, payroll taxes, and fringe benefits related to personnel below top management by the percentage

increase in Standard Industrial Code 805 (average hourly earnings of nursing and personal care workers) forecast by Data Resources, Inc., for the rate year compared to the previous rate year in the forecast published in the second quarter of the calendar year preceding the rate year, plus five percent each year of the biennium, and then dividing the resulting amount by the contracted total number of service units of service. These increases in rates shall continue in future rate years. All increased revenue produced by this calculation must be used for salary and related costs of personnel in positions below top management. The state shall provide counties with proper reimbursement to cover these increased costs.

Sec. 6. Minnesota Statutes 1990, section 268A.06, is amended by adding a subdivision to read:

Subd. 3. [REHABILITATION FACILITIES; SALARY ADJUSTMENTS.] The commissioner shall increase rates for each rehabilitation facility by a salary adjustment computed by increasing the total salaries, payroll taxes, and fringe benefits related to personnel below top management by the percentage increase in Standard Industrial Code 805 (average hourly earnings of nursing and personal care workers) forecast by Data Resources, Inc., for the rate year compared to the previous rate year in the forecast published in the second quarter of the calendar year preceding the rate year, plus five percent each year of the biennium. All increased revenue produced by this calculation must be used for salary and related costs of personnel in positions below top management."

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. 117, A bill for an act relating to wild animals; altering the classification of certain ferrets; amending Minnesota Statutes 1990, section 346.41, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [346.415] [DOMESTIC EUROPEAN FERRETS.]

Subdivision 1. [CLASSIFICATION AS DOMESTIC ANIMAL.]

The domestic European ferret (mustela putorius furo) is classified as a domestic and companion animal.

Subd. 2. [FOOD.] Domestic European ferrets must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight.

Subd. 3. [WATER.] Domestic European ferrets must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice.

Subd. 4. [TRANSPORTATION AND SHIPMENT.] When domestic European ferrets are transported in crates or containers, the crates or containers must be constructed of nonabrasive wire or a smooth, durable material suitable for the animals. Crates and containers must be clean, adequately ventilated, contain sufficient space to allow the animals to turn around, and provide maximum safety and protection to the animals. Water must be provided at least once every eight hours. Food must be provided at least once every 24 hours or more often, if necessary, to maintain the health and condition of the animals.

Subd. 5. [VACCINATIONS.] All domestic European ferrets must be vaccinated against rabies and distemper.

Subd. 6. [FEMALES TO BE SPAYED.] All female European domestic ferrets must be spayed, except for animals used for breeding purposes.

Subd. 7. [INFORMATION FOR BUYERS.] A person selling or offering to sell domestic European ferrets must provide buyers with written factual information concerning the care of these animals, including a warning that a domestic European ferret may cause injury to young children.

Sec. 2. [STUDY.]

The commissioner of health must examine the public health aspects of private ferret ownership and report to the legislature by January 1, 1992.

Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1992, and section 2 is effective July 1, 1991."

Delete the title and insert:

"A bill for an act relating to animals; classifying domestic Euro-

pean ferrets as domestic animals; providing for their health and welfare; requiring a study; proposing coding for new law in Minnesota Statutes, chapter 346."

And when so amended the bill be re-referred to the Committee on Health and Human Services without further recommendation.

The report was adopted.

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

H. F. No. 162, A bill for an act relating to regulation of dangerous dogs; providing for designation of a warning symbol to inform children of the presence of a dangerous dog; amending Minnesota Statutes 1990, section 347.51, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 14, after "be" insert "uniform and"

Page 1, line 18, delete "sufficient" and insert "the number of"

Page 1, line 19, delete "to" and insert "requested by" and delete the second "each" and insert "the"

Page 1, line 20, after the period, insert "The county may charge the registrant a reasonable fee to cover its administrative costs and the cost of the warning symbol."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 267, A bill for an act relating to motor vehicles; exempting from commercial vehicle inspection requirements and hazardous material driver's license endorsement requirements, pickup trucks carrying certain quantities of petroleum products or liquid fertilizer; reducing the minimum size of fleets of commercial vehicles permitted to conduct self-inspections; providing for the issuance of commercial vehicle inspection decals to vehicles manufactured before January 1, 1976; limiting the authority of agents of the commissioner of transportation to inspect vehicles; delaying

effective date of requirement that all commercial vehicles bear a commercial vehicle inspection decal; amending Minnesota Statutes 1990, sections 169.781, subdivisions 1, 3, and 5; and 171.02, by adding a subdivision; Laws 1990, chapter 563, section 11; proposing coding for new law in Minnesota Statutes, chapter 174.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 169.781, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of sections 169.781 to 169.783:

(a) "Commercial motor vehicle" means:

(1) a commercial motor vehicle as defined in section 169.01, subdivision 75, paragraph (a); and

(2) each vehicle in a combination ~~drawn by a commercial motor vehicle~~ of more than 26,000 pounds.

"Commercial motor vehicle" does not include (1) a school bus displaying a certificate under section 169.451, ~~or~~ (2) a bus operated by the metropolitan transit commission created in section 473.404 or by a local transit commission created in chapter 458A, or (3) a motor vehicle with a gross weight of not more than 26,000 pounds, carrying in bulk tanks a total of not more than 200 gallons of petroleum products and liquid fertilizer.

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

(c) "Owner" means a person who owns, or has control, under a lease of more than 30 days' duration, of one or more commercial motor vehicles.

(d) "Storage trailer" means a trailer that (1) is used exclusively to store property at a location not on a street or highway, (2) does not contain any load when moved on a street or highway, (3) is operated only during daylight hours, and (4) is marked on each side of the trailer "storage only" in letters at least six inches high.

Sec. 2. Minnesota Statutes 1990, section 169.781, subdivision 2, is amended to read:

Subd. 2. [INSPECTION REQUIRED.] It is unlawful for a person to operate or permit the operation of a commercial motor vehicle

registered in Minnesota unless the vehicle displays a valid safety inspection decal issued by an inspector certified by the commissioner, or the vehicle carries (1) proof that the vehicle complies with federal motor vehicle inspection requirements for vehicles in interstate commerce, and (2) a certificate of compliance with federal requirements issued by the commissioner under subdivision 9.

Sec. 3. Minnesota Statutes 1990, section 169.781, subdivision 3, is amended to read:

Subd. 3. [WHO MAY INSPECT.] (a) An inspection required by this section may be performed only by:

(1) an employee of the department of public safety or transportation who has been certified by the commissioner after having received training provided by the state patrol; or

(2) another person who has been certified by the commissioner after having received training provided by the state patrol or other training approved by the commissioner.

(b) A person who is not an employee of the department of public safety or transportation may be certified by the commissioner if the person is: (1) an owner, or employee of the owner, of ~~five~~ one or more commercial motor vehicles that are power units; (2) a dealer licensed under section 168.27 and engaged in the business of buying and selling commercial motor vehicles, or an employee of the dealer; or (3) engaged primarily in the business of repairing and servicing commercial motor vehicles. Certification of persons described in clauses (1) to (3) is effective for ~~one year~~ two years from the date of certification. The commissioner may require ~~annual~~ biennial retraining of persons holding a certificate under this paragraph as a condition of renewal of the certificate. The commissioner may charge a fee of not more than $10 for each certificate issued and renewed. A certified person described in clauses (1) to (3) may charge a fee of not more than $50 for each inspection of a vehicle not owned by the person or the person's employer.

(c) Except as otherwise provided by law, the standards adopted by the commissioner for commercial motor vehicle inspections under section 169.781 to 169.783 shall be the standards prescribed in Code of Federal Regulations, title 49, section 396.17, and chapter III, subchapter B, appendix G. The commissioner may classify types of vehicles for inspection purposes and may ~~adopt separate inspection procedures and~~ issue separate classes of inspector certificates for each class.

(d) The commissioner, after notice and an opportunity for a hearing, may suspend a certificate issued under paragraph (b) for failure to meet annual certification requirements prescribed by the commissioner or failure to inspect commercial motor vehicles in

accordance with inspection procedures established by the state patrol. The commissioner shall revoke a certificate issued under paragraph (b) if the commissioner determines after notice and an opportunity for a hearing that the certified person issued an inspection decal for a commercial motor vehicle when the person knew or reasonably should have known that the vehicle was in such a state of repair that it would have been declared out of service if inspected by an employee of the state patrol. Suspension and revocation of certificates under this subdivision are not subject to sections 14.57 to 14.69.

Sec. 4. Minnesota Statutes 1990, section 169.781, subdivision 4, is *amended to read:*

Subd. 4. [INSPECTION REPORTS.] (a) A person performing an inspection under this section shall issue an inspection report to the owner of the commercial motor vehicle inspected. The report must include:

(1) the full name of the person performing the inspection, and the person's inspector certification number;

(2) the name of the owner of the vehicle and, if applicable, the United States Department of Transportation carrier number issued to the owner of the vehicle, or to the operator of the vehicle if other than the owner;

(3) the vehicle identification number and, if applicable, the license plate number of the vehicle;

(4) the date and location of the inspection;

(5) the vehicle components inspected and a description of the findings of the inspection, including identification of the components not in compliance with federal motor carrier safety regulations; and

(6) *the inspector's certification that the inspection was complete,* accurate, and in compliance with the requirements of this section.

(b) The owner must retain a copy of the inspection report for at least ~~one year~~ 14 months at a location in the state where the vehicle is domiciled or maintained. During this period the report must be available for inspection by an authorized federal, state, or local official.

(c) The commissioner shall prescribe the form of the inspection report and revise it as necessary to comply with state and federal law and regulations. The adoption of the report form is not subject to the administrative procedure act.

Sec. 5. Minnesota Statutes 1990, section 169.781, subdivision 5, is amended to read:

Subd. 5. [INSPECTION DECALS.] (a) A person inspecting a commercial motor vehicle shall issue an inspection decal for the vehicle if each inspected component of the vehicle complies with federal motor carrier safety regulations. The decal must state that in the month specified on the decal the vehicle was inspected and each inspected component complied with federal motor carrier safety regulations. The decal is valid for 12 months after the month specified on the decal. The commissioners of public safety and transportation shall make decals available, at a fee of not more than $2 for each decal, to persons certified to perform inspections under subdivision 3, paragraph (b).

(b) Minnesota inspection decals may be affixed only to commercial motor vehicles bearing Minnesota-based license plates.

(c) Notwithstanding paragraph (a), a person inspecting (1) a vehicle of less than 57,000 pounds gross vehicle weight and registered as a farm truck, or (2) a storage trailer, must issue an inspection decal to the vehicle unless the vehicle has one or more defects that would result in the vehicle being declared out of service if inspected at any time by the state patrol. A decal issued to a vehicle described in clause (1) or (2) is valid for two years from the date of issuance. A decal issued to such a vehicle must clearly indicate that it is valid for two years from the date of issuance.

Sec. 6. Minnesota Statutes 1990, section 169.781, is amended by adding a subdivision to read:

Subd. 9. [PROOF OF FEDERAL INSPECTION.] An owner of a commercial motor vehicle that is subject to and in compliance with federal motor vehicle inspection requirements for vehicles in interstate commerce may apply to the commissioner for a certificate of compliance with federal requirements. On payment of a fee equal to the fee for an inspection decal under subdivision 5, paragraph (a), the commissioner shall issue the certificate to the applicant.

Sec. 7. Minnesota Statutes 1990, section 169.783, subdivision 1, is amended to read:

Subdivision 1. [POSTCRASH INSPECTION.] A peace officer responding to an accident involving a commercial motor vehicle must immediately notify the state patrol if the accident results in death, personal injury, or property damage to an apparent extent of more than ~~$4,500~~ $4,400. It is a misdemeanor for a person to drive or cause to be driven a commercial motor vehicle after such an accident unless the vehicle: (1) has been inspected by a state trooper or other person authorized to conduct inspections under section 169.781, subdivision 3, paragraph (a), who is an employee of the

department of public safety or transportation, and the person inspecting the vehicle has determined that the vehicle may safely be operated; or (2) a waiver has been granted under subdivision 2.

Sec. 8. Minnesota Statutes 1990, section 171.02, is amended by adding a subdivision to read:

Subd. 2a. [HAZARDOUS MATERIALS; EXCEPTION.] Notwithstanding subdivision 2, a hazardous materials endorsement is not required to operate a motor vehicle with a gross weight of not more than 26,000 pounds, carrying in bulk tanks a total of not more than 200 gallons of petroleum products and liquid fertilizer.

Sec. 9. Laws 1990, chapter 563, section 11, is amended to read:

Sec. 11. [EFFECTIVE DATE.]

(a) Section 1, subdivisions 1 and 3 to 8, and sections 2 to 10 are effective July 1, 1990.

(b) Except as provided in paragraph (c), section 1, subdivision 2, is effective ~~April~~ July 1, 1991.

(c) Section 1, subdivision 2, is effective April 1, 1992, for any registered farm truck with a registered gross weight of not more than 57,000 pounds while being operated within a radius of 50 miles of the home post office of the owner.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 9 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to motor vehicles; exempting from commercial vehicle inspection requirements and hazardous material driver's license endorsement requirements, pickup trucks carrying certain quantities of petroleum products or liquid fertilizer; reducing the minimum size of fleets of commercial vehicles permitted to conduct self-inspections; specifying the commercial vehicle inspection standards to be adopted by the commissioner of public safety; providing that certain vehicles may be issued certificates by complying with out-of-service criteria, and that such certificates are valid for two years; providing certain proof of federal inspection in lieu of state inspection decal requirements; changing the period of time for which inspection records must be retained; lowering the property damage level of accidents subject to postcrash vehicle inspections; delaying effective date of requirement that all commercial vehicles bear a commercial vehicle inspection decal; amending

Minnesota Statutes 1990, sections 169.781, subdivisions 1, 2, 3, 4, 5, and by adding a subdivision; 169.783, subdivision 1; 171.02, by adding a subdivision; and Laws 1990, chapter 563, section 11."

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. 375, A bill for an act relating to marriage; providing for solemnization of marriages by certain court officers; amending Minnesota Statutes 1990, section 517.04.

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

The report was adopted.

Anderson, I., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 422, A bill for an act relating to cities; providing for distribution of public notices in cities of the fourth class in the metropolitan area; amending Minnesota Statutes 1990, section 331A.03.

Reported the same back with the following amendments:

Page 1, line 24, after "if" insert "there is no qualified nondaily newspaper of general circulation in the city, provided"

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

The report was adopted.

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

H. F. No. 436, A bill for an act relating to animals; tightening laws prohibiting cruel treatment of certain animals, including equines; increasing certain penalties; amending Minnesota Statutes 1990, sections 343.21, subdivisions 9 and 10; 346.43; and 346.44; proposing coding for new law in Minnesota Statutes, chapter 343.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 343.21, subdivision 9, is amended to read:

Subd. 9. [PENALTY.] A person who fails to comply with any provision of this section is guilty of a misdemeanor. A person convicted of a second or subsequent violation of this section within five years of a previous violation is guilty of a gross misdemeanor.

Sec. 2. Minnesota Statutes 1990, section 343.21, subdivision 10, is amended to read:

Subd. 10. [RESTRICTIONS.] If a person is convicted of violating this section, or sections 346.35 to 346.44, the court ~~may~~ shall require that pet or companion animals, as defined in section 346.36, subdivision 6, that have not been seized by a peace officer or agent and are in the custody of the person must be turned over to a peace officer or other appropriate officer or agent if the court determines that the person is unable or unfit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. The court may limit the person's further possession or custody of ~~pet or companion~~ animals, and may impose other conditions the court considers appropriate, including, but not limited to:

(1) imposing a probation period during which the person may not have ownership, custody, or control of ~~a pet or companion~~ an animal;

(2) requiring periodic visits of the person by an animal control officer or agent appointed pursuant to section 343.01, subdivision 1;

(3) requiring performance by the person of community service in a humane facility; and

(4) requiring the person to receive behavioral counseling.

Sec. 3. [343.38] [SUBSEQUENT VIOLATIONS.]

A person who is convicted of a second or subsequent violation of section 343.24, 343.25, 343.26, 343.28, 343.30, 343.31, 343.36, or 343.37 within five years of a previous violation of that section is guilty of a gross misdemeanor.

Sec. 4. Minnesota Statutes 1990, section 346.44, is amended to read:

346.44 [PENALTIES.]

Except where otherwise indicated, a person found guilty of failure to comply with a provision of sections 346.36 to 346.42 is guilty of a misdemeanor. A person convicted of a second or subsequent violation of sections 346.36 to 346.42 within five years of a previous violation is guilty of a gross misdemeanor.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective August 1, 1991, and apply to crimes committed on or after that date, but previous convictions occurring before that date may serve as the basis for enhancing penalties under sections 1 to 4."

Delete the title and insert:

"A bill for an act relating to animals; tightening laws prohibiting cruel treatment of certain animals; increasing certain penalties; amending Minnesota Statutes 1990, sections 343.21, subdivisions 9 and 10; and 346.44; proposing coding for new law in Minnesota Statutes, chapter 343."

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

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 700, A bill for an act relating to education; providing for supplemental revenue and minimum allowance revenue in certain cases; amending Minnesota Statutes 1990, section 122.531, by adding a subdivision; repealing Minnesota Statutes 1990, section 122.531, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL EDUCATION REVENUE

Section 1. Minnesota Statutes 1990, section 121.904, subdivision 4a, is amended to read:

Subd. 4a. [LEVY RECOGNITION.] (a) "School district tax settlement revenue" means the current, delinquent, and manufactured home property tax receipts collected by the county and distributed to the school district, including distributions made pursuant to section 279.37, subdivision 7, and excluding the amount levied pursuant to sections 124.2721, subdivision 3; 124.575, subdivision 3; and 275.125, subdivision 9a; and Laws 1976, chapter 20, section 4.

(b) In June of each year, the school district shall recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the June and July school district tax settlement revenue received in that calendar year; or

(2) the sum of the state aids and credits enumerated in section 124.155, subdivision 2, which are for the fiscal year payable in that fiscal year plus ~~31.0~~ 37.0 percent of the amount of the levy certified in the prior calendar year according to section 124A.03, subdivision 2, plus or minus auditor's adjustments, not including levy portions that are assumed by the state; or

(3) ~~31.0~~ 37.0 percent of the amount of the levy certified in the prior calendar year, plus or minus auditor's adjustments, not including levy portions that are assumed by the state, which remains after subtracting, by fund, the amounts levied for the following purposes:

(i) reducing or eliminating projected deficits in the reserved fund balance accounts for unemployment insurance and bus purchases;

(ii) statutory operating debt pursuant to section 275.125, subdivision 9a, and Laws 1976, chapter 20, section 4; and

(iii) retirement and severance pay pursuant to sections 124.2725, subdivision 15, 124.4945, and 275.125, subdivisions 4 and 6a, and Laws 1975, chapter 261, section 4; and

(iv) amounts levied for bonds issued and interest thereon, amounts levied for debt service loans and capital loans, amounts levied for down payments under section 124.82, subdivision 3, and amounts levied pursuant to section 275.125, subdivision 14a.

(c) In July of each year, the school district shall recognize as revenue that portion of the school district tax settlement revenue

received in that calendar year and not recognized as revenue for the previous fiscal year pursuant to clause (b).

(d) All other school district tax settlement revenue shall be recognized as revenue in the fiscal year of the settlement. Portions of the school district levy assumed by the state, including prior year adjustments and the amount to fund the school portion of the reimbursement made pursuant to section 273.425, shall be recognized as revenue in the fiscal year beginning in the calendar year for which the levy is payable.

Sec. 2. Minnesota Statutes 1990, section 121.904, subdivision 4e, is amended to read:

Subd. 4e. [COOPERATION LEVY RECOGNITION.] (a) A cooperative district is a district or cooperative that receives revenue according to section 124.2721 or 124.575.

(b) In June of each year, the cooperative district shall recognize as revenue, in the fund for which the levy was made, the lesser of:

(1) the sum of the state aids and credits enumerated in section 124.155, subdivision 2, that are for the fiscal year payable in that fiscal year; or

(2) ~~31.0~~ 37.0 percent of the difference between

(i) the sum of the amount of levies certified in the prior year according to sections 124.2721, subdivision 3, and 124.575, subdivision 3; and

(ii) the amount of transition aid paid to the cooperative unit according to section 273.1392 for the fiscal year to which the levy is attributable.

Sec. 3. Minnesota Statutes 1990, section 122.531, is amended by adding a subdivision to read:

Subd. 5a. [SUPPLEMENTAL REVENUE.] (a) For purposes of computing the supplemental revenue and the minimum allowance under section 124A.22, subdivision 9, paragraph (c), in the case of a consolidation, the newly created district's 1987-1988 revenue and 1987-1988 actual pupil units are the sum of the 1987-1988 revenue and 1987-1988 pupil units, respectively, of the former districts comprising the new district.

(b) For purposes of computing the supplemental revenue and the minimum allowance under section 124A.22, subdivision 9, paragraph (c), in the case of a dissolution and attachment, a district's

1987-1988 revenue is the revenue of the existing district plus the result of the following calculation:

(1) the 1987-1988 revenue of the dissolved district divided by

(2) the dissolved district's 1987-1988 actual pupil units, adjusted for the change in secondary pupil unit weighting from 1.4 to 1.35 made by Laws 1987, chapter 398, multiplied by

(3) the pupil units of the dissolved district in the most recent year before the dissolution allocated to the newly created or enlarged district.

(c) In the case of a dissolution and attachment, the department of education shall allocate the pupil units of the dissolved district to the newly enlarged districts based on the allocation of the property on which the pupils generating the pupil units reside.

Sec. 4. Minnesota Statutes 1990, section 124.17, subdivision 1, is amended to read:

Subdivision 1. [PUPIL UNIT.] Pupil units for each resident pupil in average daily membership shall be counted according to this subdivision.

(a) A handicapped prekindergarten pupil who is enrolled for the entire fiscal year in a program approved by the commissioner and has an individual education plan that requires up to 437 hours of assessment and education services in the fiscal year is counted as one-half of a pupil unit. If the plan requires more than 437 hours of assessment and education services, the pupil is counted as the ratio of the number of hours of assessment and education service to 875, but not more than one.

(b) A handicapped prekindergarten pupil who is enrolled for less than the entire fiscal year in a program approved by the commissioner is counted as the greater of:

(1) one-half times the ratio of the number of instructional days from the date the pupil is enrolled to the date the pupil withdraws to the number of instructional days in the school year; or

(2) the ratio of the number of hours of assessment and education service required in the fiscal year by the pupil's individual education program plan to 875, but not more than one.

(c) A prekindergarten pupil who is assessed but determined not to be handicapped is counted as the ratio of the number of hours of assessment service to 875.

(d) A handicapped kindergarten pupil who is enrolled in a program approved by the commissioner is counted as the ratio of the number of hours of assessment and education services required in the fiscal year by the pupil's individual education program plan to 875, but not more than one.

(e) A kindergarten pupil who is not included in paragraph (d) is counted as one-half of a pupil unit.

(f) A pupil who is in any of grades 1 to 6 is counted as one pupil unit.

(g) A pupil who is in any of grades 7 to 12 is counted as ~~1.35~~ 1.3 pupil units.

Sec. 5. Minnesota Statutes 1990, section 124.17, subdivision 1b, is amended to read:

Subd. 1b. [FISCAL YEAR 1992 AFDC PUPIL UNITS.] In a district in which the number of pupils from families receiving aid to families with dependent children and residing in the district on October 1 of the previous school year equals six percent or more of the actual pupil units in the district for the current school year, as computed in subdivision 1, each such pupil shall be counted as an additional ~~one-tenth~~ five-hundredths of a pupil unit for each one-half percent of concentration over five percent of such pupils in the district. The percent of concentration shall be rounded down to the nearest ~~whole~~ one-half percent. In a district in which the percent of concentration is less than six, additional pupil units may not be counted for such pupils. A pupil may not be counted as more than .6 additional pupil unit under this subdivision. The weighting in this subdivision is in addition to the weighting provided in subdivision 1.

Sec. 6. Minnesota Statutes 1990, section 124.175, is amended to read:

124.175 [AFDC PUPIL COUNT.]

Each year by March 1, the department of human services shall certify to the department of education~~, for each school district,~~ the number of pupils from families receiving aid to families with dependent children who were enrolled in a public school on October 1 of the preceding year. The certification must be by school district, according to the school district in which the pupil resides.

Sec. 7. Minnesota Statutes 1990, section 124.195, subdivision 12, is amended to read:

Subd. 12. [AID ADJUSTMENT FOR TRA CONTRIBUTION RATE CHANGE.] (a) The department of education shall reduce

general education aid or any other aid paid in a fiscal year 1992 to school districts, intermediate school districts, education districts, education cooperative service units, special education cooperatives, secondary vocational cooperatives, regional management information centers, or another district or unit providing elementary or secondary education services. The reduction shall equal the following percent of salaries paid in a fiscal year by the entity to members of the teachers retirement association established in chapter 354. However, salaries paid to members of the association who are employed by a technical college shall be excluded from this calculation:

(1) in fiscal year 1991, 0.84 percent,

(2) in fiscal year 1992 and later years, the greater of

(i) zero, or

(ii) 4.48 percent less the additional employer contribution rate established under section 354.42, subdivision 5.

(b) In fiscal year 1991, this reduction is estimated to equal $14,260,000.

Sec. 8. Minnesota Statutes 1990, section 124A.03, is amended to read:

124A.03 [REFERENDUM ~~LEVY~~ REVENUE.]

Subd. 1b. [INITIAL REFERENDUM ALLOWANCE.] The department of education shall convert the referendum levy authority existing under this section for 1990 taxes payable in 1991 to a revenue allowance per actual pupil unit for future years. A district's initial revenue allowance for all later years for which the levy is authorized equals the referendum levy authority for 1990 taxes payable in 1991 divided by its actual pupil units for the 1991-1992 school year.

Subd. 1c. [REFERENDUM ALLOWANCE ADJUSTMENT.] Beginning in fiscal year 1993, a district's referendum allowance adjustment equals:

(a) one-half of the sum of:

(1) the district's training and experience revenue according to section 124A.22, subdivision 4, minus its previous formula training and experience revenue according to section 124A.22, subdivision 4; minus

(2) the amount of the reduction in supplemental revenue resulting from the increase in training and experience revenue under clause (1);

(b) divided by the district's actual pupil units.

Subd. 1d. [REFERENDUM ALLOWANCE.] For fiscal year 1993 and subsequent fiscal years, a district's referendum allowance equals the sum of the following:

(a) the district's initial referendum allowance minus the district's referendum allowance adjustment, but not less than zero; plus

(b) the amount of referendum revenue per actual pupil unit authorized under subdivision 2 in a referendum held after July 1, 1991.

Subd. 1e. [REFERENDUM ALLOWANCE LIMIT.] (a) Notwithstanding subdivision 1d, a district's referendum allowance must not exceed the greater of:

(1) the district's initial referendum allowance for fiscal year 1992 minus the district's referendum allowance adjustment; or

(2) 35 percent of the formula allowance for that fiscal year.

Subd. 1f. [SPARSITY EXCEPTION.] A district that qualifies for sparsity revenue under section 124A.22 is not subject to a referendum allowance limit.

Subd. 1g. [TOTAL REFERENDUM REVENUE.] The total referendum revenue for each district equals the district's referendum allowance times the actual pupil units for the school year.

Subd. 1h. [REFERENDUM EQUALIZATION REVENUE.] A district's referendum equalization revenue equals the sum of the three referendum equalization tiers.

(a) First tier referendum equalization revenue equals two percent of the formula allowance times the district's actual pupil units for that year.

(b) Second tier referendum equalization revenue equals five percent of the formula allowance times the district's actual pupil units for that year.

(c) Third tier referendum equalization revenue equals three percent of the formula allowance times the district's actual pupil units for that year.

Referendum equalization revenue must not exceed a district's referendum revenue authority times the pupil units for that year.

Subd. 1i. [REFERENDUM EQUALIZATION LEVY.] A district's referendum equalization levy equals the sum of the following:

(a) First tier referendum equalization levy equals first tier referendum revenue.

(b) Second tier referendum equalization levy equals second tier referendum revenue times the lesser of one or the ratio of the district's adjusted net tax capacity per pupil unit to 75 percent of the equalizing factor as defined in section 124A.02, subdivision 8.

(c) Third tier referendum equalization levy equals third tier referendum revenue times the lesser of one or the ratio of the district's adjusted net tax capacity per pupil unit to 50 percent of the equalizing factor as defined in section 124A.02, subdivision 8.

Subd. 1j. [REFERENDUM EQUALIZATION AID.] A district's referendum equalization aid equals the difference between its referendum equalization revenue and levy for each tier.

Subd. 1k. [UNEQUALIZED REFERENDUM LEVY.] Each year, a district may levy an amount equal to the difference between its total referendum revenue according to subdivision 1g and its equalized referendum revenue according to subdivision 1h.

Subd. 2. [REFERENDUM ~~LEVY~~ REVENUE.] (a) The ~~levy~~ revenue authorized by section ~~124A.23~~ 124A.22, subdivision ~~2~~ 1, may be increased in the amount approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the school board or shall be called by the school board upon written petition of qualified voters of the district. The referendum must be held on the first Tuesday after the first Monday in November. The ballot shall state the maximum amount of the increased ~~levy as a percentage of net tax capacity, the amount that will be raised by that local tax rate~~ revenue per actual pupil unit, the estimated net tax capacity rate in the first year it is to be levied, and that the ~~local tax rate~~ revenue shall be used to finance school operations. The ballot shall designate the specific number of years for which the referendum authorization shall apply. The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the ~~levy~~ revenue proposed by (petition to) the board of ....., School District No. .., be approved?"

If approved, ~~the~~ an amount ~~provided by~~ equal to the approved ~~local tax rate applied to the net tax capacity~~ revenue per actual pupil unit

times the actual pupil units for the school year ~~preceding~~ beginning in the year after the levy is certified shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

(b) The school board shall prepare and deliver by first class mail at least 15 days but no more than 30 days prior to the day of the referendum to each taxpayer at the address listed on the school district's current year's assessment roll, a notice of the referendum and the proposed ~~levy~~ revenue increase. For the purpose of giving mailed notice under this subdivision, owners shall be those shown to be owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Every property owner whose name does not appear on the records of the county auditor or the county treasurer shall be deemed to have waived this mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for this purpose. The notice must project the anticipated amount of tax increase in annual dollars and annual percentage for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the school district.

The notice must include the following statement: "~~In 1989 the legislature reduced property taxes for education by increasing the state share of funding for education. However, state aid for cities and townships was reduced by a corresponding amount. As a result, property taxes for cities and townships may increase.~~ "Passage of this referendum will result in an increase in your property taxes."

(c) A referendum on the question of revoking or reducing the increased ~~levy~~ revenue amount authorized pursuant to paragraph (a) may be called by the school board and shall be called by the school board upon the written petition of qualified voters of the district. ~~A levy~~ Revenue approved by the voters of the district pursuant to paragraph (a) must be ~~made~~ received at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one revocation or reduction referendum may be held to revoke or reduce ~~a levy~~ referendum revenue for any specific year and for years thereafter.

(d) A petition authorized by paragraph (a) or (c) shall be effective if signed by a number of qualified voters in excess of 15 percent of the registered voters of the school district on the day the petition is filed with the school board. A referendum invoked by petition shall be held on the date specified in paragraph (a).

(e) The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this subdivision.

(f) At least 15 days prior to the day of the referendum, the district shall submit a copy of the notice required under paragraph (b) to the commissioner of education. Within 15 days after the results of the referendum have been certified by the school board, or in the case of a recount, the certification of the results of the recount by the canvassing board, the district shall notify the commissioner of education of the results of the referendum.

Sec. 9. Minnesota Statutes 1990, section 124A.04, is amended to read:

124A.04 [TRAINING AND EXPERIENCE INDEX.]

Subdivision 1. [FISCAL YEAR 1992.] The training and experience index for fiscal year 1992 shall be constructed in the following manner:

(a) The department shall construct a matrix which classifies teachers by the extent of training received in accredited institutions of higher education, and by the years of experience which ~~the district takes~~ districts take into account in determining ~~each teacher's salary~~ teacher salaries.

(b) For all teachers in the state, the average salary per full-time-equivalent shall be computed for each cell of the matrix.

(c) For each cell of the matrix, the ratio of the average salary in that cell to the average salary in the cell for teachers with no prior years of experience and only a bachelor's degree shall be computed. Cells of the matrix in lanes beyond the master's degree plus 30 credits lane must receive the same ratio as the cells in the master's degree plus 30 credits lane. The department shall use statistical methods to ensure continuously increasing or constant ratios as cells are higher in training or experience.

(d) The index for each district shall be equal to the weighted average of the ratios assigned to the full-time-equivalent teachers in each district.

Subd. 2. [1993 AND LATER.] The training and experience index for fiscal year 1993 and later fiscal years must be constructed in the following manner:

(a) The department shall construct a matrix that classifies teachers by the extent of training received in accredited institutions of higher education and by the years of experience that districts take into account in determining teacher salaries.

(b) The average salary for each cell of the matrix must be

computed as follows using data from the second year of the previous biennium:

(1) For each school district, multiply the salary paid to full-time equivalent teachers with that combination of training and experience according to the district's teacher salary schedule by the number of actual pupil units in that district.

(2) Add the amounts computed in clause (1) for all districts in the state and divide the resulting sum by the total number of actual pupil units in all districts in the state that employ teachers.

(c) For each cell in the matrix, compute the ratio of the average salary in that cell to the average salary for all teachers in the state.

(d) The index for each district that employs teachers equals the sum of the ratios for each teacher in that district divided by the number of teachers in that district. The index for a district that employs no teachers is zero.

Sec. 10. Minnesota Statutes 1990, section 124A.22, subdivision 2, is amended to read:

Subd. 2. [BASIC REVENUE.] The basic revenue for each district equals the formula allowance times the actual pupil units for the school year. The formula allowance is ~~$2,838~~ $3,050 for fiscal year ~~1990. The formula allowance for~~ 1992 and subsequent fiscal years ~~is $2,953~~.

Sec. 11. Minnesota Statutes 1990, section 124A.22, subdivision 4, is amended to read:

Subd. 4. [TRAINING AND EXPERIENCE REVENUE.] (a) For fiscal year 1992, the training and experience revenue for each district equals the greater of zero or the result of the following computation:

~~(a)~~ (1) subtract 1.6 from the training and experience index~~.~~;

~~(b)~~ (2) multiply the result in clause ~~(a)~~ (1) by the product of $700 times the actual pupil units for the school year.

(b) For 1993 and later fiscal years, the maximum training and experience revenue for each district equals the greater of zero or the result of the following computation:

(1) subtract .8 from the training and experience index;

(2) multiply the result in clause (1) by the product of $575 times the actual pupil units for the school year.

(c) For 1993 and later fiscal years, the previous formula training and experience revenue for each district equals the amount of training and experience revenue computed for that district according to the formula used to compute training and experience revenue for fiscal year 1991.

(d) For fiscal year 1993, the training and experience revenue for each district equals the district's previous formula training and experience revenue plus one-third of the difference between the district's maximum training and experience revenue and the district's previous formula training and experience revenue.

(e) For fiscal year 1994, the training and experience revenue for each district equals the district's previous formula training and experience revenue plus two-thirds of the difference between the district's maximum training and experience revenue and the district's previous formula training and experience revenue.

(f) For 1995 and later fiscal years, the training and experience revenue for each district equals the district's maximum training and experience revenue.

Sec. 12. Minnesota Statutes 1990, section 124A.22, is amended by adding a subdivision to read:

Subd. 4a. [TRAINING AND EXPERIENCE LEVY.] A district's training and experience levy equals its training and experience revenue times the lesser of one or the ratio of the district's adjusted net tax capacity per pupil unit for the year before the year the levy is certified to the equalizing factor for the school year to which the levy is attributable.

Sec. 13. Minnesota Statutes 1990, section 124A.22, is amended by adding a subdivision to read:

Subd. 4b. [TRAINING AND EXPERIENCE AID.] A district's training and experience aid equals its training and experience revenue minus its training and experience levy times the ratio of the actual amount levied to the permitted levy.

Sec. 14. Minnesota Statutes 1990, section 124A.22, subdivision 5, is amended to read:

Subd. 5. [DEFINITIONS.] The definitions in this subdivision apply only to ~~subdivision~~ subdivisions 6 and 6a.

(a) "High school" means a secondary school that has pupils enrolled in at least the 10th, 11th, and 12th grades. If there is no secondary school in the district that has pupils enrolled in at least the 10th, 11th, and 12th grades, the commissioner shall designate

one school in the district as a high school for the purposes of this section.

(b) "Secondary average daily membership" means, for a district that has only one high school, the average daily membership of resident pupils in grades 7 through 12. For a district that has more than one high school, "secondary average daily membership" for each high school means the product of the average daily membership of resident pupils in grades 7 through 12 in the high school, times the ratio of six to the number of grades in the high school.

(c) "Attendance area" means the total surface area of the district, in square miles, divided by the number of high schools in the district.

(d) "Isolation index" for a high school means the square root of one-half the attendance area plus the distance in miles, according to the usually traveled routes, between the high school and the nearest high school.

(e) "Qualifying high school" means a high school that has an isolation index greater than 23 and that has secondary average daily membership of less than 400.

(f) "Qualifying elementary school" means an elementary school that is located ~~20~~ 19 miles or more from the nearest elementary school or from the nearest elementary school within the district and, in either case, has an elementary average daily membership of an average of 20 or fewer per grade.

(g) "Elementary average daily membership" means, for a district that has only one elementary school, the average daily membership of resident pupils in kindergarten through grade 6. For a district that has more than one elementary school, "average daily membership" for each school means the average daily membership of kindergarten through grade 6 multiplied by the ratio of seven to the number of grades in the elementary school.

Sec. 15. Minnesota Statutes 1990, section 124A.22, subdivision 8, is amended to read:

Subd. 8. [SUPPLEMENTAL REVENUE.] (a) A district's supplemental revenue for fiscal year 1992 equals the product of the district's supplemental revenue for fiscal year 1991 times the ratio of:

(1) the district's 1991-1992 actual pupil units; to

(2) the district's 1990-1991 actual pupil units adjusted for the

change in secondary pupil unit weighting from 1.35 to 1.3 made in section 4.

(b) If a district's minimum allowance exceeds the sum of its basic revenue, compensatory revenue, training and experience revenue, secondary sparsity revenue, and elementary sparsity revenue per actual pupil unit for ~~a school~~ fiscal year 1993 or a later fiscal year, the district shall receive supplemental revenue equal to the amount of the excess times the actual pupil units for the school year.

Sec. 16. Minnesota Statutes 1990, section 124A.22, subdivision 9, is amended to read:

Subd. 9. [DEFINITIONS FOR SUPPLEMENTAL REVENUE.] (a) The definitions in this subdivision apply only to subdivision 8.

(b) ~~"1987-1988 revenue" means the sum of the following categories of revenue for a district for the 1987-1988 school year:~~

~~(1) basic foundation revenue, tier revenue, and declining pupil unit revenue, according to Minnesota Statutes 1986, as supplemented by Minnesota Statutes 1987 Supplement, chapter 124A, plus any reduction to second tier revenue, according to Minnesota Statutes 1986, section 124A.08, subdivision 5;~~

~~(2) teacher retirement and FICA aid, according to Minnesota Statutes 1986, sections 124.2162 and 124.2163;~~

~~(3) chemical dependency aid, according to Minnesota Statutes 1986, section 124.246;~~

~~(4) gifted and talented education aid, according to Minnesota Statutes 1986, section 124.247;~~

~~(5) arts education aid, according to Minnesota Statutes 1986, section 124.275;~~

~~(6) summer program aid and levy, according to Minnesota Statutes 1986, sections 124A.03 and 124A.033;~~

~~(7) programs of excellence grants, according to Minnesota Statutes 1986, section 126.60; and~~

~~(8) liability insurance levy, according to Minnesota Statutes 1986, section 466.06.~~

~~For the purpose of this subdivision, intermediate districts and other employing units, as defined in Minnesota Statutes 1986, section 124.2161, shall allocate the amount of their teacher retire-~~

~~ment and FICA aid for fiscal year 1988 among their participating school districts.~~

~~(c)~~ "Minimum allowance" for a district means:

(1) the district's ~~1987-1988~~ general education revenue for fiscal year 1992, according to subdivision 1; divided by

(2) the district's ~~1987-1988~~ 1991-1992 actual pupil units~~, adjusted for the change in secondary pupil unit weighting from 1.4 to 1.35 made by Laws 1987, chapter 398; plus~~

~~(3) $143 for fiscal year 1990 and $258 for subsequent fiscal years.~~

Sec. 17. Minnesota Statutes 1990, section 124A.23, subdivision 1, is amended to read:

Subdivision 1. [GENERAL EDUCATION TAX RATE.] ~~The general education tax rate for fiscal year 1991 is 26.3 percent. Beginning in 1990,~~ The commissioner of revenue shall establish the general education tax rate and certify it to the commissioner of education by July 1 of each year for levies payable in the following year. The general education tax capacity rate shall be a rate, rounded up to the nearest tenth of a percent, that, when applied to the adjusted net tax capacity for all districts, raises the amount specified in this subdivision. The general education tax rate shall be the rate that raises ~~$845,000,000 for fiscal year 1992 and $887,000,000~~ $929,000,000 for fiscal year 1993 and $975,450,000 for fiscal year 1994 and ~~subsequent~~ later fiscal years. The general education tax rate certified by the commissioner of revenue may not be changed due to changes or corrections made to a district's adjusted net tax capacity after the tax rate has been certified.

Sec. 18. Minnesota Statutes 1990, section 124A.23, subdivision 4, is amended to read:

Subd. 4. [GENERAL EDUCATION AID.] A district's general education aid is the sum of the following amounts:

(1) the product of (i) the difference between the general education revenue, excluding supplemental revenue, and the general education levy, times (ii) the ratio of the actual amount levied to the permitted levy;

(2) the product of (i) the difference between the supplemental revenue and the supplemental levy, times (ii) the ratio of the actual amount levied to the permitted levy; ~~and~~

(3) shared time aid according to section 124A.02, subdivision 21; and

(4) referendum aid according to section 8.

Sec. 19. Minnesota Statutes 1990, section 124A.23, subdivision 5, is amended to read:

Subd. 5. [USES OF REVENUE.] ~~(a)~~ General education revenue may be used during the regular school year and the summer for general and special school purposes.

~~(b) General education revenue may not be used:~~

~~(1) for premiums for motor vehicle insurance protecting against injuries or damages arising from the operation of district-owned, leased, or controlled vehicles to transport pupils for which state aid is authorized under section 124.223; or~~

~~(2) for any purpose for which the district may levy according to section 275.125, subdivision 5c.~~

Sec. 20. Minnesota Statutes 1990, section 124A.24, is amended to read:

124A.24 [GENERAL EDUCATION LEVY EQUITY.]

If a district's general education levy is determined according to section 124A.23, subdivision 3, an amount must be deducted from state aid authorized in this chapter and chapter 124, receivable for the same school year, and from other state payments receivable for the same school year authorized in chapter 273. The aid in section 124.646 must not be reduced.

The amount of the deduction equals the difference between:

(1) the general education tax rate, according to section 124A.23, times the district's adjusted net tax capacity used to determine the general education aid for the same school year; and

(2) the district's general education revenue, excluding supplemental revenue, for the same school year, according to section 124A.22.

However, ~~for fiscal year 1989, the amount of the deduction shall be one-fourth of the difference between clauses (1) and (2); for fiscal year 1990, the amount of the deduction shall be one-third of the difference between clauses (1) and (2); for fiscal year 1991, the amount of the deduction shall be one-half of the difference between clauses (1) and (2);~~ for fiscal year 1992, the amount of the deduction shall be four-sixths of the difference between clauses (1) and (2); and for fiscal year 1993, the amount of the deduction shall be five-sixths of the difference between clauses (1) and (2).

Sec. 21. Minnesota Statutes 1990, section 124A.26, subdivision 1, is amended to read:

Subdivision 1. [REVENUE REDUCTION.] A district's general education revenue for a school year shall be reduced if the estimated net unappropriated operating fund balance as of June 30 in the prior school year exceeds $600 times the fund balance pupil units in the prior year. This reduction does not apply to a district that is expecting a delinquency in property tax receipts of 15 percent or more in a fiscal year. For purposes of this subdivision only, fund balance pupil units means the number of resident pupil units in average daily membership ~~enrolled in the district~~, including shared time pupils, according to section 124A.02, subdivision 20, plus

(1) pupils attending the district for which general education aid adjustments are made according to section 124A.036, subdivision 5;

minus the sum of

(2) resident pupils attending other districts for which general education aid adjustments are made according to section 124A.036, subdivision 5, and ~~excluding~~ pupils for whom payment is made according to section 126.22, subdivision 8, or 126.23. The amount of the reduction shall equal the lesser of:

(1) the amount of the excess, or

(2) $150 times the actual pupil units for the school year.

The final adjustment payments made under section 124.195, subdivision 6, must be adjusted to reflect actual net operating fund balances as of June 30 of the prior school year.

Sec. 22. Minnesota Statutes 1990, section 124A.29, subdivision 1, is amended to read:

Subdivision 1. [~~GENERAL~~ STAFF DEVELOPMENT AND PARENTAL INVOLVEMENT PROGRAMS.] (a) Of a district's basic revenue under section 124A.22, subdivision 2, an amount equal to ~~$10~~ $15 times the number of actual pupil units shall be reserved and may be used only to provide staff development programs for outcome-based education, according to section 126.70, subdivisions 1 and 2a. Staff development revenue may be used only for outcome-based education activities. The school board shall determine ~~which programs~~ the staff development activities to provide, the manner in which they will be provided, and the extent to which other ~~money~~ local funds may be used ~~for the programs~~ to supplement staff development activities that implement outcome-based education.

(b) Of a district's basic revenue under section 124A.22, subdivi-

sion 2, an amount equal to $5 times the number of actual pupil units must be reserved and may be used only to provide parental involvement programs that implement section 124C.61.

Sec. 23. Minnesota Statutes 1990, section 124A.30, is amended to read:

124A.30 [STATEWIDE AVERAGE REVENUE.]

By October 1 of each year the commissioner shall estimate the statewide average general education revenue per actual pupil unit and the range in general education revenue among pupils and districts by computing the difference between the fifth and ninety-fifth percentiles of general education revenue. The commissioner must provide that information to all school districts.

If the disparity in general education revenue as measured by the difference between the fifth and ninety-fifth percentiles increases in any year, the commissioner must propose a change in the general education formula that will limit the disparity in general education revenue to no more than the disparity for the previous school year. The commissioner must submit the proposal to the education committees of the legislature by January 15.

Sec. 24. Minnesota Statutes 1990, section 298.28, subdivision 4, is amended to read:

Subd. 4. [SCHOOL DISTRICTS.] (a) 27.5 cents per taxable ton plus the increase provided in paragraph (d) must be allocated to qualifying school districts to be distributed, based upon the certification of the commissioner of revenue, under paragraphs (b) and (c).

(b) 5.5 cents per taxable ton must be distributed to the school districts in which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. The distribution must be based on the apportionment formula prescribed in subdivision 2.

(c)(i) 22 cents per taxable ton, less any amount distributed under paragraph (e), shall be distributed to a group of school districts comprised of those school districts in which the taconite was mined or quarried or the concentrate produced or in which there is a qualifying municipality as defined by section 273.134 in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted net tax capacity per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted net tax capacity per pupil unit of the district. Each district shall receive that

portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions.

(ii) Notwithstanding clause (i), each school district that receives a distribution under sections 298.018; 298.23 to 298.28, exclusive of any amount received under this clause; 298.34 to 298.39; 298.391 to 298.396; 298.405; or any law imposing a tax on severed mineral values that is less than the amount of its levy reduction under section 275.125, subdivision 9, for the second year prior to the year of the distribution shall receive a distribution equal to the difference; the amount necessary to make this payment shall be derived from proportionate reductions in the initial distribution to other school districts under clause (i).

(d) On July 15, in years prior to 1988, an amount equal to the increase derived by increasing the amount determined by paragraph (c) in the same proportion as the increase in the steel mill products index over the base year of 1977 as provided in section 298.24, subdivision 1, clause (a), shall be distributed to any school district described in paragraph (c) where a levy increase pursuant to section 124A.03, subdivision 2, is authorized by referendum, according to the following formula. On July 15, 1988, the increase over the amount established for 1987 shall be determined as if there had been an increase in the tax rate under section 298.24, subdivision 1, paragraph (b), according to the increase in the implicit price deflator. On July 15, 1989, and subsequent years, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1, paragraph (a). Each district shall receive the product of:

(i) $175 times the pupil units identified in section 124.17, subdivision 1, enrolled in the second previous year or the 1983-1984 school year, whichever is greater, less the product of 1.8 percent times the district's taxable net tax capacity in the second previous year; times

(ii) the lesser of:

(A) one, or

(B) the ratio of the sum of the amount certified pursuant to section 124A.03, subdivision ~~2~~ 1i, in the previous year, plus the amount certified pursuant to section 124A.03, subdivision 1k, in the previous year, plus the referendum aid according to section 124A.03, subdivision 1j, for the current year, to the product of 1.8 percent times the district's taxable net tax capacity in the second previous year.

If the total amount provided by paragraph (d) is insufficient to make the payments herein required then the entitlement of $175 per

pupil unit shall be reduced uniformly so as not to exceed the funds available. Any amounts received by a qualifying school district in any fiscal year pursuant to paragraph (d) shall not be applied to reduce general education aid which the district receives pursuant to section 124A.23 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of iron range resources and rehabilitation who shall deposit the same in the taconite environmental protection fund and the northeast Minnesota economic protection trust fund as provided in subdivision 11.

Each district receiving money according to this paragraph shall reserve $25 times the number of pupil units in the district. It may use the money only for outcome-based learning programs that enhance the academic quality of the district's curriculum. The programs must be approved by the commissioner of education.

(e) There shall be distributed to any school district the amount which the school district was entitled to receive under section 298.32 in 1975.

Sec. 25. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [GENERAL AND SUPPLEMENTAL EDUCATION AID.] For general and supplemental education aid:

$1,627,203,000 1992

$1,751,698,000 1993

The 1992 appropriation includes $247,302,000 for 1991 and $1,379,901,000 for 1992.

The 1993 appropriation includes $257,848,000 for 1992 and $1,493,850,000 for 1993.

Sec. 26. [REPEALER.]

Minnesota Statutes 1990, section 122.531, subdivision 5, is repealed.

Sec. 27. [EFFECTIVE DATE.]

Section 8, subdivisions 1c, 1h, 1i, and 1j are effective July 1, 1992.

Section 23 is effective July 1, 1992 and applies beginning with the 1992-93 school year.

ARTICLE 2

TRANSPORTATION

Section 1. Minnesota Statutes 1990, section 124.223, subdivision 1, is amended to read:

Subdivision 1. [TO AND FROM SCHOOL; BETWEEN SCHOOLS.] (a) State transportation aid is authorized for transportation or board of resident elementary pupils who reside one mile or more from the public schools which they could attend; transportation or board of resident secondary pupils who reside two miles or more from the public schools which they could attend; transportation to and from schools the resident pupils attend according to a program approved by the commissioner of education, or between the schools the resident pupils attend for instructional classes; transportation of resident elementary pupils who reside one mile or more from a nonpublic school actually attended; transportation of resident secondary pupils who reside two miles or more from a nonpublic school actually attended; but with respect to transportation of pupils to nonpublic schools actually attended, only to the extent permitted by sections 123.76 to 123.79; transportation of a pupil who is a custodial parent and that pupil's child between the pupil's home and the child care provider and between the provider and the school, if the home and provider are within the attendance area of the school. State transportation aid is not authorized for late transportation home from school for pupils involved in after school activities. State transportation aid is not authorized for summer program transportation except as provided in subdivision 8.

(b) For the purposes of this subdivision, a district may designate a licensed day care facility, respite care facility, the residence of a relative, or the residence of a person chosen by the pupil's parent or guardian as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian and if that facility or residence is within the attendance area of the school the pupil attends.

(c) State transportation aid is authorized for transportation to and from school of an elementary pupil who moves during the school year within an area designated by the district as a mobility zone, but only for the remainder of the school year. The attendance areas of schools in a mobility zone must be contiguous. To be in a mobility zone, a school must meet both of the following requirements:

(i) more than 50 percent of the pupils enrolled in the school are eligible for free or reduced school lunch; and

(ii) the pupil withdrawal rate for the last year is more than 12 percent.

(d) A pupil withdrawal rate is determined by dividing:

(i) the sum of the number of pupils who withdraw from the school, during the school year, and the number of pupils enrolled in the school as a result of transportation provided under this paragraph, by

(ii) the number of pupils enrolled in the school.

(e) The district may establish eligibility requirements for individual pupils to receive transportation in the mobility zone.

Sec. 2. Minnesota Statutes 1990, section 124.223, subdivision 8, is amended to read:

Subd. 8. [SUMMER INSTRUCTIONAL PROGRAMS.] State transportation aid is authorized for services described in subdivisions 1 to 7, 9, and 10 when provided for handicapped pupils in conjunction with a summer program that meets the requirements of section 124A.27, subdivision 9. State transportation aid is authorized for services described in subdivision 1 when provided during the summer in conjunction with a learning year program established under section 121.585.

Sec. 3. Minnesota Statutes 1990, section 124.225, subdivision 1, is amended to read:

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

(a) "FTE" means a transported full-time equivalent pupil whose transportation is authorized for aid purposes by section 124.223.

(b) "Authorized cost for regular transportation" means the sum of:

(1) all expenditures for transportation in the regular category, as defined in paragraph ~~(e)~~ (c), clause (1), for which aid is authorized in section 124.223, plus

(2) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 12-1/2 percent per year of the cost of the fleet, plus

(3) an amount equal to one year's depreciation on district school buses reconditioned by the department of corrections computed on a straight line basis at the rate of 33-1/3 percent per year of the cost to the district of the reconditioning, plus

(4) an amount equal to one year's depreciation on the district's type three school buses, as defined in section 169.44, subdivision 15, which were purchased after July 1, 1982, for authorized transportation of pupils, with the prior approval of the commissioner, computed

on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses.

(c) ~~"Adjusted authorized predicted cost per FTE" means the authorized cost predicted by a multiple regression formula determined by the department of education and adjusted pursuant to subdivision 7a.~~

~~(d) "Regular transportation allowance" for the 1989-1990 school year means the adjusted authorized predicted cost per FTE, inflated pursuant to subdivision 7b.~~

~~(e)~~ For purposes of this section, "transportation category" means a category of transportation service provided to pupils:

(1) regular transportation is transportation services provided during the regular school year under section 124.223, subdivisions 1 and 2, excluding the following transportation services provided under section 124.223, subdivision 1: transportation between schools; noon transportation to and from school for kindergarten pupils attending half-day sessions; ~~late transportation home from school for pupils involved in after school activities;~~ transportation of pupils to and from schools located outside their normal attendance areas under the provisions of a plan for desegregation mandated by the state board of education or under court order; and transportation of elementary pupils to and from school within a mobility zone;

(2) nonregular transportation is transportation services provided under section 124.223, subdivision 1, that are excluded from the regular category, and transportation services provided under section 124.223, subdivisions 3, 4, 5, 6, 7, 8, 9, and 10;

(3) excess transportation is transportation to and from school during the regular school year for secondary pupils residing at least one mile but less than two miles from the public school they could attend or from the nonpublic school actually attended, and transportation to and from school for pupils residing less than one mile from school who are transported because of extraordinary traffic, drug, or crime hazards; and

(4) desegregation transportation is transportation during the regular school year of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the state board or under court order.

~~(f)~~ (d) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123.932, subdivision 9.

~~(g)~~ (e) "Current year" means the school year for which aid will be paid.

~~(h)~~ (f) "Base year" means the second school year preceding the school year for which aid will be paid.

~~(i)~~ (g) "Base cost" ~~for the 1986-1987 and 1987-1988 base years means the ratio of:~~

~~(1) the sum of:~~

~~(i) the authorized cost in the base year for regular transportation as defined in clause (b), plus~~

~~(ii) the actual cost in the base year for excess transportation as defined in paragraph (e), clause (3),~~

~~(2) to the sum of:~~

~~(i) the number of FTE pupils transported in the regular category in the base year, plus~~

~~(ii) the number of FTE pupils transported in the excess category in the base year.~~

~~(j) Base cost for the 1988-1989 base year and later years~~ means the ratio of:

(1) the sum of the authorized cost in the base year for regular transportation as defined in clause (b) plus the actual cost in the base year for excess transportation as defined in clause ~~(e)~~ (c);

(2) to the sum of the number of weighted FTE pupils transported in the regular and excess categories in the base year.

~~(k) "Predicted base cost" for the 1986-1987 and 1987-1988 base years means the base cost as predicted by subdivision 3.~~

~~(l)~~ (h) "Predicted base cost" ~~for the 1988-1989 base year and later years~~ means the predicted base cost as computed in subdivision 3a.

~~(m)~~ (i) "Pupil weighting factor" for the excess transportation category for a school district means the lesser of one, or the result of the following computation:

(1) divide the square mile area of the school district by the number of FTE pupils transported in the regular and excess categories in the base year;

(2) raise the result in clause (1) to the one-fifth power;

(3) divide four-tenths by the result in clause (2).

The pupil weighting factor for the regular transportation category is one.

~~(n)~~ (j) "Weighted FTE's" means the number of FTE's in each transportation category multiplied by the pupil weighting factor for that category.

~~(o)~~ (k) "Sparsity index" for a school district means the greater of .005 or the ratio of the square mile area of the school district to the sum of the number of weighted FTE's transported by the district in the regular and excess categories in the base year.

~~(p)~~ (l) "Density index" for a school district means the greater of one or the result obtained by subtracting the product of the district's sparsity index times 20 from two.

~~(q)~~ (m) "Contract transportation index" for a school district means the greater of one or the result of the following computation:

(1) multiply the district's sparsity index by 20;

(2) select the lesser of one or the result in clause (1);

(3) multiply the district's percentage of regular FTE's transported in the current year using vehicles that are not owned by the school district by the result in clause (2).

~~(r)~~ (n) "Adjusted predicted base cost" ~~for the 1988-1989 base year and after~~ means the predicted base cost as computed in subdivision 3a as adjusted under subdivision 7a.

~~(s)~~ (o) "Regular transportation allowance" ~~for the 1990-1991 school year and after~~ means the adjusted predicted base cost, inflated and adjusted under subdivision 7b.

~~(t) "Minimum regular transportation allowance" for the 1990-1991 school year and after means the result of the following computation:~~

~~(1) compute the sum of the district's basic transportation aid for the 1989-1990 school year according to subdivision 8a and the district's excess transportation levy for the 1989-1990 school year according to section 275.125, subdivision 5c, clause (a);~~

~~(2) divide the result in clause (1) by the sum of the number of~~

~~weighted FTE's transported by the district in the regular and excess transportation categories in the 1989-1990 school year;~~

~~(3) select the lesser of the result in clause (2) or the district's base cost for the 1989-1990 base year according to paragraph (j).~~

Sec. 4. Minnesota Statutes 1990, section 124.225, subdivision 3a, is amended to read:

Subd. 3a. [PREDICTED BASE COST.] A district's predicted base cost ~~for the 1988-1989 base year and later years~~ equals the result of the following computation:

(a) Multiply the transportation formula allowance by the district's sparsity index raised to the one-fourth power. The transportation formula allowance is ~~$406 for the 1988-1989 base year and~~ $421 for the 1989-1990 base year and $434 for the 1990-1991 base year.

(b) Multiply the result in clause (a) by the district's density index raised to the 35/100 power.

(c) Multiply the result in clause (b) by the district's contract transportation index raised to the 1/20 power.

Sec. 5. Minnesota Statutes 1990, section 124.225, subdivision 7a, is amended to read:

Subd. 7a. [BASE YEAR SOFTENING FORMULA.] ~~Each district's predicted base cost determined for the 1986-1987 and 1987-1988 base years according to subdivision 3 shall be adjusted as provided in this subdivision to determine the district's adjusted authorized predicted cost per FTE for that year.~~

~~(a) If the base cost of the district is within five percent of the predicted base cost, the district's adjusted authorized predicted cost per FTE shall be equal to the base cost.~~

~~(b) If the base cost of the district is more than five percent greater than the predicted base cost, the district's adjusted authorized predicted cost per FTE shall be equal to 105 percent of the predicted base cost, plus 40 percent of the difference between (i) the base cost, and (ii) 105 percent of the predicted base cost. However, in no case shall a district's adjusted authorized predicted cost per FTE be less than 80 percent of base cost.~~

~~(c) If the base cost of the district is more than five percent less than the predicted base cost, the district's adjusted authorized predicted cost per FTE shall be equal to 95 percent of the predicted base cost, minus 40 percent of the difference between (i) 95 percent of predicted base cost, and (ii) the base cost. However, in no case~~

~~shall a district's adjusted authorized predicted cost per FTE be more than 120 percent of base cost.~~

~~(d) For the 1988-1989 base year and later years,~~ Each district's predicted base cost determined according to subdivision 3a must be adjusted as provided in this subdivision to determine the district's adjusted predicted base cost for that year. The adjusted predicted base cost equals 50 percent of the district's base cost plus 50 percent of the district's predicted base cost, but the adjusted predicted base cost cannot be less than 80 percent, nor more than 110 percent, of the base cost.

Sec. 6. Minnesota Statutes 1990, section 124.225, subdivision 7b, is amended to read:

Subd. 7b. [INFLATION FACTORS.] ~~The adjusted authorized predicted cost per FTE determined for a district under subdivision 7a for the base year shall be increased by 4.1 percent to determine the district's regular transportation allowance for the 1988-1989 school year and by 5.8 percent to determine the district's regular transportation allowance for the 1989-1990 school year.~~ The adjusted predicted base cost determined for a district under subdivision 7a for the base year must be increased by ~~5.4~~ 4.0 percent to determine the district's regular transportation allowance for the ~~1990-1991~~ 1991-1992 school year and by 2.0 percent to determine the district's regular transportation allowance for the 1992-1993 school year, but the regular transportation allowance for a district cannot be less than the district's minimum regular transportation allowance according to Minnesota Statutes 1990, section 124.225, subdivision 1, paragraph (t).

Sec. 7. Minnesota Statutes 1990, section 124.225, subdivision 7d, is amended to read:

Subd. 7d. [TRANSPORTATION REVENUE.] ~~Beginning in the 1990-1991 school year, the~~ Transportation revenue for each district equals the sum of the district's regular transportation revenue and the district's nonregular transportation revenue.

(a) The regular transportation revenue for each district equals the district's regular transportation allowance according to subdivision 7b times the sum of the number of FTE's transported by the district in the regular and desegregation categories in the current school year.

(b) The nonregular transportation revenue for each district for the 1991-1992 school year equals the lesser of the district's actual costs in the 1991-1992 school year for nonregular transportation services or the product of the district's actual cost in the ~~current~~ 1990-1991 school year for nonregular transportation services as defined for the 1991-1992 school year in subdivision 1, paragraph (c), times the

ratio of the district's average daily membership for the 1991-1992 school year to the district's average daily membership for the 1990-1991 school year according to section 124.17, subdivision 2, times 1.041, minus the amount of regular transportation revenue attributable to FTE's transported in the desegregation category in the current school year, plus the excess nonregular transportation revenue for the 1991-1992 school year according to subdivision 7e.

(c) For the 1992-1993 and later school years, the nonregular transportation revenue for each district equals the lesser of the district's actual cost in the current school year for nonregular transportation services or the product of the district's actual cost in the base year for nonregular transportation services as defined for the current year in subdivision 1, paragraph (c), times the ratio of the district's average daily membership for the current year to the district's average daily membership for the base year according to section 124.17, subdivision 2, times the nonregular transportation inflation factor for the current year, minus the amount of regular transportation revenue attributable to FTE's transported in the desegregation category in the current school year, plus the excess nonregular transportation revenue for the current year according to subdivision 7e. The nonregular transportation inflation factor for the 1992-1993 school year is 1.084.

Sec. 8. Minnesota Statutes 1990, section 124.225, is amended by adding a subdivision to read:

Subd. 7e. [EXCESS NONREGULAR TRANSPORTATION REVENUE.] (a) A district's excess nonregular transportation revenue for the 1991-1992 school year equals an amount equal to 80 percent of the difference between:

(1) the district's actual cost in the 1991-1992 school year for nonregular transportation services as defined for the 1991-1992 school year in subdivision 1, paragraph (c), and

(2) the product of the district's actual cost in the 1990-1991 school year for nonregular transportation services as defined for the 1991-1992 school year in subdivision 1, paragraph (c), times 1.15, times the ratio of the district's average daily membership for the 1991-1992 school year to the district's average daily membership for the 1990-1991 school year.

(b) A district's excess nonregular transportation revenue for the 1992-1993 school year and later school years equals an amount equal to 80 percent of the difference between:

(1) the district's actual cost in the current year for nonregular transportation services as defined for the current year in subdivision 1, paragraph (c), and

(2) the product of the district's actual cost in the base year for nonregular transportation services as defined for the current year in subdivision 1, paragraph (c), times 1.30, times the ratio of the district's average daily membership for the current year to the district's average daily membership for the base year.

(c) The state total excess nonregular transportation revenue must not exceed $2,000,000 for the 1991-1992 school year and $2,000,000 for the 1992-1993 school year. If the state total revenue according to paragraph (a) or (b) exceeds the limit set in this paragraph, the excess nonregular transportation revenue for each district equals the district's revenue according to paragraph (a) or (b), times the ratio of the limitation set in this paragraph to the state total revenue according to paragraph (a) or (b).

Sec. 9. Minnesota Statutes 1990, section 124.225, subdivision 8a, is amended to read:

Subd. 8a. [TRANSPORTATION AID.] (a) ~~For the 1988-1989 and 1989-1990 school years, a district's transportation aid is equal to the sum of its basic transportation aid under subdivision 8b, its nonregular transportation aid under subdivision 8i, and its nonregular transportation levy equalization aid under subdivision 8j, minus its contracted services aid reduction under subdivision 8k and minus its basic transportation levy limitation for the levy attributable to that school year under section 275.125, subdivision 5.~~

~~(b) For 1990-1991 and later school years,~~ A district's transportation aid equals the product of:

(1) the difference between the transportation revenue and the sum of:

(i) the maximum basic transportation levy for that school year under section 275.125, subdivision 5, plus

(ii) the maximum nonregular transportation levy for that school year under section 275.125, subdivision 5c, plus

(iii) the contracted services aid reduction under subdivision 8k,

(2) times the ratio of the sum of the actual amounts levied under section 275.125, subdivisions 5 and 5c, to the sum of the permitted maximum levies under section 275.125, subdivisions 5 and 5c.

(c) If the total appropriation for transportation aid for any fiscal year is insufficient to pay all districts the full amount of aid earned, the department of education shall reduce each district's aid in proportion to the number of resident pupils in average daily membership in the district to the state total average daily membership,

and shall reduce the transportation levy of off-formula districts in the same proportion.

Sec. 10. Minnesota Statutes 1990, section 124.225, subdivision 8k, is amended to read:

Subd. 8k. [CONTRACTED SERVICES AID REDUCTION.] (a) Each year, a district's transportation aid shall be reduced according to the provisions of this subdivision, if the district contracted for some or all of the transportation services provided in the regular category.

(b) ~~For the 1988-1989 and 1989-1990 school years, the department of education shall compute this subtraction by conducting the multiple regression analysis specified in subdivision 3 and computing the district's aid under two circumstances, once including the coefficient of the factor specified in subdivision 4b, clause (3), and once excluding the coefficient of that factor. The aid subtraction shall equal the difference between the district's aid computed under these two circumstances.~~

~~(c) For 1990-1991 and later school years,~~ The department of education shall determine the subtraction by computing the district's regular transportation revenue, excluding revenue based on the district's minimum regular transportation allowance according to Minnesota Statutes 1990, section 124.225, subdivision 1, paragraph (t), under two circumstances, once including the factor specified in subdivision 3a, clause (c), and once excluding the factor. The aid subtraction equals the difference between the district's revenue computed under the two circumstances.

Sec. 11. Minnesota Statutes 1990, section 124.225, subdivision 10, is amended to read:

Subd. 10. [DEPRECIATION.] Any school district that owns school buses or mobile units shall transfer annually from the undesignated fund balance account in its transportation fund to the reserved fund balance account for bus purchases in its transportation fund at least an amount equal to 12-1/2 percent of the original cost of each type one or type two bus or mobile unit until the original cost of each type one or type two bus or mobile unit is fully amortized, plus 20 percent of the original cost of each type three bus included in the district's authorized cost under the provisions of subdivision 1, paragraph (b), clause (4), until the original cost of each type three bus is fully amortized, plus 33-1/3 percent of the cost to the district as of July 1 of each year for school bus reconditioning done by the department of corrections until the cost of the reconditioning is fully amortized; provided, if the district's transportation aid or levy is reduced pursuant to subdivision 8a because the appropriation for that year is insufficient, this amount shall be reduced in proportion to the

reduction pursuant to subdivision 8a as a percentage of the district's transportation revenue under subdivision ~~7e~~ 7d.

Sec. 12. Minnesota Statutes 1990, section 275.125, subdivision 5, is amended to read:

Subd. 5. [BASIC TRANSPORTATION LEVY.] Each year, a school district may levy for school transportation services an amount not to exceed the amount raised by the basic transportation tax rate times the adjusted net tax capacity of the district for the preceding year. ~~The basic transportation tax rate for fiscal year 1991 is 2.04 percent. Beginning in 1990,~~ The commissioner of revenue shall establish the basic transportation tax rate and certify it to the commissioner of education by July 1 of each year for levies payable in the following year. The basic transportation tax rate shall be a rate, rounded up to the nearest hundredth of a percent, that, when applied to the adjusted net tax capacity of taxable property for all districts, raises the amount specified in this subdivision. The basic transportation tax rate for transportation shall be the rate that raises ~~$66,700,000~~ $57,700,000 for fiscal year 1993 and $61,000,000 for fiscal year ~~1992~~ 1994 and subsequent fiscal years. The basic transportation tax rate certified by the commissioner of revenue must not be changed due to changes or corrections made to a district's adjusted net tax capacity after the tax rate has been certified.

Sec. 13. Minnesota Statutes 1990, section 275.125, subdivision 5b, is amended to read:

Subd. 5b. [TRANSPORTATION LEVY OFF-FORMULA ADJUSTMENT.] ~~(a) In the 1989 and 1990 fiscal years, if the basic transportation levy under subdivision 5 in a district attributable to the fiscal year exceeds the transportation aid computation under section 124.225, subdivisions 8b, 8i, 8j, and 8k, the district's levy limitation shall be adjusted as provided in this subdivision. In the second year following each fiscal year, the district's transportation levy shall be reduced by an amount equal to the difference between (1) the amount of the basic transportation levy under subdivision 5, and (2) the sum of the district's transportation aid computation pursuant to section 124.225, subdivisions 8b, 8i, 8j, and 8k, and the amount of any subtraction made from special state aids pursuant to section 124.2138, subdivision 2, less the amount of any aid reduction due to an insufficient appropriation as provided in section 124.225, subdivision 8a.~~

~~(b) For 1991 and later fiscal years,~~ In a district if the basic transportation levy under subdivision 5 attributable to that fiscal year is more than the difference between (1) the district's transportation revenue under section 124.225, subdivision ~~7e~~ 7d, and (2) the sum of the district's maximum nonregular levy under subdivision 5c and the district's contracted services aid reduction under section 124.225, subdivision 8k, and the amount of any reduction due to

insufficient appropriation under section 124.225, subdivision 8a, the district's transportation levy in the second year following each fiscal year must be reduced by the amount of the excess.

Sec. 14. Minnesota Statutes 1990, section 275.125, subdivision 5c, is amended to read:

Subd. 5c. [NONREGULAR TRANSPORTATION LEVY.] A school district may also make a levy for unreimbursed nonregular transportation costs pursuant to this subdivision. The amount of the levy shall be the result of the following computation:

(a) multiply

(1) the amount of the district's nonregular transportation revenue under section 124.225, subdivision ~~7e~~ 7d, that is more than the product of ~~$30~~ $60 times the district's ~~actual pupil units~~ average daily membership, by

(2) ~~60~~ 50 percent;

(b) subtract the result in clause (a) from the district's total nonregular transportation revenue;

(c) multiply the result in clause (b) by the lesser of one or the ratio of (i) the quotient derived by dividing the adjusted net tax capacity of the district for the year before the year the levy is certified by the ~~actual pupil units~~ average daily membership in the district for the school year to which the levy is attributable, to (ii) ~~$7,258~~ $8,000.

Sec. 15. [LEVY ADJUSTMENT.]

The department of education shall adjust the 1991 levy for each school district by the amount of the change in the district's nonregular transportation levy for fiscal year 1992 according to Minnesota Statutes, section 275.125, subdivision 5c, resulting from the changes to nonregular transportation revenue and levy under sections 2 and 4. Notwithstanding Minnesota Statutes, section 121.904, the entire amount of this levy must be recognized as revenue for fiscal year 1992.

Sec. 16. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [TRANSPORTATION AID.] For transportation aid according to Minnesota Statutes, section 124.225:

$114,317,000 1992

$126,380,000 1993

The 1992 appropriation includes $17,679,000 for 1991 and $96,638,000 for 1992.

The 1993 appropriation includes $17,053,000 for 1992 and $109,327,000 for 1993.

Subd. 3. [TRANSPORTATION AID FOR POST-SECONDARY ENROLLMENT OPTIONS.] For transportation of pupils attending post-secondary institutions according to Minnesota Statutes, section 123.3514:

$72,000 1992

$75,000 1993

Subd. 4. [TRANSPORTATION AID FOR ENROLLMENT OPTIONS.] For transportation of pupils attending nonresident districts according to Minnesota Statutes, section 120.0621:

$25,000 1992

$25,000 1993

Subd. 5. [TRANSFER AUTHORITY.] If the appropriation in subdivision 3 or 4 for either year exceeds the amount needed to pay the state's obligation for that year under that subdivision, the excess amount may be used to make payments for that year under the other subdivision.

Subd. 6. [TRANSFER AUTHORITY: FISCAL YEAR 1990 APPROPRIATION.] If the appropriation in Laws 1989, chapter 329, article 2, section 8, subdivision 3 or 4 for fiscal year 1990, exceeds the amount needed to pay the state's obligation under that subdivision, the excess amount may be used to make payments under the other subdivision.

Sec. 17. [REPEALER.]

Minnesota Statutes 1990, section 124.225, subdivisions 3, 4b, 7c, 8b, 8i, and 8j, are repealed.

Sec. 18. [EFFECTIVE DATE.]

Section 16, subdivision 6, is effective the day following final enactment.

ARTICLE 3

SPECIAL PROGRAMS

Section 1. Minnesota Statutes 1990, section 120.17, subdivision 3b, is amended to read:

Subd. 3b. [PROCEDURES FOR DECISIONS.] Every district shall utilize at least the following procedures for decisions involving identification, assessment, and educational placement of handicapped children:

(a) Parents and guardians shall receive prior written notice of:

(1) any proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) a proposed placement of their child in, transfer from or to, or denial of placement in a special education program; or

(3) the proposed provision, addition, denial or removal of special education services for their child;

(b) The district shall not proceed with the initial formal assessment of a child, the initial placement of a child in a special education program, or the initial provision of special education services for a child without the prior written consent of the child's parent or guardian. The refusal of a parent or guardian to consent may be overridden by the decision in a hearing held pursuant to clause ~~(d)~~ (e) at the district's initiative;

(c) Parents and guardians shall have an opportunity to meet with appropriate district staff in at least one conciliation conference if they object to any proposal of which they are notified pursuant to clause (a). The conciliation process shall not be used to deny or delay a parent or guardian's right to a due process hearing. If the parent or guardian refuses efforts by the district to conciliate the dispute with the school district, the requirement of an opportunity for conciliation shall be deemed to be satisfied;

(d) The commissioner shall establish a mediation process to assist parents, school districts, or other parties to resolve disputes arising out of the identification, assessment, or educational placement of handicapped children. The mediation process must be offered as an informal alternative to the due process hearing provided under clause (e), but must not be used to deny or postpone the opportunity of a parent or guardian to obtain a due process hearing.

(e) Parents, guardians, and the district shall have an opportunity to obtain an impartial due process hearing initiated and conducted

by and in the school district responsible for assuring that an appropriate program is provided in accordance with state board rules, if the parent or guardian continues to object to:

(1) a proposed formal educational assessment or proposed denial of a formal educational assessment of their child;

(2) the proposed placement of their child in, or transfer of their child to a special education program;

(3) the proposed denial of placement of their child in a special education program or the transfer of their child from a special education program;

(4) the proposed provision or addition of special education services for their child; or

(5) the proposed denial or removal of special education services for their child.

At least five calendar days before the hearing, the objecting party shall provide the other party with a brief written statement of the objection and the reasons for the objection.

The hearing shall take place before an impartial hearing officer mutually agreed to by the school board and the parent or guardian. If the school board and the parent or guardian are unable to agree on a hearing officer, the school board shall request the commissioner to appoint a hearing officer. The hearing officer shall not be a school board member or employee of the school district where the child resides or of the child's school district of residence, an employee of any other public agency involved in the education or care of the child, or any person with a personal or professional interest which would conflict with the person's objectivity at the hearing. A person who otherwise qualifies as a hearing officer is not an employee of the district solely because the person is paid by the district to serve as a hearing officer. If the hearing officer requests an independent educational assessment of a child, the cost of the assessment shall be at district expense. The proceedings shall be recorded and preserved, at the expense of the school district, pending ultimate disposition of the action.

~~(e)~~ (f) The decision of the hearing officer pursuant to clause ~~(d)~~ (e) shall be rendered not more than 45 calendar days from the date of the receipt of the request for the hearing. A hearing officer may grant specific extensions of time beyond the 45-day period at the request of either party. The decision of the hearing officer shall be binding on all parties unless appealed to the hearing review officer by the parent, guardian, or the school board of the district where the child resides pursuant to clause ~~(f)~~ (g).

The local decision shall:

(1) be in writing;

(2) state the controlling facts upon which the decision is made in sufficient detail to apprise the parties and the hearing review officer of the basis and reason for the decision;

(3) state whether the special education program or special education services appropriate to the child's needs can be reasonably provided within the resources available to the responsible district or districts;

(4) state the amount and source of any additional district expenditure necessary to implement the decision; and

(5) be based on the standards set forth in subdivision 3a and the rules of the state board.

~~(f)~~ (g) Any local decision issued pursuant to clauses ~~(d)~~ (e) and ~~(e)~~ (f) may be appealed to the hearing review officer within 30 calendar days of receipt of that written decision, by the parent, guardian, or the school board of the district responsible for assuring that an appropriate program is provided in accordance with state board rules.

If the decision is appealed, a written transcript of the hearing shall be made by the school district and shall be accessible to the parties involved within five calendar days of the filing of the appeal. The hearing review officer shall issue a final independent decision based on an impartial review of the local decision and the entire record within ~~30~~ 60 calendar days after the filing of the appeal. The hearing review officer shall seek additional evidence if necessary and may afford the parties an opportunity for written or oral argument; provided any hearing held to seek additional evidence shall be an impartial due process hearing but shall be deemed not to be a contested case hearing for purposes of chapter 14. The hearing review officer may grant specific extensions of time beyond the 30-day period at the request of any party.

The final decision shall:

(1) be in writing;

(2) include findings and conclusions; and

(3) be based upon the standards set forth in subdivision 3a and in the rules of the state board.

~~(g)~~ (h) The decision of the hearing review officer shall be final unless appealed by the parent or guardian or school board to the court of appeals. The judicial review shall be in accordance with chapter 14.

~~(h)~~ (i) The commissioner of education~~, having delegated general supervision of special education to the appropriate staff,~~ shall ~~be~~ select an individual who has the qualifications enumerated in this paragraph to serve as the hearing review officer ~~except for appeals in which~~:

(1) the ~~commissioner has~~ individual must be knowledgeable and impartial;

(2) the individual must not have a personal interest in or specific involvement with the student who is a party to the hearing;

~~(2)~~ (3) the ~~commissioner has~~ individual must not have been employed as an administrator by the district that is a party to the hearing;

~~(3)~~ (4) the ~~commissioner has~~ individual must not have been involved in the selection of the administrators of the district that is a party to the hearing;

~~(4)~~ (5) the ~~commissioner has~~ individual must not have a personal, economic, or professional interest in the outcome of the hearing other than the proper administration of the federal and state laws, rules, and policies;

~~(5)~~ (6) the ~~appeal challenges~~ individual must not have substantial involvement in the development of a state or local policy ~~which was developed with substantial involvement of the commissioner;~~ or procedures that are challenged in the appeal;

~~(6) the appeal challenges the actions of a department employee or official.~~

~~For any appeal to which the above exceptions apply, the state board of education shall name an impartial and competent hearing review officer~~ and

(7) the individual is not a current employee or board member of a Minnesota public school district, education district, intermediate unit or regional education agency, the state department of education, the state board of education, or a parent advocacy organization or group.

(j) In all appeals, the parent or guardian of the handicapped student or the district that is a party to the hearing may challenge

the impartiality or competence of the proposed hearing review officer by applying to the state board of education.

~~(i)~~ (k) Pending the completion of proceedings pursuant to this subdivision, unless the district and the parent or guardian of the child agree otherwise, the child shall remain in the child's current educational placement and shall not be denied initial admission to school.

~~(j)~~ (l) The child's school district of residence, a resident district, and providing district shall receive notice of and may be a party to any hearings or appeals under this subdivision.

Sec. 2. Minnesota Statutes 1990, section 120.17, subdivision 7a, is amended to read:

Subd. 7a. [ATTENDANCE AT SCHOOL FOR THE HANDICAPPED.] Responsibility for special instruction and services for a visually disabled or hearing impaired child attending the Minnesota state academy for the deaf or the Minnesota state academy for the blind shall be determined in the following manner:

(a) The legal residence of the child shall be the school district in which the child's parent or guardian resides.

(b) When it is determined pursuant to section 128A.05, subdivision 1 or 2 that the child is entitled to attend either school, the state board shall provide the appropriate educational program for the child. The state board shall make a tuition charge to the child's district of residence for the cost of providing the program. The amount of tuition charged shall not exceed the basic revenue of the district for that child, for the amount of time the child is in the program. For purposes of this subdivision, "basic revenue" has the meaning given it in section 124A.22, subdivision 2. The district of the child's residence shall pay the tuition and may claim general education aid for the child. The district of the child's residence shall not receive aid pursuant to section 124.32, subdivision 5, for tuition paid pursuant to this subdivision. ~~All~~ Tuition received by the state board, except for tuition received under clause (c), shall be deposited in the state treasury as provided in clause (g).

(c) In addition to the tuition charge allowed in clause (b), the academies may charge the child's district of residence for the academy's unreimbursed cost of providing an instructional aide assigned to that child, if that aide is required by the child's individual education plan. Tuition received under this clause must be used by the academies to provide the required service.

~~(c)~~ (d) When it is determined that the child can benefit from public school enrollment but that the child should also remain in atten-

dance at the applicable school, the school district where the institution is located shall provide an appropriate educational program for the child and shall make a tuition charge to the state board for the actual cost of providing the program, less any amount of aid received pursuant to section 124.32. The state board shall pay the tuition and other program costs including the unreimbursed transportation costs. Aids for handicapped children shall be paid to the district providing the special instruction and services. Special transportation shall be provided by the district providing the educational program and the state shall reimburse such district within the limits provided by law.

~~(d)~~ (e) Notwithstanding the provisions of clauses (b) and ~~(c)~~ (d), the state board may agree to make a tuition charge for less than the amount specified in clause (b) for pupils attending the applicable school who are residents of the district where the institution is located and who do not board at the institution, if that district agrees to make a tuition charge to the state board for less than the amount specified in clause ~~(c)~~ (d) for providing appropriate educational programs to pupils attending the applicable school.

~~(e)~~ (f) Notwithstanding the provisions of clauses (b) and ~~(c)~~ (d), the state board may agree to supply staff from the Minnesota state academy for the deaf and the Minnesota state academy for the blind to participate in the programs provided by the district where the institutions are located when the programs are provided to students in attendance at the state schools.

(g) On May 1 of each year, the state board shall count the actual number of elementary students and the actual number of secondary students enrolled and receiving education services at the Minnesota state academy for the deaf and the Minnesota state academy for the blind. The state board shall deposit in the state treasury an amount equal to all tuition received less:

(1) the total number of students on May 1 less 175, times the ratio of the number of elementary students to the total number of students on May 1, times the general education formula allowance; plus

(2) the total number of students on May 1 less 175, times the ratio of the number of secondary students on May 1 to the total number of students on May 1, times 1.3, times the general education formula allowance.

(h) The sum provided by the calculation in clause (g), subclauses (1) and (2), must be deposited in the state treasury and credited to the general operation account of the academy for the deaf and the academy for the blind.

(i) There is annually appropriated to the department of education

for the Faribault academies the tuition amounts received and credited to the general operation account of the academies under this section.

Sec. 3. Minnesota Statutes 1990, section 120.181, is amended to read:

120.181 [TEMPORARY PLACEMENTS FOR CARE AND TREATMENT OF NONHANDICAPPED PUPILS.]

The responsibility for providing instruction and transportation for a nonhandicapped pupil who has a short-term or temporary physical or emotional illness or disability, as determined by the standards of the state board, and who is temporarily placed for care and treatment for that illness or disability, shall be determined in the following manner:

(a) The school district of residence of the pupil shall be the district in which the pupil's parent or guardian resides or the district designated by the commissioner of education if neither parent nor guardian is living within the state.

(b) Prior to the placement of a pupil for care and treatment, the district of residence shall be notified and provided an opportunity to participate in the placement decision. When an immediate emergency placement is necessary and time does not permit resident district participation in the placement decision, the district in which the pupil is temporarily placed, if different from the district of residence, shall notify the district of residence of the emergency placement within 15 days of the placement.

(c) When a nonhandicapped pupil is temporarily placed for care and treatment in a day program and the pupil continues to live within the district of residence during the care and treatment, the district of residence shall provide instruction and necessary transportation for the pupil. The district may provide the instruction at a school within the district of residence, at the pupil's residence, or in the case of a placement outside of the resident district, in the district in which the day treatment program is located by paying tuition to that district.

(d) When a nonhandicapped pupil is temporarily placed in a residential program for care and treatment, the district in which the pupil is placed shall provide instruction for the pupil and necessary transportation within that district while the pupil is receiving instruction, and in the case of a placement outside of the district of residence, the nonresident district shall bill the district of residence for the actual cost of providing the instruction for the regular school year and for summer school, excluding transportation costs. When a nonhandicapped pupil is temporarily placed in a residential program outside the district of residence, the administrator of the court

placing the pupil shall send timely written notice of the placement to the district of residence.

(e) The district of residence shall receive general education aid for the pupil and pay tuition and other instructional costs, excluding transportation costs, to the district providing the instruction. Transportation costs shall be paid by the district providing the transportation and the state shall pay transportation aid to that district. For purposes of computing state transportation aid, pupils governed by this subdivision shall be included in the handicapped transportation category.

Sec. 4. Minnesota Statutes 1990, section 124.273, subdivision 1b, is amended to read:

Subd. 1b. [TEACHERS SALARIES.] Each year the state shall pay a school district a portion of the salary~~, calculated from the date of hire~~, of one full-time equivalent teacher for each 45 pupils of limited English proficiency enrolled in the district. Notwithstanding the foregoing, the state shall pay a portion of the salary~~, calculated from the date of hire~~, of one-half of a full-time equivalent teacher to a district with 22 or fewer pupils of limited English proficiency enrolled. The portion for a full-time teacher shall be the lesser of ~~61~~ 55.2 percent of the salary or ~~$17,000~~ $15,320. The portion for a part-time or limited-time teacher shall be the lesser of ~~61~~ 55.2 percent of the salary or the product of ~~$17,000~~ $15,320 times the ratio of the person's actual employment to full-time employment.

Sec. 5. Minnesota Statutes 1990, section 124.311, subdivision 4, is amended to read:

Subd. 4. [ELIGIBLE SERVICES.] Assurance of mastery revenue must be used to provide direct instructional services to an eligible pupil, or group of eligible pupils, under the following conditions:

(a) Instruction may be provided at one or more grade levels from kindergarten through grade 8. If an assessment of pupils' needs within a district demonstrates that the eligible pupils in grades kindergarten through 8 are being appropriately served, a district may serve eligible pupils in grades 9 through 12 upon the approval of the department.

(b) Instruction must be provided in the usual and customary classroom of the eligible pupil.

(c) Instruction must be provided under the supervision of the eligible pupil's regular classroom teacher. Instruction may be provided by the eligible pupil's classroom teacher, by another teacher, by a team of teachers, or by an education assistant or aide. A special education teacher may provide instruction, but instruction that is

provided under this section is not eligible for aid under section 124.32.

(d) The instruction that is provided must differ from the initial instruction the pupil received in the regular classroom setting. The instruction may differ by presenting different curriculum than was initially presented in the regular classroom, or by presenting the same curriculum:

(1) at a different rate or in a different sequence than it was initially presented;

(2) using different teaching methods or techniques than were used initially; or

(3) using different instructional materials than were used initially.

Sec. 6. Minnesota Statutes 1990, section 124.32, subdivision 1b, is amended to read:

Subd. 1b. [TEACHERS SALARIES.] (a) Each year the state shall pay to a district a portion of the salary of each essential person employed in the district's program for handicapped children during the regular school year, whether the person is employed by one or more districts. The state shall also pay to the Minnesota state academy for the deaf or the Minnesota state academy for the blind a part of the salary of each instructional aide assigned to a child attending the academy, if that aide is required by the child's individual education plan.

(b) For the 1991-1992 school year, the portion for a full-time person shall be an amount not to exceed the lesser of ~~60~~ 56.4 percent of the salary or ~~$16,727~~ $15,700. The portion for a part-time or limited-time person shall be an amount not to exceed the lesser of ~~60~~ 56.4 percent of the salary or the product of ~~$16,727~~ $15,700 times the ratio of the person's actual employment to full-time employment.

(c) For the 1992-1993 school year and thereafter, the portion for a full-time person is an amount not to exceed the lesser of 55.2 percent of the salary or $15,320. The portion for a part-time or limited-time person is an amount not to exceed the lesser of 55.2 percent of the salary or the product of $15,320 times the ratio of the person's actual employment to full-time employment.

Sec. 7. Minnesota Statutes 1990, section 124.32, subdivision 10, is amended to read:

Subd. 10. [SUMMER SCHOOL.] The state shall pay aid for summer school programs for handicapped children on the basis of

subdivisions 1b, 1d, and 5 for the ~~preceding~~ current school year. The state shall also pay to the Minnesota state academy for the deaf or the Minnesota state academy for the blind a part of the salary of each instructional aide assigned to a child attending the academy, if that aide is required by the child's individual education plan. By March 15 of each year, districts shall submit separate applications for program and budget approval for summer school programs. The review of these applications shall be as provided in subdivision 7. By May 1 of each year, the commissioner shall approve, disapprove or modify the applications and notify the districts of the action and of the estimated amount of aid for the summer school programs.

Sec. 8. [124.321] [SPECIAL EDUCATION LEVY REVENUE.]

Subdivision 1. [SPECIAL EDUCATION LEVY REVENUE.] For fiscal year 1992 and thereafter, special education levy revenue for a school district, excluding an intermediate school district, equals the sum of the following amounts:

(1) 66 percent of the salaries paid to essential personnel in that district minus the amount of state aid and any federal aid, if applicable, paid to that district for salaries of these essential personnel under sections 124.32, subdivisions 1b and 10, and 124.574, subdivision 2b, for the year to which the levy is attributable, plus

(2) 61 percent of the salaries paid to limited English proficiency program teachers in that district minus the amount of state aid and any federal aid, if applicable, paid to that district for salaries of these teachers under section 124.273, subdivision 1b, for the year to which the levy is attributable, plus

(3) the amount allocated to the district by special education cooperatives or intermediate districts in which it participates according to subdivision 2.

Subd. 2. [REVENUE ALLOCATION FROM COOPERATIVES AND INTERMEDIATE DISTRICTS.] (a) For purposes of this section, a special education cooperative or an intermediate district shall allocate to participating school districts the sum of the following amounts:

(1) 66 percent of the salaries paid to essential personnel in that cooperative or intermediate district minus the amount of state aid and any federal aid, if applicable, paid to that cooperative or intermediate district for salaries of these essential personnel under sections 124.32, subdivisions 1b and 10, and 124.574, subdivision 2b, for the year to which the levy is attributable, plus

(2) 61 percent of the salaries paid to limited English proficiency

program teachers in that cooperative or intermediate district minus the amount of state aid and any federal aid, if applicable, paid to that cooperative or intermediate district for salaries of these teachers under section 124.273, subdivision 1b, for the year to which the levy is attributable.

(b) A special education cooperative or an intermediate district that allocates amounts to participating school districts under this subdivision must report the amounts allocated to the department of education.

(c) For purposes of this subdivision, the Minnesota state academy for the deaf or the Minnesota state academy for the blind each year shall allocate an amount equal to 66 percent of salaries paid to instructional aides in either academy minus the amount of state aid and any federal aid, if applicable, paid to either academy for salaries of these instructional aides under sections 124.32, subdivisions 1b and 10, for the year to each school district that assigns a child with an individual education plan requiring an instructional aide to attend either academy. The school districts that assign a child who requires an instructional aide may make a levy in the amount of the costs allocated to them by either academy.

(d) When the Minnesota state academy for the deaf or the Minnesota state academy for the blind allocates unreimbursed portions of salaries of instructional aides among school districts that assign a child who requires an instructional aide, for purposes of the districts making a levy under this subdivision, the academy shall provide information to the department of education on the amount of unreimbursed costs of salaries it allocated to the school districts that assign a child who requires an instructional aide.

Subd. 3. [SPECIAL EDUCATION LEVY.] To receive special education levy revenue for fiscal year 1993 and each year thereafter, a district may levy an amount equal to the district's special education levy revenue as defined in subdivision 1 multiplied by the lesser of one, or the ratio of:

(1) the quotient derived by dividing the adjusted net tax capacity of the district for the year preceding the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to

(2) $3,435.

Subd. 4. [SPECIAL EDUCATION LEVY EQUALIZATION AID.] For fiscal year 1993 and thereafter, a district's special education levy equalization aid is the difference between its special education levy revenue and its special education levy. If a district does not levy the entire amount permitted, special education levy equalization aid must be reduced in proportion to the actual amount levied.

Subd. 5. [PRORATION.] In the event that the special education levy equalization aid for any year is prorated, a district having its aid prorated may levy an additional amount equal to the amount not paid by the state due to proration.

Sec. 9. Minnesota Statutes 1990, section 124.332, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] A district is eligible for individualized learning and development aid if the school board of the district has adopted a district instructor-learner ratio specified by the district's curriculum advisory committee and submits its ratio to the department of education by the April 15, ~~1990~~ preceding the year for which the district will receive aid.

Sec. 10. Minnesota Statutes 1990, section 124.332, subdivision 2, is amended to read:

Subd. 2. [AID AMOUNT.] An eligible district shall receive individualized learning and development aid in an amount equal to ~~$62.25~~ $66 times the district's average daily membership in kindergarten and grade 1 for the 1990-1991 school year, in kindergarten to grade 2 for the 1991-1992 school year, and in kindergarten to grade 3 for the 1992-1993 school year and thereafter. Aid received under this subdivision must be used only to achieve the district's instructor-learner ratios and prepare and use individualized learning plans for learners in ~~kindergarten and grade 1~~ the grades for which the district is receiving aid. If the district has achieved and is maintaining the district's instructor-learner ratios, then the district may use the aid to work to improve program offerings throughout the district.

Sec. 11. Minnesota Statutes 1990, section 124.573, subdivision 2b, is amended to read:

Subd. 2b. [SECONDARY VOCATIONAL AID.] ~~For 1989-1990 and later school years,~~ A district's or cooperative center's "secondary vocational aid" for secondary vocational education programs for a ~~school~~ fiscal year equals the sum of the following amounts for each program:

(a) the greater of zero, or 75 percent of the difference between:

(1) the salaries paid to essential, licensed personnel in that school year for services rendered in that program, and

(2) 50 percent of the general education revenue attributable to secondary pupils for the number of hours that the pupils are enrolled in that program; and

(b) ~~30~~ 40 percent of approved expenditures for the following:

(1) contracted services provided by a public or private agency other than a Minnesota school district or cooperative center under section 124.573, subdivision 3a;

(2) necessary travel between instructional sites by licensed secondary vocational education personnel;

(3) necessary travel by licensed secondary vocational education personnel for vocational student organization activities held within the state for instructional purposes;

(4) curriculum development activities that are part of a five-year plan for improvement based on program assessment;

(5) necessary travel by licensed secondary vocational education personnel for noncollegiate credit bearing professional development; and

(6) specialized vocational instructional supplies.

Sec. 12. Minnesota Statutes 1990, section 124.573, subdivision 3a, is amended to read:

Subd. 3a. [AID FOR CONTRACTED SERVICES.] In addition to the provisions of subdivisions 2 and 3, a school district or cooperative center may contract with a public or private agency other than a Minnesota school district or cooperative center for the provision of secondary vocational education services. ~~For the 1986-1987 school year, the state shall pay each district or cooperative center 40 percent of the amount of a contract entered into pursuant to this subdivision. For the 1987-1988 school year, the state shall pay each district or cooperative center 35 percent of the amount of a contract entered into under this subdivision.~~ The state board shall promulgate rules relating to program approval procedures and criteria for these contracts and aid shall be paid only for contracts approved by the commissioner of education. For the purposes of subdivision 4, the district or cooperative center contracting for these services shall be construed to be providing the services.

Sec. 13. Minnesota Statutes 1990, section 124.574, subdivision 2b, is amended to read:

Subd. 2b. [SALARIES.] Each year the state shall pay to any district or cooperative center a portion of the salary of each essential licensed person employed during that ~~school~~ fiscal year for services rendered in that district or center's secondary vocational education programs for handicapped children.

(a) For fiscal year 1992, the portion for a full-time person shall be an amount not to exceed the lesser of ~~60~~ 56.4 percent of the salary or

~~$16,727~~ $15,700. The portion for a part-time or limited-time person shall be the lesser of ~~60~~ 56.4 percent of the salary or the product of ~~$16,727~~ $15,700 times the ratio of the person's actual employment to full-time employment.

(b) For fiscal year 1993 and thereafter, the portion for a full-time person is an amount not to exceed the lesser of 55.2 percent of the salary or $15,320. The portion for a part-time or limited-time person is the lesser of 55.2 percent of the salary or the product of $15,320 times the ratio of the person's actual employment to full-time employment.

Sec. 14. Minnesota Statutes 1990, section 124.86, subdivision 2, is amended to read:

Subd. 2. [REVENUE AMOUNT.] An American Indian-controlled contract or grant school that is located on a reservation within the state and that complies with the requirements in subdivision 1 is eligible to receive tribal contract or grant school aid. The amount of aid is derived by:

(1) multiplying ~~the formula allowance under section 124A.22, subdivision 2,~~ $2,868 times the difference between (a) the actual pupil units as defined in section 124A.02, subdivision 15, in attendance during the fall count week and (b) the number of pupils for the current school year, weighted according to section 124.17, subdivision 1, receiving benefits under section 123.933 or 123.935 or for which the school is receiving reimbursement under section 126.23;

(2) subtracting from the result in clause (1) the amount of money allotted to the school by the federal government through the Indian School Equalization Program of the Bureau of Indian Affairs, according to Code of Federal Regulations, title 25, part 39, subparts A to E, for the basic program as defined by section 39.11, paragraph (b), for the base rate as applied to kindergarten through twelfth grade, excluding additional weighting, but not money allotted through subparts F to L for contingency funds, school board training, student training, interim maintenance and minor repair, interim administration cost, prekindergarten, and operation and maintenance, and the amount of money that is received according to section 126.23;

(3) dividing the result in clause (2) by the actual pupil units; and

(4) multiplying the actual pupil units by the lesser of $1,500 or the result in clause (3).

Sec. 15. Minnesota Statutes 1990, section 127.29, is amended by adding a subdivision to read:

Subd. 3. [HANDICAPPED STUDENTS.] When a handicapped student with an individual education plan is dismissed under sections 127.26 to 127.39, the district shall use the procedures for decisions under section 120.17, subdivisions 3a and 3b to modify the handicapped student's individual education plan where appropriate to ensure that the student receives appropriate educational services during the period of dismissal.

Sec. 16. Minnesota Statutes 1990, section 245A.03, subdivision 2, is amended to read:

Subd. 2. [EXCLUSION FROM LICENSURE.] Sections 245A.01 to 245A.16 do not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, mental retardation or a related condition, a functional impairment, or a physical handicap;

(4) sheltered workshops or work activity programs that are certified by the commissioner of jobs and training;

(5) programs for children enrolled in kindergarten to the 12th grade and prekindergarten regular and special education programs that are operated by the commissioner of education or a school as defined in section 120.101, subdivision 4;

(6) nonresidential programs for children that provide care or supervision for periods of less than three hours a day while the child's parent or legal guardian is in the same building or present on property that is contiguous with the physical facility where the nonresidential program is provided;

(7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;

(8) board and lodge facilities licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness who have refused an appropriate residential program offered by a county agency. This exclusion expires on July 1, 1990;

(9) homes providing programs for persons placed there by a

licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that operate for fewer than 40 calendar days in a calendar year;

(12) programs whose primary purpose is to provide social or recreational activities for adults or school-age children, such as scouting, boys clubs, girls clubs, sports, or the arts; except that a program operating in a school building is not excluded unless it is approved by the district's school board;

(13) head start nonresidential programs which operate for less than 31 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or mental retardation;

(15) nonresidential programs for nonhandicapped children provided for a cumulative total of less than 30 days in any 12-month period;

(16) residential programs for persons with mental illness, that are located in hospitals, until the commissioner adopts appropriate rules;

(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;

(18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;

(19) mental health outpatient services for adults with mental illness or children with emotional disturbance; or

(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules.

Sec. 17. [1992 SPECIAL EDUCATION LEVY ADJUSTMENT.]

A district's maximum special education levy for fiscal year 1992 equals the district's special education levy revenue for fiscal year 1992 according to section 8. A district may levy for taxes payable in 1992 an amount equal to the difference between its maximum

special education levy for fiscal year 1992 and the amount it levied for taxes payable in 1991 under Minnesota Statutes, section 275.125, subdivision 8c. Notwithstanding Minnesota Statutes, section 121.904, the entire amount of this levy must be recognized as revenue for fiscal year 1992.

Sec. 18. [TASK FORCE ON EDUCATION AND EMPLOYMENT TRANSITIONS.]

Subdivision 1. [DEFINITION.] For the purposes of this section, "education and employment transitions" means those processes and structures that provide an individual with awareness of employment opportunities, demonstrate the relationship between education and employment and the applicability of education to employment, identify an individual's employment interests, and assist the individual to make transitions between education and employment.

Subd. 2. [TASK FORCE ON EDUCATION AND EMPLOYMENT TRANSITIONS.] The state council on vocational technical education shall establish a task force on education and employment transitions.

Subd. 3. [PLAN.] The task force shall develop a statewide plan for implementing programs for education and employment transitions. The plan shall identify:

(1) existing public and private efforts in Minnesota that assist students to make successful transitions between education and employment;

(2) programs in other states and countries that are successfully preparing individuals for employment;

(3) how to overcome barriers that may prevent public and private collaboration in planning and implementing programs for education and employment transitions;

(4) the role of public and private groups in education and employment transitions;

(5) new processes and structures to implement statewide programs for education and employment transitions;

(6) how to integrate programs for education and employment transitions and outcome-based education initiatives;

(7) how to implement programs for education and employment transitions in Minnesota; and

(8) models for administrative and legislative action.

Subd. 4. [MEMBERSHIP.] The task force shall include:

(1) the members of the higher education advisory council under Minnesota Statutes, section 136A.02, subdivision 6, or members' designees;

(2) the executive director of the higher education coordinating board or the executive director's designee;

(3) the commissioner of jobs and training or the commissioner's designee;

(4) the commissioner of trade and economic development or the commissioner's designee;

(5) the commissioner of human services or the commissioner's designee;

(6) the commissioner of labor and industry or the commissioner's designee;

(7) up to ten members who represent the interests of education, labor, business, agriculture, trade associations, local service units, private industry councils, and appropriate community groups selected by the state council on vocational technical education;

(8) two members from the house of representatives, appointed by the speaker of the house of representatives, one member from each political party; and

(9) two members from the senate, appointed by the subcommittee on committees of the committee on rules and administration, one member from each political party.

Subd. 5. [PLAN DESIGN.] The state council on vocational technical education shall select up to nine members appointed to the task force who represent the interests of business, labor, community, and education to serve as a plan design group to develop the plan described in subdivision 2. The task force shall make recommendations to the plan design group on the merits of the plan design.

Subd. 6. [ASSISTANCE OF AGENCIES.] Task force members may request information and assistance from any state agency or office to enable the task force to perform its duties.

Subd. 7. [REPORT AND RECOMMENDATION.] The task force shall provide an interim report describing its progress to the

legislature by February 15, 1992. The task force shall report its plan and recommendations to the legislature by January 15, 1993.

Sec. 19. [APPROPRIATION.]

Subdivision 1. [STATE BOARD OF TECHNICAL COLLEGES.] The sums indicated in this section are appropriated from the general fund to the state board of technical colleges for the state council on vocational technical education for the fiscal years designated.

Subd. 2. [TASK FORCE ON TRANSITIONAL LEARNING PROGRAMS.] For carrying out the purposes of section 17:

$40,000 1992

Any unexpended balance for fiscal year 1992 does not cancel but is available for fiscal year 1993.

Subd. 3. [ADDITIONAL RESOURCES.] The commissioner of education and the chancellor of the technical college system shall provide additional resources, as necessary, through the use of money appropriated to the state under the Carl D. Perkins Act of 1990, title II, part A, section 201.

Sec. 20. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [SPECIAL EDUCATION AID.] For special education aid according to Minnesota Statutes, section 124.32:

$167,105,000 1992

$167,238,000 1993

The 1992 appropriation includes $24,996,000 for 1991 and $142,109,000 for 1992.

The 1993 appropriation includes $25,078,000 for 1992 and $142,160,000 for 1993.

Subd. 3. [SPECIAL PUPIL AID.] For special education aid according to Minnesota Statutes, section 124.32, subdivision 6, for pupils with handicaps placed in residential facilities within the district boundaries for whom no district of residence can be determined:

$395,000 1992

$436,000 1993

If the appropriation for either year is insufficient, the appropriation for the other year is available. If the appropriations for both years are insufficient, the appropriation for special education aid may be used to meet the special pupil obligations.

Subd. 4. [SUMMER SPECIAL EDUCATION AID.] For special education summer program aid according to Minnesota Statutes, section 124.32, subdivision 10:

$4,885,000 1992

$4,865,000 1993

The 1992 appropriation is for 1991 summer programs.

The 1993 appropriation is for 1992 summer programs.

Subd. 5. [TRAVEL FOR HOME-BASED SERVICES.] For aid for teacher travel for home-based services according to Minnesota Statutes, section 124.32, subdivision 2b:

$66,000 1992

$71,000 1993

The 1992 appropriation includes $7,000 for 1991 and $59,000 for 1992.

The 1993 appropriation includes $10,000 for 1992 and $61,000 for 1993.

Subd. 6. [RESIDENTIAL FACILITIES AID.] For residential facilities aid under aid according to Minnesota Statutes, section 124.32, subdivision 5:

$2,315,000 1992

$2,535,000 1993

Subd. 7. [LIMITED ENGLISH PROFICIENCY PUPILS PROGRAM AID.] For aid to educational programs for pupils of limited English proficiency according to Minnesota Statutes, section 124.273:

$3,853,000 1992

$3,994,000 1993

The 1992 appropriation includes $512,000 for 1991 and $3,341,000 for 1992.

The 1993 appropriation includes $589,000 for 1992 and $3,405,000 for 1993.

Subd. 8. [AMERICAN INDIAN SCHOLARSHIPS.] For American Indian scholarships according to Minnesota Statutes, section 124.48:

$1,582,000 1992

$1,582,000 1993

Any balance in the first year does not cancel but is available in the second year.

Subd. 9. [AMERICAN INDIAN POST-SECONDARY PREPARATION GRANTS.] For American Indian post-secondary preparation grants according to Minnesota Statutes, section 124.481:

$857,000 1992

$857,000 1993

Any balance in the first year does not cancel but is available in the second year.

Subd. 10. [AMERICAN INDIAN LANGUAGE AND CULTURE PROGRAMS.] For grants to American Indian language and culture education programs according to Minnesota Statutes, section 126.54, subdivision 1:

$591,000 1992

$590,000 1993

The 1992 appropriation includes $89,000 for 1991 and $502,000 for 1992.

The 1993 appropriation includes $88,000 for 1992 and $502,000 for 1993.

Any balance in the first year does not cancel but is available in the second year.

Subd. 11. [AMERICAN INDIAN EDUCATION.] (a) For certain American Indian education programs in school districts there is appropriated:

$175,000 1992

$175,000 1993

The 1992 appropriation includes $26,000 for 1991 and $149,000 for 1992.

The 1992 appropriation includes $26,000 for 1992 and $149,000 for 1993.

The appropriations in this paragraph are available for expenditure with the approval of the commissioner of education.

(b) The commissioner must not approve the payment of any amount to a school district under this subdivision unless that school district is in compliance with all applicable laws of this state.

(c) Up to the following amounts may be distributed to the following school districts for each fiscal year: $54,800 to independent school district No. 309, Pine Point School; $9,700 to independent school district No. 166; $14,900 to independent school district No. 432; $14,100 to independent school district No. 435; $42,200 to independent school district No. 707; and $39,100 to independent school district No. 38. These amounts must be spent only for the benefit of American Indian pupils and to meet established state educational standards or statewide requirements.

(d) Before a district can receive money under this subdivision, the district must submit to the commissioner of education evidence that it has:

(1) complied with the uniform financial accounting and reporting standards act, Minnesota Statutes, sections 121.90 to 121.917. For each school year, compliance with Minnesota Statutes, section 121.908, subdivision 3a, requires the school district to prepare one budget including the amount available to the district under this subdivision and one budget that does not include the available amount. The budget of that school district for the 1991-1992 school year prepared according to Minnesota Statutes, section 121.908, subdivision 3a, must be submitted to the commissioner of education at the same time as 1990-1991 budgets and must not include money appropriated in this subdivision; and

(2) compiled accurate daily pupil attendance records.

Subd. 12. [SECONDARY VOCATIONAL EDUCATION AID.] For secondary vocational education aid according to Minnesota Statutes, section 124.573:

$11,701,000 1992

$12,288,000 1993

The 1992 appropriation includes $1,758,000 for 1991 and $9,943,000 for 1992.

The 1993 appropriation includes $1,754,000 for 1992 and $10,534,000 for 1993.

Subd. 13. [SECONDARY VOCATIONAL; PUPILS WITH DISABILITIES.] For aid for secondary vocational education for pupils with disabilities according to Minnesota Statutes, section 124.574:

$4,691,000 1992

$4,652,000 1993

The 1992 appropriation includes $729,000 for 1991 and $3,962,000 for 1992.

The 1993 appropriation includes $699,000 for 1992 and $3,953,000 for 1993.

Subd. 14. [TRIBAL CONTRACT SCHOOLS.]

For tribal contract school aid according to Minnesota Statutes, section 124.86:

$200,000 1992

$200,000 1993

Subd. 15. [AMERICAN INDIAN TEACHER GRANTS.] For joint grants to assist American Indian people to become teachers:

$150,000 1990

$150,000 1991

Up to $70,000 each year is for a joint grant to the University of Minnesota-Duluth and the Duluth school district.

Up to $40,000 each year is for a joint grant to Bemidji state university and Red Lake school district.

Up to $40,000 each year is for a joint grant to Moorhead state university and a school district located within the White Earth reservation.

Any balance in the first year does not cancel but is available in the second year.

Subd. 16. [ASSURANCE OF MASTERY.] For assurance of mastery aid according to Minnesota Statutes, section 124.311:

$12,410,000 1992

$12,784,000 1993

The 1992 appropriation includes $1,751,000 for 1991 and $10,659,000 for 1992.

The 1993 appropriation includes $1,881,000 for 1992 and $10,903,000 for 1993.

Subd. 17. [INDIVIDUALIZED LEARNING AND DEVELOPMENT AID.] For individualized learning and development aid according to Minnesota Statutes, section 124.331:

$11,666,000 1992

$15,951,000 1993

The 1992 appropriation includes $1,068,000 for 1991 and $10,598,000 for 1992.

The 1993 appropriation includes $1,870,000 for 1992 and $14,081,000 for 1993.

Subd. 18. [SPECIAL PROGRAMS EQUALIZATION AID.] For special education levy equalization aid according to section 8:

$9,215,000 1993

This appropriation is based on a formula entitlement of $10,841,000.

Sec. 21. [REPEALER.]

Minnesota Statutes, section 275.125, subdivision 8c, is repealed effective July 1, 1991.

ARTICLE 4

COMMUNITY SERVICES

Section 1. Minnesota Statutes 1990, section 121.88, subdivision 9, is amended to read:

Subd. 9. [YOUTH SERVICE PROGRAMS.] A school board may offer, as part of a community education program with a youth

development program, a youth service program for pupils to promote active citizenship and to address community needs through youth service. The school board may award up to one credit, or the equivalent, toward graduation for a pupil who completes the youth service requirements of the district. The community education advisory council shall design the program in cooperation with the district planning, evaluating and reporting committee and local organizations that train volunteers or need volunteers' services. Programs must include:

(1) preliminary training for pupil volunteers conducted, when possible, by organizations experienced in such training;

(2) supervision of the pupil volunteers to ensure appropriate placement and adequate learning opportunity;

(3) sufficient opportunity, in a positive setting for human development, for pupil volunteers to develop general skills in preparation for employment, to enhance self esteem and self worth, and to give genuine service to their community; ~~and~~

(4) integration of academic learning with the service experience; and

(5) integration of youth community service with curriculum.

Youth service projects include, but are not limited to, the following:

(1) human services for the elderly, including home care and related services;

(2) tutoring and mentoring;

(3) training for and providing emergency services;

(4) services at extended day programs; and

(5) environmental services.

The commissioner shall maintain a list of acceptable projects with a description of each project. A project that is not on the list must be approved by the commissioner.

A youth service project must have a community sponsor that may be a governmental unit or nonprofit organization. To assure that pupils provide additional services, each sponsor must assure that pupil services do not displace employees or reduce the workload of any employee.

The commissioner must assist districts in planning youth service programs, implementing programs, and developing recommendations for obtaining community sponsors.

Sec. 2. Minnesota Statutes 1990, section 121.88, subdivision 10, is amended to read:

Subd. 10. [EXTENDED DAY PROGRAMS.] A school board may offer, as part of a community education program, an extended day program for children from kindergarten through grade 6 for the purpose of expanding students' learning opportunities. A program must include the following:

(1) adult supervised programs while school is not in session;

(2) parental involvement in program design and direction;

(3) partnerships with the K-12 system, and other public, private, or nonprofit entities; and

(4) opportunities for trained secondary school pupils to work with younger children in a supervised setting as part of a community service program.

The district may charge a sliding fee based upon family income for extended day programs. The district may receive money from other public or private sources for the extended day program. The school board of the district shall develop standards for school age child care programs. Districts with programs in operation before July 1, 1990, must adopt standards before October 1, 1991. All other districts must adopt standards within one year after the district first offers services under a program authorized by this subdivision. The state board of education may not adopt rules for extended day programs.

Sec. 3. Minnesota Statutes 1990, section 121.882, subdivision 2, is amended to read:

Subd. 2. [PROGRAM CHARACTERISTICS.] Early childhood family education programs are programs for children in the period of life from birth to kindergarten, for the parents of such children, and for expectant parents. The programs may include the following:

(1) programs to educate parents about the physical, mental, and emotional development of children;

(2) programs to enhance the skills of parents in providing for their children's learning and development;

(3) learning experiences for children and parents;

(4) activities designed to detect children's physical, mental, emotional, or behavioral problems that may cause learning problems;

(5) activities and materials designed to encourage self-esteem, skills, and behavior that prevent sexual and other interpersonal violence;

(6) educational materials which may be borrowed for home use;

(7) information on related community resources; or

(8) other programs or activities to improve the health, development, and learning readiness of children.

The programs shall not include activities for children that do not require substantial involvement of the children's parents. The programs shall be reviewed periodically to assure the instruction and materials are not racially, culturally, or sexually biased. The programs shall encourage parents to be aware of practices that may affect equitable development of children.

Sec. 4. Minnesota Statutes 1990, section 121.882, subdivision 6, is amended to read:

Subd. 6. [COORDINATION.] A district is encouraged to coordinate the program with its special education and vocational education programs and with related services provided by other governmental agencies and nonprofit agencies.

A district is encouraged to coordinate adult basic education programs provided to parents and early childhood family education programs provided to children to accomplish the goals of section 124C.61.

Sec. 5. Minnesota Statutes 1990, section 121.882, is amended by adding a subdivision to read:

Subd. 9a. [POPULATION SERVED.] The children and parents served by the program must be representative of the total population and reflect the demographic, racial, cultural, and ethnic diversity of the district. Districts receiving increased revenue for early childhood family education shall increase the number of eligible families served and provide for children and families who, because of poverty or other barriers to learning, may need more intensive services.

Sec. 6. Minnesota Statutes 1990, section 123.702, is amended to read:

123.702 [SCHOOL BOARD RESPONSIBILITIES.]

Subdivision 1. Every school board shall provide for a ~~voluntary~~ mandatory program of early childhood ~~health and~~ developmental screening for children ~~once before entering kindergarten~~ who are four years old and older but who have not entered kindergarten or first grade. This screening program shall be established either by one board, by two or more boards acting in cooperation, by educational cooperative service units, by early childhood family education programs, or by other existing programs. ~~No school board may make~~ This screening examination is a mandatory prerequisite to ~~enroll~~ enrolling a student in kindergarten or first grade. A child need not submit to developmental screening provided by a school board if the child's health records indicate to the school board that the child has received comparable developmental screening from a public or private health care organization or individual health care provider. The school districts are encouraged to reduce the costs of preschool ~~health~~ developmental screening programs by utilizing volunteers in implementing the program.

Subd. 1a. A child must not be enrolled in this state until the parent or guardian of the child submits to the school principal or other person having general control and supervision of the school a record indicating the months and year the child received developmental screening and the results of the screening. If a child is transferred from one kindergarten to another or from one first grade to another, the parent or guardian of the child must be allowed 30 days to submit the child's record, during which time the child may attend school.

Subd. ~~1a~~ 1b. A screening program shall include at least the following components ~~to the extent the school board determines they are financially feasible~~: developmental assessments, hearing and vision screening or referral, ~~review of health history and~~ immunization ~~status~~ review and referral, ~~and assessments of height and weight~~ review of any special family circumstances that might affect development, identification of additional risk factors that may influence learning, an interview with the parent about the child, and referral for assessment, diagnosis, and treatment when potential needs are identified. All screening components shall be consistent with the standards of the state commissioner of health for early ~~and periodic~~ developmental screening programs. ~~No child shall be required to submit to any component of this screening program to be eligible for any other component.~~ No developmental screening program shall provide laboratory tests, a health history or a physical examination to any child ~~who has been provided with those laboratory tests or a health history or physical examination within the previous 12 months~~. The school district shall request from the public or private health care organization or the individual health care provider the results of any laboratory test, health history or physical examination within the 12 months preceding a child's scheduled screening ~~clinic~~. If a child is without health coverage, the school district shall refer the child to an appropriate health care provider.

A school board may offer additional components such as nutritional, ~~physical and dental~~ assessments, and blood pressure, ~~and laboratory tests~~. State aid shall not be paid for additional components.

Subd. 2. If any child's screening indicates a condition which requires diagnosis or treatment, the child's parents shall be notified of the condition and the school board shall ensure that an appropriate follow-up and referral process is available, ~~in accordance with procedures established pursuant to section 123.703, subdivision 1~~.

Subd. 3. The school board shall ~~actively encourage participation~~ inform each resident family with a child eligible to participate in the developmental screening program about the availability of the program and the state's requirement that a child receive developmental screening before enrolling in kindergarten or first grade.

Subd. 4. ~~Every~~ A school board ~~shall~~ may contract with or purchase service from an approved early ~~and periodic~~ developmental screening program in the area ~~wherever possible~~. Developmental screening must be conducted by an individual who is licensed as, or has the training equal to, a special education teacher, school psychologist, kindergarten teacher, prekindergarten teacher, school nurse, public health nurse, registered nurse, or physician. The individual may be a volunteer.

Subd. 4a. The school district shall provide the parent or guardian of the child screened with a record indicating the month and year the child received developmental screening and the results of the screening. The district shall keep a duplicate copy of the record of each child screened.

Subd. 5. Every school board shall integrate and utilize volunteer screening programs in implementing sections 123.702 to ~~123.704~~ 123.705 wherever possible.

Subd. 6. A school board may ~~contract with health care providers to operate the screening programs and shall~~ consult with local societies of health care providers.

Subd. 7. In selecting personnel to implement the screening program, the school district shall give priority first to qualified volunteers ~~and second to other persons possessing the minimum qualifications required by the rules adopted by the state board of education and the commissioner of health~~.

Sec. 7. [123.7045] [DEVELOPMENTAL SCREENING AID.]

Each school year, the state shall pay a school district $25 for each child screened according to the requirements of section 123.702.

Sec. 8. [123.709] [CHEMICAL ABUSE PREVENTION PROGRAM.]

Subdivision 1. [DEFINITION.] "Targeted children and young people" means those individuals, whether or not enrolled in school, who are under 21 years of age and who are susceptible to abusing chemicals. Included among these individuals are those who:

(1) are the children of drug or alcohol abusers;

(2) are at risk of becoming drug or alcohol abusers;

(3) are school dropouts;

(4) are failing in school;

(5) have become pregnant;

(6) are economically disadvantaged;

(7) are victims of physical, sexual, or psychological abuse;

(8) have committed a violent or delinquent act;

(9) have experienced mental health problems;

(10) have attempted suicide;

(11) have experienced long-term physical pain due to injury;

(12) have experienced homelessness;

(13) have been expelled or excluded from school under sections 127.26 to 127.39; or

(14) have been adjudicated children in need of protection or services.

Subd. 2. [PURPOSE.] Schools, school districts, groups of school districts, community groups, or other regional public or nonprofit entities may contract with the commissioner of education to provide programs to prevent chemical abuse and meet the developmental needs of targeted children and young people, and to help these individuals overcome barriers to learning.

Subd. 3. [OBJECTIVES.] The commissioner of education may enter into contracts to:

(1) train individuals to work with targeted children and young people;

(2) expand the ability of the community to meet the needs of targeted children and young people and their families by locating appropriated services and resources at or near a school site; and

(3) involve the parents and other family members of these targeted children and young people more fully in the education process.

Subd. 4. [CONTRACT TERMS.] The commissioner may enter into contracts for programs that the commissioner determines are meritorious and appropriate and for which revenue is available. All contractors must offer vocational training or employment services, health screening referrals, and mental health or family counseling. A contractor receiving funds in one fiscal year may carry forward any unencumbered funds into the next fiscal year.

Subd. 5. [COMMISSIONER'S ROLE.] (a) The commissioner shall develop criteria, which the commissioner shall periodically evaluate, for entering into program contracts.

(b) The criteria must include:

(1) targeted families confronting social or economic adversity;

(2) offering programs to targeted children and young people during and after school hours and during the summer;

(3) integrating the cultural and linguistic diversity of the community into the school environment;

(4) involving targeted children and young people and their families in planning and implementing programs;

(5) facilitating meaningful collaboration among the service providers located at or near a school site;

(6) locating programs throughout the state; and

(7) serving diverse populations of targeted children and young people, with a focus on children through grade 3.

Subd. 6. [EVALUATION.] The commissioner shall evaluate contractors' programs and shall disseminate successful program components statewide.

Sec. 9. Minnesota Statutes 1990, section 124.26, subdivision 1c, is amended to read:

Subd. 1c. [PROGRAM APPROVAL.] (a) To receive aid under this section, a district must submit an application by June 1 describing the program, on a form provided by the department.

(b) The program must be approved by the commissioner according to the following criteria:

(1) how the needs of different levels of learning will be met;

(2) for continuing programs, an evaluation of results;

(3) anticipated number and education level of participants;

(4) coordination with other resources and services;

(5) participation in a consortium, if any, and money available from other participants;

(6) management and program design;

(7) volunteer training and use of volunteers;

(8) staff development services;

(9) program sites and schedules; and

(10) program expenditures that qualify for aid.

(c) The commissioner may contract with a private, nonprofit organization to provide services that are not offered by a district or that are supplemental to a district's program. The program provided under a contract must be approved according to the same criteria used for district programs.

(d) Beginning with the 1992-1993 program year, adult basic education program designs may be approved under this subdivision for up to three years. Multiyear program approval must be granted to applicants who have demonstrated the capacity to:

(1) offer comprehensive learning opportunities and support service choices appropriate for and accessible to adults at all basic skill need levels;

(2) provide a participatory and experimental learning approach based on the strengths, interests, and needs of each learner, that enables all adults with basic skill needs to:

(i) identify, plan for, and evaluate their own progress toward achieving their defined educational and occupational goals;

(ii) master the basic academic reading, writing, and computational skills, as well as the problem-solving, decision-making, interpersonal effectiveness, and other life and learning-to-learn skills they need to function effectively in a changing society;

(iii) locate and be able to use the health, governmental, and social resources and services they need to improve their own and their families' lives; and

(iv) continue their education, if they so desire, to at least the level of secondary school completion, with the ability to secure and benefit from continuing training or education that will enable them to become more employable, productive, and responsible citizens;

(3) plan, coordinate, and develop cooperative working agreements with community resources to address the needs adult learners have for support services such as transportation, flexible course scheduling, convenient class locations, and child care;

(4) link with business, industry, labor unions, and employment-training agencies, as well as with family and occupational education providers, to arrange for resources and services through which adults can attain economic self-sufficiency;

(5) provide sensitive and well-trained adult education personnel who participate in local, regional, and statewide adult basic education staff development events to master effective adult learning and teaching techniques;

(6) participate in regional adult basic education peer program reviews and evaluations; and

(7) submit accurate and timely performance and fiscal reports.

Sec. 10. Minnesota Statutes 1990, section 124.26, subdivision 2, is amended to read:

Subd. 2. Each district or group of districts providing adult basic ~~and continuing~~ education programs shall establish and maintain accounts separate from all other district accounts for the receipt and disbursement of all funds related to these programs. All aid received pursuant to this section shall be utilized solely for the purposes of adult basic ~~and continuing~~ education programs. In no case shall federal and state aid equal more than 90 percent of the actual cost of providing these programs.

Sec. 11. [124.2601] [ADULT BASIC EDUCATION REVENUE.]

Subdivision 1. [FULL-TIME EQUIVALENT.] In this section "full-time equivalent" means 408 contact hours for a student at the adult

secondary instructional level and 240 contact hours for a student at a lower instructional level. "Full-time equivalent" for an English as a second language student means 240 contact hours.

Subd. 2. [PROGRAMS FUNDED.] Adult basic education programs established under section 124.26 and approved by the commissioner are eligible for revenue under this section.

Subd. 3. [AID.] Adult basic education aid for each district with an eligible program equals 65 percent of the general education formula allowance times the number of full-time equivalent students in its adult basic education program.

Subd. 4. [LEVY.] To obtain adult basic education aid, a district may levy an amount not to exceed the amount raised by .21 percent times the adjusted tax capacity of the district for the preceding year.

Subd. 5. [REVENUE.] Adult basic education revenue is equal to the sum of a district's adult basic education aid and its adult basic education levy.

Subd. 6. [AID GUARANTEE.] Any adult basic education program that receives less state aid under subdivision 3 than from the aid formula for fiscal year 1992 shall receive the amount of aid it received in fiscal year 1992.

Subd. 7. [PRORATION.] If the total appropriation for adult basic education aid is insufficient to pay all districts the full amount of aid earned, the department of education shall proportionately reduce each district's aid.

Sec. 12. [124.2605] [GED TESTS.]

Subdivision 1. [GED TEST.] Beginning July 1, 1992, the department of education shall pay for one-half the cost of a GED test taken by a qualifying individual.

Subd. 2. [RULEMAKING.] The state board of education shall adopt a rule defining "qualifying individual" for purposes of state payment of the GED test fee.

Sec. 13. Minnesota Statutes 1990, section 124.261, is amended to read:

124.261 [ADULT HIGH SCHOOL GRADUATION AID.]

Subdivision 1. [AID ELIGIBILITY.] Adult high school graduation aid for eligible pupils age 21 or over, equals 65 percent of the general education formula allowance times ~~1.35~~ 1.30 times the average daily membership under section 124.17, subdivision 2e. Adult high school

graduation aid must be paid in addition to any other aid to the district. Pupils age 21 or over may not be counted by the district for any purpose other than adult high school graduation aid.

Subd. 2. [AID FOLLOWS PUPIL.] Adult high school graduation aid accrues to the account and the fund of the eligible programs, under section 126.22, subdivision 3, that serve adult diploma students.

Sec. 14. Minnesota Statutes 1990, section 124.2711, subdivision 1, is amended to read:

Subdivision 1. [MAXIMUM REVENUE.] (a) The maximum revenue for early childhood family education programs for the ~~1989 and 1990~~ 1992 fiscal ~~years~~ year for a school district is the amount of revenue derived by multiplying ~~$84.50~~ $96.50 times the greater of 150 or the number of people under five years of age residing in the school district on September 1 of the preceding school year.

(b) For ~~1991~~ 1993 and later fiscal years, the maximum revenue for early childhood family education programs for a school district is the amount of revenue earned by multiplying ~~$87.75~~ $101.25 times the greater of:

(1) 150; or

(2) the number of people under five years of age residing in the school district on September 1 of the last school year.

Sec. 15. Minnesota Statutes 1990, section 124.2711, subdivision 3, is amended to read:

Subd. 3. [AID.] If a district complies with the provisions of section 121.882, it shall receive early childhood family education aid equal to:

(a) the difference between the maximum revenue, according to subdivision 1, and the permitted levy attributable to the same school year, according to section 275.125, subdivision 8b, times

(b) the ratio of the district's actual levy to its permitted levy attributable to the same school year, according to section 275.125, subdivision 8b.

~~In fiscal year 1990 only, a district receiving early childhood family education aid under this subdivision or levy under section 275.125, subdivision 8b, shall receive an additional amount of aid equal to $.95 times the greater of 150 or the number of people under five years of age residing in the district on September 1 of the last school year.~~

Sec. 16. Minnesota Statutes 1990, section 124C.03, subdivision 2, is amended to read:

Subd. 2. [MEMBERS; MEETINGS; OFFICERS.] The interagency adult learning advisory council shall have ~~16~~ 20 to ~~18~~ 22 members. Members must have experience in educating adults or in programs addressing welfare recipients and incarcerated, unemployed, and underemployed people.

The members of the interagency adult learning advisory council are appointed as follows:

(1) one member appointed by the commissioner of the state planning agency;

(2) one member appointed by the commissioner of jobs and training;

(3) one member appointed by the commissioner of human services;

(4) one member appointed by the director of the refugee and immigrant assistance division of the department of human services;

(5) one member appointed by the commissioner of corrections;

(6) one member appointed by the commissioner of education;

(7) one member appointed by the chancellor of the state board of technical colleges;

(8) one member appointed by the chancellor of community colleges;

(9) one member appointed by the Minnesota adult literacy campaign or by another nonprofit literacy organization, as designated by the commissioner of the state planning agency;

(10) one member appointed by the council on Black Minnesotans;

(11) one member appointed by the Spanish-speaking affairs council;

(12) one member appointed by the council on Asian-Pacific Minnesotans;

(13) one member appointed by the Indian affairs council; and

(14) one member appointed by the disability council.

~~Up to four additional members of the council may be nominated by the participating agencies.~~ Based on the council's recommendations, the commissioner of the state planning agency must appoint at least ~~two~~ six, but not more than ~~four~~ eight, additional members. Nominees shall include, but are not limited to, representatives of local education, government, nonprofit agencies, employers, labor organizations, and libraries.

The council shall elect its officers.

Sec. 17. Minnesota Statutes 1990, section 126.22, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE PUPILS.] The following pupils are eligible to participate in the high school graduation incentives program:

(a) any pupil who is between the ages of 12 and 16, except as indicated in clause (6), and who:

(1) is at least two grade levels below the performance level for pupils of the same age in a locally determined achievement test; or

(2) is at least one year behind in satisfactorily completing coursework or obtaining credits for graduation; or

(3) is pregnant or is a parent; or

(4) has been assessed as chemically dependent; or

(5) has been excluded or expelled according to sections 127.26 to 127.39; or

(6) is between the ages of 12 and 21 and has been referred by a school district for enrollment in an eligible program or a program pursuant to section 126.23; or

(b) any pupil who is between the ages of 16 and 19 who is attending school, and who is at least two grade levels below the performance level for pupils of the same age in a locally determined achievement test, or is at least one year behind in obtaining credits for graduation, or is pregnant or is a parent, or has been assessed as chemically dependent; or

(c) any person between 16 and 21 years of age who has not attended a high school program for at least 15 consecutive school days, excluding those days when school is not in session, and who is at least two grade levels below the performance level for pupils of the same age in a locally determined achievement test, or is at least one year behind in obtaining credits for graduation, or is pregnant or is a parent, or has been assessed as chemically dependent; or

(d) any person who is at least 21 years of age and who:

(1) has received fewer than 14 years of public or nonpublic education, beginning at age 5;

(2) has ~~already completed the studies ordinarily required in the 10th grade but has~~ not completed the requirements for a high school diploma ~~or the equivalent~~; and

(3) at the time of application, (i) is eligible for unemployment compensation benefits or has exhausted the benefits, (ii) is eligible for or is receiving income maintenance and support services, as defined in section 268.0111, subdivision 5, or (iii) is eligible for services under the displaced homemaker program, state wage-subsidy program, or any programs under the federal Jobs Training Partnership Act or its successor.

(e) an elementary school pupil who is determined by the district of attendance to be at risk of not succeeding in school is eligible to participate in the program.

Notwithstanding section 127.27, subdivision 7, the provisions of section 127.29, subdivision 1, do not apply to a pupil under age 21 who participates in the high school graduation incentives program.

Sec. 18. Minnesota Statutes 1990, section 126.22, subdivision 3, is amended to read:

Subd. 3. [ELIGIBLE PROGRAMS.] (a) A pupil who is eligible according to subdivision 2, clause (a), (b), (c), (d), or (e), may enroll in any program approved by the state board of education under Minnesota Rules, part 3500.3500, or area learning centers under sections 124C.45 to 124C.48, or according to section 121.11, subdivision 12.

(b) A pupil who is eligible according to subdivision 2, clause (b), (c), or (d), may enroll in post-secondary courses under section 123.3514.

(c) A pupil who is eligible under subdivision 2, clause (a), (b), (c), (d), or (e), may enroll in any public elementary or secondary education program. However, a person who is eligible according to subdivision 2, clause (d), may enroll only if the school board has adopted a resolution approving the enrollment.

(d) (1) A pupil who is eligible under subdivision 2, clause (a), (b), (c), or (e), may enroll part time or full time in any nonprofit, nonpublic, nonsectarian school that has contracted with the school district of residence to provide educational services.

(2) A pupil who is at least 16 years of age, who is eligible under subdivision 2, clause (a), (b), or (c), and who has been enrolled only in a public school, if the pupil has been enrolled in any school, during the year immediately before transferring under this paragraph, may transfer to any nonprofit, nonpublic school that has contracted with the school district of residence to provide nonsectarian educational services. Such a school must enroll every eligible pupil who seeks to transfer to the school under this program subject to available space.

(e) ~~An~~ A pupil who is eligible ~~institution providing eligible programs as defined in this~~ under subdivision 2, clause (c) or (d), may ~~contract with an entity providing~~ enroll in any adult basic education programs approved under section 124.26 and operated under the community education program contained in section 121.88 ~~for actual program costs~~.

Sec. 19. Minnesota Statutes 1990, section 126.22, subdivision 4, is amended to read:

Subd. 4. [PUPIL ENROLLMENT.] Any eligible pupil under subdivision 2 may apply to enroll in an eligible program under subdivision 3, using the form specified in section 120.0752, subdivision 2. Notwithstanding section 120.0752, approval of the resident district is not required for an eligible pupil under subdivision 2 to enroll in ~~a nonresident district that has an~~ any eligible program outside the district under subdivision 3 or an area learning center established under section 124C.45, and is not required for an eligible pupil under subdivision 2, clause (c) or (d), to enroll in an adult basic education program approved under section 124.26.

Sec. 20. Minnesota Statutes 1990, section 145.926, is amended to read:

145.926 [WAY TO GROW/SCHOOL READINESS PROGRAM.]

Subdivision 1. [ADMINISTRATION.] The commissioner of state planning shall administer the way to grow/school readiness program, in ~~consultation~~ collaboration with the commissioners of health, human services and education, to promote intellectual, social, emotional, and physical development and school readiness of children prebirth to age ~~five~~ six by coordinating and improving access to community-based and neighborhood-based services that support and assist all parents in meeting the health and developmental needs of their children at the earliest possible age.

Subd. 2. [PROGRAM COMPONENTS.] (a) A way to grow/school readiness program must:

(1) collaborate and coordinate delivery of services with other

community organizations and agencies serving children prebirth to age six and their families;

(2) target services to families with children prebirth to age six with services increasing based on need;

(3) build on existing services and coordinate a continuum of prebirth to age six essential services, including but not limited to prenatal health services, parent education and support, and preschool programs;

(4) provide strategic outreach efforts to families using trained paraprofessionals such as home visitors; and

(5) support of neighborhood oriented and culturally specific social support, information, outreach, and other programs to promote healthy development of children and to help parents obtain the information, resources, and parenting skills needed to nurture and care for their children.

(b) A way to grow/school readiness program may include:

(1) a program of home visitors to contact pregnant women early in their pregnancies, encourage them to obtain prenatal care, and provide social support, information, and referrals regarding prenatal care and well-baby care to reduce infant mortality, low birth weight, and childhood injury, disease, and disability;

(2) a program of home visitors to provide social support, information, and referrals regarding parenting skills and to encourage families to participate in parenting skills programs and other family supportive services;

(3) support of neighborhood-based or community-based parent-child and family resource centers or interdisciplinary resource teams to offer supportive services to families with preschool children;

(4) staff training, technical assistance, and incentives for collaboration designed to raise the quality of community services relating to prenatal care, child development, health, and school readiness;

(5) programs to raise general public awareness about practices that promote healthy child development and school readiness;

(6) ~~support of neighborhood oriented and culturally specific social support, information, outreach, and other programs to promote healthy development of children and to help parents obtain the information, resources, and parenting skills needed to nurture and care for their children;~~

~~(7)~~ programs to expand public and private collaboration to promote the development of a coordinated and culturally specific system of services available to all families;

~~(8)~~ (7) support of periodic screening and evaluation services for preschool children to assure adequate developmental progress;

~~(9)~~ (8) support of health, educational, and other developmental services needed by families with preschool children;

~~(10)~~ (9) support of family prevention and intervention programs needed to address risks of child abuse or neglect;

~~(11)~~ (10) development or support of a jurisdiction-wide coordinating agency to develop and oversee programs to enhance child health, development, and school readiness with special emphasis on neighborhoods with a high proportion of children in need; and

~~(12)~~ (11) other programs or services to improve the health, development, and school readiness of children in target neighborhoods and communities.

Subd. 3. [ELIGIBLE GRANTEES.] An application for a grant may be submitted by any of the following entities:

(1) a city, town, county, school district, or other local unit of government;

(2) two or more governmental units organized under a joint powers agreement;

(3) a community action agency that satisfies the requirements of section 268.53, subdivision 1; or

(4) a nonprofit organization, or consortium of nonprofit organizations, that demonstrates collaborative effort with at least one unit of local government.

Subd. 4. [~~PILOT PROJECTS~~ DISTRIBUTION.] The commissioner of state planning shall ~~award grants for one pilot project in each of the following areas of the state:~~

~~(1) a first class city located within the metropolitan area as defined in section 473.121, subdivision 2;~~

~~(2) a second class city located within the metropolitan area as defined in section 473.121, subdivision 2;~~

~~(3) a city with a population of 50,000 or more that is located~~

~~outside of the metropolitan area as defined in section 473.121, subdivision 2; and~~

~~(4) the area of the state located outside of the metropolitan area as defined in section 473.121, subdivision 2~~ give priority to funding existing programs at their current levels.

To the extent possible, the commissioner of state planning shall award grants to applicants with experience or demonstrated ability in providing comprehensive, multidisciplinary, community-based programs with objectives similar to those listed in subdivision 2, or in providing other human services or social services programs using a multidisciplinary, community-based approach.

Subd. 5. [APPLICATIONS.] Each grant application must propose a five-year program designed to accomplish the purposes of this section. The application must be submitted on forms provided by the commissioner of state planning. The grant application must include:

(1) a description of the specific neighborhoods that will be served under the program and the name, address, and a description of each community agency or agencies with which the applicant intends to contract to provide services using grant money;

(2) a letter of intent from each community agency identified in clause (1) that indicates the agency's willingness to participate in the program and approval of the proposed program structure and components;

(3) a detailed description of the structure and components of the proposed program and an explanation of how each component will contribute to accomplishing the purposes of this section;

(4) a description of how public and private resources, including schools, health care facilities, government agencies, neighborhood organizations, and other resources, will be coordinated and made accessible to families in target neighborhoods, including letters of intent from public and private agencies indicating their willingness to cooperate with the program;

(5) a detailed, proposed budget that demonstrates the ability of the program to accomplish the purposes of this section using grant money and other available resources, including funding sources other than a grant; and

(6) a comprehensive evaluation plan for measuring the success of the program in meeting the objectives of the overall grant program and the individual grant project, including an assessment of the impact of the program in terms of at least three of the following criteria:

(i) utilization rates of community services;

(ii) availability of support systems for families;

(iii) birth weights of newborn babies;

(iv) child accident rates;

(v) utilization rates of prenatal care;

(vi) reported rates of child abuse; ~~and~~

(vii) rates of health screening and evaluation; and

(viii) school readiness of way to grow participants compared to nonparticipants.

Subd. 6. [MATCH.] Each dollar of state money must be matched with 50 cents of nonstate money. ~~The pilot project selected under subdivision 4, clause (4),~~ Programs may match state money with in-kind contributions, including volunteer assistance.

Subd. 7. [ADVISORY COMMITTEES.] The commissioner of state planning shall establish a program advisory committee consisting of persons knowledgeable in child development, child health and family services, ~~and the needs of people of color and high risk populations~~ who reflect the geographic, cultural, racial, and ethnic diversity of the state; and representatives of the commissioners of state planning ~~and~~, education, human services, and health. This program advisory committee shall review grant applications, assist in distribution of the grants, and monitor progress of the way to grow/school readiness program. Each grantee must establish a program advisory board of 12 or more members to advise the grantee on program design, operation, and evaluation. The board must include representatives of local units of government and representatives of the project area who reflect the geographic, cultural, racial, and ethnic diversity of that community.

Subd. 8. [REPORT.] ~~The commissioner of state planning shall provide a biennial report to the legislature on the program administration and the activities of projects funded under this section.~~ The advisory committee shall report to the education committee of the legislature by January 15, 1993, on the evaluation required in subdivision 5, clause (6), and shall make recommendations for establishing successful way to grow programs in unserved areas of the state.

Sec. 21. Minnesota Statutes 1990, section 171.29, subdivision 2, is amended to read:

Subd. 2. (a) A person whose drivers license has been revoked as provided in subdivision 1, except under section 169.121 or 169.123, shall pay a $30 fee before the person's drivers license is reinstated.

(b) A person whose drivers license has been revoked as provided in subdivision 1 under section 169.121 or 169.123 shall pay a $200 fee before the person's drivers license is reinstated to be credited as follows:

(1) 25 percent shall be credited to the trunk highway fund;

(2) 50 percent shall be credited to a separate account to be known as the county probation reimbursement account. Money in this account may be appropriated to the commissioner of corrections for the costs that counties assume under Laws 1959, chapter 698, of providing probation and parole services to wards of the commissioner of corrections. This money is provided in addition to any money which the counties currently receive under section 260.311, subdivision 5;

(3) ten percent shall be credited to a separate account to be known as the bureau of criminal apprehension account. Money in this account may be appropriated to the commissioner of public safety and shall be divided as follows: eight percent for laboratory costs; two percent for carrying out the provisions of section 299C.065;

(4) 15 percent shall be credited to a separate account to be known as the alcohol-impaired driver education account. Money in the account may be appropriated to the commissioner of education for grants to develop ~~alcohol-impaired driver education~~ chemical abuse prevention programs in elementary and~~,~~ secondary~~, and post-secondary~~ schools. The state board of education shall establish guidelines for the distribution of the grants. Each year the commissioner may use $100,000 to administer the grant program and other traffic safety education programs.

Sec. 22. Minnesota Statutes 1990, section 275.125, subdivision 8b, is amended to read:

Subd. 8b. [EARLY CHILDHOOD FAMILY EDUCATION LEVY.] A district may levy for its early childhood family education program. The amount levied shall not exceed the lesser of:

(a) a net tax rate of ~~.54~~ .596 percent times the adjusted net tax capacity for taxes payable in ~~1991~~ 1992 and thereafter of the district for the year preceding the year the levy is certified, or

(b) the maximum revenue as defined in section 124.2711, subdivision 1, for the school year for which the levy is attributable.

Sec. 23. [CONDITIONAL TRANSFER AUTHORITY.]

This section applies only if the state planning agency under chapter 116K is eliminated in a law. Responsibility for administering the way to grow/school readiness program in Minnesota Statutes, section 145.926 is transferred from the commissioner of the state planning agency to the commissioner of education. Any appropriation for grants under Minnesota Statutes, section 145.926 is transferred from the state planning agency to the department of education. The revisor of statutes shall renumber Minnesota Statutes, section 145.926 as a section in chapter 124C and change appropriate references from "state planning" to "education."

Sec. 24. [REPORT REQUIRED.]

School districts contracting with a nonprofit, nonpublic school must prepare for the department of education a report describing the nonsectarian educational services provided to eligible pupils under section 18. The department shall report to the education committees of the legislature at the end of each school year on districts' experiences in contracting.

Sec. 25. [REPEALER.]

Minnesota Statutes 1990, sections 123.706 and 123.707; and Laws 1989, chapter 329, article 4, section 40, are repealed.

Sec. 26. [EXPIRATION.]

Section 126.22, subdivision 3, clause (d), paragraph (2), expires July 1, 1993.

Sec. 27. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [ADULT BASIC EDUCATION AID.] For adult basic education aid according to Minnesota Statutes, section 124.26:

$5,074,000 1992

$5,073,000 1993

The 1992 appropriation includes $761,000 for 1991 and $4,313,000 for 1992.

The 1993 appropriation includes $760,000 for 1992 and $4,313,000 for 1993.

Up to $250,000 each year may be used for contracts with private, nonprofit organizations for approved programs.

Subd. 3. [ADULTS WITH DISABILITIES PROGRAM AID.] For adults with disabilities programs according to Minnesota Statutes, section 124.2715:

$670,000 1992

$670,000 1993

Any balance in the first year does not cancel and is available for the second year.

Subd. 4. [COMMUNITY EDUCATION AID.] For community education aid according to Minnesota Statutes, section 124.2713:

$3,598,000 1992

$3,211,000 1993

The 1992 appropriation includes $498,000 for 1991 and $3,100,000 for 1992.

The 1993 appropriation includes $547,000 for 1992 and $2,664,000 for 1993.

Subd. 5. [EARLY CHILDHOOD FAMILY EDUCATION AID.] For early childhood family education aid according to Minnesota Statutes, section 124.2711:

$12,550,000 1992

$12,481,000 1993

The 1992 appropriation includes $1,549,000 for 1991 and $11,001,000 for 1992.

The 1993 appropriation includes $1,940,000 for 1992 and $10,541,000 for 1993.

Subd. 6. [HEALTH AND DEVELOPMENTAL SCREENING AID.] For health and developmental screening aid according to Minnesota Statutes, sections 123.702 and 123.7045:

$1,489,000 1992

$1,607,000 1993

The 1992 appropriation includes $86,000 for 1991 and $1,403,000 for 1992.

The 1993 appropriation includes $247,000 for 1992 and $1,360,000 for 1993.

Any balance in the first year does not cancel but is available in the second year.

Subd. 7. [HEARING IMPAIRED ADULTS.] For programs for hearing impaired adults according to Minnesota Statutes, section 121.201:

$70,000 1992

$70,000 1993

Subd. 8. [ADULT GRADUATION AID.] For adult graduation aid:

$1,525,000 1992

$1,592,000 1993

The 1992 appropriation includes $171,000 for 1991 and $1,354,000 for 1992.

The 1993 appropriation includes $238,000 for 1992 and $1,354,000 for 1993.

Subd. 9. [GED TESTS.] For payment of 50 percent of the costs of GED tests:

$150,000 1992

This appropriation is available until June 30, 1993.

Subd. 10. [CHEMICAL ABUSE PREVENTION GRANTS.] For grants for chemical abuse prevention grants according to section 7.

$620,000 1992

$620,000 1993

These appropriations are from the alcohol-impaired driver account of the special revenue fund. Any funds credited for the department of education to the alcohol-impaired driver account of the special revenue fund in excess of the amount appropriated in this subdivision are appropriated to the department of education and available in fiscal year 1992 and fiscal year 1993.

Sec. 28. [APPROPRIATION.]

Subdivision 1. [STATE PLANNING AGENCY.] The sums indicated in this section are appropriated from the general fund to the state planning agency for the fiscal years designated.

Subd. 2. [WAY TO GROW.] For grants for way to grow programs according to Minnesota Statutes, section 145.926:

$950,000 1992

This appropriation is available until June 30, 1993.

ARTICLE 5

FACILITIES AND EQUIPMENT

Section 1. Minnesota Statutes 1990, section 121.15, subdivision 1, is amended to read:

Subdivision 1. [CONSULTATION.] A school district ~~shall consult with the commissioner of education before developing any plans and specifications to construct, remodel, or improve the building or site of an educational facility, other than a technical college, for which the estimated cost exceeds $100,000. This consultation shall occur before a referendum for bonds, solicitation for bids, or use of capital expenditure facilities revenue according to section 124.243, subdivision 6, clause (2)~~ must submit annually to the commissioner of education a five-year facilities plan which must include projects that will begin after May 1. Technical college projects do not need to be included in the plan. The plan must be submitted to the commissioner by January 1, beginning in 1992, and annually thereafter. The commissioner may require the district to participate in a management assistance plan before conducting a review and comment ~~on the project~~ or granting approval of projects contained in the five-year plan. The commissioner shall develop a standard format to be used in preparation of the five-year facilities plan.

Sec. 2. Minnesota Statutes 1990, section 121.15, subdivision 2, is amended to read:

Subd. 2. [~~PLAN SUBMITTAL~~ FIVE-YEAR PLAN.] For a construction, expansion, or remodeling project ~~for which consultation is required under subdivision 1~~ contained in a five-year plan, the commissioner~~, after the consultation required in subdivision 1,~~ may require a school district to submit the following for approval:

(a) two sets of preliminary construction plans for each new building or addition, and

(b) one set of final construction plans for each construction, remodeling, or site improvement project. The commissioner shall approve or disapprove the plans within 90 days after submission.

Final plans shall meet all applicable state laws, rules, and codes concerning public buildings, including sections 16B.59 to 16B.73. The department may furnish to a school district plans and specifications for temporary school buildings containing two classrooms or less.

Sec. 3. Minnesota Statutes 1990, section 121.15, is amended by adding a subdivision to read:

Subd. 2a. [FIVE-YEAR FACILITY PLAN INFORMATION REQUIRED.] For each construction, expansion, or remodeling project, the plan must contain the following information and any other information required by the commissioner and described in the standard format under section 1:

(1) a description in reasonable detail of each construction, expansion, or remodeling project that requires an expenditure of more than $50,000;

(2) if any, a description of the federal or state laws, rules, or code violations corrected by the project;

(3) the availability and manner of financing each project;

(4) the estimated date to begin and complete each project;

(5) the impact, if any, of each project to extend the useful life or improve the safety of the facility or site; and

(6) a breakdown by category of total cost of projects requiring expenditure of less than $50,000. Categories of cost must be defined in the standard format.

Sec. 4. Minnesota Statutes 1990, section 121.15, is amended by adding a subdivision to read:

Subd. 2b. [FIVE-YEAR FACILITIES PLAN APPROVAL.] (a) The commissioner shall consider the criteria in paragraphs (b) and (c) in determining whether to approve or disapprove projects in a district's current five-year plan.

(b) To approve a district's five-year facilities plan, the commissioner must determine that all of the conditions in this paragraph are met or are determined not applicable for each construction, expansion, or remodeling project contained in the plan:

(1) the new facilities are needed for pupils for whom no adequate facilities exist or will exist;

(2) no form of cooperation with another district would provide the necessary facilities;

(3) the proposed facilities are comparable in size and quality to facilities recently constructed in other districts that have similar enrollments;

(4) the current facility poses a threat to the life, health, and safety of pupils, and cannot reasonably be brought into compliance with fire, health, or life safety codes; and

(5) the district has made a good faith effort, as evidenced by its maintenance expenditures, to adequately maintain the existing facility during the previous ten years and to comply with fire, health, and life safety codes and state and federal requirements for handicapped accessibility.

(c) The commissioner may disapprove the plan or a project contained in a five-year plan if:

(1) a project to be initiated in the first year of the current plan has not reasonably appeared in a previous five-year plan;

(2) the state demographer has examined the population of the communities to be served by the proposed facility and determined that the communities have not grown during the previous five years;

(3) the state demographer determined that the economic and population bases of the communities to be served by the proposed facility are not likely to grow or to remain at a level sufficient, during the next ten years, to ensure use of the entire facility;

(4) the need for facilities could be met within the district or adjacent districts at a comparable cost by leasing, repairing, remodeling, or sharing existing facilities or by using temporary facilities;

(5) the district plans do not include cooperation and collaboration with health and human services agencies and other political subdivisions; or

(6) for new construction projects, an existing facility that would meet the district's needs could be purchased at a comparable cost from any other source within the area.

(d) A district must not proceed with a project unless the plan describing the project has been approved by the commissioner. The

commissioner may allow a district without an approved five-year plan to proceed with a project, if the commissioner determines that the district is making a good faith effort to revise its plan.

Sec. 5. Minnesota Statutes 1990, *section 121.15, is amended* by adding a subdivision to read:

Subd. 2c. [ADJACENT DISTRICT COMMENTS.] For any five-year facilities plan that contains a proposal for new facilities or projects that require an expenditure of more than $1,000,000 per school site, the district shall present the proposed project to the school board of each adjacent district at a public meeting of that district. The board of an adjacent district shall make a written evaluation of how the project will affect the future education and building needs of the adjacent district. The board shall submit the evaluation to the applying district within 30 days of the meeting. The district shall include the evaluations in its application for review and comment as required by subdivision 6, paragraph (c).

Sec. 6. Minnesota Statutes 1990, section 121.15, subdivision 3, is amended to read:

Subd. 3. [FINAL CONSTRUCTION PLANS.] ~~If a construction contract has not been awarded within two years of approval, the approval shall not be valid.~~ After approval, as required in subdivision 2, final plans and the approval shall be filed with the commissioner of education. If substantial changes are made to approved plans, documents reflecting the changes shall be submitted to the commissioner for approval. Upon completing a project, the school board shall certify to the commissioner that the project was completed according to the approved plans.

Sec. 7. Minnesota Statutes 1990, section 121.15, subdivision 6, is amended to read:

Subd. 6. [REVIEW AND COMMENT.] (a) Before May 1, 1992, no referendum for bonds or solicitation of bids for new construction, expansion, or remodeling of an educational facility that requires an expenditure in excess of $400,000 per school site shall be *initiated* prior to review and comment by the commissioner. A school board shall not separate portions of a single project into components to avoid the requirements of this subdivision.

(b) After May 1, 1992, a district must not hold a referendum for bonds or solicit bids for new construction, expansion, or remodeling of an educational facility that requires an expenditure of more than $50,000 unless the five-year facilities plan describing the project has been approved.

(c) After May 1, 1992, a district must not hold a referendum for

bonds or solicit bids for new construction, expansion, or remodeling of an educational facility that requires an expenditure of more than $1,000,000 per school site unless the project has received a positive or unfavorable review and comment separate from the five-year facilities plan from the commissioner.

Sec. 8. Minnesota Statutes 1990, section 121.15, subdivision 7, is amended to read:

Subd. 7. [INFORMATION REQUIRED FOR REVIEW AND COMMENT.] A school ~~board proposing to construct a facility described in subdivision 6 shall submit to the commissioner a proposal containing information including~~ district's application for review and comment as required by subdivision 6, paragraph (c), must include at least the following information:

~~(a)~~ (1) the geographic area ~~proposed to be~~ served by existing facilities and any proposed new facilities, whether within or outside the boundaries of the school district;

~~(b)~~ (2) the people ~~proposed to be~~ served by existing facilities and any proposed new facilities, including census findings and projections for the next ten years of the number of preschool and school-aged people in the area;

~~(c)~~ (3) the ~~reasonably~~ facilities that now exist and a description of any anticipated need for ~~the~~ a new facility or ~~service~~ additional services to be provided;

~~(d)~~ (4) a description of the construction and site in reasonable detail~~, including: the expenditures contemplated~~; as it relates to space for the educational program provided by the project; the estimated annual operating cost, including the anticipated salary and number of new staff necessitated by the proposal; ~~and~~ an evaluation of the energy efficiency and effectiveness of the construction, including estimated annual energy costs; and a description of the telephone capabilities of the facility and its classrooms;

~~(e)~~ (5) a description of existing facilities within the area to be served and within school districts adjacent to the area to be served; the extent to which existing facilities or services are used; the extent to which alternate space is available, including other school districts, post-secondary institutions, other public or private buildings, or other noneducation community resources; and the anticipated effect that the facility will have on existing facilities and services;

~~(f)~~ (6) the anticipated benefit of the new facility to the area;

~~(g)~~ (7) if known, the relationship of the proposed new construction to any priorities that have been established for the area to be served;

~~(h) the availability and manner of financing the facility and the estimated date to begin and complete the facility;~~

~~(i)~~ (8) desegregation requirements that cannot be met by any other reasonable means;

~~(j)~~ (9) the relationship of the proposed facility to the cooperative integrated learning needs of the area; ~~and~~

~~(k)~~ (10) the effects of the proposed facility on the district's operating budget; and

(11) information in the current approved five-year plan about the project.

Sec. 9. Minnesota Statutes 1990, section 121.15, subdivision 8, is amended to read:

Subd. 8. [REVIEW OF ~~PROPOSALS~~ FIVE-YEAR PLANS.] ~~In reviewing each proposal,~~ The commissioner shall ~~submit to the school board, within 60 days of receiving the proposal, the review and comment about the educational and economic advisability of the project~~ approve or disapprove each district's five-year facilities plan by May 1 of each year. ~~The review and comment~~ Approval or disapproval shall be based on information submitted with the proposal and other information the commissioner determines is necessary. If the commissioner ~~submits a negative review and comment for a portion of a proposal~~ disapproves a district's five-year plan, the ~~review and comment~~ commissioner shall clearly specify which portion of the ~~proposal received a negative review and comment~~ five-year plan resulted in disapproval and which portion of the ~~proposal received a positive review and comment~~ five-year plan was acceptable. Approval of projects contained in the five-year plan does not limit the commissioner's review and comment authority under subdivision 6, paragraph (c), and section 121.148.

Sec. 10. Minnesota Statutes 1990, section 121.15, subdivision 9, is amended to read:

Subd. 9. [PUBLICATION.] At least 20 days but not more than 60 days before a referendum for bonds or solicitation of bids ~~to construct a facility described in subdivision 6,~~ for a project that has received a positive or unfavorable review and comment under section 121.148, the school board shall publish the commissioner's review and comment of that project in the legal newspaper of the district. Supplementary information shall be available to the public.

Sec. 11. Minnesota Statutes 1990, section 121.155, is amended to read:

121.155 [JOINT POWERS AGREEMENTS FOR ~~EDUCATIONAL~~ FACILITIES.]

Subdivision 1. [INSTRUCTIONAL FACILITIES.] Any group of districts may form a joint powers district under section 471.59 representing all participating districts to build or acquire a facility to be used for instructional purposes. The joint powers board must submit the project for review and comment under section 121.15. The joint powers board must hold a hearing on the proposal. The joint powers district must submit the question of authorizing the borrowing of funds for the project to the voters of the joint powers district at a special election. The question submitted shall state the total amount of funding needed from all sources. The joint powers board may issue the bonds according to chapter 475 and certify the levy required by section 475.61 only if a majority of those voting on the question vote in the affirmative and only after the school boards of each member district have adopted a resolution pledging the full faith and credit of that district. The resolution shall irrevocably commit that district to pay a proportionate share, based on pupil units, of any debt levy shortages that, together with other funds available, would allow the joint powers board to pay the principal and interest on the obligations. The district's payment of its proportionate share of the shortfall shall be made from the district's capital expenditure fund. The clerk of the joint powers board must certify the vote of the bond election to the commissioner of education.

Subd. 2. [SHARED FACILITIES.] A group of governmental units may form a joint powers district under section 471.59 representing all participating units to build or acquire a facility. The joint powers board must submit the project for review and comment under section 121.15. The joint powers board must hold a hearing on the proposal. The joint powers district must submit the question of authorizing the borrowing of funds for the project to the voters of the joint powers district at a special election. The question submitted shall state the total amount of funding needed from all sources. The joint powers board may issue the bonds according to chapter 475 and certify the levy required by section 475.61 only if a majority of those voting on the question vote in the affirmative and only after the boards of each member unit have adopted a resolution pledging the full faith and credit of that unit. The resolution must irrevocably commit that unit to pay an agreed upon share of any debt levy shortages that, together with other funds available, would allow the joint powers board to pay the principal and interest on the obligations. The clerk of the joint powers board must certify the vote of the bond election to the commissioner of education.

Sec. 12. Minnesota Statutes 1990, section 124.195, subdivision 9, is amended to read:

Subd. 9. [PAYMENT PERCENTAGE FOR CERTAIN AIDS.] One hundred percent of the aid for the current fiscal year must be paid for

the following aids: management information center subsidies, according to section 121.935; reimbursement for transportation to post-secondary institutions, according to section 123.3514, subdivision 8; aid for the program for adults with disabilities, according to section 124.271, subdivision 7; school lunch aid, according to section 124.646; tribal contract school aid, according to section 124.85; hearing impaired support services aid, according to section 121.201; Indian post-secondary preparation grants according to section 124.481; ~~and~~ integration grants according to Laws 1989, chapter 329, article 8, section 14, subdivision 3; and debt service aid according to section 124.95, subdivision 5.

Sec. 13. Minnesota Statutes 1990, section 124.83, subdivision 4, is amended to read:

Subd. 4. [HEALTH AND SAFETY LEVY.] (a) To receive health and safety revenue, a district may levy an amount equal to the district's health and safety revenue as defined in subdivision 3 multiplied by the lesser of one, or the ratio of:

(1) the quotient derived by dividing (a) the adjusted gross tax capacity for fiscal year 1991, and (b) the adjusted net tax capacity for 1992 and later fiscal years, of the district for the year preceding the year the levy is certified by the actual pupil units in the district for the school year to which the levy is attributable, to

(2) ~~$7,103.60 for fiscal year 1991 and $5,304~~ $3,515 for 1992 and later fiscal years.

(b) For fiscal year 1993, total health and safety revenue must not exceed $58,800,000. The commissioner of education shall establish criteria for prioritizing district health and safety project applications not to exceed this amount.

Sec. 14. [124.95] [DEBT SERVICE EQUALIZATION PROGRAM.]

Subdivision 1. [DEFINITIONS.] For purposes of this section, the required debt service levy of a district is defined as follows:

(1) the amount needed to produce between five and six percent in excess of the amount needed to meet when due the principal and interest payments on the obligations of the district, including the amounts necessary for repayment of energy loans according to section 216C.37, debt service loans and capital loans, minus

(2) the amount of any surplus remaining in the debt service fund when the obligations and interest on them have been paid.

Subd. 2. [ELIGIBILITY.] To be eligible for debt service equalization revenue, the following conditions must be met:

(1) the required debt service levy of a district must exceed the amount raised by a level of eight percent times the adjusted net tax capacity of the district;

(2) for bond issues approved after July 1, 1990, the construction project must have received a positive review and comment according to section 121.15; and

(3) the bond schedule must be approved by the commissioner and, if necessary, adjusted to reflect a 20-year maturity schedule.

Subd. 3. [DEBT SERVICE EQUALIZATION REVENUE.] (a) For fiscal years 1995 and later, the debt service equalization revenue of a district equals the required debt service levy minus the amount raised by a levy of eight percent times the adjusted net tax capacity of the district.

(b) For fiscal year 1993, debt service equalization revenue equals one-third of the amount calculated in paragraph (a).

(c) For fiscal year 1994, debt service equalization revenue equals two-thirds of the amount calculated in paragraph (a).

Subd. 4. [EQUALIZED DEBT SERVICE LEVY.] To obtain debt service equalization revenue, a district must levy an amount not to exceed the district's debt service equalization revenue times the lesser of one or the ratio of:

(1) the quotient derived by dividing the adjusted net tax capacity of the district for the year before the year the levy is certified by the actual pupil units in the district for the year to which the levy is attributable; or

(2) the equalizing factor as defined in section 124A.02, subdivision 8, for the year to which the levy is attributable.

Subd. 5. [DEBT SERVICE EQUALIZATION AID.] A district's debt service equalization aid is the difference between the debt service equalization revenue and the equalized debt service levy. A district's debt service equalization aid must not be prorated.

Subd. 6. [DEBT SERVICE EQUALIZATION AID PAYMENT SCHEDULE.] Debt service equalization aid must be paid as follows: one-third before September 15, one-third before December 15, and one-third before March 15 of each year.

Sec. 15. [124.96] [ANNUAL DEBT SERVICE EQUALIZATION AID APPROPRIATION.]

There is annually appropriated from the general fund to the department of education the amount necessary for debt service equalization aid. This amount must be reduced by the amount of any money specifically appropriated for the same purpose in any year from any state fund.

Sec. 16. [124.97] [DEBT SERVICE LEVY.]

A school district may levy the amounts necessary to make payments for bonds issued and for interest on them, including the bonds and interest on them, issued as authorized by Minnesota Statutes 1974, section 275.125, subdivision 3, clause (7)(C); and the amounts necessary for repayment of debt service loans and capital loans, minus the amount of debt service equalization revenue of the district.

Sec. 17. Minnesota Statutes 1990, section 275.125, subdivision 4, is amended to read:

Subd. 4. [MISCELLANEOUS LEVY AUTHORIZATIONS.] (a) A school district may levy ~~the amounts necessary to make payments for bonds issued and for interest thereon, including the bonds and interest thereon, issued as authorized by Minnesota Statutes 1974, section 275.125, subdivision 3, clause (7)(C); the amounts necessary for repayment of debt service loans and capital loans;~~ the amounts necessary to pay the district's obligations under section 6.62; the amount authorized for liabilities of dissolved districts pursuant to section 122.45; the amounts necessary to pay the district's obligations under section 268.06, subdivision 25; the amounts necessary to pay for job placement services offered to employees who may become eligible for benefits pursuant to section 268.08; the amounts necessary to pay the district's obligations under section 127.05; the amounts authorized by section 122.531; the amounts necessary to pay the district's obligations under section 122.533; and for severance pay required by this section and section 122.535, subdivision 6.

(b) An education district that negotiates a collective bargaining agreement for teachers under section 122.937 may certify to the department of education the amount necessary to pay all of the *member* districts' obligations and the education district's obligations under section 268.06, subdivision 25.

The department of education must allocate the levy amount proportionately among the member districts based on adjusted net tax capacity. The member districts must levy the amount allocated.

(c) Each year, a member district of an education district that levies under this subdivision must transfer the amount of revenue certified under paragraph (b) to the education district board according to this subdivision. By June 20 and November 30 of each year, an amount must be transferred equal to:

(1) 50 percent times

(2) the amount certified in paragraph (b) minus homestead and agricultural credit aid allocated for that levy according to section 273.1398, subdivision 6.

Sec. 18. Minnesota Statutes 1990, section 275.125, subdivision 11d, is amended to read:

Subd. 11d. [EXTRA CAPITAL ~~EXPENDITURE~~ LEVY ~~FOR LEASING~~ TO LEASE BUILDINGS AND SITES.] When a district finds it economically advantageous to rent or lease a building or site for any instructional purposes and it determines that the capital expenditure facilities revenues authorized under section 124.243 are insufficient for this purpose, it may apply to the commissioner for permission to make an additional capital expenditure levy for this purpose. An application for permission to levy under this subdivision must contain financial justification for the proposed levy, the terms and conditions of the proposed lease, and a description of the space to be leased and its proposed use. The criteria for approval of applications to levy under this subdivision must include: the reasonableness of the price, the appropriateness of the space to the proposed activity, the feasibility of transporting pupils to the leased building, conformity of the lease to the laws and rules of the state of Minnesota, and the appropriateness of the proposed lease to the space needs and the financial condition of the district. The commissioner must not authorize a levy under this subdivision in an amount greater than the cost to the district of renting or leasing a building or site for approved purposes. The proceeds of this levy must not be used for leasing or renting a facility or site owned by a district or for custodial or other maintenance services.

Sec. 19. [373.42] [COUNTY FACILITIES GROUP.]

Subdivision 1. [ESTABLISHMENT.] Each county outside of the seven-county metropolitan area must establish a county facilities group by July 1, 1992.

Subd. 2. [MEMBERSHIP.] A county facilities group consists of at least one representative from the county board, one representative from each city located within the county, one representative from each school district located within the county, up to three representatives of townships selected by the county board, and two other members selected by the county board.

Subd. 3. [DUTIES.] The county facilities group shall develop an inventory of all public buildings located within the county. The inventory shall include an assessment of the condition of each public building and document any under used space in the buildings.

Subd. 4. [COMMENT.] The county facilities group shall review and comment on any proposed joint facility and may submit comments to the commissioner of education on any school district facility that is proposed within the county.

Sec. 20. [473.23] [PUBLIC FACILITIES REVIEW.]

Subdivision 1. [INVENTORY.] The metropolitan council, in consultation with appropriate state agencies and local officials, must develop an inventory of all public buildings located within the metropolitan area. The inventory must include an assessment of the condition of each public building and document any under used space in the buildings.

Subd. 2. [SHARED FACILITIES.] The metropolitan council must review and comment on any joint facility proposed under section 121.155 and may submit comments to the commissioner of education on any school district facility that is proposed within the metropolitan area.

Sec. 21. [APPLICATION.]

Minnesota Statutes, section 473.23, applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 22. [HEALTH AND SAFETY LEVY ADJUSTMENT.]

The department of education shall adjust the 1991 payable 1992 levy for each school district or intermediate district by the amount of the change in the district's health and safety levy for fiscal year 1992 according to Minnesota Statutes, section 124.83, subdivision 4, resulting from the change to the health and safety equalizing factor in section 12. Notwithstanding Minnesota Statutes, section 121.904, the entire amount of this levy must be recognized as revenue for fiscal year 1992.

Sec. 23. [STATE PLANNING AGENCY EVALUATION.]

The state planning agency shall evaluate the feasibility and cost-effectiveness of requiring local units of government or the department of administration to first offer any surplus buildings to other local units of government before selling the buildings to a nongovernmental entity. The results of the evaluation must be submitted to the legislature by January 15, 1992.

Sec. 24. [BONDS FOR CERTAIN CAPITAL FACILITIES.]

In addition to other bonding authority, with approval of the commissioner, independent school districts No. 393, LeSueur, No. 508, St. Peter, and No. 734, Henderson, may issue bonds for certain

capital projects under this section. The bonds must be used only to make capital improvements including equipping school buildings, improving handicap accessibility to school buildings, and bringing school buildings into compliance with fire codes.

Before a district issues bonds under this subdivision, it must publish notice of the intended projects, related costs, and the total amount of district indebtedness.

A bond issue tentatively authorized by the board under this subdivision becomes finally authorized unless a petition signed by more than 15 percent of the registered voters of the school district is filed with the school board within 30 days of the board's action. The percentage is to be determined with reference to the number of registered voters in the school district on the last day before the petition is filed with the school board. The petition must call for a referendum on the question of whether to issue the bonds for the projects under this section. The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this section.

The bonds may be issued in a principal amount, that when combined with interest thereon, will be paid off with 50 percent of current and anticipated revenue for capital facilities under this section or a successor section for the current year plus projected revenue not greater than the current year for the next ten years. Once finally authorized, the district must set aside 50 percent of the current year's revenue for capital facilities under this section or a successor section each year in a separate account until all principal and interest on the bonds is paid. The district must annually transfer this amount from its capital fund to the debt redemption fund. The bonds must be paid off within ten years of issuance. The bonds must be issued in compliance with Minnesota Statutes, chapter 475, except as otherwise provided in this section.

Sec. 25. [HUTCHINSON SCHOOL DISTRICT LEASE PURCHASE LEVY.]

Notwithstanding Minnesota Statutes, section 275.125 or other law, independent school district No. 423, Hutchinson, may levy each year for the annual payments required on a lease purchase agreement for a facility for level V emotionally and behaviorally disturbed special education students.

Sec. 26. [ST. PAUL SCHOOL DISTRICT BONDS.]

Subdivision 1. [BONDING AUTHORIZATION.] To provide funds to acquire or better school facilities, independent school district No. 625 may by two-thirds majority vote of all the members of the board of directors issue general obligation bonds in one or more series in calendar years 1992 to 1996 as provided in this section. The

aggregate principal amount of any bonds issued under this section in calendar year 1992 must not exceed $12,500,000 and in calendar years 1993 to 1996 must not exceed $9,000,000 each year. Issuance of the bonds is not subject to Minnesota Statutes, section 475.58 or 475.59. As with other bonds issued by independent school district No. 625, the first sentence of Minnesota Statutes, section 475.53, subdivision 5, does not apply to issuance of the bonds. The bonds must otherwise be issued as provided in Minnesota Statutes, chapter 475. The authority to issue bonds under this section is in addition to any bonding authority authorized by Minnesota Statutes, chapter 124, or other law. The amount of bonding authority authorized under this section must be disregarded in calculating the bonding or net debt limits of Minnesota Statutes, chapter 124, or any other law other than Minnesota Statutes, section 475.53, subdivision 4.

Subd. 2. [TAX LEVY FOR DEBT SERVICE.] To pay the principal of and interest on bonds issued under subdivision 1, independent school district No. 625 must levy a tax annually in an amount required under Minnesota Statutes, section 475.61, subdivisions 1 and 3. The tax authorized under this section is in addition to the taxes authorized to be levied under Minnesota Statutes, chapter 124A or 275, or other law.

Sec. 27. [TAXPAYER NOTIFICATION.]

Subdivision 1. [APPLICABILITY.] This section applies to bonding authority granted under section 26.

Subd. 2. [NOTICE.] (a) A school board must prepare a notice of the public meeting on the proposed sale of all or any of the bonds and mail the notice to each postal patron residing within the school district. The notice must be mailed at least 15 days but not more than 30 days before the meeting. Notice of the meeting must also be posted in the administrative office of the school district and must be published twice during the 14 days before the meeting in the official newspaper of the city in which the school district is located.

(b) The notice must contain the following information:

(1) the proposed dollar amount of bonds to be issued;

(2) the dollar amount of the levy increase necessary to pay the principal and interest on the newly authorized bonds;

(3) the estimated levy amount and net tax capacity rate necessary to make the debt service payments on any existing outstanding debt;

(4) the projected effects on individual property types; and

(5) the required levy and principal and interest on all outstanding bonds in addition to the bonds proposed under clause (1).

(c) To comply with paragraph (b), clause (4), the notice must show the projected annual dollar increase and net tax capacity rate increase for a representative range of residential homestead, residential nonhomestead, apartments, and commercial-industrial properties located within each state senate district in the school district.

Subd. 3. [BOND AUTHORIZATION.] A school board may vote to issue bonds newly authorized under section 26 only after complying with the requirements of subdivision 2.

Sec. 28. [MAXIMUM EFFORT CAPITAL LOAN DEBT REDEMPTION EXCESS.]

Notwithstanding Minnesota Statutes, section 124.431, subdivision 11, or any other law to the contrary, a school district having an outstanding capital loan that has an excess amount in the debt redemption fund as calculated according to Minnesota Statutes, section 124.431, subdivision 11, may apply to the commissioner for an adjustment to the amount of excess owed to the state. The commissioner may reduce the excess that a district owes the state if a district's capital loan is outstanding and if the commissioner determines that any of the following conditions apply:

(1) a district is likely to incur a substantial property tax delinquency that will adversely affect the district's ability to make its scheduled bond payments;

(2) a district's agreement with its bondholders or its taxpayers could be impaired; or

(3) the district's tax capacity per pupil is less than one-tenth of the equalizing factor as defined in Minnesota Statutes, section 124A.02, subdivision 8. The amount of the excess that may be forgiven may not exceed $200,000 in a single year for any district.

Sec. 29. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [CAPITAL EXPENDITURE FACILITIES AID.] For capital expenditure facilities aid according to Minnesota Statutes, section 124.243, subdivision 5:

$72,940,000 1992

$71,816,000 1993

The 1992 appropriation includes $10,920,000 for 1991 and $62,020,000 for 1992.

The 1993 appropriation includes $10,944,000 for 1992 and $60,872,000 for 1993.

Subd. 3. [CAPITAL EXPENDITURE EQUIPMENT AID.] For capital expenditure equipment aid according to Minnesota Statutes, section 124.244, subdivision 3:

$36,593,000 1992

$36,052,000 1993

The 1992 appropriation includes $5,460,000 for 1991 and $31,133,000 for 1992.

The 1993 appropriation includes $5,493,000 for 1992 and $30,559,000 for 1993.

Subd. 4. [HEALTH AND SAFETY AID.] For health and safety aid according to Minnesota Statutes, section 124.83, subdivision 5:

$11,578,000 1992

$10,427,000 1993

The 1992 appropriation includes $1,650,000 for 1991 and $9,928,000 for 1992.

The 1993 appropriation includes $1,752,000 for 1992 and $8,675,000 for 1993.

Subd. 5. [MAXIMUM EFFORT SCHOOL LOAN FUND.] For the maximum effort school loan fund:

$0 1992

$6,139,000 1993

These appropriations must be placed in the loan repayment account of the maximum effort school loan fund for the payment of the principal and interest on school loan bonds, as provided in Minnesota Statutes, section 124.46, to the extent that money in the fund is not sufficient to pay when due the full amount of principal and interest due on school loan bonds. The purpose of these appropriations is to ensure that sufficient money is available in the

fund to prevent a statewide property tax levy as would otherwise be required pursuant to Minnesota Statutes, section 124.46, subdivision 3. Notwithstanding the provisions of Minnesota Statutes, section 124.39, subdivision 5, any amount of the appropriation made in this section which is not needed to pay when due the principal and interest due on school loan bonds must not be transferred to the debt service loan account of the maximum effort school loan fund but instead shall cancel and revert to the general fund.

Subd. 6. [DEBT SERVICE AID.] For debt service aid according to Minnesota Statutes, section 124.95, subdivision 5:

$10,100,000 1993

Sec. 30. [EFFECTIVE DATE; LOCAL APPROVAL.]

Sections 26 and 27 are effective the day after the governing body of independent school district No. 625 complies with Minnesota Statutes, sections 645.021, subdivision 3.

ARTICLE 6

EDUCATION ORGANIZATION AND COOPERATION

Section 1. Minnesota Statutes 1990, section 120.08, subdivision 3, is amended to read:

Subd. 3. [SEVERANCE PAY.] A district shall pay severance pay to a teacher who is~~:~~

~~(1)~~ placed on unrequested leave of absence by the district ~~because the teacher's position is discontinued~~ as a result of an agreement under this section~~; and~~

~~(2) not employed by another district for the school year following the teacher's placement on unrequested leave of absence~~. A teacher is eligible under this subdivision if the teacher:

(1) is a teacher, as defined in section 125.12, subdivision 1, but not a superintendent; and

(2) has a continuing contract with the district according to section 125.12, subdivision 4.

The amount of severance pay equals the teacher's salary for the school year during which the teacher was placed on unrequested leave of absence minus the gross amount the teacher was paid during the 12 months following the teacher's termination of salary, by an entity whose teachers by law must possess a valid Minnesota

teaching license and minus the amount a teacher receives as severance or other similar pay according to a contract with the district or district policy. These entities include, but are not limited to, the school district that placed the teacher on unrequested leave of absence, another school district in Minnesota, an education district, an intermediate school district, an ECSU, a board formed under section 471.59, a technical college, a state residential academy, the Minnesota center for arts education, a vocational center, or a special education cooperative. These entities do not include a school district in another state, a Minnesota public post-secondary institution, and a state agency. Only amounts earned by the teacher as a substitute teacher or in a position requiring a valid Minnesota teaching license must be subtracted. A teacher may decline any offer of employment as a teacher without loss of rights to severance pay.

At the expiration of the first six months following termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during the first six months to determine the amount of severance pay that is due for that period. At the expiration of the 12 months following the termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during the second six months to determine the remaining amount of severance pay that is due.

The severance pay ~~shall be equivalent to the teacher's salary for one year and~~ is subject to section 465.72. The district may levy annually according to section 275.125, subdivision 4, for the severance pay.

Sec. 2. Minnesota Statutes 1990, section 121.912, is amended by adding a subdivision to read:

Subd. 6. [ACCOUNT TRANSFER FOR REORGANIZING DISTRICTS.] A school district that has reorganized according to section 122.22, 122.23, or sections 122.241 to 122.248 may make permanent transfers between any of the funds in the newly created or enlarged district with the exception of the debt redemption fund. Fund transfers under this section may be made only during the year following the effective date of reorganization.

Sec. 3. [121.915] [REORGANIZATION OPERATING DEBT.]

The "reorganization operating debt" of a school district means the net negative undesignated fund balance in all school district funds, other than capital expenditure, building construction, debt redemption, trust and agency, and post-secondary vocational technical education funds, calculated in accordance with the uniform financial accounting and reporting standards for Minnesota school districts as of:

(1) June 30 of the fiscal year before the first year that a district receives revenue according to section 124.2725; or

(2) June 30 of the fiscal year before the effective date of reorganization according to section 122.22 or 122.23.

Sec. 4. Minnesota Statutes 1990, section 122.22, subdivision 7a, is amended to read:

Subd. 7a. Before the day of a hearing ordered pursuant to this section, each district adjoining the district proposed for dissolution shall provide the following information and resolution to the county auditor of the county containing the greatest land area of the district proposed for dissolution:

(a) The outstanding bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, and the capital loan obligation of the district;

(b) The net tax capacity of the district;

(c) The most current school tax rates for the district, including any referendum, discretionary, or other optional levies being assessed currently and the expected duration of the levies;

(d) A resolution passed by the school board of the district stating that if taxable property of the dissolved district is attached to it, one of the following requirements is imposed: (1) the taxable property of the dissolving district which is attached to its district shall not be liable for the bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or the capital loan obligation of the district which existed as of the time of the attachment; (2) the taxable property of the dissolving district which is attached to its district shall be liable for the payment of the bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or the capital loan obligation of the district which existed as of the time of the attachment in the proportion which the net tax capacity of that part of the dissolving district which is included in the newly enlarged district bears to the net tax capacity of the entire district as of the time of attachment; or (3) the taxable property of the dissolving district which is attached to its district shall be liable for some specified portion of the amount that could be requested pursuant to subclause (2).

An apportionment pursuant to subclause (2) or (3) shall be made by the county auditor of the county containing the greatest land area of the district proposed for transfer.

An apportionment of bonded indebtedness, outstanding energy

loans made according to section 216C.37 or sections 298.292 to 298.298, or capital loan obligation pursuant to subclause (2) or (3) shall not relieve any property from any tax liability for payment of any bonded or capital obligation, but taxable property in a district enlarged pursuant to this section becomes primarily liable for the payment of the bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or capital loan obligation to the extent of the proportion stated.

Sec. 5. Minnesota Statutes 1990, section 122.22, subdivision 9, is amended to read:

Subd. 9. An order issued under subdivision 8, clause (b), shall contain the following:

(a) A statement that the district is dissolved unless the results of an election held pursuant to subdivision 11 provide otherwise;

(b) A description by words or plat or both showing the disposition of territory in the district to be dissolved;

(c) The outstanding bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, and the capital loan obligation of the district to be dissolved;

(d) A statement requiring the fulfillment of the requirements imposed by each adjoining district to which territory in the dissolving district is to be attached regarding the assumption of its outstanding preexisting bonded indebtedness by any territory from the dissolving district which is attached to it;

(e) An effective date for the order. The effective date shall be at least three months after the date of the order, and shall be July 1 of an odd-numbered year; and

(f) Other information the county board may desire to include.

The auditor shall within ten days from its issuance serve a copy of the order by mail upon the clerk of the district to be dissolved and upon the clerk of each district to which the order attaches any territory of the district to be dissolved and upon the auditor of each other county in which all or any part of the district to be dissolved or any district to which the order attaches territory lies, and upon the commissioner.

Sec. 6. Minnesota Statutes 1990, section 122.23, subdivision 2, is amended to read:

Subd. 2. (a) Upon a resolution of a school board in the area proposed for consolidation or upon receipt of a petition therefor

executed by 25 percent of the voters resident in the area proposed for consolidation or by 50 such voters, whichever is lesser, the county auditor of the county which contains the greatest land area of the proposed new district shall forthwith cause a plat to be prepared. The resolution or petition shall show the approximate area proposed for consolidation.

(b) The resolution or petition may propose ~~either~~ the following:

(1) that the bonded debt of the component districts will be paid according to the levies previously made for that debt under chapter 475, as provided in subdivision 16a, or that the taxable property in the newly created district will be taxable for the payment of the bonded debt previously incurred by any component district as provided in subdivision 16b. ~~The resolution or petition may also propose~~;

(2) that obligations for a capital loan or an energy loan made according to section 216C.37 or sections 298.292 to 298.298 outstanding in a preexisting district as of the effective date of consolidation remain solely with the preexisting district that obtained the loan, or that the capital loan or energy loan obligations will be assumed by the newly created or enlarged district and paid by the newly created or enlarged district on behalf of the preexisting district that obtained the loan;

~~(c)~~ (3) that referendum levies previously approved by voters of the component districts pursuant to section 124A.03, subdivision 2, or its predecessor provision, be combined as provided in section 122.531, subdivision 2a or 2b, or that the referendum levies be discontinued. ~~The resolution or petition may also propose~~;

(4) that the board of the newly created district consist of seven members~~, and may also propose the establishment of~~; or

(5) that separate election districts from which school board members will be elected, the boundaries of these election districts, and the initial term of the member elected from each of these election districts be established. If a county auditor receives more than one request for a plat and the requests involve parts of identical districts, the auditor shall forthwith prepare a plat which in the auditor's opinion best serves the educational interests of the inhabitants of the districts or areas affected.

(c) The plat shall show:

~~(a)~~ (1) Boundaries of the proposed district, as determined by the county auditor, and present district boundaries,

~~(b)~~ (2) The location of school buildings in the area proposed as a

new district and the location of school buildings in adjoining districts,

~~(c)~~ (3) The boundaries of any proposed separate election districts, and

~~(d)~~ (4) Other pertinent information as determined by the county auditor.

Sec. 7. Minnesota Statutes 1990, section 122.23, subdivision 3, is amended to read:

Subd. 3. A supporting statement to accompany the plat shall be prepared by the county auditor. The statement shall contain:

(a) The adjusted net tax capacity of property in the proposed district,

(b) If a part of any district is included in the proposed new district, the adjusted net tax capacity of the property and the approximate number of pupils residing in the part of the district included shall be shown separately and the adjusted net tax capacity of the property and the approximate number of pupils residing in the part of the district not included shall also be shown,

(c) The reasons for the proposed consolidation, including a statement that at the time the plat is submitted to the state board of education, no proceedings are pending to dissolve any district involved in the plat unless all of the district to be dissolved and all of each district to which attachment is proposed is included in the plat,

(d) A statement showing that the jurisdictional fact requirements of subdivision 1 are met by the proposal,

(e) Any proposal contained in the resolution or petition regarding the disposition of the bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, capital loan obligations, or referendum levies of component districts,

(f) Any other information the county auditor desires to include, and

(g) The signature of the county auditor.

Sec. 8. Minnesota Statutes 1990, section 122.242, subdivision 9, is amended to read:

Subd. 9. [FINANCES.] The plan must state:

(1) whether debt service for the bonds outstanding at the time of combination remains solely with the district that issued the bonds or whether the debt service for the bonds will be assumed by the combined district and paid by the combined district on behalf of the district that issued the bonds;

(2) whether obligations for a capital loan or energy loan made according to section 216C.37 or sections 298.292 to 298.298 outstanding at the time of combination remain solely with the district that obtained the loan, or whether the capital loan obligations will be assumed by the combined district and paid by the combined district on behalf of the district that obtained the loan;

(3) the treatment of debt service levies and referendum levies;

~~(3)~~ (4) whether the cooperating or combined district will levy for reorganization operating debt according to section 3, clause (1); and

(5) two-, five-, and ten-year projections, prepared by the department of education upon the request of any district, of revenues, expenditures, and property taxes for each district if it cooperated and combined and if it did not.

Sec. 9. Minnesota Statutes 1990, section 122.531, is amended by adding a subdivision to read:

Subd. 4a. [REORGANIZATION OPERATING DEBT LEVIES.] (a) A district that is cooperating or has combined according to sections 122.241 to 122.248 may levy to eliminate reorganization operating debt as defined in section 3, clause (1). The amount of the debt must be certified over a period not to exceed five years. After the effective date of combination according to sections 122.241 to 122.248, the levy may be certified and spread only either on the property in the combined district that would have been taxable in the preexisting district that incurred the debt or on all of the taxable property in the combined district.

(b) A district that has reorganized according to section 122.22 or 122.23 may levy to eliminate reorganization operating debt as defined in section 3, clause (2). The amount of debt must be certified over a period not to exceed five years and may be spread either only on the property in the newly created or enlarged district which was taxable in the preexisting district that incurred the debt or on all of the taxable property in the newly created or enlarged district.

Sec. 10. Minnesota Statutes 1990, section 122.531, is amended by adding a subdivision to read:

Subd. 4b. [CAPITAL LOAN LEVIES.] A district that is newly created or enlarged according to section 122.22, 122.23, or sections

122.241 to 122.248, may levy for a capital loan obligation incurred by a preexisting district. The levy may be certified and spread on either only the property in the newly created or enlarged district that would have been taxable in the preexisting district that incurred the capital loan obligation or on all of the taxable property in the newly created or enlarged district.

Sec. 11. Minnesota Statutes 1990, section 122.535, subdivision 6, is amended to read:

Subd. 6. [SEVERANCE PAY.] A district shall pay severance pay to a teacher who is:

~~(1)~~ placed on unrequested leave of absence by the district ~~because the teacher's position is discontinued~~ as a result of the agreement; ~~and~~

~~(2) not employed by another district for the school year following the teacher's placement on unrequested leave of absence~~. A teacher is eligible under this subdivision if the teacher:

(1) is a teacher, as defined in section 125.12, subdivision 1, but not a superintendent; and

(2) has a continuing contract with the district according to section 125.12, subdivision 4.

The amount of severance pay equals the teacher's salary for the school year during which the teacher was placed on unrequested leave of absence minus the gross amount the teacher was paid during the 12 months following the teacher's termination of salary, by an entity whose teachers by law must possess a valid Minnesota teaching license and minus the amount a teacher receives as severance or other similar pay according to a contract with the district or district policy. These entities include, but are not limited to, the school district that placed the teacher on unrequested leave of absence, another school district in Minnesota, an education district, an intermediate school district, an ECSU, a board formed under section 471.59, a technical college, a state residential academy, the Minnesota center for arts education, a vocational center, or a special education cooperative. These entities do not include a school district in another state, a Minnesota public post-secondary institution, and a state agency. Only amounts earned by the teacher as a substitute teacher or in a position requiring a valid Minnesota teaching license must be subtracted. A teacher may decline any offer of employment as a teacher without loss of rights to severance pay.

At the expiration of the first six months following termination of the teacher's salary, the district may require the teacher to provide

documented evidence of the teacher's employers and gross earnings during the first six months to determine the amount of severance pay that is due for that period. At the expiration of the 12 months following the termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during the second six months to determine the remaining amount of severance pay that is due.

The severance pay ~~shall be equivalent to the teacher's salary for one year and~~ is subject to section 465.72. The district may levy annually according to section 275.125, subdivision 4, for the severance pay.

Sec. 12. Minnesota Statutes 1990, section 122.94, subdivision 6, is amended to read:

Subd. 6. [COMMON ACADEMIC CALENDAR.] For 1991-1992 and later school years, the agreement must require a common academic calendar for all member districts of an education district. For purposes of this subdivision, a common academic calendar must include ~~at least~~ the following:

(1) ~~the number of days of instruction~~ at least the same number of instructional days in common as are offered by the member district with the fewest number of instructional days;

(2) the same first and last days of instruction in a school year; and

(3) ~~the specific days reserved for staff development~~ at least the same number of staff development days in common as are provided by the member district with the fewest number of staff development days.

Before the 1990-1991 school year, each education district must report to the state board of education on ways that other components of the academic calendar in each member district will affect the implementation of the five-year plan described in section 122.945. Other components include the length of the school day, the time the school day begins and ends, and the number of periods in the day.

Sec. 13. Minnesota Statutes 1990, section 124.2721, subdivision 2, is amended to read:

Subd. 2. [REVENUE.] Each year the education district board shall certify to the department of education the amount of education district revenue to be raised. Education district revenue shall be the lesser of:

(1) the amount certified by the education district board~~;~~, or

(2) ~~the sum of:~~

~~(i) $60 in basic education district revenue; and~~

~~(ii) $50 for education districts authorized to receive revenue under Laws 1990, chapter 562, article 6, section 36, subdivision 2,~~ $52 times the actual pupil units in the education district.

Sec. 14. Minnesota Statutes 1990, section 124.2721, subdivision 3, is amended to read:

Subd. 3. [LEVY.] The education district levy is equal to the following:

(1) the education district revenue according to subdivision 2, times

(2) the lesser of

(a) one, or

(b) the ratio of the adjusted net tax capacity of the education district divided by the number of actual pupil units in the education district to an amount equal to ~~the sum of subdivision 2, clause (2), items (i) and (ii), for which the education district is eligible~~ $52 divided by 1.87 percent.

The department of education shall allocate the levy amount proportionately among the member districts based on adjusted tax capacity. The member districts shall levy the amount allocated.

Sec. 15. Minnesota Statutes 1990, section 124.2725, subdivision 6, is amended to read:

Subd. 6. [ADDITIONAL AID.] In addition to the aid in subdivision 5, districts shall receive aid under this subdivision. For the first year of cooperation and the year following that year, a district shall receive, for each resident and nonresident pupil receiving instruction in a cooperating district, ~~$100~~ $50 times the actual pupil units. For the first year of combination and the year following that year, the combined district shall receive, for each resident and nonresident pupil receiving instruction in the combined district, ~~$100~~ $50 times the actual pupil units.

Sec. 16. Minnesota Statutes 1990, section 124.431, is amended by adding a subdivision to read:

Subd. 15. [OBLIGATIONS UPON DISTRICT REORGANIZATION.] If a district has a capital loan outstanding at the time of reorganization according to section 122.22, 122.23, or sections 122.241 to 122.248, and if the plan for reorganization provides for

payment of the capital loan obligation by the newly created or enlarged district or makes no provision for payment, all of the taxable property in the newly created or enlarged district is taxable for the payment. Notwithstanding any contract to the contrary, the department of education shall recalculate the capital loan maximum tax rate so that the amount of revenue raised is equivalent to the amount raised by the existing tax rate applied to the taxable property in the preexisting district.

Notwithstanding any contract to the contrary, if the plan for reorganization specifies that the obligation for a capital loan remains solely with the preexisting district that incurred the obligation, the obligation of the taxable property in the preexisting district with respect to payment of the capital loan is not affected by the reorganization. This subdivision does not relieve any property from any tax liability for payment of any capital loan obligation.

Sec. 17. Minnesota Statutes 1990, section 124.575, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY.] A secondary vocational cooperative established under section 123.351 is eligible for secondary vocational cooperative revenue for fiscal year 1992 if it meets the size requirements specified in section 122.91, subdivision 3, and the cooperative offers programs authorized under section 123.351, subdivision 4, paragraph (b), clause (1), and clause (2) or (3). The pupil units of a district that is a member of intermediate school district No. 287, 916, or 917 may not be used to obtain revenue under this section. The pupil units of a district may not be used to obtain revenue under this section and section 124.2721.

Sec. 18. Minnesota Statutes 1990, section 124.575, subdivision 2, is amended to read:

Subd. 2. [REVENUE.] Each year the secondary vocational cooperative board shall certify to the department of education the amount of revenue to be raised. Revenue for the secondary vocational cooperative for fiscal year 1992 shall be the lesser of:

(1) ~~$20~~ $19.55 times the actual pupil units in the secondary vocational cooperative, or

(2) the amount certified by the secondary vocational cooperative board.

Sec. 19. Minnesota Statutes 1990, section 124.575, subdivision 3, is amended to read:

Subd. 3. [LEVY.] The secondary vocational cooperative levy is equal to the following:

(1) the secondary vocational cooperative revenue according to subdivision 2, times

(2) the lesser of

(a) one, or

(b) the ratio of the adjusted net tax capacity for taxes payable in 1991 ~~and thereafter~~ of the secondary vocational cooperative divided by the number of actual pupil units in the secondary vocational cooperative to an amount equal to $20 divided by .78 percent for taxes payable in 1991 ~~and thereafter~~.

The department of education shall allocate the levy amount proportionately among the member districts based on adjusted tax capacity. The member districts shall levy the amount allocated.

Sec. 20. Minnesota Statutes 1990, section 124.575, subdivision 4, is amended to read:

Subd. 4. [AID.] The aid for a secondary vocational cooperative equals its secondary vocational cooperative revenue minus its secondary vocational cooperative levy~~, times the ratio of the actual amount levied to the permitted levy~~.

Sec. 21. Minnesota Statutes 1990, section 136D.27, subdivision 1, is amended to read:

Subdivision 1. [LEVIES FOR CERTAIN PROGRAMS.] Each year the ~~joint~~ intermediate school board may certify to each ~~participating school district~~ county auditor of each county in which the intermediate school district lies, tax levies that shall not in any year exceed the greater of:

(a) 52/60 of the amount of levy certified for taxes payable in 1989; or

(b) the lesser of (1) ~~$60~~ $52 times the actual pupil units in the participating district for the fiscal year to which the levy is attributable, or (2) ~~1.1~~ 1.43 percent of adjusted ~~gross~~ net tax capacity. ~~Each participating school district shall include these tax levies in the next tax roll which it shall certify to the county auditor or auditors, and shall remit the collections of such levies to the board promptly when received.~~ Annual tax levies must be certified according to section 275.07. Upon certification, the county auditor or auditors and other appropriate county officials shall levy and collect the levies and remit the proceeds of collection to the intermediate school district as in the case with independent school districts. These levies shall not be included in computing the limitations upon the levy of any participating school district. The board may, any time

after these levies have been certified ~~to the participating school districts~~, issue and sell certificates of indebtedness in anticipation of the collection of such levies, but in aggregate amounts ~~such as~~ that will not exceed the portion of the levies which is then not collected and not delinquent.

Five-elevenths of the proceeds of the levy must be used for special education and six-elevenths of the proceeds of the levy must be used for secondary vocational education.

Sec. 22. Minnesota Statutes 1990, section 136D.72, subdivision 1, is amended to read:

Subdivision 1. [MEMBERS.] The district shall be operated by a school board ~~of not less than six nor more than 12 members. The board shall consist~~ consisting of at least one member from each of the school districts within the special intermediate school district. Board members shall be members of the school boards of the respective school districts and shall be appointed by their respective school boards. Members shall serve at the pleasure of their respective school boards and may be subject to recall by a majority vote of the school board. They shall report at least quarterly to their boards on the activities of the intermediate district.

Sec. 23. Minnesota Statutes 1990, section 136D.74, subdivision 2, is amended to read:

Subd. 2. [TAX LEVY.] Each year the intermediate school board may certify to each county auditor of each county in which said intermediate school district shall lie, as a single taxing district, tax levies that shall not in any year exceed the greater of:

(a) 52/60 of the amount of levy certified for taxes payable in 1989; or

(b) the lesser of (1) ~~$60~~ $52 times the actual pupil units in the participating district for the fiscal year to which the levy is attributable, or (2) ~~1.1~~ 1.43 percent of adjusted ~~gross~~ net tax capacity. ~~Said~~ Annual tax levies ~~shall~~ must be certified ~~pursuant~~ according to section 275.07. Upon ~~such~~ certification the county auditor or auditors and other appropriate county officials shall levy and collect such levies and remit the proceeds of collection thereof to the intermediate school district as in the case with independent school districts. Such levies shall not be included in computing the limitations upon the levy of any of the participating districts.

Five-elevenths of the proceeds of the levy must be used for special education and six-elevenths of the proceeds of the levy must be used for secondary vocational education.

Sec. 24. Minnesota Statutes 1990, section 136D.76, subdivision 2, is amended to read:

Subd. 2. [JOINDER.] An independent school district must receive the approval of the state board of education and the state board of technical colleges to become a participant in the intermediate school district. Thereafter, upon approval of the majority vote of its board and of the intermediate school board ~~as well as approval of the state board of education~~ and without the requirement for an election, independent school district No. 138 of Chisago and Isanti counties and independent school district No. 141 of Chisago and Washington counties, and any other independent school district adjoining the territory embraced in the intermediate school district may become a participant in the intermediate school district and be governed by the provisions of sections 136D.71 to 136D.77 thereafter. The net tax capacity of the property within the geographic confines of such district shall become proportionately liable for any indebtedness issued, outstanding or authorized of the intermediate school district.

Sec. 25. Minnesota Statutes 1990, section 136D.87, subdivision 1, is amended to read:

Subdivision 1. [LEVIES FOR CERTAIN PROGRAMS.] Each year the ~~joint~~ intermediate school board may certify, as a single taxing district, to each ~~participating school district~~ county auditor of each county in which the intermediate school district lies, tax levies that shall not in any year exceed the greater of:

(a) 52/60 of the amount of levy certified for taxes payable in 1989; or

(b) the lesser of (1) ~~$60~~ $52 times the actual pupil units in the participating district for the fiscal year to which the levy is attributable, or (2) ~~1.1~~ 1.43 percent of adjusted ~~gross~~ net tax capacity. ~~Each participating school district shall include these tax levies in the next tax roll which it shall certify to the county auditor or auditors and shall remit the collections of these levies to the board promptly when received.~~ Annual tax levies must be certified according to section 275.07. Upon certification, the county auditor or auditors and other appropriate county officials shall levy and collect the levies and remit the proceeds of collection to the intermediate school district as in the case with independent school districts. These levies shall not be included in computing the limitations upon the levy of any participating school district. The board may, any time after these levies have been certified ~~to the participating school districts~~, issue and sell certificates of indebtedness in anticipation of the collection of levies, but in aggregate amounts that will not exceed the portion of the levies which is then not collected and not delinquent.

Five-elevenths of the proceeds of the levy must be used for special

education and six-elevenths of the proceeds of the levy must be used for secondary vocational education.

Sec. 26. Minnesota Statutes 1990, section 275.125, subdivision 4, is amended to read:

Subd. 4. [MISCELLANEOUS LEVY AUTHORIZATIONS.] (a) A school district may levy the amounts necessary to make payments for bonds issued and for interest thereon, including the bonds and interest thereon, issued as authorized by Minnesota Statutes 1974, section 275.125, subdivision 3, clause (7)(C); the amounts necessary for repayment of debt service loans and capital loans; the amounts necessary to pay the district's obligations under section 6.62; the amount authorized for liabilities of dissolved districts pursuant to section 122.45; the amounts necessary to pay the district's obligations under section 268.06, subdivision 25; the amounts necessary to pay for job placement services offered to employees who may become eligible for benefits pursuant to section 268.08; the amounts necessary to pay the district's obligations under section 127.05; the amounts authorized by section 122.531; the amounts necessary to pay the district's obligations under section 122.533; and the annual amounts necessary for severance pay required by ~~this section~~ sections 120.08, subdivision 3, and ~~section~~ 122.535, subdivision 6.

(b) An education district that negotiates a collective bargaining agreement for teachers under section 122.937 may certify to the department of education the amount necessary to pay all of the member districts' obligations and the education district's obligations under section 268.06, subdivision 25.

The department of education must allocate the levy amount proportionately among the member districts based on adjusted net tax capacity. The member districts must levy the amount allocated.

(c) Each year, a member district of an education district that levies under this subdivision must transfer the amount of revenue certified under paragraph (b) to the education district board according to this subdivision. By June 20 and November 30 of each year, an amount must be transferred equal to:

(1) 50 percent times

(2) the amount certified in paragraph (b) minus homestead and agricultural credit aid allocated for that levy according to section 273.1398, subdivision 6.

Sec. 27. Laws 1989, chapter 329, article 6, section 53, subdivision 6, as amended by Laws 1990, chapter 562, article 7, section 13, is amended to read:

Subd. 6. [TELECOMMUNICATIONS GRANT.] For grants of up to $20,000 each to independent school districts Nos. 356, 353, 444, 441, 524, 564, 592, 440, 678, 676, 682, 690, 390, 593, 595, 630, 600, 599, 447, 742, 627, 628, 561, and 454 to support cooperative educational technology programs:

$340,000.... 1991.

Sec. 28. [AID PAYMENTS.]

(a) Notwithstanding Minnesota Statutes, section 122.541, or any other law to the contrary, all pupils residing in independent school district No. 483, Motley, who are enrolled and attending school in kindergarten through grade 12 in independent school district No. 793, Staples, must be treated as nonresident pupils enrolled and attending school in independent school district No. 793, Staples, under Minnesota Statutes, section 120.062 beginning with the 1990-1991 school year.

(b) The department of education shall:

(1) determine the amount of state education aid calculated under Minnesota Statutes, section 120.062, subdivision 12, due district No. 793 as a result of this section;

(2) reduce state education aid for district No. 483 in an amount equal to the amount of aid due district No. 793 under clause (1) plus $110,198.19 for the cost to district No. 793 of educating 48 resident pupils of district No. 483 who attended kindergarten through grade 6 in district No. 793 during the 1989-1990 school year; and

(3) pay district No. 793 the amount of state education aid calculated under clause (1).

Sec. 29. [RUSHFORD-PETERSON FUND TRANSFER AUTHORIZATION.]

Independent school district No. 239, Rushford-Peterson, may make permanent transfers between any of the funds in the district, with the exception of the debt redemption fund, during the 90 days following the effective date of this section.

Sec. 30. [LEVY ADJUSTMENT.]

The department of education shall adjust the 1991 levy for each school district by the amount of the change in the district's education district levy for fiscal year 1992 according to Minnesota Statutes, section 124.2721, subdivision 3, resulting from the change to education district revenue under section 1. Notwithstanding

Minnesota Statutes, section 121.904, the entire amount of this levy must be recognized as revenue for fiscal year 1992.

Sec. 31. [PREK-12 AND COMMUNITY EDUCATION SERVICE DELIVERY SYSTEM.]

Subdivision 1. [PURPOSE.] The purpose of this section is to design and implement a statewide delivery system for educational services that will reduce the number of different cooperative organizations and the multiple levels of administration that accompany those organizations.

Subd. 2. [SCOPE OF THE SYSTEM.] (a) A new statewide delivery system must be designed and implemented by the state board of education by June 30, 1995, for all prekindergarten through grade 12 and community education services provided by the organizations enumerated in this paragraph:

(1) the Minnesota department of education;

(2) educational cooperative service units established under Minnesota Statutes, section 123.58;

(3) intermediate school districts established under Minnesota Statutes, chapter 136D;

(4) education districts established under Minnesota Statutes, section 122.91;

(5) regional management information centers established under Minnesota Statutes, section 121.935;

(6) secondary vocational cooperatives established under Minnesota Statutes, section 123.351;

(7) special education cooperatives established under Minnesota Statutes, section 120.17 or 471.59;

(8) technology cooperatives; and

(9) other joint powers agreements established under Minnesota Statutes, section 471.59.

(b) The state board shall compile a list of services and programs provided or administered by each type of organization listed in paragraph (a), clauses (1) to (9).

Subd. 3. [REQUIREMENTS FOR THE SYSTEM.] The new statewide delivery system must provide for no more than three organizations for education service delivery:

(1) a school district, as defined in Minnesota Statutes, chapter 123;

(2) an area education organization to provide those programs and services most efficiently and effectively provided through a joint effort of school districts; and

(3) a state level administrative organization comprised of a state board of education and a state department of education with central and regional delivery centers.

Subd. 4. [LOCAL SCHOOL DISTRICT PLANNING.] To assist the state board in designing a new education delivery system as described in subdivision 3, each school district shall develop a plan for the efficient and effective delivery of educational programs and services within the new education delivery system. The plan developed by each district must contain the following components enumerated in this subdivision:

(1) a list of necessary services provided by the organizations listed in subdivision 2;

(2) a description of the necessary services to be provided by the school district, the area education organization, and the central and regional delivery centers of the department of education described in subdivision 3;

(3) a specification of the optimal number of school districts and number of pupils that an area education organization and regional center of the department of education should serve;

(4) a method for determining the boundaries of area education organizations and regional centers of the department;

(5) a description of how services provided in the area education organizations should be funded;

(6) a determination of the role of the school district, the area education organization, and the central and regional centers of the department in ensuring that health and other social services necessary to maximize a pupil's ability to learn are provided to pupils; and

(7) any additional information requested by the state board of education.

In the development of its plan, each district shall confer with teachers and residents within the district, hold public meetings as necessary, and inform the public concerning its plan and any recommendations. School districts must meet jointly to discuss

aspects of the plan which involve multiple school districts. Each district must submit the plan to the state board by a date specified by the board. School districts cooperating under Minnesota Statutes, sections 122.241 to 122.248, 122.535, or 122.541 must submit a joint plan.

Subd. 5. [STATE BOARD OF EDUCATION TO DIRECT LOCAL SCHOOL DISTRICT PLANNING.] The state board of education shall direct local school district efforts to develop the plan described in subdivision 4. To assist school districts in planning, the board shall provide each school district with the list of services and programs compiled according to subdivision 2. The commissioner of education shall provide staff assistance to the state board as required by the board to direct this planning process.

Subd. 6. [STATE BOARD OF EDUCATION REPORTS TO THE LEGISLATURE.] The state board of education shall set a date by which school districts must submit their plan to the board. The board shall report to the 1992 legislature on school district progress in the planning process. The board shall make a final report to the 1993 legislature. The final report must contain recommendations for the design of an education service delivery system in accordance with this section and recommendations for legislation required to implement the system.

Subd. 7. [BARGAINING.] The state board of education report required under subdivision 6 must include recommendations specifying at which organizational level of the education delivery system described in subdivision 3 collective bargaining could take place most effectively and efficiently. The board must consult with the bureau of mediation services in developing these recommendations.

Sec. 32. [REPEALER.]

Minnesota Statutes 1990, sections 123.351, subdivision 10; and 124.575, are repealed effective July 1, 1992. Laws 1990, chapter 562, article 6, section 36, is repealed.

Sec. 33. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [EDUCATION DISTRICT AID.] For education district aid according to Minnesota Statutes, section 124.2721:

$3,174,000 1992

$2,852,000 1993

The 1992 appropriation includes $555,000 for 1991 and $2,619,000 for 1992.

The 1993 appropriation includes $462,000 for 1992 and $2,390,000 for 1993.

Subd. 3. [COOPERATION AND COMBINATION AID.] For aid for districts that cooperate and combine according to Minnesota Statutes, section 124.2725:

$1,781,000 1992

$3,303,000 1993

The 1992 appropriation includes $210,000 for 1991 and $1,571,000 for 1992.

The 1993 appropriation includes $277,000 for 1992 and $3,026,000 for 1993.

Subd. 4. [SECONDARY VOCATIONAL COOPERATIVE AID.] For secondary vocational cooperative aid according to Minnesota Statutes, section 124.575:

$165,000 1992

$ 24,000 1993

The 1992 appropriation includes $24,000 for 1991 and $141,000 for 1992.

The 1993 appropriation includes $24,000 for 1992 and $0 for 1993.

Sec. 34. [EFFECTIVE DATE.]

Sections 2 through 10 and 16 are effective for school districts with an effective date of reorganization according to Minnesota Statutes, section 122.22 or 122.23 after June 30, 1990, and for school districts that certified a levy according to Minnesota Statutes, section 124.2725 after July 1, 1989.

Sections 22 and 24 are effective the day following their final enactment.

Sections 27 and 29 are effective the day following final enactment.

Section 28 is effective the day after final enactment.

Sec. 35. [RETROACTIVE EFFECT.]

Notwithstanding the effective date of Laws 1990, chapter 562, article 6, section 6, a district shall pay severance pay, according to section 11, to a teacher who was placed on unrequested leave of absence as a result of an agreement for secondary education according to Minnesota Statutes 1990, section 122.535, effective on or about the close of the 1989-1990 school year, if the teacher is otherwise eligible according to section 11. The amount of the severance pay is the amount specified in section 11.

ARTICLE 7

OTHER AIDS AND LEVIES

Section 1. [120.0111] [MISSION STATEMENT.]

The mission of public education in Minnesota, a system for lifelong learning, is to ensure individual academic achievement, an informed citizenry, and a highly productive work force. This system focuses on the learner, promotes and values diversity, provides participatory decision-making, ensures accountability, models democratic principles, creates and sustains a climate for change, provides personalized learning environments, encourages learners to reach their maximum potential, and integrates and coordinates human services for learners.

Sec. 2. Minnesota Statutes 1990, section 120.101, subdivision 5, is amended to read:

Subd. 5. [AGES ~~AND TERMS~~.] For the ~~1988-1989 school year and the~~ 1991-1992 through 1994-1995 school years ~~thereafter~~, every child between seven and 16 years of age shall receive instruction for at least 170 days ~~each year~~. For the ~~2000-2001~~ 1995-1996 school year and later school years, every child between seven and 18 years of age shall receive instruction for at least ~~170~~ the number of days ~~each~~ per year required in subdivision 5b. Every child under the age of seven who is enrolled in a half-day kindergarten, or a full-day kindergarten program on alternate days, or other kindergarten programs shall receive instruction at least equivalent to ~~170~~ half of the number of days per year required in subdivision 5b. Except as provided in subdivision 5a, a parent may withdraw a child under the age of seven from enrollment at any time.

Sec. 3. Minnesota Statutes 1990, section 120.101, subdivision 9, is amended to read:

Subd. 9. [LEGITIMATE EXEMPTIONS.] A parent, guardian, or other person having control of a child may apply to a school district to have the child excused from attendance for the whole or any part of the time school is in session during any school year. Application may be made to any member of the board, a truant officer, a

principal, or the superintendent. The school board of the district in which the child resides may approve the application upon the following being demonstrated to the satisfaction of that board:

(1) That the child's bodily or mental condition is such as to prevent attendance at school or application to study for the period required; or

(2) That for the school years 1988-1989 through ~~1999-2000~~ 1994-1995 the child has already completed the studies ordinarily required in the 10th grade and that for the school years beginning with the ~~2000-2001~~ 1995-1996 school year the child has already completed the studies ordinarily required to graduate from high school; or

(3) That it is the wish of the parent, guardian, or other person having control of the child, that the child attend for a period or periods not exceeding in the aggregate three hours in any week, a school for religious instruction conducted and maintained by some church, or association of churches, or any Sunday school association incorporated under the laws of this state, or any auxiliary thereof. This school for religious instruction shall be conducted and maintained in a place other than a public school building, and in no event, in whole or in part, shall be conducted and maintained at public expense. However, a child may be absent from school on such days as the child attends upon instruction according to the ordinances of some church.

Sec. 4. Minnesota Statutes 1990, section 120.101, is amended by adding a subdivision to read:

Subd. 5b. [INSTRUCTIONAL DAYS.] Every child required to receive instruction according to subdivision 5 shall receive instruction for at least the number of days per year required in the following schedule:

(1) 1995-1996, 172;

(2) 1996-1997, 174;

(3) 1997-1998, 176;

(4) 1998-1999, 178;

(5) 1999-2000, 180;

(6) 2000-2001, 182;

(7) 2001-2002, 184;

(8) 2002-2003, 186;

(9) 2003-2004, 188; and

(10) 2004-2005, and later school years, 190.

Sec. 5. Minnesota Statutes 1990, section 121.585, subdivision 3, is amended to read:

Subd. 3. [HOURS OF INSTRUCTION.] Pupils participating in a program must be able to receive the same total number of hours of instruction they would receive if they were not in the program. If a pupil has not completed the graduation requirements of the district after completing the minimum number of secondary school hours of instruction, the district may allow the pupil to continue to enroll in courses needed for graduation.

For the purposes of section 120.101, subdivision 5, the minimum number of hours for a year determined for the appropriate grade level of instruction shall constitute ~~170~~ the number of days of instruction required under section 120.101, subdivision 5b. Hours of instruction that occur after the close of the instructional year in June shall be attributed to the following fiscal year.

Sec. 6. Minnesota Statutes 1990, section 123.35, subdivision 8, is amended to read:

Subd. 8. The board may establish and maintain public evening schools and adult ~~and continuing~~ education programs and such evening schools and adult ~~and continuing~~ education programs when so maintained shall be available to all persons over 16 years of age through the ~~1999-2000~~ 1994-1995 school year and over 18 years of age beginning with the ~~2000-2001~~ 1995-1996 school year who, from any cause, are unable to attend the full-time elementary or secondary schools of such district.

Sec. 7. Minnesota Statutes 1990, section 123.3514, subdivision 3, is amended to read:

Subd. 3. [DEFINITIONS.] For purposes of this section, an "eligible institution" means a Minnesota public post-secondary institution, a private, nonprofit two-year trade and technical school granting associate degrees, or a private, residential, two-year or four-year, liberal arts, degree-granting college or university located in Minnesota. "Course" means a course or program.

Sec. 8. Minnesota Statutes 1990, section 123.3514, is amended by adding a subdivision to read:

Subd. 11. [PUPILS AT A DISTANCE FROM AN ELIGIBLE INSTITUTION.] A pupil who is enrolled in a secondary school that is located 40 miles or more from the nearest eligible institution may

request that the resident district offer at least one accelerated or advanced academic course within the resident district in which the pupil may enroll for post-secondary credit. A pupil may enroll in a course offered under this subdivision for either secondary or post-secondary credit according to subdivision 5.

A district must offer an accelerated or advanced academic course for post-secondary credit if one or more pupils requests such a course under this subdivision. The district may decide which course to offer, how to offer the course, and whether to offer one or more courses. The district must offer at least one such course in the next academic period and must continue to offer at least one accelerated or advanced academic course for post-secondary credit in later academic periods.

Sec. 9. Minnesota Statutes 1990, section 123.951, is amended to read:

123.951 [SCHOOL SITE MANAGEMENT AGREEMENT.]

(a) A school board ~~may~~ shall enter into an agreement by July 1, 1995, with a permanent school site management team concerning the governance, management, or control of ~~a~~ each school in the district. An initial school site management team shall be appointed by the school board and ~~shall~~ may include the school principal, representatives of teachers in the school, representatives of other employees in the school, representatives of parents of pupils in the school, representatives of pupils in the school, representatives of other members in the community, ~~and~~ or others determined appropriate by the board. The permanent school site management team shall ~~consist of at least~~ include the school principal ~~and representatives elected by each group represented on the initial team~~ or other person having general control and supervision of the school.

~~The school board may delegate any of its powers or duties to the school site management team.~~

(b) School site management agreements must focus on creating management teams and in involving staff members in decision making.

(c) An agreement must include:

(1) a strategic plan for districtwide decentralization of resources developed through staff participation;

(2) a decision-making structure that allows teachers to identify problems and the resources needed to solve them; and

(3) a mechanism to allow principals, or other persons having

general control and supervision of the school, to make decisions regarding how resources are best allocated and to act as advocates for additional resources on behalf of the entire school.

(d) Any powers or duties not ~~specifically~~ delegated to the school site management team in the school site management agreement shall remain with the school board.

Sec. 10. Minnesota Statutes 1990, section 124.19, subdivision 1, is amended to read:

Subdivision 1. [INSTRUCTIONAL TIME.] Every district shall maintain school in session or provide instruction in other districts for at least ~~175~~ the number of days required in subdivision 1b, not including summer school, or the equivalent in a district operating a flexible school year program. A district that holds school for the required minimum number of days and is otherwise qualified is entitled to state aid as provided by law. If school is not held for the required minimum number of days, state aid shall be reduced by the ratio that the difference between ~~175~~ the required number of days and the number of days school is held bears to ~~175~~ the required number of days, multiplied by 60 percent of the basic revenue, as defined in section 124A.22, subdivision 2, of the district for that year. However, districts maintaining school for fewer than the required minimum number of days do not lose state aid (1) if the circumstances causing loss of school days below the required minimum number of days are beyond the control of the board, (2) if proper evidence is submitted, and (3) if a good faith attempt made to make up time lost due to these circumstances. The loss of school days resulting from a lawful employee strike shall not be considered a circumstance beyond the control of the board. Days devoted to meetings authorized or called by the commissioner may not be included as part of the required minimum number of days of school. For grades 1 to 12, ~~not more than five~~ days ~~may be~~ devoted to parent-teacher conferences, teachers' workshops, or other staff development opportunities as part of the required minimum number of days must not exceed the difference between the number of days required in subdivision 1b and the number of instructional days required in subdivision 1b. For kindergarten, ~~not more than ten~~ days ~~may be~~ devoted to parent-teacher conferences, teachers' workshops, or other staff development opportunities as part of the required minimum number of days must not exceed twice the number of days for grades 1 to 12.

Sec. 11. Minnesota Statutes 1990, section 124.19, subdivision 7, is amended to read:

Subd. 7. [ALTERNATIVE PROGRAMS.] (a) This subdivision applies to an alternative program that has been approved by the state board of education pursuant to Minnesota Rules, part

3500.3500, as exempt from Minnesota Rules, part 3500.1500, requiring a school day to be at least six hours in duration.

(b) To receive general education revenue for a pupil in an alternative program, a school district must meet the requirements in this paragraph. The program must be approved by the commissioner of education. In approving a program, the commissioner may use the process used for approving state designated area learning centers under section 124C.49.

(c) In addition to the requirements in paragraph (b), to receive general education revenue for a pupil in an alternative program that has an independent study component, a school district must meet the requirements in this paragraph.

The school district must develop with the pupil a continual learning plan for the pupil. A district must allow a minor pupil's parent or guardian to participate in developing the plan, if the parent or guardian wants to participate. The plan must identify the learning experiences and expected outcomes needed for satisfactory credit for the year and for graduation. The plan must be updated each year.

General education revenue for a pupil in an approved alternative program without an independent study component must be prorated for a pupil participating for less than a full school year, or its equivalent.

General education revenue for a pupil in an approved alternative program that has an independent study component must be paid for each hour of teacher contact time and each hour of independent study time completed toward a credit necessary for graduation. Average daily membership for a pupil shall equal the number of hours of teacher contact time and independent study time divided by ~~1,020 hours~~ the product of the number of instructional days required for that year and six, but not more than one, except as otherwise provided in section 121.585.

For an alternative program having an independent study component, the commissioner shall require a description of the courses in the program, the kinds of independent study involved, the expected learning outcomes of the courses, and the means of measuring student performance against the expected outcomes.

Sec. 12. Minnesota Statutes 1990, section 124.19, is amended by adding a subdivision to read:

Subd. 1b. [REQUIRED DAYS.] Each district shall maintain school in session or provide instruction in other districts for at least the number of days required for the school years listed below:

(1) 1995-1996, 178;

(2) 1996-1997, 181;

(3) 1997-1998, 184;

(4) 1998-1999, 187;

(5) 1999-2000, 190;

(6) 2000-2001, 193;

(7) 2001-2002, 196;

(8) 2002-2003, 199;

(9) 2003-2004, 202; and

(10) 2004-2005, and later school years, 205.

Sec. 13. Minnesota Statutes 1990, section 125.185, subdivision 4, is amended to read:

Subd. 4. The board shall adopt rules to license public school teachers and interns subject to chapter 14. The board shall adopt rules for examination of teachers, as defined in section 125.03, subdivision 5. The rules may allow for completion of the examination of skills in reading, writing, and mathematics before entering or during a teacher education program. The board shall adopt rules to approve teacher education programs. The board of teaching shall provide the leadership and shall adopt rules by October 1, 1988, for the redesign of teacher education programs to implement a research based, results-oriented curriculum that focuses on the skills teachers need in order to be effective. The board shall implement new systems of teaching education program evaluation to assure program effectiveness based on proficiency of graduates in demonstrating attainment of program outcomes.

These rules shall ~~encourage~~ require teacher educators to work directly with elementary or secondary school teachers in elementary or secondary schools to obtain a periodic exposure to the elementary or secondary teaching ~~experience~~ environment. The board shall also grant licenses to interns and to candidates for initial licenses. The board shall design and implement an assessment system which requires candidates for initial licensure and first continuing licensure to demonstrate the abilities necessary to perform selected, representative teaching tasks at appropriate levels. The board shall receive recommendations from local committees as established by the board for the renewal of teaching licenses. The board shall grant life licenses to those who qualify according to requirements estab-

lished by the board, and suspend or revoke licenses pursuant to sections 125.09 and 214.10. Notwithstanding any law or rule to the contrary, the board shall not establish any expiration date for application for life licenses. With regard to vocational education teachers the board of teaching shall adopt and maintain as its rules the rules of the state board of education and the state board of technical colleges.

Sec. 14. Minnesota Statutes 1990, section 125.185, subdivision 4a, is amended to read:

Subd. 4a. Notwithstanding section 125.05, or any other law to the contrary, the authority of the board of teaching and the state board of education to approve teacher education programs and to issue teacher licenses expires on June 30, 1996. Any license issued by the board of teaching or the state board of education after the effective date of this section must expire by June 30, 1996.

The board of teaching, in cooperation with the state board of education and the higher education coordinating board, shall develop policies and corresponding goals for making teacher education curriculum more consistent with the purpose of state public education. The revised teacher education curriculum must be consistent with the board of teaching rules required under subdivision 4 for redesigning teacher education programs to implement a research-based, results-oriented curriculum. The revised teacher education curriculum must include a requirement that teacher education programs contain a one-year mentorship program. The mentorship program must provide students with elementary or secondary teaching experience and appropriate professional support and evaluation from licensed classroom teachers, including mentor teachers. By February 1, 1992, the board of teaching shall provide the education committees of the legislature with detailed written guidelines, strategies, and programs to implement the revised teacher education curriculum. By February 1, 1993, the board of teaching and the state board of education shall adopt rules under chapter 14 that are consistent with the guidelines, strategies, and programs provided to the legislature, including amending board rules governing the issuing, expiring, and renewing of teacher licenses.

The higher education coordinating board shall assist the state's teacher preparation institutions in developing teacher education curriculum for their students that is consistent with the guidelines, programs, and strategies approved by the legislature. The institutions must use the revised teacher education curriculum to instruct their students beginning in the 1996-1997 school year.

Subd. 4b. Prior to the adoption by the board of teaching of any rule which must be submitted to public hearing, a representative of the commissioner shall appear before the board of teaching and at the

hearing required pursuant to section 14.14, subdivision 1, to comment on the cost and educational implications of that proposed rule.

Sec. 15. [125.1885] [ALTERNATIVE PREPARATION LICENSING FOR ADMINISTRATORS.]

Subdivision 1. [REQUIREMENTS.] (a) A preparation program that is an alternative to a graduate program in education administration for public school administrators to acquire an entrance license is established. The program may be offered in any administrative field.

(b) To participate in the alternative preparation program, the candidate must:

(1) have a master's degree in an administrative area;

(2) have been offered an administrative position in a school district, group of districts, or an education district approved by the state board of education to offer an alternative preparation licensure program;

(3) have five years of experience in a field related to administration; and

(4) document successful experiences working with children and adults.

(c) An alternative preparation license is of one year duration and is issued by the state board of education to participants on admission to the alternative preparation program.

Subd. 2. [CHARACTERISTICS.] The alternative preparation program has the characteristics enumerated in this subdivision:

(1) staff development conducted by a resident mentorship team made up of administrators, teachers, and post-secondary faculty members;

(2) an instruction phase involving intensive preparation of a candidate for licensure before the candidate assumes responsibility for an administrative position;

(3) formal instruction and peer coaching during the school year;

(4) assessment, supervision, and evaluation of a candidate to determine the candidate's specific needs and to ensure satisfactory completion of the program;

(5) a research-based and results-oriented approach focused on skills administrators need to be effective;

(6) assurance of integration of education theory and classroom practices; and

(7) the shared design and delivery of staff development between school district personnel and post-secondary faculty.

Subd. 3. [PROGRAM APPROVAL.] (a) The state board of education shall approve alternative preparation programs based on criteria adopted by the board, after receiving recommendations from an advisory task force appointed by the board.

(b) An alternative preparation program at a school district, group of schools, or an education district must be affiliated with a post-secondary institution that has a graduate program in educational administration for public school administrators.

Subd. 4. [APPROVAL FOR STANDARD ENTRANCE LICENSE.] The resident mentorship team must prepare for the state board of education an evaluation report on the performance of the alternative preparation licensee during the school year and a positive or negative recommendation on whether the alternative preparation licensee shall receive a standard entrance license.

Subd. 5. [STANDARD ENTRANCE LICENSE.] The state board of education shall issue a standard entrance license to an alternative preparation licensee who has successfully completed the school year in the alternative preparation program and who has received a positive recommendation from the licensee's mentorship team.

Subd. 6. [QUALIFIED ADMINISTRATOR.] A person with a valid alternative preparation license is a qualified administrator within the meaning of section 125.04.

Sec. 16. [125.189] [LICENSURE REQUIREMENTS.]

In addition to other requirements, a candidate for a license or an applicant for a continuing license to teach hearing-impaired students in kindergarten through grade 12 must demonstrate the minimum level of proficiency in American sign language as determined by the Quality Assurance Systems Project of the department of education.

Sec. 17. Minnesota Statutes 1990, section 126.23, is amended to read:

126.23 [AID FOR PRIVATE ALTERNATIVE PROGRAMS.]

If a pupil enrolls in a nonsectarian alternative program operated by a private organization that has contracted with a school district to provide educational services for eligible pupils under section 126.22, subdivision 2, the resident district must reimburse the provider an amount equal to at least ~~85~~ 87 percent of the basic revenue of the district for each pupil attending the program full time. For a pupil attending the program part time, basic revenue paid to the program shall be reduced proportionately, according to the amount of time the pupil attends the program, and basic revenue paid to the district shall be reduced accordingly. Pupils for whom a district provides reimbursement may not be counted by the district for any purpose other than computation of basic revenue, according to section 124A.22, subdivision 2. If payment is made to a district or program for a pupil under this section, the department of education shall not make a payment for the same pupil under section 126.22, subdivision 8.

Sec. 18. Minnesota Statutes 1990, section 126.661, subdivision 5, is amended to read:

Subd. 5. [ESSENTIAL LEARNER OUTCOMES.] "Essential learner outcomes" means the specific basic learning experiences that ~~must be~~ are provided for all students and are used as the basis for assessing educational progress statewide.

Sec. 19. Minnesota Statutes 1990, section 126.661, is amended by adding a subdivision to read:

Subd. 7. [OUTCOME-BASED EDUCATION.] Outcome-based education is a pupil-centered, results-oriented system premised on the belief that all individuals can learn. In this system:

(1) what a pupil is to learn is clearly identified;

(2) each pupil's progress is based on the pupil's demonstrated achievement;

(3) each pupil's needs are accommodated through multiple instructional strategies and assessment tools; and

(4) each pupil is provided time and assistance to realize her or his potential.

Sec. 20. Minnesota Statutes 1990, section 126.663, subdivision 2, is amended to read:

Subd. 2. [STATE LEARNER OUTCOMES.] The state board of education, with the assistance of the state curriculum advisory committee and the office on educational leadership shall identify and adopt learner goals, essential learner outcomes, and integrated

learner outcomes for curriculum areas, under section 120.101, subdivision 6, including the curriculum areas of communication skills, fine arts, mathematics, science, social studies, and health and physical education, and for career vocational curricula. Learner outcomes shall include thinking and problem solving skills.

Sec. 21. Minnesota Statutes 1990, section 126.666, subdivision 2, is amended to read:

Subd. 2. [CURRICULUM ADVISORY COMMITTEE.] Each school board shall establish a curriculum advisory committee to permit active community participation in all phases of the PER process. The district advisory committee, to the extent possible, shall be representative of the diversity of the community served by the district and the learning sites within the district, and include principals, teachers, parents, support staff, pupils, and other community residents. The district may establish building teams as subcommittees of the district advisory committee. The district committee shall retain responsibility for recommending to the school board districtwide learner outcomes, assessments, and program evaluations. Learning sites may establish expanded curriculum, assessments, and program evaluations. Whenever possible, parents and other community residents shall comprise at least two-thirds of the advisory committee. The committee shall make recommendations to the board about the programs enumerated in section 124A.27, that the committee determines should be offered. The recommendations shall be based on district and learning site needs and priorities.

Sec. 22. Minnesota Statutes 1990, section 126.666, is amended by adding a subdivision to read:

Subd. 4a. [STUDENT EVALUATION.] The school board shall annually provide high school graduates or GED recipients who received a diploma or its equivalent from the school district within the previous school year with an opportunity to report to the board on the following:

(1) the quality of district instruction and services;

(2) the quality of district delivery of instruction and services;

(3) the utility of district facilities; and

(4) the effectiveness of district administration.

Sec. 23. Minnesota Statutes 1990, section 126.666, is amended by adding a subdivision to read:

Subd. 4b. [PERIODIC REPORT.] Each school district at least once

per six school years shall collect consumers' opinions, including the opinions of currently enrolled students, parents, and other district residents, regarding their level of satisfaction with their school experience. The district shall report the results of the consumer evaluation according to the requirements of subdivision 4.

Sec. 24. Minnesota Statutes 1990, section 126.67, subdivision 2b, is amended to read:

Subd. 2b. [DISTRICT ASSESSMENTS.] As part of the PER process, each year a district shall, in at least three grades or for three age levels, conduct assessments among at least a sample of pupils for each subject area in that year of the curriculum review cycle. The district's curriculum review cycle shall not exceed six years. Assessments may not be conducted in the same curriculum area for two consecutive years. The district may use tests from the assessment item bank, the local assessment program developed by the department, or other tests. As they become available, districts shall use state developed measures to assure state progress toward achieving the state ~~core~~ board adopted essential learner outcomes in each subject area at least once during the curriculum review cycle. Funds are provided for districts that choose to use the local assessment program or the assessment item bank.

Sec. 25. Minnesota Statutes 1990, section 126.70, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY FOR REVENUE.] A school board may use the revenue authorized in section 124A.29, if it establishes ~~a~~ an outcome-based staff development advisory committee and adopts a staff development plan on outcome-based education according to this subdivision. A majority of the advisory committee must be teachers representing various grade levels and subject areas. The advisory committee must also include ~~representatives of~~ parents, and administrators. The advisory committee shall develop a staff development plan containing proposed outcome-based education activities and related expenditures and shall submit ~~it~~ the plan to the school board. If the school board approves the plan, the district may use the staff development revenue authorized in section 124A.29. Copies of approved plans must be submitted to the commissioner.

Sec. 26. Minnesota Statutes 1990, section 126.70, subdivision 2, is amended to read:

Subd. 2. [CONTENTS OF THE PLAN.] The plan may include:

(1) procedures the district will use to analyze ~~and identify teaching and curricular~~ outcome-based education needs~~, including the need for mentor teachers~~;

(2) ~~short- and long-term curriculum and staff development needs;~~

~~(3)~~ *integration with in-service* and curricular efforts already in progress;

~~(4)~~ (3) goals to be achieved and the means to be used; and

~~(5)~~ (4) procedures for evaluating progress~~; and~~

~~(6) whether the school board intends to offer contracts under the excellence in teaching program.~~

Sec. 27. Minnesota Statutes 1990, section 126.70, subdivision 2a, is amended to read:

Subd. 2a. [PERMITTED USES.] A school board may approve a plan ~~for~~ to accomplish any of the following purposes:

(1) ~~for in-service education to increase the effectiveness of teachers in responding to children and young people at risk of not succeeding at school~~ foster readiness for outcome-based education by increasing knowledge and understanding of and commitment to outcome-based education;

(2) ~~to participate in the educational effectiveness program according to section 121.609~~ facilitate organizational changes by enabling a site-based team composed of pupils, parents, school personnel, and community members to address pupils' needs through outcome-based education;

(3) ~~to provide in-service education for elementary and secondary teachers to improve the use of technology in education~~ develop programs to increase pupils' educational progress by developing appropriate outcomes and personal learning plans and by encouraging pupils and their parents to assume responsibility for their education;

(4) ~~to provide subject area in-service education emphasizing the academic content of curricular areas determined by the district to be a priority area~~ design and develop outcome-based education programs containing various instructional opportunities that recognize pupils' individual needs and utilize family and community resources; and

(5) ~~to use experienced teachers, as mentors, to assist in the continued development of new teachers;~~ evaluate the effectiveness of outcome-based education policies, processes, and products through appropriate evaluation procedures that include multiple criteria and indicators.

~~(6) to increase the involvement of parents, business, and the community in education, including training teachers to plan and implement parental involvement programs that will more fully involve parents in their children's learning development;~~

~~(7) for experimental delivery systems;~~

~~(8) for in-service education to increase the effectiveness of principals and administrators;~~

~~(9) for in-service education or curriculum development for programs for gifted and talented pupils;~~

~~(10) for in-service education or curriculum development for cooperative efforts to increase curriculum offerings;~~

~~(11) for improving curriculum, according to the needs identified under the planning, evaluation, and reporting process set forth in section 126.666;~~

~~(12) for in-service education and curriculum development designed to promote sex equity in all aspects of education, with emphasis on curricular areas such as mathematics, science, and technology programs;~~

~~(13) for in-service education or curriculum modification for handicapped pupils and low-achieving pupils;~~

~~(14) for short-term contracts as described in section 126.72; or~~

~~(15) to employ teachers for an extended year to perform duties directly related to improving curriculum or teaching skills.~~

Sec. 28. Minnesota Statutes 1990, section 260.015, subdivision 19, is amended to read:

Subd. 19. [HABITUAL TRUANT.] "Habitual truant" means a child under the age of 16 years ~~through the 1999-2000 school year and under the age of 18 beginning with the 2000-2001 school year~~ who is absent from attendance at school without lawful excuse for seven school days if the child is in elementary school or for one or more class periods on seven school days if the child is in middle school, junior high school, or high school.

Sec. 29. [STATE BOARD RECOMMENDATIONS.]

By February 1, 1993, the state board of education shall present to the education committees of the legislature recommendations for integrating education funding and the achievement of state and local outcomes.

Sec. 30. [RULE REVIEW.]

Subdivision 1. [REPORT.] The state board of education shall review each board rule to determine whether it is necessary, reasonable, and cost-effective and whether it is consistent with legislative policy adopted since the rule was enacted. The board shall report to the education committees of the legislature by March 1, 1992, on any amendment required to make a rule necessary, reasonable, or cost-effective or consistent with legislative policy and on any rule required to be repealed.

Subd. 2. [STAFF.] The commissioner of education shall provide staff assistance to the state board of education, at the request of the board, to complete the report required under subdivision 1.

Sec. 31. [OUTCOME-BASED EDUCATION PROGRAM CONTRACTS.]

Subdivision 1. [DEFINITION.] For the purposes of this section, outcome-based education has the meaning given it in Minnesota Statutes, section 126.661, subdivision 7.

Subd. 2. [ESTABLISHMENT.] A process for contracting between a public school, school district, or group of districts and the department of education to develop outcome-based education programs is established. The purpose of the contract is to enable public schools, school districts, and groups of districts to develop outcome-based programs that improve pupils' educational achievement through instructional opportunities that recognize pupils' individual needs.

Subd. 3. [ELIGIBILITY.] A school, school district, or group of districts seeking to contract with the department to develop an outcome-based education program must agree to serve as a demonstration site during the term of the contract and for a mimimum of one school year after the expiration date of the contract.

Subd. 4. [CONTRACTING PROCESS.] The commissioner of education shall establish an outcome-based education contract committee of qualified department staff to determine the subject areas to be included in the outcome-based education program contracts and other contract terms and conditions. The committee, after consulting with the commissioner and the state board of education, shall determine the form and manner by which a school, a school district, or a group of districts may seek a contract. The committee shall disseminate information about the contracts and the contracting process.

Subd. 5. [CONTRACT APPROVAL.] Before awarding program contracts, the outcome-based education contract committee shall consult with curriculum experts in particular subject areas to

evaluate program proposals. By October 1 of the current school year, the committee shall award outcome-based education program contracts to qualified schools, school districts, or groups of districts. In awarding contracts, the committee shall consider the geographical location of the school, school district, or group of districts seeking the contract, whether the outcome-based education program would be available to elementary, middle, or secondary pupils and the subject areas to be included in the outcome-based education program.

Subd. 6. [CONTRACT FUNDS.] Any unexpended contract funds awarded to a school, school district, or group of districts in one fiscal year do not cancel but are available in the next fiscal year.

Subd. 7. [EVALUATION.] The commissioner shall provide for an evaluation of the demonstration site programs and shall disseminate throughout the state information on the components of successful outcome-based education programs.

Sec. 32. [REPORT ON NEGOTIABLE EDUCATIONAL POLICIES.]

The state board of education, after consulting with the bureau of mediation services, the state board of teaching, the Minnesota school boards association, the Minnesota education association, the Minnesota federation of teachers, and other educational organizations interested in the matter, shall prepare a report for the education committees of the legislature discussing those educational policies the state board of education considers to be appropriate to address under chapter 179A as a condition of employment.

Sec. 33. [BOARD OF TEACHING APPROPRIATION.]

Subdivision 1. [BOARD OF TEACHING.] The sums indicated in this section are appropriated from the general fund to the board of teaching in the fiscal years indicated.

Subd. 2. [TEACHER EDUCATION IMPROVEMENT.] For board of teaching responsibilities specified in Minnesota Statutes, section 125.185, subdivisions 4 and 4a:

$150,000 1992

$150,000 1993

Any balance in the first year does not cancel but is available in the second year.

Sec. 34. [HECB APPROPRIATION.]

Subdivision 1. [HIGHER EDUCATION COORDINATING BOARD.] The sums indicated in this section are appropriated from the general fund to the higher education coordinating board for the fiscal years designated.

Subd. 2. [SUMMER PROGRAM SCHOLARSHIPS.] To the higher education coordinating board, for scholarship awards for summer programs according to Minnesota Statutes, section 126.56:

$214,000 1992

$214,000 1993

Of this appropriation, any amount required by the higher education coordinating board may be used for the board's costs of administering the program.

Sec. 35. [DEPARTMENT OF EDUCATION APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [AREA LEARNING CENTER GRANTS.] For grants to area learning centers:

$150,000 1992

$150,000 1993

Subd. 3. [ARTS PLANNING GRANTS.] For grants for arts planning according to Minnesota Statutes, section 124C.08:

$38,000 1992

$38,000 1993

Any balance in the first year does not cancel but is available in the second year.

Subd. 4. [PER PROCESS AID.] For the planning, evaluating, and reporting process according to Minnesota Statutes, section 124.274:

$1,063,000 1992

$1,079,000 1993

Subd. 5. [OUTCOME-BASED EDUCATION PROGRAM CONTRACTS.] For entering into contracts for outcome-based education programs according to section 31:

$675,000 1992

$675,000 1993

$55,000 each year is for evaluation and administration of the program.

Sec. 36. [REPEALER.]

(a) Minnesota Statutes 1990, sections 120.011; 121.111; 124C.01, subdivision 2; and 126.70, subdivisions 2 and 2a, are repealed.

(b) Minnesota Statutes 1990, section 124C.41, subdivisions 6 and 7, are repealed effective July 1, 1991. In the next edition of Minnesota Statutes, the revisor of statutes shall change the first grade and section headnotes to read "Teacher Centers" to reflect the changes made by the repealer in this paragraph.

Sec. 37. [EFFECTIVE DATE.]

Section 16 is effective August 1, 1994.

ARTICLE 8

OTHER PROGRAMS

Section 1. [3.873] [LEGISLATIVE COMMISSION ON CHILDREN, YOUTH, AND THEIR FAMILIES.]

Subdivision 1. [ESTABLISHMENT.] A legislative commission on children, youth, and their families is established to study state policy and legislation affecting children and youth and their families. The commission shall make recommendations about how to ensure and promote the present and future well-being of Minnesota children and youth and their families, including methods for helping state and local agencies to work together.

Subd. 2. [MEMBERSHIP AND TERMS.] The commission consists of 16 members that reflect a proportionate representation from each party. Eight members from the house shall be appointed by the speaker of the house and eight members from the senate shall be appointed by the subcommittee on committees of the committee on rules and administration. The membership must include members of the following committees in the house and the senate: health and human services, governmental operations, education, judiciary, and

appropriations or finance. The commission must have representatives from both rural and metropolitan areas. The terms of the members are for two years beginning on January 1 of each odd-numbered year.

Subd. 3. [OFFICERS.] The commission 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. When the chair is from one body, the vice-chair must be from the other body.

Subd. 4. [STAFF.] The commission may use existing legislative staff to provide legal counsel, research, fiscal, secretarial, and clerical assistance.

Subd. 5. [INFORMATION COLLECTION; INTERGOVERNMENTAL COORDINATION.] (a) The commission may conduct public hearings and otherwise collect data and information necessary to its purposes.

(b) The commission may request information or assistance from any state agency or officer to assist the commission in performing its duties. The agency or officer shall promptly furnish any information or assistance requested.

(c) Before implementing new or substantially revised programs relating to the subjects being studied by the commission under subdivision 7, the commissioner responsible for the program shall prepare an implementation plan for the program and shall submit the plan to the commission for review and comment. The commission may advise and make recommendations to the commissioner on the implementation of the program and may request the changes or additions in the plan it deems appropriate.

(d) By July 1, 1991, the responsible state agency commissioners, including the commissioners of education, health, human services, jobs and training, and corrections, shall prepare data for presentation to the commission on the state programs to be examined by the commission under subdivision 7, paragraph (a).

(e) To facilitate coordination between executive and legislative authorities, the governor shall appoint a person to act as liaison between the commission and the governor.

Subd. 6. [LEGISLATIVE REPORTS AND RECOMMENDATIONS.] The commission shall make recommendations to the legislature or committees, as it deems appropriate to assist the legislature in formulating legislation. To facilitate coordination between executive and legislative authorities, the commission shall review and evaluate the plans and proposals of the governor and

state agencies on matters within the commission's jurisdiction and shall provide the legislature with its analysis and recommendations. The commission shall report its final recommendations under subdivision 7, paragraph (a), by January 1, 1993. The commission shall submit a progress report by January 1, 1992.

Subd. 7. [PRIORITIES.] The commission shall give priority to studying and reporting to the legislature on the matters described in this subdivision.

(a) The commission must study and report on methods of improving legislative consideration of children and family issues and coordinating state agency programs relating to children and families, including the desirability, feasibility, and effects of creating a new state department of children's services, or children and family services, in which would be consolidated the responsibility for administering state programs relating to children and families.

(b) The commission must study and report on methods of consolidating or coordinating local health, correctional, educational, job, and human services, to improve the efficiency and effectiveness of services to children and families and to eliminate duplicative and overlapping services. The commission shall evaluate and make recommendations on programs and projects in this and other states that encourage or require local jurisdictions to consolidate the delivery of services in schools or other community centers to reduce the cost and improve the coverage and accessibility of services.

(c) The commission must study and report on methods of improving and coordinating educational, social, and health care services that assist children and families during the early childhood years. The commission's study must include an evaluation of the following: early childhood health and development screening services, headstart, child care, and early childhood family education.

(d) The commission must study and report on methods of improving and coordinating the practices of judicial, correctional, and social service agencies in placing juvenile offenders and children who are in need of protective services or treatment.

Subd. 8. [EXPENSES AND REIMBURSEMENTS.] The per diem and mileage costs of the members of the commission must be reimbursed as provided in section 3.101. The health and human services, governmental operations, education, judiciary, and appropriations or finance committees in the house and the senate shall share equally the responsibility to pay commission members' per diem and mileage costs from their committee budgets.

Subd. 9. [EXPIRATION.] The commission expires on June 30, 1994.

Sec. 2. Minnesota Statutes 1990, section 124.646, is amended to read:

124.646 [SCHOOL LUNCH AID.]

Subdivision 1. [SCHOOL LUNCH AID COMPUTATION.] Each school year, school districts participating in the national school lunch program shall be paid by the state in the amount of ~~7.5~~ eight cents for each full paid student lunch served to students in the district. School districts are encouraged to use Minnesota grown commodities in providing school lunches.

Subd. 2. School districts shall not be paid by the state for free or reduced price type "A" lunches served by the district.

Subd. 3. School districts shall apply to the state department of education for this payment on forms provided by the department.

Subd. 4. [SCHOOL FOOD SERVICE FUND.] (a) The expenses described in this subdivision must be recorded as provided in this subdivision.

(b) In each school district, the expenses for a school food service program for pupils must be attributed to a school food service fund. Under a food service program, the school food service may prepare or serve milk, meals, or snacks in connection with school or community service activities.

(c) Revenues and expenditures for food service activities must be recorded in the food service fund. The costs of processing applications, accounting for meals, preparing and serving food, providing kitchen custodial services, and other expenses involving the preparing of meals or the kitchen section of the lunchroom may be charged to the food service fund or to the general fund of the district. The costs of lunchroom supervision, lunchroom custodial services, lunchroom utilities, and other administrative costs of the food service program, including the costs attributable to the superintendent and the financial manager must be charged to the general fund.

(d) Capital expenditures for the purchase of food service equipment must be made from the capital fund and not the food service fund, unless two conditions apply:

(1) the unreserved balance in the food service fund at the end of the last fiscal year is greater than the cost of the equipment to be purchased; and

(2) the department of education has approved the purchase of the equipment.

(e) If the two conditions set out in paragraph (d) apply, the equipment may be purchased from the food service fund.

(f) If a deficit in the food service fund exists at the end of a fiscal year, and the deficit is not eliminated by revenues from food service operations in the next fiscal year, then the deficit must be eliminated by a permanent fund transfer from the general fund at the end of that second fiscal year.

Sec. 3. Minnesota Statutes 1990, section 125.231, is amended to read:

125.231 [TEACHER ASSISTANCE THROUGH MENTORSHIP PROGRAM.]

Subdivision 1. [TEACHER MENTORING PROGRAM.] School districts are encouraged to participate in a competitive grant program that explores ~~the potential of various~~ teacher mentoring programs for teachers new to the profession or district, or for teachers with special needs.

Subd. 2. [TEACHER MENTORING TASK FORCE.] The commissioner shall appoint and work with a teacher mentoring task force including representatives of the two teachers unions, the two principals organizations, school boards association, administrators association, board of teaching, parent teacher association, postsecondary institutions, foundations, and the private sector. Representation on the task force by ~~minority~~ populations of color shall reflect the proportion of ~~minorities~~ people of color in the public schools.

The task force shall:

(1) ~~make recommendations for a system of incentives at the state and local level to assure that highly capable individuals are attracted to and retained in the teaching profession;~~

~~(2) determine ways in which teachers can be empowered through expanding to new and more professional roles; and~~

~~(3)~~ develop the application forms, criteria, and procedures for the mentorship program;

(2) select sites to receive grant funding; and

(3) provide ongoing support and direction for program implementation.

Subd. 3. [APPLICATIONS.] The commissioner of education shall make application forms available ~~by October 1, 1987~~ to sites

interested in developing or expanding a mentorship program. ~~By December 1, 1987,~~ A school district, a group of school districts, or a coalition of districts, teachers and teacher education institutions may apply for a teacher mentorship program grant. ~~By January 1, 1988,~~ The commissioner, in consultation with the teacher mentoring task force, shall approve or disapprove the applications. To the extent possible, the approved applications must reflect ~~a variety of mentorship program models~~ effective mentoring components, include a variety of coalitions and be geographically distributed throughout the state. The commissioner of education shall encourage the selected sites to consider the use of the assessment procedures developed by the board of teaching.

Subd. 4. [CRITERIA FOR SELECTION.] At a minimum, applicants must express commitment to:

(1) allow staff participation;

(2) assess skills of both beginning and mentor teachers;

(3) provide appropriate in-service to needs identified in the assessment;

(4) provide leadership to the effort;

(5) cooperate with higher education institutions;

(6) provide facilities and other resources; and

(7) share findings, materials, and techniques with other school districts.

Subd. 5. [ADDITIONAL FUNDING.] Applicants are required to seek additional funding and assistance from sources such as school districts, post-secondary institutions, foundations, and the private sector.

Subd. 6. [REPORT TO THE LEGISLATURE.] ~~By January 1, 1991, the commissioner of education shall report to the legislature on how the teacher mentoring task force recommendations for a system of incentives are being implemented at the state and local level to assure that highly capable individuals are attracted to and retained in the teaching profession and shall recommend ways to expand and enhance the responsibilities of teachers.~~

~~By January 1 of 1990 and 1991~~ On a periodic basis, the commissioner of education shall report to the legislature on the design, development, implementation, and evaluation of the mentorship program.

Subd. 7. [PROGRAM IMPLEMENTATION.] New and expanding mentorship sites that are funded to design, develop, implement, and evaluate their program must participate in activities that support program development and implementation. The department of education must provide resources and assistance to support new sites in their program efforts. These activities and services may include, but are not limited to: planning, planning guides, media, training, conferences, institutes, and regional and statewide networking meetings. Nonfunded schools or districts interested in getting started may participate in some activities and services. Fees may be charged for meals, materials, and the like.

Sec. 4. Minnesota Statutes 1990, section 141.25, subdivision 8, is amended to read:

Subd. 8. [FEES AND TERMS OF LICENSE.] (a) Applications for initial license under sections 141.21 to 141.36 shall be accompanied by ~~$510~~ $560 a nonrefundable application fee.

(b) All licenses shall expire on December 31 of each year. Each renewal application shall be accompanied by a nonrefundable renewal fee of ~~$380~~ $430.

(c) Application for renewal of license shall be made on or before October 1 of each calendar year. Each renewal form shall be supplied by the commissioner. It shall not be necessary for an applicant to supply all information required in the initial application at the time of renewal unless requested by the commissioner.

Sec. 5. Minnesota Statutes 1990, section 141.26, subdivision 5, is amended to read:

Subd. 5. [FEE.] The initial and renewal application for each permit shall be accompanied by a nonrefundable fee of ~~$190~~ $210.

Sec. 6. [BOARD OF TEACHING APPROPRIATION.]

Subdivision 1. [BOARD OF TEACHING.] The sums indicated in this section are appropriated from the general fund to the board of teaching in the fiscal year indicated.

Subd. 2. [MENTORSHIP SITE GRANTS.] For grants for operating cooperative ventures between school district and post-secondary teacher preparation institutions for designing, implementing, and evaluating alternative preparation programs:

$150,000 1992

$150,000 1993

An application for a grant must be made by the cooperative. The funds must be used primarily to pay for coordination, instruction, and evaluation provided by the resident mentorship team.

Subd. 3. [FELLOWSHIP GRANTS.] For fellowship grants to highly qualified minorities seeking alternative preparation for licensure:

$100,000 1993

A grant must not exceed $5,000 with one-half paid each year for two years. Grants must be awarded on a competitive basis by the board. Grant recipients must agree to remain as teachers in the district for two years if they satisfactorily complete the alternative preparation program and if their contracts as probationary teachers are renewed.

Sec. 7. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums in this section are appropriated, unless otherwise indicated, from the general fund to the department of education for the fiscal years designated.

Subd. 2. [ABATEMENT AID.] For abatement aid according to Minnesota Statutes, section 124.214:

$6,018,000 1992

$6,018,000 1993

The 1992 appropriation includes $902,000 for 1991 and $5,116,000 for 1992.

The 1993 appropriation includes $902,000 for 1992 and $5,116,000 for 1993.

Subd. 3. [INTEGRATION GRANTS.] For grants to districts implementing desegregation plans mandated by the state board:

$15,844,000 1992

$15,844,000 1993

$1,385,200 each year must be allocated to independent school district No. 709, Duluth; $7,782,300 each year must be allocated to special school district No. 1, Minneapolis; and $6,676,500 each year must be allocated to independent school district No. 625, St. Paul. As a condition of receiving a grant, each district must continue to report its costs according to the uniform financial accounting and

reporting system. As a further condition of receiving a grant, each district must submit a report to the chairs of the education committees of the legislature about the actual expenditures it made for integration using the grant money. These grants may be used to transport students attending a nonresident district under Minnesota Statutes, section 120.062, to the border of the resident district. A district may allocate a part of the grant to the transportation fund for this purpose.

Subd. 4. [GRANTS FOR COOPERATIVE DESEGREGATION.] (a) For grants to develop interdistrict school desegregation programs:

$400,000 1992

$400,000 1993

(b) The state board of education shall award grants to school districts to develop pilot interdistrict cooperative programs to reduce segregation, as defined in Minnesota Rules, part 3535.0200, subpart 4, in school buildings.

(c) To obtain a grant, a district that is required to submit a plan under Minnesota Rules, part 3535.0600, with the assistance of at least one adjacent district that is not required to submit a plan, shall submit an application to the commissioner.

(d) The application shall contain a plan for:

(1) activities such as staff development, curriculum development, student leadership, student services, teacher and student exchanges, interdistrict meetings, and orientation for school boards, parents, and the community;

(2) implementation of the activities in clause (1) before possible student transfers occur; and

(3) voluntary transfer of students between districts.

(e) A grant recipient shall submit a report about its activities.

Subd. 5. [NONPUBLIC PUPIL AID.] For nonpublic pupil education aid according to Minnesota Statutes, sections 123.931 to 123.947:

$8,892,000 1992

$8,892,000 1993

The 1992 appropriation includes $1,333,000 for 1991 and $7,559,000 for 1992.

The 1993 appropriation includes $1,333,000 for 1992 and $7,559,000 for 1993.

Subd. 6. [SCHOOL LUNCH AND FOOD STORAGE AID.] For school lunch aid according to Minnesota Statutes, section 124.646, and for food storage and transportation costs for USDA donated commodities; and for a temporary transfer to the commodity processing revolving fund to provide cash flow to permit schools and other recipients of donated commodities to take advantage of volume processing rates:

$4,875,000 1992

$4,875,000 1993

Any balance from the appropriations in this subdivision must be prorated among participating schools based on the number of fully paid lunches served during that school year to meet the state revenue matching requirement of the USDA National School Lunch Program.

If the appropriation amount attributable to either year is insufficient, the rate of payment for each fully paid student lunch must be reduced and the aid for that year must be prorated among participating schools so as not to exceed the total authorized appropriation for that year.

Any temporary transfer processed in accordance with this subdivision to the commodity processing fund will be returned by June 30 in each year so that school lunch aid and food storage costs can be fully paid as scheduled.

Subd. 7. [SCHOOL MILK AID.] For school milk aid according to Minnesota Statutes, section 124.648:

$800,000 1992

$800,000 1993

Subd. 8. [TOBACCO USE PREVENTION.] For tobacco use prevention aid according to Minnesota Statutes, section 124.252:

$100,000 1992

The 1992 appropriation includes $100,000 for 1991 and $0 for 1992.

Subd. 9. [MINORITY TEACHER INCENTIVES.] For minority teacher incentives:

$500,000 1992

$500,000 1993

Any balance in the first year does not cancel but is available in the second year.

Subd. 10. [TEACHER MENTORSHIP.] For grants to develop mentoring programs in school districts according to Minnesota Statutes, section 125.231:

$250,000 1992

$250,000 1993

Any balance in the first year does not cancel and is available for the second year.

Subd. 11. [ADMINISTRATOR'S ACADEMY.] For the administrator's academy established under Minnesota Statutes, section 125.241:

$167,000 1992

$167,000 1993

$24,000 must be used each year for the school management assessment center at the University of Minnesota.

Sec. 8. [LEGISLATIVE COMMISSION ON CHILDREN, YOUTH, AND THEIR FAMILIES.]

The sums indicated in this section are appropriated from the general fund to the legislative commission on children, youth, and their families for the fiscal years designated:

$50,000 1992

$50,000 1993

Any balance in the first year does not cancel and is available in the second year.

Sec. 9. [REPEALER.]

Minnesota Statutes, sections 3.865, 3.866, 124.252, and 124C.01, subdivision 2, are repealed.

ARTICLE 9

MISCELLANEOUS

Section 1. Minnesota Statutes 1990, section 121.11, subdivision 12, is amended to read:

Subd. 12. [ADMINISTRATIVE RULES.] The state board may adopt new rules only upon specific authority other than under this subdivision. The state board may amend or repeal any of its existing rules. Notwithstanding the provisions of section 14.05, subdivision 4, the state board may grant a variance to its rules upon application by a school district for purposes of implementing experimental programs in learning or school management ~~that attempt to make better use of community resources or available technology~~. Notwithstanding any law to the contrary, and only upon receiving the agreement of the state board of teaching, the state board may grant a variance to its rules governing licensure of teachers.

Sec. 2. [121.162] [RECEIPTS; FUNDS.]

Subdivision 1. [CONFERENCE AND WORKSHOP FEES.] The commissioner may establish procedures to set and collect fees to defray costs of conferences and workshops conducted by the department. The commissioner may keep accounts as necessary within the state's accounting system for the deposit of the conference and workshop fee receipts.

Subd. 2. [APPROPRIATION.] The receipts collected under subdivision 1 are appropriated for payment of expenses relating to the workshops and conferences.

Subd. 3. [CARRY-OVER AUTHORITY.] Unobligated balances under subdivision 1 may be carried over as follows:

(1) when expenditures for which the receipts have been designated occur in the following fiscal year; or

(2) to allow retention of minor balances in accounts for conferences that are scheduled annually.

Subd. 4. [RECEIPTS AND REIMBURSEMENTS.] The commissioner may accept receipts and payments from public and nonprofit private agencies for related costs for partnership or cooperative endeavors involving education activities that are for the mutual benefit of the state, the department, and the other agency. The commissioner may keep accounts as necessary within the state's accounting system. The receipts must be deposited in the special revenue fund.

Sec. 3. Minnesota Statutes 1990, section 121.611, subdivision 2, is amended to read:

Subd. 2. [APPLICATIONS; CRITERIA.] The school district shall apply to the board of teaching for approval to hire nonlicensed teaching personnel from the community. In approving or disapproving the district's application for each community expert, the board shall consider:

(1) the qualifications of the community person whom the district proposes to employ;

(2) the reasons for the district's need for a variance from the teacher licensure requirements;

(3) ~~the district's efforts to obtain licensed teachers, who are acceptable to the school board, for the particular course or subject area;~~

~~(4)~~ the amount of teaching time for which the community expert would be hired;

~~(5)~~ (4) the extent to which the district is utilizing other nonlicensed community experts under this section;

~~(6)~~ (5) the nature of the community expert's proposed teaching responsibility; and

~~(7)~~ (6) the proposed level of compensation to the community expert.

Sec. 4. Minnesota Statutes 1990, section 123.33, subdivision 1, is amended to read:

Subdivision 1. The care, management, and control of independent districts shall be vested in a board of directors, to be known as the school board. The term of office of ~~a~~ an elected member shall be three years and until a successor qualifies. The membership of the school board shall consist of six elected directors together with such ex officio member as may be provided by law. ~~But~~ The nonvoting membership of the school board shall include a teacher selected by the exclusive bargaining representative of the teachers in the district and a student attending school in the district selected by the student organizations in the district. The teacher and the student shall attend school board meetings, receive agenda materials, introduce items for inclusion on the agenda, and participate in discussion. Neither the student nor the teacher shall receive any compensation or be reimbursed for any expenses incurred while serving as a nonvoting member. The term of office of the teacher member and student member is one year and until a successor is

selected. The teacher member must not participate in any discussion concerning the negotiation or implementation of a collective bargaining agreement and must not be present at a meeting permitted under section 471.705, subdivision 1a. The board may submit to the electors at any school election the question whether the board shall consist of seven elected members and if a majority of those voting on the proposition favor a seven-member board, a seventh member shall be elected at the next election of directors for a three-year term and thereafter the board shall consist of seven elected members.

Those districts with a seven-member board may submit to the electors at any school election at least 150 days before the next election of three members of the board the question whether the board shall consist of six elected members. If a majority of those voting on the proposition favor a six-member board instead of a seven-member board, two members instead of three members shall be elected at the next election of the board of directors and thereafter the board shall consist of six elected members.

Sec. 5. Minnesota Statutes 1990, section 123.34, subdivision 9, is amended to read:

Subd. 9. [SUPERINTENDENT.] All districts maintaining a classified secondary school shall employ a superintendent who shall be an ex officio nonvoting member of the school board. The authority for selection and employment of a superintendent shall be vested in the school board in all cases. An individual employed by a school board as a superintendent shall have an initial employment contract for a period of time no longer than four years from the date of employment. ~~The initial employment contract must terminate on June 30 of an odd-numbered year. Any subsequent employment contract between a school board and the same individual to serve as a superintendent may not extend beyond June 30 of the next odd-numbered year.~~ Any subsequent employment contract must not exceed a period of four years. A school board, at its discretion, may or may not renew~~, at its discretion,~~ an ~~initial employment contract or a subsequent~~ employment contract. A school board may terminate a superintendent during the term of an employment contract for any of the grounds specified in section 125.12, subdivision 6 or 8. A superintendent shall not rely upon an employment contract with a school board to assert any other continuing contract rights in the position of superintendent under section 125.12. Notwithstanding the provisions of sections 122.532, 122.541, 125.12, subdivision 6a or 6b, or any other law to the contrary, no individual shall have a right to employment as a superintendent based on ~~seniority or~~ order of employment in any district. If two or more school districts enter into an agreement for the purchase or sharing of the services of a superintendent, the contracting districts have the absolute right to select one of the individuals employed to serve as superintendent in one of the contracting districts and no individual has a right to employment as the superintendent to provide all or part of the

services based on ~~seniority or~~ order of employment in a contracting district. ~~An individual who holds a position as superintendent in one of the contracting districts, but is not selected to perform the services, may be placed on unrequested leave of absence or may be reassigned to another available position in the district for which the individual is licensed.~~ The superintendent of a district shall perform the following:

(1) visit and supervise the schools in the district, report and make recommendations about their condition when advisable or on request by the board;

(2) recommend to the board employment and dismissal of teachers;

(3) superintend school grading practices and examinations for promotions;

(4) make reports required by the commissioner of education; and

(5) perform other duties prescribed by the board.

Sec. 6. Minnesota Statutes 1990, section 123.35, is amended by adding a subdivision to read:

Subd. 8d. [FOREIGN EXCHANGE STUDENTS.] Notwithstanding subdivision 8c, or any other law to the contrary, a foreign exchange student enrolled in a district under a cultural exchange program counts in average daily membership whether or not that student has graduated from high school or its equivalent.

Sec. 7. Minnesota Statutes 1990, section 123.35, subdivision 17, is amended to read:

Subd. 17. [SCHOOL HEALTH SERVICES.] (a) Every school board must provide services to promote the health of its pupils.

(b) The board of a district with 1,000 pupils or more in average daily membership in early childhood family education, preschool handicapped, elementary, and secondary programs must comply with the requirements of this paragraph. It may use one or a combination of the following methods:

(1) employ personnel, including at least one full-time equivalent licensed school nurse or continue to employ a registered nurse not yet certified as a public health nurse as defined in section 145A.02, subdivision 18, who is enrolled in a program that would lead to certification within four years of August 1, 1988;

(2) contract with a public or private health organization or another public agency for personnel during the regular school year,

determined appropriate by the board, who are currently licensed under chapter 148 and who are certified public health nurses; or

(3) enter into another arrangement approved by the state board of education.

(c) Personnel hired or contracted for by a school board to perform delegated nursing functions must complete the curricula and meet the standards established under section 148.191, subdivision 2.

Sec. 8. Minnesota Statutes 1990, section 123.3514, subdivision 4, is amended to read:

Subd. 4. [AUTHORIZATION; NOTIFICATION.] Notwithstanding any other law to the contrary, an 11th or 12th grade pupil, except a foreign exchange student enrolled in a district under a cultural exchange program, may apply to an eligible institution, as defined in subdivision 3, to enroll in nonsectarian courses offered at that post-secondary institution. If an institution accepts a secondary pupil for enrollment under this section, the institution shall send written notice to the pupil, the pupil's school district, and the commissioner of education within ten days of acceptance. The notice shall indicate the course and hours of enrollment of that pupil. If the pupil enrolls in a course for post-secondary credit, the institution shall notify the pupil about payment in the customary manner used by the institution.

Sec. 9. Minnesota Statutes 1990, section 123.38, subdivision 2b, is amended to read:

Subd. 2b. (a) The board may take charge of and control all extracurricular activities of the teachers and children of the public schools in the district. Extracurricular activities shall mean all direct and personal services for public school pupils for their enjoyment that are managed and operated under the guidance of an adult or staff member.

(b) Extracurricular activities have all of the following characteristics:

~~(a)~~ (1) they are not offered for school credit nor required for graduation;

~~(b)~~ (2) they are generally conducted outside school hours, or if partly during school hours, at times agreed by the participants, and approved by school authorities;

~~(c)~~ (3) the content of the activities is determined primarily by the pupil participants under the guidance of a staff member or other adult.

(c) If the board does not take charge of and control extracurricular activities, these activities shall be self-sustaining with all expenses, except direct salary costs and indirect costs of the use of school facilities, met by dues, admissions, or other student fundraising events. The general fund or the technical colleges fund, if applicable, shall reflect only those salaries directly related to and readily identified with the activity and paid by public funds. Other revenues and expenditures for extra curricular activities must be recorded according to the "Manual of Instruction for Uniform Student Activities Accounting for Minnesota School Districts and Area Vocational-Technical Colleges." Extracurricular activities not under board control must have an annual financial audit and must also be audited annually for compliance with this section.

(d) If the board takes charge of and controls extracurricular activities, any or all costs of these activities may be provided from school revenues. All revenues and expenditures for these activities under board control shall be recorded in the same manner as other revenues and expenditures of the district.

(e) If the board takes charge of and controls extracurricular activities, no such activity shall be participated in by the teachers or pupils in the district, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board.

Sec. 10. Minnesota Statutes 1990, section 125.12, subdivision 3, is amended to read:

Subd. 3. [PROBATIONARY PERIOD.] The first three consecutive years of a teacher's first teaching experience in Minnesota in a single school district shall be deemed to be a probationary period of employment, and after completion thereof, the probationary period in each school district in which the teacher is thereafter employed shall be one year. The school site management team, or the school board if there is no school site management team, shall adopt a plan for written evaluation of teachers during the probationary period according to subdivision 3a. ~~Effective July 1, 1988,~~ Evaluation by the peer review committee charged with evaluating probationary teachers under subdivision 3a shall occur at least three times each year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school shall not be included in determining the number of school days on which a teacher performs services. During the probationary period any annual contract with any teacher may or may not be renewed as the school board, after consulting with the peer review committee charged with evaluating probationary teach-

ers under subdivision 3a, shall see fit; provided, however, that the school board shall give any such teacher whose contract it declines to renew for the following school year written notice to that effect before June 1. If the teacher requests reasons for any nonrenewal of a teaching contract, the school board shall give the teacher its reason in writing, including a statement that appropriate supervision was furnished describing the nature and the extent of such supervision furnished the teacher during the employment by the board, within ten days after receiving such request. The school board may, after a hearing held upon due notice, discharge a teacher during the probationary period for cause, effective immediately, under section 123.35, subdivision 5.

Sec. 11. Minnesota Statutes 1990, section 125.12, is amended by adding a subdivision to read:

Subd. 3a. [PEER REVIEW FOR PROBATIONARY TEACHERS.] A school must have a peer review committee charged with evaluating each probationary teacher at least three times each year for a period of three years as required under subdivision 3. The purpose of the evaluation procedure is to improve the probationary teacher's instructional effectiveness. The school site management team, or the school board if there is no school site management team, after consulting with a representative of the peer review committee and the school principal or other person having general control and supervision of the school, shall adopt a procedure for written evaluations of probationary teachers. The evaluation procedure must be structured as a continuing and cooperative process between the probationary teacher, the peer review committee, and the school principal or other person having general control and supervision of the school. The school site management team, or the school board if there is no school site management team, shall make available a written description of the evaluation procedure, including evaluation policies and criteria, to each newly hired teacher and to each probationary teacher. As part of the evaluation procedure, the school and the school district shall provide the necessary resources to assist a probationary teacher to improve those areas of instruction identified by the teacher, the peer review committee, or the principal or other person having general control and supervision of the school as in need of improvement. The school and the school district also shall provide to each probationary teacher opportunities for professional growth experiences, including in-service training.

Sec. 12. Minnesota Statutes 1990, section 125.12, is amended by adding a subdivision to read:

Subd. 4a. [PEER REVIEW FOR CONTINUING CONTRACT TEACHERS.] A school must have a peer review committee for continuing contract teachers to provide the teachers with the opportunity for positive interaction and professional growth to help

students learn more effectively. The peer review committee must not judge teacher competency nor determine whether to suspend or terminate a teacher. Members of the peer review committee must be selected by the school site management team, or by the exclusive bargaining representative if there is no school site management team. The selecting body shall establish an equitable process for selecting members of the peer review committee and an orderly cycle for rotating members. Only teachers with continuing contracts shall serve as members of the peer review committee. The peer review committee shall review once each school year each teacher with a continuing contract performing services on 120 or more school days. The review process must allow experienced teachers to improve instructional effectiveness through professional learning and development opportunities that include exchanging and internalizing ideas about the components of competent teaching. An in-service training session must be held at the beginning of each school year to train members of the peer review committee to facilitate teachers' reflections about the assumptions, beliefs, and practices underlying teaching. The selecting body shall design the training sessions and give the members of the peer review committee the necessary time off from their classroom responsibilities to perform the duties listed in this subdivision.

Sec. 13. Minnesota Statutes 1990, section 125.12, subdivision 6b, is amended to read:

Subd. 6b. [UNREQUESTED LEAVE OF ABSENCE.] The school board may place on unrequested leave of absence, without pay or fringe benefits, as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts. The unrequested leave shall be effective at the close of the school year. In placing teachers on unrequested leave, the board shall be governed by the following provisions:

(a) The board may place probationary teachers on unrequested leave first in the inverse order of their employment. No teacher who has acquired continuing contract rights shall be placed on unrequested leave of absence while probationary teachers are retained in positions for which the teacher who has acquired continuing contract rights is licensed;

(b) Teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed in the inverse order in which they were employed by the school district. In the case of equal seniority, the order in which teachers who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed shall be negotiable;

(c) Notwithstanding the provisions of clause (b), no teacher shall

be entitled to exercise any seniority when that exercise results in that teacher being retained by the district in a field for which the teacher holds only a provisional license, as defined by the board of teaching, unless that exercise of seniority results in the placement on unrequested leave of absence of another teacher who also holds a provisional license in the same field. The provisions of this clause shall not apply to vocational education licenses;

(d) Notwithstanding clauses (a), (b) and (c), if the placing of a probationary teacher on unrequested leave before a teacher who has acquired continuing rights, the placing of a teacher who has acquired continuing contract rights on unrequested leave before another teacher who has acquired continuing contract rights but who has greater seniority, or the restriction imposed by the provisions of clause (c) would place the district in violation of its affirmative action program, the district may retain the probationary teacher, the teacher with less seniority, or the provisionally licensed teacher;

(e) Teachers placed on unrequested leave of absence shall be reinstated to the positions from which they have been given leaves of absence or, if not available, to other available positions in the school district in fields in which they are licensed. Reinstatement shall be in the inverse order of placement on leave of absence. No teacher shall be reinstated to a position in a field in which the teacher holds only a provisional license, other than a vocational education license, while another teacher who holds a nonprovisional license in the same field remains on unrequested leave. The order of reinstatement of teachers who have equal seniority and who are placed on unrequested leave in the same school year shall be negotiable;

(f) No appointment of a new teacher shall be made while there is available, on unrequested leave, a teacher who is properly licensed to fill such vacancy, unless the teacher fails to advise the school board within 30 days of the date of notification that a position is available to that teacher who may return to employment and assume the duties of the position to which appointed on a future date determined by the board;

(g) A teacher placed on unrequested leave of absence may engage in teaching or any other occupation during the period of this leave;

(h) The unrequested leave of absence shall not impair the continuing contract rights of a teacher or result in a loss of credit for previous years of service;

(i) The unrequested leave of absence of a teacher who is placed on unrequested leave of absence prior to January 1, 1978 and who is not reinstated shall continue for a period of two years after which the right to reinstatement shall terminate. The unrequested leave of absence of a teacher who is placed on unrequested leave of absence

on or after January 1, 1978 and who is not reinstated shall continue for a period of five years, after which the right to reinstatement shall terminate; provided the teacher's right to reinstatement shall also terminate if the teacher fails to file with the board by April 1 of any year a written statement requesting reinstatement;

(j) The same provisions applicable to terminations of probationary or continuing contracts in subdivisions 3 and 4 shall apply to placement on unrequested leave of absence;

(k) Nothing in this subdivision shall be construed to impair the rights of teachers placed on unrequested leave of absence to receive unemployment compensation if otherwise eligible.;

(l) An individual employed by a school board as a superintendent must not be denied continuing contract rights acquired while employed as a teacher, and not as a superintendent, in a school district.

Sec. 14. [125.135] [STAFF EXCHANGE PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] A staff exchange program is established to allow local school districts to arrange temporary and voluntary exchanges among members of their kindergarten through grade 12 instructional and administrative staffs. The purpose of the program is to provide participants with an understanding of the educational concerns of other local school districts, including concerns of class organization, curriculum development, instructional practices, and characteristics of the student population.

The educational needs and interests of the host school district and the training, experience, and interests of the participants must determine the assignments of the participants in the host district. Participants may teach courses, provide counseling and tutorial services, work with teachers to better prepare students for future educational experiences, serve an underserved population in the district, or assist with administrative functions. The assignments participants perform for the host district must be comparable to the assignments the participants perform for the district employing the participants. Participation in the exchange program need not be limited to one school or one school district and may involve other education organizations including education districts and ECSUs.

Subd. 2. [PROGRAM REQUIREMENTS.] All staff exchanges made under this section are subject to the requirements in this subdivision.

(a) A school district employing a participating staff member must not adversely affect the staff member's salary, seniority, or other

employment benefits, or otherwise penalize the staff member for participating in the program.

(b) Upon completion or termination of an exchange, a school district employing a participating staff member must permit the staff member to return to the same assignment the staff member performed in the district before the exchange, *if available, or, if not,* a similar assignment.

(c) A school district employing a participating staff member must continue to provide the staff member's salary and other employment benefits during the period of the exchange.

(d) A participant must be licensed and tenured.

(e) Participation in the program must be voluntary.

(f) The length of participation in the program must be no less than one-half of a school year and no more than one school year, and any premature termination of participation must be upon the mutual agreement of the participant and the participating school district.

(g) A participant is responsible for transportation to and from the host school district.

(h) This subdivision does not abrogate or change rights of staff members participating in the staff exchange program or the terms of an agreement between the exclusive representative of the school district employees and the school district.

(i) Participating school districts may enter into supplementary agreements with the exclusive representative of the school district employees to accomplish the purpose of this section.

Subd. 3. [APPLICATION PROCEDURES.] The school board of a school district must decide by resolution to participate in the staff exchange program. A staff member wishing to participate in the exchange program must submit an application to the school district employing the staff member. The district must, in a timely and appropriate manner, provide to the exclusive bargaining representatives of teachers in the state the number and names of prospective participants within the district, the assignments available within the district, and the length of time for each exchange. The exclusive bargaining representatives are requested to cooperatively participate in the coordination of exchanges to facilitate exchanges across all geographical regions of the state. Prospective participants must contact teachers and districts with whom they are interested in making an exchange. The prospective participants must make all arrangements to accomplish their exchange and the superinten-

dents of the participating districts must approve the arrangements for the exchange in writing.

Sec. 15. [125.138] [FACULTY EXCHANGE PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] A program of faculty exchange is established to allow school districts and post-secondary institutions to arrange temporary exchanges between members of their instructional staffs. These arrangements must be made on a voluntary cooperative basis between a school district and post-secondary institution, or between post-secondary institutions. Exchanges between post-secondary institutions may occur among campuses in the same system or in different systems.

Subd. 2. [USES OF PROGRAM.] Each participating school district and post-secondary institution may determine the way in which the instructional staff member's time is to be used, but it must be in a way that promotes understanding of the needs of each educational system or institution. For example, a public school teacher may teach courses, provide counseling and tutorial services, assist with the preparation of future teachers, or take professional development courses. A post-secondary teacher might teach advanced placement courses or other classes to aid an underserved population at the school district, counsel students about future educational plans, or work with teachers to better prepare students for post-secondary education. Participation need not be limited to one school or institution and may involve other groups including educational cooperative service units.

Subd. 3. [SALARIES; BENEFITS; CERTIFICATION.] Exchanges made under the program must not have a negative effect on participants' salaries, seniority, or other benefits. Notwithstanding sections 123.35, subdivision 6, and 125.04, a member of the instructional staff of a post-secondary institution may teach in an elementary or secondary school or perform a service, agreed upon according to this section, for which a license would otherwise be required without holding the applicable license. In addition, a licensed teacher employed by a school district may teach or perform a service, agreed upon according to this section, at a post-secondary institution without meeting the applicable qualifications of the post-secondary institution. A school district is not subject to section 124.19, subdivision 3, as a result of entering into an agreement according to this section that enables a post-secondary instructional staff member to teach or provide services in the district. All arrangements and details regarding the exchange must be mutually agreed to by each participating school district and post-secondary institution before implementation.

Sec. 16. [125.1385] [EXCHANGES BETWEEN EDUCATION FACULTY.]

Subdivision 1. [AUTHORITY; LIMITS.] The state university board and the board of regents of the University of Minnesota may develop programs to exchange faculty between colleges or schools of education and school districts, subject to section 125.138.

The programs must be used to assist in improving teacher education by involving current teachers in education courses and placing post-secondary faculty in elementary and secondary classrooms. Programs must include exchanges that extend beyond the immediate service area of the institution to address the needs of different types of schools, students, and teachers.

Subd. 2. [COMPENSATION.] State money for faculty exchange programs is to compensate for expenses that are unavoidable and beyond the normal living expenses exchange participants would incur if they were not involved in this exchange. The state university board, the board of regents, or the University of Minnesota, and their respective campuses, in conjunction with the participating school districts, must control costs for all participants as much as possible, through means such as arranging housing exchanges, providing campus housing, and providing university, state, or school district cars for transportation. The boards and campuses may seek other sources of funding to supplement these appropriations, if necessary.

Sec. 17. Minnesota Statutes 1990, section 125.17, subdivision 2, is amended to read:

Subd. 2. [PROBATIONARY PERIOD; DISCHARGE OR DEMOTION.] All teachers in the public schools in cities of the first class during the first three years of consecutive employment shall be deemed to be in a probationary period of employment during which period any annual contract with any teacher may, or may not, be renewed as the school board, after consulting with the peer review committee charged with evaluating the probationary teachers under subdivision 2a, shall see fit. The school site management team or the school board if there is no school site management team, shall adopt a plan for a written evaluation of teachers during the probationary period according to subdivision 2a. ~~Effective July 1, 1988,~~ Evaluation by the peer review committee charged with evaluating probationary teachers under subdivision 2a shall occur at least three times each year for a teacher performing services on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school shall not be included in determining the number of school days on which a teacher performs services. The school board may, during such probationary period, discharge or demote a teacher for any of the causes as specified in this code. A

written statement of the cause of such discharge or demotion shall be given to the teacher by the school board at least 30 days before such removal or demotion shall become effective, and the teacher so notified shall have no right of appeal therefrom.

Sec. 18. Minnesota Statutes 1990, section 125.17, is amended by adding a subdivision to read:

Subd. 2a. [PEER REVIEW FOR PROBATIONARY TEACHERS.] A school must have a peer review committee charged with evaluating each probationary teacher at least three times each year for a period of three years as required under subdivision 3. The purpose of the evaluation procedure is to improve the probationary teacher's instructional effectiveness. The school site management team, or the school board if there is no school site management team, after consulting with a representative of the peer review committee and the school principal or other person having general control and supervision of the school, shall adopt a procedure for written evaluations of probationary teachers. The evaluation procedure must be structured as a continuing and cooperative process between the probationary teacher, the peer review committee, and the school principal or other person having general control and supervision of the school. The school site management team, or the school board if there is no school site management team, shall make available a written description of the evaluation procedure, including evaluation policies and criteria, to each newly hired teacher and to each probationary teacher. As part of the evaluation procedure, the school and the school district shall provide the necessary resources to assist a probationary teacher to improve those areas of instruction identified by the teacher, the peer review committee, or the principal or other person having general control and supervision of the school as in need of improvement. The school and the school district also shall provide to each probationary teacher opportunities for professional growth experiences, including in-service training.

Sec. 19. Minnesota Statutes 1990, section 125.17, is amended by adding a subdivision to read:

Subd. 3a. [PEER REVIEW FOR NONPROBATIONARY TEACHERS.] A peer review committee for nonprobationary teachers shall exist in each school to provide nonprobationary teachers with the opportunity for positive interaction and professional growth to help students learn more effectively. The peer review committee must not judge teacher competency nor determine whether to discharge or demote a teacher. Members of the peer review committee must be selected by the school site management team, or by the exclusive bargaining representative if there is no school site management team. The selecting body shall establish an equitable process for selecting members of the peer review committee and an orderly cycle for rotating members. Only nonprobationary teachers shall

serve as members of the peer review committee. The peer review committee shall review once each school year each nonprobationary *teacher performing services on 120 or more school days.* The review process must allow experienced teachers to improve instructional effectiveness through professional learning and development opportunities that include exchanging and internalizing ideas about the components of competent teaching. An in-service training session must be held at the beginning of each school year to train members of the peer review committee to facilitate teachers' reflections about the assumptions, beliefs, and practices underlying teaching. The selecting body shall design the training session and give the members of the peer review committee the necessary time off from the classroom responsibilities to perform the duties listed in this subdivision.

Sec. 20. Minnesota Statutes 1990, section 126.266, subdivision 2, is amended to read:

Subd. 2. A teacher serving under an exemption as provided in subdivision 1 shall be granted a license as soon as that teacher qualifies for it. Not more than one year of service by a teacher under an exemption shall be credited to the teacher for the purposes of section 125.12~~; and not more than two years shall be credited to the teacher for purposes of section 125.17; and the one or two years shall be deemed to precede immediately and be consecutive with the year in which the teacher becomes licensed~~. For purposes of section 125.17, a teacher shall receive credit equal to the number of years the teacher served under an exemption.

Sec. 21. Minnesota Statutes 1990, section 148.191, subdivision 2, is amended to read:

Subd. 2. [POWERS.] (a) The board is authorized to adopt and, from time to time, revise rules not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions of sections 148.171 to 148.285. The board shall prescribe by rule curricula and standards for schools and courses preparing persons for licensure under sections 148.171 to 148.285. It shall conduct or provide for surveys of such schools and courses at such times as it may deem necessary. It shall approve such schools and courses as meet the requirements of sections 148.171 to 148.285 and board rules. It shall examine, license, and renew the license of duly qualified applicants. It shall hold examinations at least once in each year at such time and place as it may determine. It shall by rule adopt, evaluate, and periodically revise, as necessary, requirements for licensure and for registration and renewal of registration as defined in section 148.231. It shall cause the prosecution of all persons violating sections 148.171 to 148.285 and have power to incur such necessary expense therefor. It shall register public health nurses who meet educational and other requirements established by the board by rule, including payment of a fee. Prior to the adoption of rules, the

board shall use the same procedures used by the department of health to certify public health nurses. It shall prescribe by rule the curricula and standards for the training and functioning of nursing assistants as defined in section 144A.61, subdivision 2, who are working as either an employee of, or under contract to, a school district. It shall have power to issue subpoenas, and to compel the attendance of witnesses and the production of all necessary documents and other evidentiary material. Any board member may administer oaths to witnesses, or take their affirmation. It shall keep a record of all its proceedings.

(b) The board shall have access to hospital, nursing home, and other medical records of a patient cared for by a nurse under review. If the board does not have a written consent from a patient permitting access to the patient's records, the nurse or facility shall delete any data in the record that identifies the patient before providing it to the board. The board shall have access to such other records as reasonably requested by the board to assist the board in its investigation. Nothing herein may be construed to allow access to any records protected by section 145.64. The board shall maintain any records obtained pursuant to this paragraph as investigative data under chapter 13.

Sec. 22. Minnesota Statutes 1990, section 275.065, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF PROPOSED PROPERTY TAXES.] (a) The county auditor shall prepare and the county treasurer shall deliver on or before November 10 each year, by first class mail to each taxpayer at the address listed on the county's current year's assessment roll, a notice of proposed property taxes and, in the case of a town, final property taxes.

(b) The commissioner of revenue shall prescribe the form of the notice.

(c) The notice must inform taxpayers that it contains the amount of property taxes each taxing authority other than a town proposes to collect for taxes payable the following year as required in paragraph (d) or (e) and, for a town, the amount of its final levy. It must clearly state that each taxing authority, other than a town or special taxing district, will hold a public meeting to receive public testimony on the proposed budget and proposed or final property tax levy, or, in case of a school district, on the current budget and proposed property tax levy. It must clearly state the time and place of each taxing authority's meeting and an address where comments will be received by mail. It must state the time and place for the continuation of the hearing if the hearing is not completed on the original date.

(d) Except as provided in paragraph (e), for taxes levied in 1990

and 1991, the notice must state by county, city or town, and school district:

(1) the total proposed or, for a town, final property tax levy for taxes payable the following year after reduction for state aid;

(2) the percentage increase or decrease from the actual property tax levy for taxes payable in the current year; and

(3) for counties, cities, and towns, the increase or decrease in population from the second previous calendar year to the immediately prior calendar year, and for school districts, the increase or decrease in the number of pupils in average daily membership from the second previous school year to the immediately prior school year as determined by the commissioner of education. The data used to determine the increase or decrease in population under this clause must be the data used for purposes of the population adjustment to the levy limit base of the county, city, or town under section 275.51, subdivision 6.

For purposes of this paragraph, "proposed property taxes after reduction for state aid" means the taxing authority's levy certified under section 275.07, subdivision 1.

(e) In the case of a county containing a city of the first class, or taxing authority lying wholly within a county or counties containing a city of the first class, for taxes levied in 1991, and thereafter, and for all counties for taxes levied in 1992 and thereafter, the notice must state for each parcel:

(1) the market value of the property as defined under section 272.03, subdivision 8, for property taxes payable in the following year and for taxes payable the current year;

(2) by county, city or town, school district, the sum of the special taxing districts, and as a total of the taxing authorities, including special taxing districts, the proposed or, for a town, final net tax on the property for taxes payable the following year and the actual tax for taxes payable the current year; and

(3) the increase or decrease in the amounts in clause (2) from taxes payable in the current year to proposed or, for a town, final taxes payable the following year, expressed as a dollar amount and as a percentage.

(f) The notice must clearly state that the proposed or final taxes do not include the following:

(1) special assessments;

(2) levies approved by the voters after the date the proposed taxes are certified, including bond referenda, school district levy referenda, and levy limit increase referenda;

(3) amounts necessary to pay cleanup or other costs due to a natural disaster occurring after the date the proposed taxes are certified; and

(4) amounts necessary to pay tort judgments against the taxing authority that become final after the date the proposed taxes are certified.

Sec. 23. Minnesota Statutes 1990, section 275.065, subdivision 5a, is amended to read:

Subd. 5a. [PUBLIC ADVERTISEMENT.] (a) A city, county, or school district shall advertise in a newspaper a notice of its intent to adopt a budget and property tax levy or in the case of a school district, ~~a property tax levy,~~ to review its current budget and proposed property taxes payable the following year at a public hearing. The notice must be published not less than two days nor more than six days before the hearing.

The advertisement must be at least one-eighth page in size of a standard-size or a tabloid-size newspaper, and the headlines in the advertisement stating the notice of proposed property taxes and the notice of public hearing must be in a type no smaller than 24-point. The text of the advertisement must be no smaller than 18-point, except that the property tax amounts and percentages may be in 14-point type. The advertisement must not be placed in the part of the newspaper where legal notices and classified advertisements appear. The advertisement must be published in an official newspaper of general circulation in the taxing authority. The newspaper selected must be one of general interest and readership in the community, and not one of limited subject matter. The advertisement must appear in a newspaper that is published at least once per week.

(b) The advertisement must be in the following form, except that the notice for a school district ~~must not~~ may include references to the current budget ~~hearings or to adoption of a budget:~~ in regard to proposed property taxes.

"NOTICE OF

PROPOSED PROPERTY TAXES

(City/County/School District) of .....

The governing body of ..... will soon hold budget hearings and vote

on the property taxes for (city/county services that will be provided in 199__/school district services that will be provided in 199__ and 199__).

The property tax amounts below compare current (city/county/school district) property taxes and the property taxes that would be collected in 199__ if the budget now being considered is approved.

199__ Property Taxes	Proposed 199__ Property Taxes	199__ Increase or Decrease
$.....	$.....	.....%

NOTICE OF PUBLIC HEARING:

All concerned citizens are invited to attend a public hearing and express their opinions on the proposed (city/county/school district) budget and property taxes, or in the case of a school district, its current budget and proposed property taxes, payable the following year. The hearing will be held on (Month/Day/Year) at (Time) at (Location, Address).

A continuation of the hearing, if necessary, will be held on (Month/Day/Year) at (Time) at (Location, Address).

Written comments may be directed to (Address)."

Sec. 24. Minnesota Statutes 1990, section 275.065, subdivision 6, is amended to read:

Subd. 6. [PUBLIC HEARING; ADOPTION OF BUDGET AND LEVY.] Between November 15 and December 20, the governing bodies of the city and county shall each hold a public hearing to adopt its final budget and property tax levy for taxes payable in the following year, and the governing body of the school district shall hold a public hearing to review its current budget and adopt its property tax levy for taxes payable in the following year.

At the hearing, the taxing authority, other than a school district, may amend the proposed budget and property tax levy and must adopt a final budget and property tax levy, and the school district may amend the proposed property tax levy and must adopt a final property tax levy.

The property tax levy certified under section 275.07 by a city, county, or school district must not exceed the proposed levy determined under subdivision 1, except by an amount up to the sum of the following amounts:

(1) the amount of a school district levy whose voters approved a referendum to increase taxes under section 124A.03, subdivision 2, or 124.82, subdivision 3, after the proposed levy was certified;

(2) the amount of a city or county levy approved by the voters under section 275.58 after the proposed levy was certified;

(3) the amount of a levy to pay principal and interest on bonds issued or approved by the voters under section 475.58 after the proposed levy was certified;

(4) the amount of a levy to pay costs due to a natural disaster occurring after the proposed levy was certified, if that amount is approved by the commissioner of revenue under subdivision 6a;

(5) the amount of a levy to pay tort judgments against a taxing authority that become final after the proposed levy was certified, if the amount is approved by the commissioner of revenue under subdivision 6a; and

(6) the amount of an increase in levy limits certified to the taxing authority by the commissioner of revenue or the commissioner of education after the proposed levy was certified.

At the hearing the percentage increase in property taxes proposed by the taxing authority, if any, and the specific purposes for which property tax revenues are being increased must be discussed. During the discussion, the governing body shall hear comments regarding a proposed increase and explain the reasons for the proposed increase. The public shall be allowed to speak and to ask questions prior to adoption of any measures by the governing body. The governing body, other than the governing body school districts, shall adopt its final property tax levy prior to adopting its final budget.

The hearing must be held after 5:00 p.m. if scheduled on a day other than Saturday. No hearing may be held on a Sunday. The county auditor shall provide for the coordination of hearing dates for all taxing authorities within the county.

By August 1, the county auditor shall notify the clerk of each school district within the county of the dates that the county board has designated for its hearing and any continuation under subdivision 3. By August 15, each school board shall certify to the county auditors of the counties in which the school district is located the dates on which it elects to hold its hearings and any continuations under subdivision 3. If a school board does not certify the dates by August 15, the auditor will assign the hearing date. The dates elected or assigned must not conflict with the county hearing dates. By August 20, the county auditor shall notify the clerks of the cities

within the county of the dates on which the county and school districts have elected to hold their hearings. At the time a city certifies its proposed levy under subdivision 1 it shall certify the dates on which it elects to hold its hearings and any continuations under subdivision 3. The city must not select dates that conflict with those elected by or assigned to the counties and school districts in which the city is located.

The hearing dates so elected or assigned must be designated on the notices required under subdivision 3.

This subdivision does not apply to towns and special taxing districts.

Sec. 25. [RULEMAKING; TEACHER PREPARATION TIME.]

By May 1, 1992, the state board of education shall adopt a rule under Minnesota Statutes, chapter 14, establishing preparation time requirements for elementary school staff that are comparable to the preparation time requirements for secondary school staff established in Minnesota Rules, part 3500.3700, subpart 3. In adopting the rule, the state board shall consider the length and structure of the elementary day and, if appropriate, permit preparation time to be scheduled at more than one time during the school day. The rule must be effective for the 1992-1993 school year. The state board shall establish a process and criteria for granting one-year variances from the rule for districts that are unable to comply for the 1992-1993 school year.

Sec. 26. [LIMITED RECOGNITION OF REVENUE.]

Notwithstanding Minnesota Statutes, section 298.28, subdivision 4, independent school district No. 318, Grand Rapids, must recognize in fiscal year 1991, only $46,009.21 as money for outcome-based learning programs.

Sec. 27. [REPEALER.]

Minnesota Statutes 1990, section 123.744, is repealed. Laws 1988, chapter 703, article 1, section 23, as amended by Laws 1989, chapter 293, section 81; and Laws 1989, chapters 293, section 82, and 329, article 9, section 30, are repealed.

Sec. 28. [EFFECTIVE DATE.]

Section 9 is effective for the 1990-1991 school year and thereafter. Sections 4, 6, and 8 are effective the day following final enactment and apply to 1991-1992 and later school years.

Under Minnesota Statutes, section 123.34, subdivision 9, a con-

tract executed before July 1, 1991, between a superintendent and a school board that continues in effect beyond June 30, 1991, shall continue until terminated under those terms that were lawful at the time the contract was executed.

ARTICLE 10

PUBLIC LIBRARIES

Section 1. [134.075] [PUBLIC LIBRARIES IN PUBLIC SCHOOLS.]

(a) A public library may be located in a public elementary or secondary school or in a public post-secondary educational institution. Notwithstanding section 134.001, subdivision 3, or any other law to the contrary, a public library may cooperate with a public elementary or secondary school or a public post-secondary institution to accomplish the following:

(1) foster sharing of materials between the library and the school or institution;

(2) teach students lifelong basic research and learning skills;

(3) supplement school or institution curriculum;

(4) prepare curriculum to teach students to use available libraries;

(5) review materials periodically to determine their relevance to curriculum, their timeliness, and the extent to which they are culturally diverse or offer alternative viewpoints;

(6) provide access to up-to-date technology and the trained staff to manage that technology;

(7) computerize an index to facilitate shared access to materials; or

(8) promote acquisition of up-to-date materials.

(b) Unless otherwise agreed, when a public library cooperates with a public elementary or secondary school or a public post-secondary institution, the library board and the school board shall each retain the powers and authority to govern its respective libraries.

Sec. 2. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [BASIC SUPPORT GRANTS.] For basic support grants according to Minnesota Statutes, sections 134.32 to 134.35:

$6,118,000 1992

$6,118,000 1993

The 1992 appropriation includes $917,000 for 1991 and $5,201,000 for 1992.

The 1993 appropriation includes $917,000 for 1992 and $5,201,000 for 1993.

Subd. 3. [MULTICOUNTY, MULTITYPE LIBRARY SYSTEMS.] For grants according to Minnesota Statutes, sections 134.353 and 134.354, to multicounty, multitype library systems:

$486,000 1992

$527,000 1993

The 1992 appropriation includes $38,000 for 1991 and $448,000 for 1992.

The 1993 appropriation includes $79,000 for 1992 and $448,000 for 1993.

ARTICLE 11

EDUCATION AGENCY SERVICES

Section 1. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] The sums indicated in this section are appropriated from the general fund to the department of education for the fiscal years designated.

Subd. 2. [EDUCATIONAL COOPERATIVE SERVICE UNITS.] For educational cooperative service units:

$748,000 1992

$748,000 1993

The 1992 appropriation includes $112,000 for 1991 and $636,000 for 1992.

The 1993 appropriation includes $112,000 for 1992 and $636,000 for 1993.

Money from this appropriation may be transmitted to ECSU boards of directors for general operations in amounts of up to $68,000 per ECSU for each fiscal year. The ECSU whose boundaries coincide with the boundaries of development region 11 and the ECSU whose boundaries encompass development regions six and eight may receive up to $136,000 for each fiscal year.

Before releasing money to the ECSUs, the department of education shall ensure that the annual plan of each ECSU explicitly addresses the specific educational services that can be better provided by an ECSU than by a member district. The annual plan must include methods to increase direct services to school districts in cooperation with the state department of education. The department may withhold all or a part of the money for an ECSU if the department determines that the ECSU has not been providing services according to its annual plan.

Subd. 3. [MANAGEMENT INFORMATION CENTERS.] For management information centers according to Minnesota Statutes, section 121.935, subdivision 5:

$3,411,000 1992

$3,411,000 1993

$356,000 each year is for software support of the ESV information system. $80,000 in 1993 is for collection and storage of data elements descriptive of students and schools.

Subd. 4. [EVALUATION OF BASIC SKILLS PROGRAMS.] For continuing an independent statewide evaluation of basic skills programs:

$75,000 1992

$75,000 1993

These appropriations are contingent upon the department's receipt of $1 from private or federal sources for each $2 of appropriation. The commissioner of education must certify the receipt of the private or federal matching funds. The commissioner shall contract with an organization that is not connected with the delivery system.

Subd. 5. [GED AND LEARN TO READ ON TV.] For statewide purchase of broadcast costs, publicity, and coordination of the GED on TV series and the learn to read on TV series:

$100,000 1992

$100,000 1993

The department may contract for these services.

Up to $10,000 of this appropriation for each fiscal year is available for technical and administrative assistance.

Subd. 6. [STATE PER ASSISTANCE.] For state assistance for planning, evaluating, and reporting:

$601,000 1992

$601,000 1993

At least $45,000 each year must be used to assist districts with the assurance of mastery program.

Subd. 7. [EDUCATIONAL EFFECTIVENESS.] For educational effectiveness programs according to Minnesota Statutes, sections 121.608 and 121.609:

$900,000 1992

$900,000 1993

Subd. 8. [CURRICULUM AND TECHNOLOGY INTEGRATION.] For curriculum and technology services:

$400,000 1992

$400,000 1993

Subd. 9. [ACADEMIC EXCELLENCE FOUNDATION.] For the academic excellence foundation according to Minnesota Statutes, section 121.612:

$160,000 1992

$160,000 1993

Up to $50,000 each year is contingent upon the department's receipt of $1 from private sources for each $1 of the appropriation.

The commissioner of education must certify receipt of the private matching funds.

Subd. 10. [TEACHER CENTERS.] For teacher center aid:

$350,000 1992

$350,000 1993

To be eligible for this aid, a teacher center must be established under Minnesota Statutes, section 124C.41, subdivisions 1 to 5, and be in operation during fiscal year 1991. The department, in consultation with the teacher centers eligible for aid, must establish a formula for allocating teacher center aid that is based on the number of full-time equivalent teachers served. The formula may have a minimum and maximum allocation per teacher center. Teacher center aid must be used for implementing the teacher center plan.

ARTICLE 12

STATE AGENCIES' APPROPRIATIONS FOR EDUCATION

Section 1. Minnesota Statutes 1990, section 129C.10, is amended to read:

129C.10 [MINNESOTA CENTER FOR ARTS EDUCATION.]

Subdivision 1. [GOVERNANCE.] The board of the Minnesota center for arts education shall consist of 15 persons. The members of the board shall be appointed by the governor with the advice and consent of the senate. At least one member must be appointed from each congressional district.

Subd. 2. [TERMS, COMPENSATION, AND OTHER.] The membership terms, compensation, removal of members, and filling of vacancies shall be as provided for in section 15.0575. A member may serve not more than two consecutive terms.

Subd. 3. [POWERS AND DUTIES OF BOARD.] (a) The board has the powers necessary for the care, management, and control of the Minnesota center for arts education and all its real and personal property. The powers shall include, but are not limited to, those listed in this subdivision.

(b) The board may employ and discharge necessary employees, and

contract for other services to ensure the efficient operation of the center for arts education.

(c) The board may receive and award grants. The board may establish a charitable foundation and accept, in trust or otherwise, any gift, grant, bequest, or devise for educational purposes and hold, manage, invest, and dispose of them and the proceeds and income of them according to the terms and conditions of the gift, grant, bequest, or devise and its acceptance. The board shall adopt internal procedures for administering and monitoring aids and grants.

(d) The board may establish or coordinate evening, continuing education, extension, and summer programs for teachers and pupils.

(e) The board may identify pupils ~~in grades 9 to 12~~ who have artistic talent, either demonstrated or potential, in dance, literary arts, media arts, music, theater, and visual arts, or in more than one art form.

(f) The board shall educate pupils with artistic talent by providing:

(1) ~~a pilot~~ an interdisciplinary academic and arts program for pupils in the 11th and 12th grades~~, beginning with 135 pupils in the 11th grade in September 1989, and 135 pupils in the 11th grade and 135 pupils in the 12th grade in September 1990~~. The total number of pupils accepted under this clause and clause (2) must not exceed 300;

(2) additional instruction may be provided to students for a thirteenth grade. Pupils eligible for this instruction are those enrolled in the 12th grade program who need extra instruction and apply to the board, or pupils in those programs who do not meet learner outcomes established by the board. The determination of criteria for admission into the thirteenth grade is not subject to chapter 14;

(3) intensive arts seminars for one or two weeks for pupils in grades 9 to 12;

~~(3)~~ (4) summer arts institutes for pupils in grades 9 to 12;

~~(4)~~ (5) artist mentor and extension programs in regional sites; and

~~(5)~~ (6) teacher education programs for indirect curriculum delivery.

(g) The board may determine the location for the Minnesota center for arts education and any additional facilities related to the center, including the authority to lease a temporary facility.

(h) The board must plan for the enrollment of pupils on an equal basis from each congressional district.

(i) The board may establish task forces as needed to advise the board on policies and issues. The task forces expire as provided in section 15.059, subdivision 6.

(j) The board may request the commissioner of education for assistance and services.

(k) The board may enter into contracts with other public and private agencies and institutions for residential and building maintenance services if it determines that these services could be provided more efficiently and less expensively by a contractor than by the board itself. The board may also enter into contracts with public or private agencies and institutions, school districts or combinations of school districts, or educational cooperative service units to provide supplemental educational instruction and services.

(l) The board may provide or contract for services and programs by and for the center for arts education, including a store, operating in connection with the center; theatrical events; and other programs and services that, in the determination of the board, serve the purposes of the center.

(m) The board may provide for transportation of pupils to and from the center for arts education for all or part of the school year, as the board considers advisable and subject to its rules. Notwithstanding any other law to the contrary, the board may charge a reasonable fee for transportation of pupils. Every driver providing transportation of pupils under this paragraph must possess all qualifications required by the state board of education. The board may contract for furnishing authorized transportation under rules established by the commissioner of education and may purchase and furnish gasoline to a contract carrier for use in the performance of a contract with the board for transportation of pupils to and from the center for arts education. When transportation is provided, scheduling of routes, establishment of the location of bus stops, the manner and method of transportation, the control and discipline of pupils, and any other related matter is within the sole discretion, control, and management of the board.

(n) The board may provide room and board for its pupils.

(o) The board may establish and set fees for services and programs without regard to chapter 14. If the board sets fees not authorized or prohibited by the Minnesota public school fee law, it may do so without complying with the requirements of section 120.75, subdivision 1.

Subd. 3a. [CENTER FUND APPROPRIATION.] (a) There is established in the state treasury a center for arts education fund. All money collected by the board shall be deposited in the fund. Money in the fund, including interest earned, is annually appropriated to the board for the operation of its services and programs.

(b) Except as otherwise provided, rental income must be deposited in the state treasury and credited to a revolving fund of the center. Money in the revolving fund for rental income is annually appropriated to the board for the operation of its services and programs.

(c) Income from fees for conferences, seminars, technical assistance, and production of instructional materials must be deposited in the state treasury and credited to a revolving fund of the center. Money in the revolving fund for fees from conferences, seminars, technical assistance, and production of instructional materials is annually appropriated to the board to defray expenses of the conferences, seminars, technical assistance, and production of materials.

Subd. 4. [EMPLOYEES.] (a)(1) The board shall appoint a director of the center for arts education who shall serve in the unclassified service.

(2) The board shall employ, upon recommendation of the director, a coordinator of resource programs who shall serve in the unclassified service.

(3) The board shall employ, upon recommendation of the director, up to six department chairs who shall serve in the unclassified service. The chairs shall be licensed teachers unless no licensure exists for the subject area or discipline for which the chair is hired.

(4) The board may employ other necessary employees, upon recommendation of the director.

(5) The board shall employ, upon recommendation of the director, an executive secretary for the director, who shall serve in the unclassified service.

(b) The employees hired under this subdivision and other necessary employees hired by the board shall be state employees in the executive branch.

Subd. 4a. [ADMISSION AND CURRICULUM REQUIREMENTS GENERALLY.] (a) The board may adopt rules for admission to and discharge from the full-time programs for talented pupils, rules regarding discharge from the dormitory, and rules regarding the operation of the center, including transportation of its pupils. Rules covering admission are governed by chapter 14. Rules covering

discharge from the full-time program for talented pupils must be consistent with sections 127.26 to 127.39, the pupil fair dismissal act. Rules covering discharge from the dormitory are exempt from sections 127.26 to 127.39. Rules regarding discharge and the operation of the center are not governed by chapter 14.

(b) Proceedings concerning the full-time program for talented pupils, including admission, discharge from the full-time program, discharge from the dormitory, a pupil's program, and a pupil's progress, are governed by the rules adopted by the board and are not contested cases governed by chapter 14.

Subd. 5. [RESOURCE PROGRAMS.] ~~Resource programs must be directed at improving arts education in elementary and secondary schools throughout the state. The programs offered shall include at least summer institutes offered to pupils in various regions of the state, in-service workshops for teachers, and leadership development programs for teachers. The board shall establish a resource programs advisory council composed of elementary and secondary arts educators, representatives from post-secondary educational institutions, department of education, state arts board, regional arts councils, educational cooperative service units, school district administrators, parents, and other organizations involved in arts education. The advisory council shall include representatives from a variety of arts disciplines and from various areas of the state. The advisory council shall advise the board about the resource programs. Resource programs shall promote and develop arts education offered by school districts and arts organizations and shall assist school districts and arts organizations in developing innovative programming. The board may contract with arts organizations to provide resource programs. The advisory council shall advise the board on contracts and grants related to the operation of resource programs.~~ The center shall offer resource and outreach programs and services statewide aimed at enhancing arts education opportunities for students in kindergarten through grade 12. The programs and services must include: programs and services aimed at developing and demonstrating exemplary curriculum, instructional practices and assessment; information dissemination; and programs for students and teachers in geographic regions that are underserved that develop technical and creative skills in art forms that are underrepresented.

Subd. 6. [PUBLIC POST-SECONDARY INSTITUTIONS; PROVIDING SPACE.] Public post-secondary institutions shall provide space for programs offered by the Minnesota center for arts education at no cost or reasonable cost to the center to the extent that space is available at the public post-secondary institutions.

Subd. 7. [PURCHASING INSTRUCTIONAL ITEMS.] Technical educational equipment may be procured for programs of the Minnesota center for arts education by the board either by brand designa-

tion or in accordance with standards and specifications the board may adopt, notwithstanding chapter 16B.

Sec. 2. Minnesota Statutes 1990, section 268.08, subdivision 6, is amended to read:

Subd. 6. [SERVICES PERFORMED FOR STATE, MUNICIPALITIES OR CHARITABLE CORPORATION.] Benefits based on service in employment defined in section 268.04, subdivision 12, clauses (7), (8) and (9), are payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter; except that

(a) Benefits based upon service performed in an instructional, research, or principal administrative capacity for an institution of higher education or a public school, or a nonpublic school or the Minnesota state academy for the deaf or Minnesota state academy for the blind, or the Minnesota center for arts education, or in a public or nonpublic school for an educational cooperative service unit established under section 123.58, or any other educational service agency as defined in section 3304(a)(6)(A)(IV) of the Federal Unemployment Tax Act, shall not be paid for any week of unemployment commencing during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if the individual performs the services in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform services in any such capacity for any institution of higher education, public school, nonpublic school, Minnesota state academies for the deaf and blind, the Minnesota center for arts education, an educational cooperative service unit, or other educational service agency, in the second of the academic years or terms, and

(b) With respect to service performed in any capacity other than those capacities described in clause (a) of this subdivision, for an institution of higher education, or a public school or nonpublic school, or the Minnesota state academy for the deaf or Minnesota state academy for the blind, or the Minnesota center for arts education, or in a public or nonpublic school or for an educational cooperative service unit established under section 123.58, or any other educational service agency as defined in section 3304(a)(6)(A)(IV) of the Federal Unemployment Tax Act, benefits shall not be paid on the basis of these services to any individual for any week which commences during a period between two successive academic years or terms if the individual performs the services in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the services in the second of the academic years or terms. If benefits are denied to any individual under this clause and the individual was not offered an

opportunity to perform the services in the second of the academic years or term, the individual shall be entitled to a retroactive payment of benefits for each week in which the individual filed a timely claim for benefits, but the claim was denied solely because of this clause; and

(c) With respect to services described in clauses (a) or (b), benefits payable on the basis of the services shall not be paid to any individual for any week which commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

Sec. 3. [APPROPRIATIONS.]

Subdivision 1. [DEPARTMENT OF EDUCATION.] (a) The sums indicated in this section are appropriated from the general fund, unless otherwise indicated, to the department of education for the fiscal years designated.

(b) The amounts that may be spent for each program are specified in the following subdivisions.

(c) The approved complement is:

	1992	1993
General Fund	258.5	258.5
Federal	135.6	135.6
Other	28.9	28.9
Total	423.0	423.0

(d) The commissioner of education, with the approval of the commissioner of finance, may transfer unencumbered balances among the programs during the biennium. Transfers must be reported immediately to the education finance division of the education committee of the house of representatives and the education funding division of the education committee of the senate. During the biennium, the commissioner may transfer money among the various objects of expenditure categories and activities within each program, unless restricted by executive order.

(e) The commissioner of education may transfer complement among funds if necessary and must provide a listing of the transfers to the commissioner of finance at the end of each fiscal year. Material changes must be approved by the commissioner of finance and reported to the house education finance division and the senate education funding division.

(f) The commissioner shall continue to enforce Minnesota Statutes, section 126.21, as it applies to programs supervised by the commissioner. This function must not be performed by the same person who, with funding under a federal grant, is providing technical assistance to school districts in implementing nondiscrimination laws.

Subd. 2. [EDUCATIONAL SERVICES.]

$9,601,000 1992

$9,598,000 1993

$21,000 each year is from the trunk highway fund.

$100,000 each year is from the alcohol-impaired driver education account in the special revenue fund.

Subd. 3. [ADMINISTRATION AND FINANCIAL SERVICES.]

$8,732,000 1992

$8,744,000 1993

$1,414,000 in 1992 and $1,410,000 in 1993 are for the education data systems section, of which $15,000 each year is for the expenses of the ESV computer council. Any balance in the first year does not cancel and is available for the second year.

$200,000 each year is for contracting with the state fire marshal to provide the services required according to Minnesota Statutes, section 121.1502.

The budget for the board of teaching must not exceed the budget for the state board of education. The board of teaching budget is not exempt from internal reallocations and reductions required to balance the budget of the combined agencies.

The commissioner shall maintain no more than five total complement in the categories of commissioner, deputy commissioner, assistant commissioner, assistant to the commissioner, and executive assistant.

Subd. 4. [AGENCY REDUCTION.] The appropriations in subdivisions 2 and 3 are reduced by $500,000 each year. The commissioner must allocate this reduction to the appropriations in subdivisions 2 and 3 in a manner that causes the least possible reduction in services to education deliverers. The base level complement must be reduced commensurate with reduction in staff as a result of this reduction.

Sec. 4. [FARIBAULT ACADEMIES APPROPRIATION.]

The sums indicated in this section are appropriated from the general fund to the department of education for the Faribault Academies:

$7,801,000 1992

$7,773,000 1993

Any balance in the first year does not cancel and is available for the second year.

The approved complement is:

	1992	1993
General fund	185.6	185.6
Federal	8.0	8.0
Total	193.6	193.6

The state board of education may transfer complement among funds if necessary and must provide a listing of the transfers to the commissioner of finance at the end of each fiscal year. Material changes must be approved by the commissioner of finance and reported to the house education finance division and the senate education funding division.

The state board of education, with the approval of the commissioner of finance, may increase the complement above the approved levels if funds are available for the academies in addition to the amounts appropriated in this section.

Sec. 5. [MINNESOTA CENTER FOR ARTS EDUCATION APPROPRIATION.]

The sums indicated in this section are appropriated from the general fund to the Minnesota center for arts education for the fiscal years indicated:

$4,814,000 1992

$4,807,000 1993

Any balance in the first year does not cancel but is available in the second year.

The approved complement is:

	1992	1993
General Fund	53	53
Total	53	53

The complement may be increased by the number of staff currently on interchange agreements or contracts if adding these staff to the center complement will result in cost savings. Any additional complement must be approved by the commissioner of finance.

Sec. 6. [REPEALER.]

Laws 1989, chapter 329, article 12, section 8, is repealed.

ARTICLE 13

BONDING: MAXIMUM EFFORT SCHOOL LOAN PROGRAM

Section 1. [124.479] [BOND ISSUE; MAXIMUM EFFORT SCHOOL LOANS, 1991.]

To provide money to be loaned to school districts as agencies and political subdivisions of the state to acquire and to better public land and buildings and other public improvements of a capital nature, in the manner provided by the maximum effort school aid law, the commissioner of finance shall issue and sell school loan bonds of the state of Minnesota in the maximum amount of $45,065,000, in addition to the bonds already authorized for this purpose. The same amount is appropriated to the maximum effort school loan fund and must be spent under the direction of the commissioner of education to make debt service loans and capital loans to school districts as provided in sections 124.36 to 124.47. The bonds must be issued and sold and provision for their payment must be made according to section 124.46. Expenses incidental to the sale, printing, execution, and delivery of the bonds, including, but without limitation, actual and necessary travel and subsistence expenses of state officers and employees for those purposes, must be paid from the maximum effort school loan fund, and the money necessary for the expenses is appropriated from that fund.

Sec. 2. [1991 MAXIMUM EFFORT LOANS.]

The commissioner of education shall make capital loans to independent school district No. 115, Cass Lake; independent school district No. 192, Farmington; independent school district No. 682, Roseau; independent school district No. 748, Sartell; independent school district No. 345, New London-Spicer; independent school district No. 533, Dover-Eyota; independent school district No. 95, Cromwell; and independent school district No. 255, Pine Island. Capital loans to these districts are approved.

Districts approved by the legislature for a maximum effort loan

shall have their project plans and budgets reviewed by the commissioner to determine optimum cost efficiency. The commissioner may reduce the amount of the loans in accord with this review. Costs incurred by the commissioner for professional services associated with the review may be recovered from the districts.

Notwithstanding any law to the contrary, if the available funding is inadequate to meet the loan requests of all the approved districts, the commissioner may reduce the amount of the loan. Capital loans must be made to all approved districts.

Except for reductions in the loans made according to this section, the amount, terms, and forgiveness of the loans are governed by Minnesota Statutes, section 124.431, as amended by 1991 H.F. No. 73.

Sec. 3. [BONDING AUTHORITY.]

Notwithstanding the election requirements of Minnesota Statutes, chapter 475, or any other law to the contrary, any school district with a capital loan approved in section 2, may issue general obligation bonds without an election in an amount not to exceed the difference between the state board approved capital loan project cost and the sum of the amount of the capital loan actually granted and the voter approved local bonding authority. To pay the principal of and interest on bonds issued under this section, the school district shall levy a tax in an amount sufficient under Minnesota Statutes, section 475.61, subdivisions 1 and 3, to pay the principal of and interest on the bonds. Except as otherwise provided in this article, or article 5, or Minnesota Statutes, sections 124.36 to 124.477, the issuance and sale of the bonds is governed by Minnesota Statutes, chapter 475. The tax authorized under this section is in addition to any other taxes levied under Minnesota Statutes, chapter 124, 124A, or 275, or any other law.

Sec. 4. [APPROPRIATION; MAXIMUM EFFORT SCHOOL LOAN FUND.]

$3,795,000 is appropriated from the general fund to the department of education for fiscal year 1993 for the maximum effort school loan fund. This appropriation is added to the appropriation in article 5 for this purpose. All the conditions that apply to the maximum effort school loan fund appropriation in article 5 apply to this appropriation.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to education; providing for general education revenue; transportation; special programs; community service programs; facilities and equipment; other aids and levies; miscellaneous education related programs; library programs; education agency services; art education programs; maximum effort school loan programs; authorizing bonding; appropriating money; amending Minnesota Statutes 1990, sections 120.08, subdivision 3; 120.101, subdivisions 5, 9, and by adding a subdivision; 120.17, subdivisions 3b and 7a; 120.181; 121.11, subdivision 12; 121.15, subdivisions 1, 2, 3, 6, 7, 8, 9, and by adding subdivisions; 121.155; 121.585, subdivision 3; 121.611, subdivision 2; 121.88, subdivisions 9 and 10; 121.882, subdivisions 2, 6, and by adding a subdivision; 121.904, subdivisions 4a and 4e; 121.912, by adding a subdivision; 122.22, subdivisions 7a and 9; 122.23, subdivisions 2 and 3; 122.242, subdivision 9; 122.531, by adding subdivisions; 122.535, subdivision 6; 123.33, subdivision 1; 123.34, subdivision 9; 123.35, subdivisions 8, 17, and by adding a subdivision; 123.3514, subdivisions 3, 4, and by adding a subdivision; 123.38, subdivision 2b; 123.702; 123.951; 124.17, subdivisions 1 and 1b; 124.175; 124.19, subdivisions 1, 7, and by adding a subdivision; 124.195, subdivisions 9 and 12; 124.223, subdivisions 1 and 8; 124.225, subdivisions 1, 3a, 7a, 7b, 7d, 8a, 8k, 10, and by adding a subdivision; 124.26, subdivisions 1c and 2; 124.261; 124.2711, subdivisions 1 and 3; 124.2721, subdivisions 2 and 3; 124.2725, subdivision 6; 124.273, subdivision 1b; 124.311, subdivision 4; 124.32, subdivisions 1b and 10; 124.332, subdivisions 1 and 2; 124.431, by adding a subdivision; 124.573, subdivisions 2b and 3a; 124.574, subdivision 2b; 124.575, subdivisions 1, 2, 3, and 4; 124.646; 124.83, subdivision 4; 124.86, subdivision 2; 124A.03; 124A.04; 124A.22, subdivisions 2, 4, 5, 8, 9, and by adding subdivisions; 124A.23, subdivisions 1, 4, and 5; 124A.24; 124A.26, subdivision 1; 124A.29, subdivision 1; 124A.30; 124C.03, subdivision 2; 125.12, subdivisions 3, 6b, and by adding subdivisions; 125.17, subdivision 2, and by adding subdivisions; 125.185, subdivisions 4 and 4a; 125.231; 126.22, subdivisions 2, 3, and 4; 126.23; 126.266, subdivision 2; 126.661, subdivision 5, and by adding a subdivision; 126.663, subdivision 2; 126.666, subdivision 2, and by adding subdivisions; 126.67, subdivision 2b; 126.70, subdivisions 1, 2, and 2a; 127.29, by adding a subdivision; 129C.10; 136D.27, subdivision 1; 136D.72, subdivision 1; 136D.74, subdivision 2; 136D.76, subdivision 2; 136D.87, subdivision 1; 141.25, subdivision 8; 141.26, subdivision 5; 145.926; 148.191, subdivision 2; 171.29, subdivision 2; 245A.03, subdivision 2; 260.015, subdivision 19; 268.08, subdivision 6; 275.06; 275.065, subdivisions 3, 5a, and 6; 275.125, subdivisions 4, 5, 5b, 5c, 8b, 11d; 298.28, subdivision 4; Laws 1989, chapter 329, article 6, section 53, as amended; proposing coding for new law in Minnesota Statutes, chapters 3; 120; 121; 123; 124; 125; 134; 373; 473; repealing Minnesota Statutes 1990, sections 3.865; 3.866; 120.011; 121.111; 122.531, subdivision 5; 123.351, subdivision 10; 123.706; 123.707; 123.744; 124.225, subdivisions 3, 4b, 7c, 8b, 8i, 8j; 124.252; 124.575; 124C.01, subdivision 2; 124C.41, subdivisions 6 and 7; 126.70, subdivisions 2 and 2a; 275.125, subdivision 8c; and Laws 1988, chapter 703, article 1, section 23, as amended; Laws

1989, chapter 293, section 82; Laws 1989, chapter 329, articles 4, section 40; 9, section 30; and 12, section 8; Laws 1990, chapter 562, article 6, section 36."

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

The report was adopted.

Vellenga from the Committee on Judiciary to which was referred:

H. F. No. 714, A bill for an act relating to housing; modifying procedures relating to rent escrow actions; modifying procedures relating to the tenant's loss of essential services; assigning tort liability to landlords for certain damages; adding manufactured homes to certain landlord-tenant provisions; modifying provisions relating to tenant remedy actions, retaliatory eviction proceedings, and receivership proceedings; charging court fees in unlawful detainer actions; creating a lead abatement program; modifying provisions relating to Minnesota housing finance agency low- and moderate-income housing programs; providing for an emergency mortgage and rental assistance pilot project; modifying certain receivership, assignment of rents and profits, and landlord and tenant provisions; modifying provisions relating to housing and redevelopment authorities; providing for the issuance of general obligation bonds for housing by the cities of Minneapolis and St. Paul; authorizing the city of Minneapolis to make small business loans; imposing a lead abatement fee on petroleum storage tanks; imposing a tax on wholesalers of paint and dedicating the revenue to lead abatement programs; modifying the property tax classification of certain residential real estate; excluding housing districts from the calculation of local government aid reductions; modifying the interest rate reduction program; changing the definition of mentally ill person; consolidating special needs housing programs; clarifying and amending biennial reporting requirement; authorizing new construction of accessible housing; authorizing off-reservation home improvement program; appropriating money; amending Minnesota Statutes 1990, sections 116C.04, by adding a subdivision; 268.362; 268.364, subdivision 4; 268.365, subdivision 2; 268.39; 272.02, subdivision 1; 273.11, subdivision 1, and by adding a subdivision; 273.124, subdivision 1; 273.13, subdivision 25; 273.1399, subdivision 1; 357.021, subdivision 2; 462A.03, subdivisions 10, 13, and 16; 462A.05, subdivisions 14, 20, and by adding subdivisions; 462A.08, subdivision 2; 462A.21, subdivisions 4k, 12a, 14, and by adding a subdivision; 462A.22, subdivision 9; 462A.222, subdivision 3; 462C.03, subdivision 10; 469.011, subdivision 4; 469.012, subdivision 1; 469.015, subdivisions 3, 4, and by adding a subdivision; 469.176, subdivision 4f; 474A.048, subdivision 2; 481.02, subdivision 3; 504.02; 504.18, subdivision 1; 504.185, subdivision 2; 504.20,

subdivisions 3, 4, 5, and 7; 504.27; 504.33, subdivisions 3, 5, and 7; 504.34, subdivisions 3, 5, and 6; 559.17, subdivision 2; 566.03, subdivision 1; 566.17, subdivisions 1, 2, and by adding a subdivision; 566.175, subdivision 6; 566.18, subdivision 9; 566.19, subdivision 2; 566.205, subdivisions 1, 3, and 4; 566.21, subdivision 2; 566.25; 566.29, subdivisions 2 and 4; 566.34, subdivision 2; and 576.01, subdivision 2; Laws 1974, chapter 285, section 4, as amended; Laws 1987, chapter 404, section 28, subdivision 1; Laws 1989, chapter 335, article 1, section 27, subdivision 1, as amended; proposing coding for new law in Minnesota Statutes, chapters 115C; 116K; 268; 273; 504; and 609; proposing coding for new law as Minnesota Statutes, chapter 297E; repealing Minnesota Statutes 1990, section 462A.05, subdivisions 28 and 29.

Reported the same back with the following amendments:

Page 7, line 36, after the second comma insert "if heating costs are paid directly by the lessee or licensee,"

Page 10, line 15, after "damages" insert "for personal injury"

Page 10, after line 26, insert:

"The provisions of this section do not limit any rights or remedies a tenant otherwise has under another statute or in contract or tort at common law."

Page 10, delete section 8

Pages 13 to 16, delete sections 3 and 4

Page 25, delete line 4, and insert "The commissioner may establish an 11-member advisory committee"

Page 33, line 13, delete "or other funding"

Page 33, line 14, delete "source"

Page 33, line 19, after "agency" insert ", in consultation with the department of health,"

Page 48, line 24, before "$55" insert "up to"

Page 48, line 30, after "are" insert "elected officials or"

Page 59, after line 8, insert:

"Sec. 3. Laws 1988, chapter 594, section 6, is amended to read:

Sec. 6. [SMALL BUSINESS LOANS.]

The city council or the agency may make or guarantee working capital loans in an aggregate principal amount not exceeding ~~$450,000~~ $2,000,000 outstanding at any time, subject to such terms and conditions as established by ordinance by the city, to expanding small businesses which are located in the city for the purpose of increasing the tax base and providing employment opportunities within the city. As used in this subdivision, the term "small business" has the meaning given it in Minnesota Statutes, section 645.445, subdivision 2. ~~This section expires June 30, 1991.~~"

Page 60, line 22, delete the first "3" and insert "4"

Page 60, line 24, after "3" insert "is effective on the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing body of the city of Minneapolis. Section 4"

Page 60, line 26, delete "4" and insert "5"

Page 60, line 31, delete "TAXES" and insert "FEES"

Page 61, after line 30, insert:

"ARTICLE 9

TAXES"

Page 82, line 29, delete "10" and insert "8"

Page 83, lines 7 and 18, delete "10" and insert "8"

Page 83, line 24, delete "11" and insert "9"

Page 84, line 21, delete "6" and insert "4"

Page 84, line 22, delete "7 and 8" and insert "5 and 6"

Page 84, lines 23 and 26, delete "9" and insert "7"

Page 84, line 27, delete "14" and insert "12"

Page 84, line 28, delete "9" and insert "10"

Page 93, line 41, delete "Section 4 is" and insert "Sections 4 and 5 are"

Renumber the sections in sequence

Amend the title as follows:

Page 1, delete line 6

Page 1, line 7, delete "provisions;"

Page 2, line 6, delete "subdivisions 1, 2,"

Page 2, line 7, delete "and"

Page 2, line 13, after the semicolon insert "Laws 1988, chapter 594, section 6;"

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

The report was adopted.

Vellenga from the Committee on Judiciary 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; providing for enforcement of law requiring stops at railroad grade crossings; providing for enhanced public information and education regarding grade crossing safety; 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 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; extending and reconstituting the transportation study board and directing it to conduct certain studies; providing procedures related to assistance for transit systems; providing an opt-out transit service program; appropriating money; amending Minnesota Statutes 1990, sections 162.02, subdivision 3a; 162.09, subdivision 3a; 168.54, subdivisions 5 and 6; 169.09, subdivision 13; 169.26; 171.13, subdivision 1, and by adding a subdivision; 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; 219.402; 221.036, subdivision 14; 222.50; 296.16, subdivision 1a; 296.421, subdivision 8; 299D.03, subdivision 5; 398A.04, subdivision 8;

473.375, subdivisions 13 and 15; 473.377, subdivision 1; 473.388; 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; 219; 221; 444; 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:

Page 4, line 30, after "(b)" insert "The fact that a moving train approaching a railroad grade crossing is visible from the crossing is prima facie evidence that it is not safe to proceed.

(c)"

Delete page 4, line 35, to page 5, line 1

Page 5, line 2, delete "(a)"

Page 5, delete lines 6 to 15

Page 5, line 16, before "A" insert "(a)" and strike "person" and insert "driver" and strike "this section" and insert "subdivision 1"

Page 5, lines 17 to 24, delete the new language

Page 5, after line 24, insert:

"(b) The owner or, in the case of a leased vehicle, the lessee of a motor vehicle is guilty of a petty misdemeanor if a motor vehicle owned or leased by the person is operated in violation of subdivision 1. This paragraph 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 paragraph does not apply if the motor vehicle operator is prosecuted for violating subdivision 1. A violation of this paragraph does not constitute grounds for revocation or suspension of the owner's or lessee's driver's license."

Page 7, line 21, delete "fine" and insert "penalty"

Page 7, line 22, after the period insert "This penalty may be recovered in the manner provided in section 219.97, subdivision 5."

Page 14, line 18, delete "where" and insert "if"

Page 14, line 19, delete "has been" and insert "is" and before the period insert ", the design complies with the minimum state-aid standards applicable to the road, and the design is not grossly

negligent" and after the period insert "This subdivision does not preclude an action for damages arising from negligence in the construction, reconstruction, or maintenance of a park road."

Page 16, line 3, delete the comma

Page 16, line 4, delete "construction, and reconstruction"

Page 16, line 13, delete everything after "design"

Page 16, line 14, delete "reconstruction"

Page 17, line 6, after "route" insert ", constructed in accordance with the standards established by the commissioner under subdivision 1,"

Page 17, line 11, delete ", construction, or"

Page 17, line 12, delete "reconstruction" and before the period insert ", if the design standards comply with the standards established by the commissioner under subdivision 1" and after the period insert "This subdivision does not preclude an action for damages arising from negligence in the construction, reconstruction, or maintenance of a natural preservation route."

Amend the title as follows:

Page 1, line 13, delete everything after the semicolon

Page 1, delete line 14

Page 1, line 15, delete "permits;" and insert "providing for rustic roads and natural preservation routes;"

Page 1, line 33, after the second semicolon insert "171.13, subdivision 1, and by adding a subdivision;"

Page 1, line 36, insert "219.074, by adding a subdivision;"

Page 1, line 37, after "222.50" insert ", subdivision 7"

Page 1, line 44, delete "444;"

Page 2, line 1, before "and" insert "Laws 1988, chapter 603, section 6;"

With the recommendation that when so amended the bill pass and

be re-referred to the Committee on Local Government and Metropolitan Affairs.

The report was adopted.

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

H. F. No. 895, A bill for an act relating to commerce; providing that credit agreements need not be signed by the creditor in certain situations; amending Minnesota Statutes 1990, section 513.33, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 513.33, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the following terms have the meanings given them:

(1) "credit agreement" means an agreement to lend or forbear repayment of money, goods, or things in action, to otherwise extend credit, or to make any other financial accommodation;

(2) "creditor" means a person who extends credit under a credit agreement with a debtor; ~~and~~

(3) "debtor" means a person who obtains credit or seeks a credit agreement with a creditor or who owes money to a creditor; and

(4) "signed" has the meaning specified in section 336.1-201, paragraph (39).

Sec. 2. [APPLICATION.]

The intent of section 1 is to clarify the intent of the legislature in enacting section 513.33."

Delete the title and insert:

"A bill for an act relating to commerce; credit agreements; defining a term; clarifying the legislature's intent in enacting this statute; amending Minnesota Statutes 1990, section 513.33, subdivision 1."

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. 927, A bill for an act relating to the environment; establishing maximum content levels of mercury in batteries; prohibiting certain batteries; amending Minnesota Statutes 1990, sections 115A.9155, subdivision 2; 325E.125, subdivision 2, and by adding a subdivision; and 325E.1251.

Reported the same back with the following amendments:

Page 1, line 16, after "each" insert "final"

Page 2, line 5, delete "toll-free" and delete "ultimate" and insert "final"

Page 2, line 6, delete the colon and insert "specific procedures to follow in returning the battery for recycling or proper disposal.

The manufacturer may include the telephone number and notice of return procedures on an invoice or other transaction document held by the purchaser. The manufacturer shall provide the telephone number to the commissioner of the agency."

Page 2, delete lines 7 to 10

Page 2, after line 18, insert:

"Sec. 2. [115A.9157] [RECHARGEABLE BATTERIES AND APPLIANCES.]

Subdivision 1. [DEFINITION.] For the purpose of this section "rechargeable battery" means a sealed nickel-cadmium battery, a sealed lead acid battery, or any other rechargeable battery that is not governed by section 115A.9155 or exempted by the commissioner.

Subd. 2. [PROHIBITION.] Effective August 1, 1991, a person may not place in mixed municipal solid waste a rechargeable battery, a rechargeable battery pack, or an appliance powered by rechargeable batteries or rechargeable battery pack, from which all batteries or battery packs have not been removed.

Subd. 3. [COLLECTION AND MANAGEMENT COSTS.] A manufacturer of rechargeable batteries or appliances powered by rechargeable batteries is responsible for the costs of collecting and managing waste rechargeable batteries and waste appliances to ensure that the batteries are not part of the solid waste stream.

Subd. 4. [PILOT PROJECTS.] By April 15, 1992, manufacturers whose rechargeable batteries or appliances powered by rechargeable batteries are sold in this state shall implement pilot projects for the collection and proper management of all rechargeable batteries and the participating manufacturers' appliances powered by rechargeable batteries. Manufacturers may act as a group or through a representative organization. The pilot projects must run for a minimum of 18 months and be designed to collect sufficient statewide data for the design and implementation of permanent collection and management programs that may be reasonably expected to collect at least 90 percent of waste rechargeable batteries and the participating manufacturers' appliances powered by rechargeable batteries that are generated in the state.

By December 1, 1991, the manufacturers or their representative organization shall submit plans for the projects to the legislative commission. At least every six months during the pilot projects the manufacturers shall submit progress reports to the commission. The commission shall review the plans and progress reports.

By November 1, 1993, the manufacturers or their representative organization shall report to the legislative commission the final results of the projects and plans for implementation of permanent programs. The commission shall review the final results and plans.

Subd. 5. [COLLECTION AND MANAGEMENT PROGRAMS.] By April 15, 1994, the manufacturers or their representative organization shall implement permanent programs, based on the results of the pilot projects required in subdivision 3, that may be reasonably expected to collect 90 percent of the waste rechargeable batteries and the participating manufacturers' appliances powered by rechargeable batteries that are generated in the state. The batteries and appliances collected must be recycled or otherwise managed or disposed of properly.

Subd. 6. [LIST OF PARTICIPANTS.] The manufacturers or their representative organization shall maintain a list of manufacturers participating in projects and programs and make the list available to retailers, distributors, governmental agencies and other interested persons.

Subd. 7. [CONTRACTS.] A manufacturer or a representative organization of manufacturers may contract with the state or a political subdivision to provide collection services under this section. The manufacturer or organization shall fully reimburse the state or

political subdivision for the value of any services rendered under this subdivision.

Subd. 8. [ANTICOMPETITIVE CONDUCT.] A manufacturer or organization of manufacturers and its officers, members, employees, and agents who participate in projects or programs to collect and properly manage waste rechargeable batteries or appliances powered by rechargeable batteries are authorized to engage in anticompetitive conduct to the extent necessary to plan and implement the collection and management projects and programs required under this section. An organization, entity, or other person governed by this subdivision is immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce for activities related to the collection and management of batteries and appliances required under this section."

Page 2, line 19, delete "2" and insert "3"

Page 3, line 8, after "battery" insert ", except an alkaline manganese button cell,"

Page 3, line 11, delete "3" and insert "4"

Page 3, line 15, after the first comma insert "zinc carbon,"

Page 3, line 21, after "add" insert "additional"

Page 3, after line 22, insert:

"Sec. 5. Minnesota Statutes 1990, section 325E.125, is amended by adding a subdivision to read:

Subd. 4. [RECHARGEABLE BATTERIES AND APPLIANCES; NOTICE.] (a) A person who sells rechargeable batteries or appliances powered by rechargeable batteries governed by section 115A.9157 at retail shall post the notice in paragraph (b) in a manner clearly visible to a consumer making purchasing decisions.

(b) The notice must be at least 4 inches by 6 inches and state:

"NOTICE: USED RECHARGEABLE BATTERIES AND APPLIANCES

It is illegal to put a rechargeable battery or rechargeable appliance in the garbage. These products contain toxic heavy metals. State law requires manufacturers of these products to establish a statewide consumer collection system by April 15, 1994."

Sec. 6. Minnesota Statutes 1990, section 325E.125, is amended by adding a subdivision to read:

Subd. 5. [PROHIBITIONS.] A manufacturer of rechargeable batteries or appliances powered by rechargeable batteries that does not participate in the pilot projects and programs required in section 115A.9157 may not sell, distribute, or offer for sale in this state rechargeable batteries or appliances powered by rechargeable batteries after January 1, 1992.

After January 1, 1992, a retailer or distributor may not purchase rechargeable batteries or appliances powered by rechargeable batteries made by any person other than a manufacturer that participates in the projects and programs required under section 115A.9157."

Page 3, line 23, delete "4" and insert "7"

Page 3, line 35, delete "5" and insert "8"

Page 3, line 36, delete "2" and insert "3"

Page 4, lines 4, 6, and 8, delete "2" and insert "3"

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "prohibiting the disposal of rechargeable batteries in mixed municipal solid waste; requiring a notice to consumers;"

Page 1, line 6, delete "a subdivision" and insert "subdivisions"

Page 1, line 7, before the period insert "; proposing coding for new law in Minnesota Statutes, chapter 115A"

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

The report was adopted.

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

H. F. No. 1108, A bill for an act relating to human services; extending the exemption from the Minnesota supplemental aid rate cap to allow payments at the case mix rate for certain medical assistance certified boarding care facilities and nursing homes

declared institutions for mental disease; amending Minnesota Statutes 1990, section 256I.05, subdivision 2.

Reported the same back with the recommendation that 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. 1141, A bill for an act relating to public safety; requiring tenants to covenant not to allow any controlled substances on rental property; allowing the closing of an alleged disorderly house during pretrial release of owner; lowering the threshold amount of seized controlled substance necessary to warrant unlawful detainer action; providing that certain weapons offenses and controlled substance seizures and arrests may form the basis for a nuisance action; amending Minnesota Statutes 1990, sections 504.181, subdivision 1; 609.33, by adding a subdivision; 609.5317, subdivision 4; 617.80, subdivision 8; and 617.81, subdivisions 2 and 3, 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 504.181, subdivision 1, is amended to read:

Subdivision 1. [COVENANT NOT TO ~~SELL~~ ~~DRUGS~~ ~~OR~~ ALLOW ~~DRUG~~ ~~SALES~~ DRUGS.] In every lease or license of residential premises, whether in writing or parol, the lessee or licensee covenants that:

(1) the lessee or licensee will not unlawfully allow controlled substances in ~~the~~ those premises~~,~~; and

(2) the common area, and curtilage will not be used by the lessee or licensee or others acting under his or her control to manufacture, sell, give away, barter, deliver, exchange, distribute, or possess ~~with intent to manufacture, sell, give away, barter, deliver, exchange, or distribute~~ a controlled substance in violation of chapter 152.

The covenant is not violated when a person other than the lessee or licensee possesses or allows controlled substances in the premises, common area, or curtilage, unless the tenant knew or had reason to know of that activity.

Sec. 2. Minnesota Statutes 1990, section 566.09, is amended to read:

566.09 [JUDGMENT; FINE; EXECUTION.]

Subdivision 1. [GENERAL.] If the court or jury finds for the plaintiff, the court shall immediately enter judgment that the plaintiff have restitution of the premises and tax the costs for the plaintiff. The court shall issue execution in favor of the plaintiff for the costs and also immediately issue a writ of restitution. Upon a showing by the defendant that immediate restitution of the premises would work a substantial hardship upon the defendant or the defendant's family, the court shall stay the writ of restitution for a reasonable period, not to exceed seven days. If the court or jury finds for the defendant, the court shall enter judgment for the defendant, tax the costs against the plaintiff, and issue execution therefor.

Subd. 2. [REAL PROPERTY; SEIZURES.] Notwithstanding subdivision 1, if the court or jury finds for the plaintiff in an action brought under section 566.02 as required by section 609.5317, subdivision 1, the court shall immediately enter judgment that the plaintiff shall have restitution of the premises and tax the costs for the plaintiff. the court shall issue execution in favor of the plaintiff for the costs and also shall immediately issue a writ of restitution. The court shall not stay the writ of restitution. If the court or jury finds for the defendant, the court shall enter judgment for the defendant, tax the costs against the plaintiff, and issue execution therefor.

Sec. 3. Minnesota Statutes 1990, section 609.33, is amended by adding a subdivision to read:

Subd. 6. [PRETRIAL RELEASE.] When a person is charged under this section with owning or leasing a disorderly house, the court may require as a condition of pretrial release that the defendant bring an unlawful detainer action against a lessee who has violated the covenant not to allow drugs established by section 504.181.

Sec. 4. Minnesota Statutes 1990, section 609.5317, subdivision 4, is amended to read:

Subd. 4. [LIMITATIONS.] This section shall not apply if the retail value of the ~~contraband or~~ controlled substance is less than ~~the amount specified in section 609.5311, subdivision 3, paragraph (b)~~ $100, but this section does not subject real property to forfeiture under section 609.5311 unless the retail value of the controlled substance is: (1) $1,000 or more; or (2) there have been two previous controlled substance seizures involving the same tenant.

Sec. 5. Minnesota Statutes 1990, section 617.80, subdivision 8, is amended to read:

Subd. 8. [INTERESTED PARTY.] "Interested party" for purposes of sections 617.80 to 617.87 means any known lessee~~,~~ or tenant~~, or occupant~~ of a building or affected portion of a building and any known agent of an owner, lessee~~,~~ or tenant~~, or occupant~~.

Sec. 6. Minnesota Statutes 1990, section 617.81, subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING A NUISANCE.] (a) For purposes of sections 617.80 to 617.87 a public nuisance exists upon proof of three or more misdemeanor convictions or two or more convictions, of which at least one is a gross misdemeanor or felony, within the previous two years for:

(1) acts of prostitution or prostitution-related offenses committed within the building;

(2) acts of gambling or gambling-related offenses committed within the building;

(3) keeping or permitting a disorderly house within the building;

(4) unlawful sale or possession of controlled substances committed within the building;

(5) unlicensed sales of alcoholic beverages committed within the building in violation of section 340A.401; ~~or~~

(6) unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the building in violation of section 340A.503, subdivision 2, clause (1)~~,~~; or

(7) unlawful use or possession of a firearm in violation of section 609.66, subdivision 1a, 609.67, or 624.713, committed within the building.

(b) A second or subsequent conviction under paragraph (a) may be used to prove the existence of a nuisance if the conduct on which the second or subsequent conviction is based occurred within two years following the first conviction, regardless of the date of the conviction for the second or subsequent offense.

Sec. 7. Minnesota Statutes 1990, section 617.81, is amended by adding a subdivision to read:

Subd. 2a. [SEIZURES AND ARRESTS CONSTITUTING A NUISANCE.] For purposes of sections 617.80 to 617.87, a public nui-

sance exists upon proof of three qualifying events that occurred on different days within the previous two months. For purposes of this section, "qualifying event" means a lawful seizure of controlled substances within the building or a lawful arrest within the building for the possession or sale of controlled substances within the building or on the building's curtilage.

Sec. 8. Minnesota Statutes 1990, section 617.81, subdivision 3, is amended to read:

Subd. 3. [NOTICE.] Notice of a conviction described in subdivision 2, or of a qualifying event described in subdivision 2a, must be mailed by the court administrator to the owner of the building where the offense was committed and all other interested parties and must be filed with the county recorder's office. This notice is considered sufficient to inform all interested parties that the building or a portion of it is being used for purposes constituting a public nuisance."

Delete the title and insert:

"A bill for an act relating to public safety; requiring tenants to covenant not to allow any controlled substances on rental property; allowing the closing of an alleged disorderly house during pretrial release of owner; lowering the threshold amount of seized controlled substance necessary to warrant unlawful detainer action; providing that certain weapons offenses and controlled substance seizures and arrests may form the basis for a nuisance action; amending Minnesota Statutes 1990, sections 504.181, subdivision 1; 566.09; 609.33, by adding a subdivision; 609.5317, subdivision 4; 617.80, subdivision 8; and 617.81, subdivisions 2 and 3, and by adding a subdivision."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1178, A bill for an act relating to financial institutions; permitting interstate banking with additional reciprocating states; amending Minnesota Statutes 1990, section 48.92, subdivision 7.

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. 1280, A bill for an act relating to the environment; responsible person for removal and remediation of hazardous waste; providing that the state, an agency of the state, or a political subdivision that acquires property through eminent domain or through negotiated purchase following the filing of eminent domain petition, or any person acquiring from the condemning authority, is not liable as a responsible person solely because of the acquisition; providing that no person involuntarily acquiring property shall be liable as a responsible person; amending Minnesota Statutes 1990, section 115B.03, by adding subdivisions.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 115B.03, is amended by adding a subdivision to read:

Subd. 5. [EMINENT DOMAIN.] (a) The state, an agency of the state, or a political subdivision that acquires property through exercise of the power of eminent domain, or through negotiated purchase after filing a petition for the taking of the property through eminent domain, is not a responsible person under this section solely as a result of the acquisition of the property.

(b) A person who acquires property from the state, an agency of the state, or a political subdivision, is not a responsible person under this section solely as a result of the acquisition of property if the property was acquired by the state, agency, or political subdivision through exercise of the power of eminent domain or by negotiated purchase after filing a petition for the taking of the property through eminent domain.

Sec. 2. Minnesota Statutes 1990, section 115B.03, is amended by adding a subdivision to read:

Subd. 6. [MORTGAGES.] (a) A mortgagee is not a responsible person under this section solely because the mortgagee becomes an owner of real property through foreclosure of the mortgage or by receipt of the deed to the mortgaged property in lieu of foreclosure.

(b) A mortgagee of real property where a facility is located is not an operator of the facility for the purpose of this section solely because the mortgagee has a capacity to influence the operation of the facility to protect its security interest in the real property."

Delete the title and insert:

"A bill for an act relating to the environment; clarifying that certain persons who own or have the capacity to influence operation of property are not responsible persons under the environmental response and liability act solely because of ownership or the capacity to influence operation; amending Minnesota Statutes 1990, section 115B.03, by adding subdivisions."

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

The report was adopted.

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

H. F. No. 1288, A bill for an act relating to water and wastewater treatment; expanding the authority of municipalities to contract for private design and construction of water and wastewater treatment facilities; amending Minnesota Statutes 1990, section 471.371, subdivisions 2, 4, and 5; repealing Minnesota Statutes 1990, section 471.371, subdivisions 1 and 6.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 471.371, subdivision 2, is amended to read:

Subd. 2. [AUTHORIZATION OF DESIGN AND CONSTRUCT CONTRACTS.] Notwithstanding the provisions of any law or charter to the contrary, any municipality authorized by law to enter into a contract for the design and/or construction of water or wastewater treatment ~~works~~ facilities may advertise for sealed bids for the design and construction thereof under a single contract. Prior to such advertisement the municipality shall prepare ~~contract~~ or cause to be prepared documents which shall serve as a basis for the comparison of bids and any contract to be entered into. These documents shall be prepared by a professional engineer in sufficient

detail, including hydraulic flow and organic loading calculations, design capacity, effluent limits, design life, and the treatment alternatives for the wastewater treatment facility, for the bidder to describe the probable cost, scope of work, equipment and materials of construction~~,~~; and the documents shall include performance standards for the construction and ~~supervisional~~ performance standards for the operation of the ~~facilities~~ facility which must be met for specified conditions and time periods, prior to final acceptance of the ~~facilities~~ facility by the municipality ~~and by the Minnesota pollution control agency~~. The ~~contract~~ documents shall require the bidder to furnish estimates of the annual operation and maintenance costs of the facility, conceptual plans and specifications and any other information deemed relevant for contract award.

In awarding the contract, the municipality shall take into consideration the performance guarantee, completion date, construction cost, capacity of the facility, design life estimated annual operation and maintenance cost, and other relevant *factors*.

The provisions of any law which require the Minnesota pollution control agency to approve all plans and specifications on a municipal or regional ~~waste~~ water or wastewater treatment facility prior to calling for construction bids shall not be applicable to contracts authorized by this section. However, after bids have been received and evaluated by the governing body ~~and~~, the best bid determined, and the contract awarded, a municipality shall not ~~award a contract until the award is~~, by the terms of the awarded contract, allow construction to commence until all legal requirements are met and the plans and specifications for construction of a wastewater treatment facility have been approved by the Minnesota pollution control agency~~. Nothing in this section shall prohibit the Minnesota pollution control agency from giving consideration to any or all bids prior to the determination by the governing body of the best bid, provided that the Minnesota pollution control agency or the municipality request that such consideration be given~~ or, in the case of a water treatment facility, the plans and specifications for construction have been approved by the Minnesota department of health.

Upon award of the contract the municipality shall require the successful bidder to furnish detailed plans and specifications and *shall provide for termination of the contract and may provide for* penalties if such plans and specifications are insufficient to permit the municipality to satisfy the requirements of any federal or state ~~grant~~ permit.

Sec. 2. Minnesota Statutes 1990, section 471.371, subdivision 4, is amended to read:

Subd. 4. [DEFINITIONS.] As used in this section, "municipality" has the meaning given to it in section 471.345; "contract" includes not only construction work but also all necessary design services,

including process and mechanical equipment, provisions for the start-up of the new facility, performance guarantee, and the other necessary and related items to make an operable plant; and ~~"treatment works" has the meaning given to it in section 212, title II, of the Federal Water Pollution Control Act Amendments of 1972~~ "facility" or "facilities" shall, in addition to the treatment facility, include collection and distribution systems.

Sec. 3. Minnesota Statutes 1990, section 471.371, subdivision 5, is amended to read:

Subd. 5. [~~BID~~ CONTRACT SECURITY AND INSURANCE.] Each ~~design construct bid submitted shall include a bid bond, labor and materials bond and shall conform with appropriate executive orders related to requirements for the construction of wastewater treatment facilities under the construction grant program of the Federal Water Pollution Control Act and insurance as specified to provide for uniform and equitable bid review procedures~~ awarded contract:

(1) shall require a payment and performance bond for the construction portion of the contract;

(2) shall require the successful bidder to guarantee the performance of the facility to the level required by a permit for the operation of the facility, for 12 months after the date operation begins; and

(3) may allow construction progress payments by the municipality to the successful bidder.

Sec. 4. [REPEALER.]

Minnesota Statutes 1990, section 471.371, subdivisions 1 and 6, are repealed."

Delete the title and insert:

"A bill for an act relating to water and wastewater treatment; expanding the authority of municipalities to contract for private design and construction of water and wastewater treatment facilities; amending Minnesota Statutes 1990, section 471.371, subdivisions 2, 4, and 5; repealing Minnesota Statutes 1990, section 471.371, subdivisions 1 and 6."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1332, A bill for an act relating to human services; authorizing the commissioner of human services to waive the requirement that emergency mental health services be provided by a provider other than the provider of fire and public safety emergency services; establishing conditions for a waiver; amending Minnesota Statutes 1990, sections 245.469, subdivision 2; and 245.4879, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 245.469, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC REQUIREMENTS.] (a) The county board shall require that all service providers of emergency services to adults with mental illness provide immediate direct access to a mental health professional during regular business hours. For evenings, weekends, and holidays, the service may be by direct toll free telephone access to a mental health professional, a mental health practitioner, or until January 1, 1991, a designated person with training in human services who receives clinical supervision from a mental health professional.

(b) The commissioner may waive the requirement in paragraph (a) that the evening, weekend, and holiday service be provided by a mental health professional or mental health practitioner after January 1, 1991, if the county documents that:

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

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

(3) the service provider is not also the provider of fire and public safety emergency services.

(c) The commissioner may waive the requirement in paragraph (b), clause (3), that the evening, weekend, and holiday service not be provided by the provider of fire and public safety emergency services if:

(1) every person who will be providing the first telephone contact

has received at least eight hours of training on emergency mental health services reviewed by the state advisory council on mental health and then approved by the commissioner;

(2) every person who will be providing the first telephone contact will annually receive at least four hours of continued training on emergency mental health services reviewed by the state advisory council on mental health and then approved by the commissioner;

(3) the local social service agency has provided public education about available emergency mental health services and can assure potential users of emergency services that their calls will be handled appropriately;

(4) the local social service agency agrees to provide the commissioner with accurate data on the number of emergency mental health service calls received;

(5) the local social service agency agrees to monitor the frequency and quality of emergency services; and

(6) the local social service agency describes how it will comply with paragraph (d).

(d) Whenever emergency service during nonbusiness hours is provided by anyone other than a mental health professional, a mental health professional must be available on call for an emergency assessment and crisis intervention services, and must be available for at least telephone consultation within 30 minutes.

Sec. 2. Minnesota Statutes 1990, section 245.4879, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC REQUIREMENTS.] (a) The county board shall require that all service providers of emergency services to the child with an emotional disturbance provide immediate direct access to a mental health professional during regular business hours. For evenings, weekends, and holidays, the service may be by direct toll-free telephone access to a mental health professional, a mental health practitioner, or until January 1, 1991, a designated person with training in human services who receives clinical supervision from a mental health professional.

(b) The commissioner may waive the requirement in paragraph (a) that the evening, weekend, and holiday service be provided by a mental health professional or mental health practitioner after January 1, 1991, if the county documents that:

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

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

(3) the service provider is not also the provider of fire and public safety emergency services.

(c) The commissioner may waive the requirement in paragraph (b), clause (3), that the evening, weekend, and holiday service not be provided by the provider of fire and public safety emergency services if:

(1) every person who will be providing the first telephone contact has received at least eight hours of training on emergency mental health services reviewed by the state advisory council on mental health and then approved by the commissioner;

(2) every person who will be providing the first telephone contact will annually receive at least four hours of continued training on emergency mental health services reviewed by the state advisory council on mental health and then approved by the commissioner;

(3) the local social service agency has provided public education about available emergency mental health services and can assure potential users of emergency services that their calls will be handled appropriately;

(4) the local social service agency agrees to provide the commissioner with accurate data on the number of emergency mental health service calls received;

(5) the local social service agency agrees to monitor the frequency and quality of emergency services; and

(6) the local social service agency describes how it will comply with paragraph (d).

(d) When emergency service during nonbusiness hours is provided by anyone other than a mental health professional, a mental health professional must be available on call for an emergency assessment and crisis intervention services, and must be available for at least telephone consultation within 30 minutes."

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. 1377, A bill for an act relating to the city of Richfield; authorizing the city to advance money to the commissioner of transportation to expedite construction of a frontage road within the city; authorizing an agreement between the commissioner and the city; authorizing the city to issue bonds and requiring the commissioner to pay interest on the bonds up to a certain amount.

Reported the same back with the following amendments:

Page 1, line 20, after the period insert "Before entering into the contract, the project must be scheduled in the commissioner's work program and must meet state environmental requirements."

Page 2, line 2, delete "the commissioner" and insert "if it is demonstrated that the construction cost of a remote frontage road is less than the construction cost of a frontage road immediately adjacent to I-494, the commissioner may authorize payment in addition to the principal amount but not to exceed 100 percent of the project cost including interest."

Page 2, delete lines 3 to 5

Page 2, line 6, delete "highway I-494."

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

The report was adopted.

Anderson, I., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1457, A bill for an act relating to local government; permitting the city of Biwabik and the town of White to establish a joint east range economic development authority.

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. 1462, A bill for an act relating to health; providing clarification of various laws relating to public health issues; providing penalties; amending Minnesota Statutes 1990, sections 115.71, subdivision 9, and by adding a subdivision; 145.43, subdivision 1a; 153A.15, by adding a subdivision; 153A.16; 153A.17; and 268.12, subdivision 12; proposing coding for new law in Minnesota Statutes, chapters 144; 147; and 176; repealing Minnesota Statutes 1990, sections 115.71, subdivision 7; 145.34; and 145.35.

Reported the same back with the following amendments:

Page 2, line 1, delete "176.233" and insert "176.234"

Page 4, after line 25, insert:

"Sec. 5. Minnesota Statutes 1990, section 144.698, subdivision 1, is amended to read:

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

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

(2) a detailed statement of income and expenses;

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

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

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

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

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

Pages 6 and 7, delete section 8 and insert:

"Sec. 8. Minnesota Statutes 1990, section 153A.15, subdivision 4, is amended to read:

Subd. 4. [~~PENALTY~~ PENALTIES.] A person violating sections 153A.13 to 153A.16 is guilty of a misdemeanor. The commissioner may impose an automatic civil penalty equal to one-fourth the renewal fee on each hearing instrument seller who fails to renew the permit required in section 153A.14 by the renewal deadline established by the commissioner in rule."

Page 10, line 34, delete "and 145.35" and insert "145.35; and 153A.16"

Page 10, after line 34, insert:

"Sec. 15. [EFFECTIVE DATE.]

Section 8, imposing an automatic civil penalty for failure to renew permits, is effective the day following final enactment. The repeal of Minnesota Statutes 1990, section 153A.16, is effective the day following final enactment."

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

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

The report was adopted.

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

H. F. No. 1467, A bill for an act relating to insurance; prohibiting certain agreements; amending Minnesota Statutes 1990, section 60A.08, 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 60A.08, is amended by adding a subdivision to read:

Subd. 14. [AGREEMENT TO RESCIND POLICY.] (a) If the insurer has knowledge of any claims against the insured that would remain unsatisfied due to the financial condition of the insured, the insurer and the insured may not agree to rescind the policy.

(b) Before entering into an agreement to rescind a policy, an insurer must make a good faith effort to ascertain: (1) the existence and identity of all claims against the policy; and (2) the financial condition of the insured.

(c) An agreement made in violation of this section is void and unenforceable.

Sec. 2. Minnesota Statutes 1990, section 72A.201, subdivision 6, is amended to read:

Subd. 6. [STANDARDS FOR AUTOMOBILE INSURANCE CLAIMS HANDLING, SETTLEMENT OFFERS, AND AGREEMENTS.] In addition to the acts specified in subdivisions 4, 5, 7, 8, and 9, the following acts by an insurer, adjuster, or a self-insured or self-insurance administrator constitute unfair settlement practices:

(1) if an automobile insurance policy provides for the adjustment and settlement of an automobile total loss on the basis of actual cash value or replacement with like kind and quality and the insured is not an automobile dealer, failing to offer one of the following methods of settlement:

(a) comparable and available replacement automobile, with all applicable taxes, license fees, at least pro rata for the unexpired term of the replaced automobile's license, and other fees incident to the transfer or evidence of ownership of the automobile paid, at no cost to the insured other than the deductible amount as provided in the policy;

(b) a cash settlement based upon the actual cost of purchase of a comparable automobile, including all applicable taxes, license fees, at least pro rata for the unexpired term of the replaced automobile's license, and other fees incident to transfer of evidence of ownership, less the deductible amount as provided in the policy. The costs must be determined by:

(i) the cost of a comparable automobile, adjusted for mileage, condition, and options, in the local market area of the insured, if such an automobile is available in that area; or

(ii) one of two or more quotations obtained from two or more qualified sources located within the local market area when a comparable automobile is not available in the local market area. The

insured shall be provided the information contained in all quotations prior to settlement; or

(iii) any settlement or offer of settlement which deviates from the procedure above must be documented and justified in detail. The basis for the settlement or offer of settlement must be explained to the insured;

(2) if an automobile insurance policy provides for the adjustment and settlement of an automobile partial loss on the basis of repair or replacement with like kind and quality and the insured is not an automobile dealer, failing to offer one of the following methods of settlement:

(a) to assume all costs, including reasonable towing costs, for the satisfactory repair of the motor vehicle. Satisfactory repair includes repair of both obvious and hidden damage as caused by the claim incident. This assumption of cost may be reduced by applicable policy provision; or

(b) to offer a cash settlement sufficient to pay for satisfactory repair of the vehicle. Satisfactory repair includes repair of obvious and hidden damage caused by the claim incident, and includes reasonable towing costs;

(3) regardless of whether the loss was total or partial, in the event that a damaged vehicle of an insured cannot be safely driven, failing to exercise the right to inspect automobile damage prior to repair within five business days following receipt of notification of claim. In other cases the inspection must be made in 15 days;

(4) regardless of whether the loss was total or partial, requiring unreasonable travel of a claimant or insured to inspect a replacement automobile, to obtain a repair estimate, to allow an insurer to inspect a repair estimate, to allow an insurer to inspect repairs made pursuant to policy requirements, or to have the automobile repaired;

(5) regardless of whether the loss was total or partial, if loss of use coverage exists under the insurance policy, failing to notify an insured at the time of the insurer's acknowledgment of claim, or sooner if inquiry is made, of the fact of the coverage, including the policy terms and conditions affecting the coverage and the manner in which the insured can apply for this coverage;

(6) regardless of whether the loss was total or partial, failing to include the insured's deductible in the insurer's demands under its subrogation rights. Subrogation recovery must be shared at least on a proportionate basis with the insured, unless the deductible amount has been otherwise recovered by the insured, except that when an insurer is recovering directly from an uninsured third party

by means of installments, the insured must receive the full deductible share as soon as that amount is collected and before any part of the total recovery is applied to any other use. No deduction for expenses may be made from the deductible recovery unless an attorney is retained to collect the recovery, in which case deduction may be made only for a pro rata share of the cost of retaining the attorney;

(7) requiring as a condition of payment of a claim that repairs to any damaged vehicle must be made by a particular contractor or repair shop or that parts, other than window glass, must be replaced with parts other than original equipment parts;

(8) where liability is reasonably clear, failing to inform the claimant in an automobile property damage liability claim that the claimant may have a claim for loss of use of the vehicle;

(9) failing to make a good faith assignment of comparative negligence percentages in ascertaining the issue of liability;

(10) failing to pay any interest required by statute on overdue payment for an automobile personal injury protection claim;

(11) if an automobile insurance policy contains either or both of the time limitation provisions as permitted by section 65B.55, subdivisions 1 and 2, failing to notify the insured in writing of those limitations at least 60 days prior to the expiration of that time limitation;

(12) if an insurer chooses to have an insured examined as permitted by section 65B.56, subdivision 1, failing to notify the insured of all of the insured's rights and obligations under that statute, including the right to request, in writing, and to receive a copy of the report of the examination;

(13) failing to provide, to an insured who has submitted a claim for benefits described in section 65B.44, a complete copy of the insurer's claim file on the insured, excluding internal company memoranda, all materials that relate to any insurance fraud investigation, materials that constitute attorney work-product or that qualify for the attorney-client privilege, and medical reviews that are subject to section 145.64, within ten business days of receiving a written request from the insured. The insurer may charge the insured a reasonable copying fee. This clause supersedes any inconsistent provisions of sections 72A.49 to 72A.505."

Delete the title and insert:

"A bill for an act relating to insurance; prohibiting certain agreements; requiring that insurers provide copies of claim infor-

mation for certain auto claims; amending Minnesota Statutes 1990, sections 60A.08, by adding a subdivision; and 72A.201, subdivision 6."

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. 1515, A bill for an act relating to Ramsey county; creating a Ramsey county consolidation study commission; setting its duties; appropriating money.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [RAMSEY COUNTY LOCAL GOVERNMENT SERVICES STUDY.]

A Ramsey county local government services study commission is established to study cooperation between local governments and the possible sharing and consolidation of services, structures, and functions. The commission shall explore cooperative ventures which would be mutually beneficial to the communities involved, review and recommend ways to eliminate overlap and duplication, design programs that would improve services and reduce costs, and develop a systematic process for cooperating, restructuring, sharing, or consolidating. The commission shall report on the advantages and disadvantages of sharing, cooperating, restructuring, or consolidating, with attention to:

(a) citizen participation in government;

(b) efficiency and effectiveness of the provision of public service;

(c) taxation and other public finance matters;

(d) public employees;

(e) structure of government;

(f) possible public economies;

(g) the historic identity of the community;

(h) economic development;

(i) social development;

(j) environment; and

(k) other significant factors.

The commission shall report and make recommendations to the local government units in Ramsey county before December 15, 1991. The elected councils and boards of the local government units affected by any recommendation shall indicate, by resolution, their response to the commission's recommendations before January 15, 1992. The commission's recommendations and the local government units' responses shall be presented to the members of the Ramsey county legislative delegation and to the legislature before February 1, 1992. The commission may not adopt any recommendation without a 60 percent affirmative vote of the commission members voting on the issue.

The commission may examine consolidation, cooperation, restructuring, or sharing of any services, groups of services, or local government structures as the commission determines except that specific examination and recommendation shall be made in regard to:

(1) the city and county health departments;

(2) city and county attorney's functions as they relate to criminal law;

(3) city and county libraries;

(4) public works; and

(5) police and sheriff communications, crime lab and investigative functions.

The commission shall be 25 residents of, or persons whose principal place of business is located in, Ramsey county selected as follows:

(1) two members of the county board who reside in the city of St. Paul, selected by the county board;

(2) two members of the county board who reside in the county but not in the city of St. Paul, selected by the county board;

(3) three members selected by the St. Paul city council from among the mayor and city council members;

(4) three members selected jointly by the city councils and town boards of the cities and towns in the county, other than St. Paul, from among their mayors and members;

(5) one member of the school board of independent school district No. 625, selected by the board;

(6) one member of the school boards of other school districts operating in Ramsey county selected jointly by the board members of the several districts;

(7) six members of the public who are not public employees and do not hold public office, selected by the members of the legislature who represent the city of St. Paul and the members serving under clauses (1), (3), and (5);

(8) six members of the public who are not public employees and do not hold public office, selected by the members of the legislature who represent Ramsey county outside the city of St. Paul and the members serving under clauses (2), (4), and (6); and

(9) a chair selected by the other members of the commission who is not an elected official or public employee and who is not one of the above members of the commission.

The commission shall be assisted by a staff committee whose members shall consist of the city managers and chief of staff from the communities within Ramsey county, the Ramsey county executive director, and professional staff of these governmental units. This committee shall provide technical assistance to the commission. The committee may request the assistance of any other public or private agency or entity.

Members of the commission and the committee shall serve without compensation other than expenses that would be reimbursed to them by the units of government which they represent. The commission may accept gifts, grants, or donations from public and private entities to assist with the costs of its work. A gift, grant, or donation is not subject to Minnesota Statutes, chapter 10A, or other law or rule regulating lobbying expenses.

Sec. 2. [EFFECTIVE DATE.]

This act takes effect the day after final enactment."

Delete the title and insert:

"A bill for an act relating to Ramsey county; creating a Ramsey county local government cooperation and consolidation study commission; setting its duties."

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

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

H. F. No. 1613, A bill for an act relating to commerce; removing or modifying certain bond requirements; amending Minnesota Statutes 1990, sections 6.26; 10.38; 46.08, subdivision 1; 84.01, subdivision 4; 115A.06, subdivision 12; 116.03, subdivision 4; 233.08; 234.06; 241.08, subdivision 1; 246.15, subdivision 1; 257.05, subdivision 1; 280.27; 281.38; 299C.08; 299D.01, subdivision 4; 299D.03, subdivision 1; 340A.316; 375.03; 386.06; 388.01; 390.05; 398.10; 473.375, subdivision 5; 480.09, subdivision 2; 480.11, subdivision 1; and 488A.20, subdivision 2; repealing Minnesota Statutes 1990, sections 60B.08; 84.081, subdivision 2; 160.24, subdivision 5; 166.04; 196.02, subdivision 2; 234.07; 246.03; 340A.302, subdivision 4; 383A.20, subdivision 8; and 514.52.

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. 1635, A bill for an act relating to waste management; requiring counties to prepare and amend solid waste management plans; requiring counties and solid waste facilities to develop and implement problem materials management plans; prohibiting issuance and renewal of certain permit if plans are not developed and implemented; amending Minnesota Statutes 1990, sections 115A.03, subdivision 24a; 115A.45; 115A.46, subdivisions 1 and 2; 115A.956; 115A.96, subdivision 6; and 116.07, subdivisions 4j and 4k.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 115A.03, subdivision 24a, is amended to read:

Subd. 24a. [PROBLEM MATERIAL.] "Problem material" means a material that, when it is processed or disposed of with mixed municipal solid waste, contributes to one or more of the following results:

(1) the release of a hazardous substance, or pollutant or contaminant, as defined in section 115B.02, subdivisions 8, 13, and 15;

(2) pollution of water as defined in section 115.01, subdivision 5;

(3) air pollution as defined in section 116.06, subdivision 3; or

(4) a significant threat to the safe or efficient operation of a solid waste ~~processing~~ facility.

Sec. 2. Minnesota Statutes 1990, section 115A.46, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] Each county shall prepare a solid waste management plan. Plans shall address the state policies and purposes expressed in section 115A.02. Plans for the location, establishment, operation, maintenance, and postclosure use of facilities and facility sites, for ordinances, and for licensing, permit, and enforcement activities shall be consistent with the rules adopted by the agency pursuant to chapter 116. Plans shall address the resolution of conflicting, duplicative, or overlapping local management efforts. Plans shall address the establishment of joint powers management programs or waste management districts where appropriate. Plans shall address other matters as the rules of the office may require consistent with the purposes of sections 115A.42 to 115A.46. Political subdivisions preparing plans under ~~sections 115A.42 to 115A.46~~ this section shall consult with persons presently providing solid waste collection, processing, and disposal services. Plans ~~shall~~ must be ~~approved by~~ submitted to the ~~office~~ director, or the metropolitan council pursuant to section 473.803, for approval. After initial approval, each plan ~~shall~~ must be updated and submitted for reapproval every five years ~~and revised~~. The plan must be amended as necessary ~~for further approval~~ so that it is not inconsistent with state law.

Sec. 3. Minnesota Statutes 1990, section 115A.46, subdivision 2, is amended to read:

Subd. 2. [CONTENTS.] (a) The plans shall describe existing collection, processing, and disposal systems, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems.

(b) The plans shall include an estimate of the land disposal capacity in acre-feet which will be needed through the year 2000, on the basis of current and projected waste generation practices. In assessing the need for additional capacity for resource recovery or land disposal, the plans shall take into account the characteristics of waste stream components and shall give priority to waste reduction, separation, and recycling.

(c) The plans shall require the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste.

(d) The plans shall address at least waste reduction, separation, recycling, and other resource recovery options, and shall include specific and quantifiable objectives, immediately and over specified time periods, for reducing the land disposal of mixed municipal solid waste and for the implementation of feasible and prudent reduction, separation, recycling, and other resource recovery options. These objectives shall be consistent with statewide objectives as identified in statute. The plans shall describe methods for identifying the portions of the waste stream such as leaves, grass, clippings, tree and plant residue, and paper for application and mixing into the soil and use in agricultural practices. The plans shall describe specific functions to be performed and activities to be undertaken to achieve the abatement, reduction, separation, recycling, and other resource recovery objectives and shall describe the estimated cost, proposed manner of financing, and timing of the functions and activities. The plans shall describe proposed mechanisms for complying with the recycling requirements of section 115A.551. The plans must include the problem materials management plan as required under section 115A.956, subdivision 3, and the household hazardous waste management ~~requirements of~~ plan as required under section 115A.96, subdivision 6.

(e) The plans shall include a comparison of the costs of the activities to be undertaken, including capital and operating costs, and the effects of the activities on the cost to generators and on persons currently providing solid waste collection, processing, and disposal services. The plans shall include alternatives which could be used to achieve the abatement objectives if the proposed functions and activities are not established.

(f) The plans shall designate how public education shall be accomplished. The plans shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plans shall include criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is

required in order to achieve the waste management objectives identified in the plan.

(g) The plans shall establish a siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten-year period, including estimated costs and implementation schedules, proposed procedures for operation and maintenance, estimated annual costs and gross revenues, and proposals for the use of facilities after they are no longer needed or usable.

(h) The plans shall describe existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management and shall describe existing and proposed regulation and enforcement procedures.

Sec. 4. Minnesota Statutes 1990, section 115A.956, is amended to read:

115A.956 [SOLID WASTE DISPOSAL PROBLEM MATERIALS.]

Subdivision 1. [PROBLEM MATERIAL PROCESSING AND DISPOSAL PLAN.] The office shall develop a plan that designates problem materials and available capacity for processing and disposal of problem materials including household hazardous waste that should not be in mixed municipal solid waste. In developing the plan, the office shall consider relevant regional characteristics and the impact of problem materials on specific processing and disposal technologies.

Subd. 2. [PROBLEM MATERIAL SEPARATION AND COLLECTION PLAN.] After the office certifies that sufficient processing and disposal capacity is available, but no later than November 15, 1992, the office shall develop a plan for separating problem materials from mixed municipal solid waste, collecting the problem materials, and transporting the problem materials to a processing or disposal facility and may by rule prohibit the ~~disposal~~ placement of the designated problem materials in mixed municipal solid waste.

Subd. 3. [PROBLEM MATERIALS MANAGEMENT PLANS.] (a) Each county shall include in its solid waste management plan required in section 115A.46, or its solid waste master plan required in section 473.803, a plan for management of problem materials addressed in the plan developed under subdivision 2. The plan must include at least:

(1) a broad based public education component;

(2) a strategy for reduction of problem materials; and

(3) a strategy for separation of problem materials from mixed municipal solid waste and collection, storage, and proper management of the problem materials.

(b) Each county shall amend its solid waste management plan required in section 115A.46 or its solid waste master plan required in section 473.803, to comply with this subdivision, and shall submit the plan amendment to the office or the metropolitan council for approval by November 15, 1993.

(c) Each county shall implement its problem materials management plan, as approved by the office or the metropolitan council, within six months after approval.

Sec. 5. Minnesota Statutes 1990, section 115A.96, subdivision 6, is amended to read:

Subd. 6. [HOUSEHOLD HAZARDOUS WASTE MANAGEMENT PLANS.] (a) Each county shall include in its solid waste management plan required in section 115A.46, or its solid waste master plan required in section 473.803, a household hazardous waste management plan. The plan must at least:

(1) include a broad based public education component;

(2) include a strategy for reduction of household hazardous waste; and

(3) ~~address~~ include a strategy for separation of household hazardous waste from mixed municipal solid waste and the collection, storage, and ~~disposal~~ proper management of that waste.

(b) Each county required to submit its plan to the office under section 115A.46 shall amend its plan to comply with this subdivision within one year after October 4, 1989.

(c) Each county in the state shall implement its household hazardous waste management plan by June 30, 1992.

Sec. 6. Minnesota Statutes 1990, section 116.07, subdivision 4j, is amended to read:

Subd. 4j. [PERMITS; SOLID WASTE FACILITIES.] (a) The agency may not issue a permit for new or additional capacity for a mixed municipal solid waste resource recovery or disposal facility as defined in section 115A.03 unless each county using or projected in the permit to use the facility has in place a solid waste management plan approved under section 115A.46 or 473.803 and amended as required by sections 115A.956, subdivision 3, and 115A.96, subdivision 6. The agency shall issue the permit only if the capacity of the

facility is consistent with the needs for resource recovery or disposal capacity identified in the approved plan or plans. Consistency must be determined by the metropolitan council for counties in the metropolitan area and by the agency for counties outside the metropolitan area. Plans approved before January 1, 1990, need not be revised if the capacity sought in the permit is consistent with the approved plan or plans.

(b) The agency shall require as part of the permit application for a new waste incineration facility identification of preliminary plans for ash management and ash leachate treatment or ash utilization. The permit issued by the agency must include requirements for ash management within the state of Minnesota and ash leachate treatment.

Sec. 7. Minnesota Statutes 1990, section 116.07, subdivision 4k, is amended to read:

Subd. 4k. [HOUSEHOLD HAZARDOUS WASTE AND OTHER PROBLEM MATERIALS MANAGEMENT.] (a) The agency shall adopt rules to require the owner or operator of a solid waste disposal facility or resource recovery facility to submit to the agency and to each county using or projected to use the facility a management plan for the separation of household hazardous waste and other problem materials from solid waste prior to disposal or processing and for the proper ~~disposal~~ management of the waste. The rules must require that the plan be developed in coordination with each county using, or projected to use, the facility. The plan must not be inconsistent with the plans developed under section 115A.956, subdivisions 2 and 3, and must include:

(1) identification of materials that are problem materials, as defined in section 115A.03, subdivision 24a, for the facility;

(2) participation in public education activities on management of household hazardous waste ~~management~~ and other problem materials in the facility's service area;

~~(2)~~ (3) a strategy for reduction of household hazardous waste and other problem materials entering the facility; and

~~(3)~~ (4) a plan for the storage and ~~disposal~~ proper management of separated household hazardous waste and other problem materials.

(b) ~~After June~~ By September 30, 1992, the owner or operator of a facility shall implement the elements of the plan required in paragraph (a) relating to household hazardous waste management. After that date, the agency may not grant or renew a permit for a facility ~~that has not submitted a household hazardous waste management plan.~~ until the agency has:

(1) reviewed the elements of the facility's plan relating to household hazardous waste management;

(2) directed the applicant or permittee to make changes to these elements as necessary to comply with the plan requirements under paragraph (a); and

(3) included a requirement to implement the elements as a condition of the issued or renewed permit.

(c) By May 15, 1994, the owner or operator of a facility shall implement the elements of the plan required in paragraph (a) relating to problem materials management. After that date, the agency may not grant or renew a permit for a facility until the agency has:

(1) reviewed the elements of the facility's plan relating to problem materials management;

(2) directed the applicant or permittee to make changes to these elements as necessary to comply with the plan requirements under paragraph (a); and

(3) included a requirement to implement the elements as a condition of the issued or renewed permit.

Sec. 8. [116D.10] [ENERGY AND ENVIRONMENTAL STRATEGY REPORT.]

On or before January 1 of each even-numbered year, the governor shall transmit to the energy and environment and natural resources committees of the legislature a concise, comprehensive written report on the energy and environmental strategy of the state.

The report must be sufficiently comprehensive to assist the legislature in allocating funds to support all of the policies, plans, and programs of the state related to energy and the environment, and specifically must include:

(1) a concise, comprehensive discussion of state, and, as applicable, national and global energy and environmental problems, including but not limited to: indoor and outdoor air pollution, water pollution, atmospheric changes, stratospheric ozone depletion, damage to terrestrial systems, deforestation, regulation of pesticides and toxic substances, solid and hazardous waste management, ecosystem protection (wetlands, estuaries, groundwater, Lake Superior and the inland lakes and rivers), population growth, preservation of animal and plant species, soil erosion, and matters relating to the availability and conservation of crude oil and of refined petroleum product and other energy sources;

(2) a concise, comprehensive description and assessment of the policies and programs of all departments and agencies of the state responsible for issues listed in clause (1), including a concise discussion of the long-term objectives of such policies and programs; existing and proposed funding levels; the impact of each policy and program on pollution prevention, emergency preparedness and response, risk assessment, land management, technology transfer, and matters relating to the availability and conservation of crude oil and of refined petroleum product and other energy sources; and the impact of each on relations with the other states, the federal government, membership in national organizations, and funding of programs for state environmental protection and energy issues;

(3) a concise description and assessment of the integration and coordination of policies, plans, environmental programs, and energy programs of the state with the policies and programs of the federal government, the environmental and energy policies and programs of the other states, and the environmental and energy policies and programs of major state and national nonprofit conservation organizations;

(4) a concise description and assessment of all efforts by the state to integrate effectively its energy and environmental strategy with:

(i) the science and technology strategy of the federal government, including objectives, priorities, timing, funding details, and expected results of all environmental and energy research and development supported by the federal government and of all efforts at regional, national, and international cooperation on environmental and energy research and development;

(ii) the national energy policies of the federal government, including objectives, priorities, timing, funding details, and expected results of all efforts supported by the federal government aimed at reducing energy demand, improving energy efficiency and conservation, fuel-switching, using safe nuclear power reactors, employing clean coal technology, promoting renewable energy sources, promoting research and possible use of alternative fuels, promoting biomass research, promoting energy research and development in general, and advancing regional, national, and international energy cooperation;

(iii) the national environmental education strategy of the federal government, including objectives, priorities, timing, funding details, and expected results of all domestic and international education efforts supported by the United States to improve both public participation and awareness of the need for environmental protection;

(iv) the technology transfer strategy of the federal government, including objectives, priorities, timing, funding details, and ex-

pected results of all domestic and international environmental and energy technology transfer efforts to foster collaboration and cooperation between federal agencies and state and local governments, universities, nonprofit conservation organizations, and private industry in order to improve the competitiveness of the state and the nation in the world marketplace and promote environmental and energy technology advancement; and

(v) the national security strategy of the federal government, including objectives, priorities, timing, funding, and expected results of the national security programs to be most compatible with requirements for environmental preservation and a national energy policy, while accomplishing missions essential to national security;

(5) a concise assessment of the overall effectiveness of the energy and environmental strategy of the state, including a concise description of the organizational processes used to provide a body of energy and environmental information and to evaluate the results of energy and environmental programs; the use of statistical methods; the degree to which the strategy is long-term, comprehensive, integrated, flexible, and oriented toward achieving broad concensus in the state, the nation, and abroad; and recommendations on the ways in which the legislature can assist the governor in making the strategy more effective;

(6) specific two-year, five-year and, as appropriate, longer term goals for the implementation of the energy and environmental strategy of the state; and

(7) such other pertinent information as may be necessary to provide information to the legislature on matters relating to the overall energy and environmental strategy of the state and to develop state programs coordinated with those formulated on a national and international level.

Sec. 9. [116D.11] [REPORT PREPARATION.]

Subdivision 1. [AGENCY RESPONSIBILITY.] Each department or agency of the state, as designated by the governor, shall assist in the preparation of the strategy report. Each designated department or agency shall prepare a preliminary strategy report relating to those programs or policies over which the department or agency has jurisdiction. Each preliminary strategy report shall:

(1) describe concisely the existing policies and programs of the department or agency as they relate to the issues listed in section 116D.10, clause (1);

(2) describe concisely and evaluate the long-term objectives of the

department or agency as they relate to the issues listed in section 116D.10, clause (1);

(3) identify and make proposals about the development of department or agency financial management budgets as they relate to the issues listed in section 116D.10, clause (1);

(4) describe concisely the strategy and procedure of the department or agency to recruit, select, and train personnel to carry out department or agency goals and functions as they relate to the issues listed in section 116D.10, clause (1);

(5) identify and make proposals to eliminate duplicative and unnecessary programs or systems, including encouraging departments and agencies to share systems or programs that have sufficient capacity to perform the functions needed as they relate to the issues listed in section 116D.10, clause (1); and

(6) establish two-year quantitative goals for policy implementation.

Subd. 2. [PRIMARY RESPONSIBILITY.] The environmental quality board shall have the primary responsibility for preparing the energy and environmental strategy report of the state, as required by section 116D.10. The board shall assemble all preliminary reports prepared pursuant to subdivision 1 under a timetable established by the board and shall use the preliminary reports in the preparation of the draft energy and environmental strategy report of the state. Each department or agency designated by the governor to prepare a preliminary strategy report shall submit a copy of the preliminary strategy report to the governor and to the board at the same time.

Subd. 3. [REPORT TO GOVERNOR.] On or before October 1 of each odd-numbered year, the environmental quality board shall transmit to the governor a draft of the written report on the energy and environmental strategy of the state. The governor may change the report and may request additional information or data from any department or agency of the state responsible for issues listed in section 116D.10, clause (1). Any such requested additional information or data shall be prepared and submitted promptly to the governor.

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.

Sec. 10. Minnesota Statutes 1990, section 473.149, subdivision 1, is amended to read:

Subdivision 1. [POLICY PLAN; GENERAL REQUIREMENTS.] The metropolitan council shall prepare and by resolution adopt as part of its development guide a long range policy plan for solid waste management in the metropolitan area. When adopted, the plan shall be followed in the metropolitan area. The plan shall address the state policies and purposes expressed in section 115A.02. The plan shall substantially conform to all policy statements, purposes, goals, standards, maps and plans in development guide sections and plans adopted by the council, provided that no land shall be thereby excluded from consideration as a solid waste facility site except land determined by the agency to be intrinsically unsuitable for such use. The plan shall include goals and policies for solid waste management, including recycling consistent with section 115A.551, and household hazardous waste and other problem materials manage-

ment consistent with ~~section~~ sections 115A.956, subdivision 3, and 115A.96, subdivision 6, in the metropolitan area and, to the extent appropriate, statements and information similar to that required under section 473.146, subdivision 1. The plan shall include criteria and standards for solid waste facilities and solid waste facility sites respecting the following matters: general location; capacity; operation; processing techniques; environmental impact; effect on existing, planned, or proposed collection services and waste facilities; and economic viability. The plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plan shall include additional criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. In developing the plan the council shall consider the orderly and economic development, public and private, of the metropolitan area; the preservation and best and most economical use of land and water resources in the metropolitan area; the protection and enhancement of environmental quality; the conservation and reuse of resources and energy; the preservation and promotion of conditions conducive to efficient, competitive, and adaptable systems of waste management; and the orderly resolution of questions concerning changes in systems of waste management. Criteria and standards for solid waste facilities shall be consistent with rules adopted by the pollution control agency pursuant to chapter 116 and shall be at least as stringent as the guidelines, regulations, and standards of the federal environmental protection agency.

Sec. 11. Minnesota Statutes 1990, section 473.803, subdivision 1, is amended to read:

Subdivision 1. [COUNTY MASTER PLANS; GENERAL REQUIREMENTS.] Each metropolitan county, following adoption or revision of the council's solid waste policy plan and in accordance with the dates specified therein, and after consultation with all affected local government units, shall prepare and submit to the council for its approval, a county solid waste master plan to implement the policy plan. The master plan shall be revised and resubmitted at such times as the council's policy plan may require. The master plan shall describe county solid waste activities, functions, and facilities; the existing system of solid waste generation, collection, and processing, and disposal within the county; proposed mechanisms for complying with the recycling requirements of section 115A.551, and the household hazardous waste and other problem materials management requirements of ~~section~~ sections 115A.956, subdivision 3, and 115A.96, subdivision 6; existing and proposed county and municipal ordinances and license and permit

requirements relating to solid waste facilities and solid waste generation, collection, and processing, and disposal; existing or proposed municipal, county, or private solid waste facilities and collection services within the county together with schedules of existing rates and charges to users and statements as to the extent to which such facilities and services will or may be used to implement the policy plan; and any solid waste facility which the county owns or plans to acquire, construct, or improve together with statements as to the planned method, estimated cost and time of acquisition, proposed procedures for operation and maintenance of each facility; an estimate of the annual cost of operation and maintenance of each facility; an estimate of the annual gross revenues which will be received from the operation of each facility; and a proposal for the use of each facility after it is no longer needed or usable as a waste facility. The master plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the master plan shall contain criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan.

Sec. 12. [REPEALER.]

Minnesota Statutes 1990, section 116D.07, is repealed."

Delete the title and insert:

"A bill for an act relating to waste management; requiring counties to prepare and amend solid waste management plans; requiring counties and solid waste facilities to develop and implement problem materials management plans; prohibiting issuance and renewal of certain permit if plans are not developed and implemented; requiring the governor to submit a biennial policy report to the legislature on energy and the environment; amending Minnesota Statutes 1990, sections 115A.03, subdivision 24a; 115A.46, subdivisions 1 and 2; 115A.956; 115A.96, subdivision 6; 116.07, subdivisions 4j and 4k; 473.149, subdivision 1; and 473.803, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 116D; repealing Minnesota Statutes 1990, section 116D.07."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Local Government and Metropolitan Affairs.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

S. F. No. 425, A bill for an act relating to unclaimed property; providing for payment of certain expenses for claims made in other states; amending Minnesota Statutes 1990, section 345.48, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 345.

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

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 78, 162, 267, 375, 422, 895, 1141, 1178, 1288, 1332, 1457, 1467, 1515 and 1613 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. No. 425 was read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Jacobs; Anderson, I., and Cooper introduced:

H. F. No. 1649, A bill for an act relating to motor vehicles; imposing a surcharge on the daily or weekly rental of certain motor vehicles; amending Minnesota Statutes 1990, section 297A.44, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 297A.

The bill was read for the first time and referred to the Committee on Transportation.

Heir; Ogren; Blatz; Anderson, I., and Gutknecht introduced:

H. F. No. 1650, A bill for an act relating to taxation; property; changing the targeting credit from a state refund to a direct subtraction from property taxes; appropriating money; amending

Minnesota Statutes 1990, sections 273.1392; 276.04, subdivision 2; and 290A.03, subdivision 13; proposing coding for new law in Minnesota Statutes, chapter 273; repealing Minnesota Statutes 1990, section 290A.04, subdivision 2h.

The bill was read for the first time and referred to the Committee on Taxes.

Cooper, Brown, Lieder, Kalis and Seaberg introduced:

H. F. No. 1651, A bill for an act relating to the environment; establishing a one call system for all environmental reporting to state agencies; appropriating money; amending Minnesota Statutes 1990, sections 299K.07; and 299K.09, subdivision 2.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Dempsey; Long; Trimble; Olsen, S., and Jaros introduced:

H. F. No. 1652, A resolution memorializing the Postmaster General to issue a postal stamp in commemoration of Wanda Gag, American Author and Illustrator.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Runbeck, Vellenga and Stanius introduced:

H. F. No. 1653, A bill for an act relating to appropriations; appropriating money to the state planning agency for a symposium on violent juvenile sex offenders.

The bill was read for the first time and referred to the Committee on Appropriations.

Dawkins; Janezich; Anderson, I.; Ogren and Blatz introduced:

H. F. No. 1654, A bill for an act relating to public finance; encouraging the cooperative restructuring of local government services; amending Minnesota Statutes 1990, section 275.54, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 6 and 471.

The bill was read for the first time and referred to the Committee on Taxes.

HOUSE ADVISORIES

The following House Advisory was introduced:

Sparby, Wenzel, Kinkel, Omann and Johnson, V., introduced:

H. A. No. 12, A proposal to study agricultural cropland damage by certain types of wildlife.

The advisory was referred to the Committee on Agriculture.

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 bill as Special Orders to be acted upon immediately preceding the printed Special Orders pending for today, Monday, April 22, 1991:

H. F. No. 1422.

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, Monday, April 22, 1991:

H. F. Nos. 425 and 980; S. F. No. 539; H. F. Nos. 1201, 540, 1151 and 693; S. F. No. 729; H. F. Nos. 1039, 997 and 525; S. F. No. 328; H. F. No. 1249; S. F. No. 286; H. F. Nos. 1475, 821, 1286, 528, 1066, 882 and 1371; S. F. No. 550; H. F. No. 143; S. F. No. 732; and H. F. Nos. 228, 1025, 527, 478 and 1310.

CONSENT CALENDAR

Long moved that the bills on the Consent Calendar be continued. The motion prevailed.

SPECIAL ORDERS

H. F. No. 1422 was reported to the House.

Rukavina moved to amend H. F. No. 1422, the third engrossment, as follows:

Page 29, delete sections 2 and 3, and insert:

"Sec. 2. [176.95] [ADMINISTRATIVE COSTS.]

The cost of administering the workers' compensation division of the department of labor and industry, the workers' compensation division of the office of administrative hearings, and the workers' compensation court of appeals will be reimbursed to the workers' compensation special compensation fund by a transfer from the general fund, except that the amount transferred from the general fund under this section, plus the amount transferred from the general fund under section 176.183, must not be more than $18,000,000 each fiscal year."

Page 30, delete section 4 and insert:

"Sec. 3. [APPROPRIATIONS.]

$12,000,000 is appropriated from the general fund for transfer on July 1, 1992, to the workers' compensation special compensation fund to reimburse the fund for expenses that should be borne by the general fund. These expenses are the cost of administering the workers' compensation division of the department of labor and industry, the workers' compensation division of the office of administrative hearings, and the workers' compensation court of appeals.

$6,000,000 is appropriated from the general fund for transfer on July 1, 1992, to the workers' compensation special compensation fund to reimburse the fund for compensation paid to employees of uninsured or self-insured employers under Minnesota Statutes, section 176.183."

Page 30, line 19, delete the first "January" and insert "July"

Page 30, line 20, delete "Sections 3 and 4" and insert "section 3"

Page 30, delete lines 22 to 24, and insert:

"Section 4 is effective the day following final enactment. Section 1 is effective October 1, 1991. Sections 2 and 3 are effective July 1, 1992."

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Tunheim moved to amend H. F. No. 1422, the third engrossment, as amended, as follows:

Page 25, after line 3, insert:

"Sec. 16. Minnesota Statutes 1990, section 176.155, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYER'S PHYSICIAN.] The injured employee must submit to examination by the employer's physician, if requested by the employer, and at reasonable times thereafter upon the employer's request. The examination must be scheduled at a location within 150 miles of the employee's residence unless the employer can show cause to the department to order an examination at a location further from the employee's residence. The employee is entitled upon request to have a personal physician present at any such examination. Each party shall defray the cost of that party's physician. Any report or written statement made by the employer's physician as a result of an examination of the employee, regardless of whether the examination preceded the injury or was made subsequent to the injury, shall be made available, upon request and without charge, to the injured employee or representative of the employee. The employer shall pay reasonable travel expenses incurred by the employee in attending the examination including mileage, parking, and, if necessary, lodging and meals. The employer shall also pay the employee for any lost wages resulting from attendance at the examination. A self-insured employer or insurer who is served with a claim petition pursuant to section 176.271, subdivision 1, or 176.291, shall schedule any necessary examinations of the employee, if an examination by the employer's physician or health care provider is necessary to evaluate benefits claimed. The examination shall be completed and the report of the examination shall be served on the employee and filed with the commissioner within 120 days of service of the claim petition.

No evidence relating to the examination or report shall be received or considered by the commissioner, a compensation judge, or the court of appeals in determining any issues unless the report has been served and filed as required by this section, unless a written extension has been granted by the commissioner or compensation

judge. The commissioner or a compensation judge shall extend the time for completing the adverse examination and filing the report upon good cause shown. The extension must not be for the purpose of delay and the insurer must make a good faith effort to comply with this subdivision. Good cause shall include but is not limited to:

(1) that the extension is necessary because of the limited number of physicians or health care providers available with expertise in the particular injury or disease, or that the extension is necessary due to the complexity of the medical issues, or

(2) that the extension is necessary to gather additional information which was not included on the petition as required by section 176.291."

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Jefferson; Johnson, A.; Hasskamp; Carruthers; Bauerly; Garcia; Hanson; Dawkins and Thompson moved to amend H. F. No. 1422, the third engrossment, as amended, as follows:

Page 15, line 34 and page 16, lines 7 and 8, reinstate the stricken language

Page 16, delete lines 9 to 21

Page 16, line 22, delete "(c)" and insert "(b)"

Page 16, line 25, delete "(d)" and insert "(c)"

Page 16, line 27, delete "(e)" and insert "(d)"

Page 17, line 12, delete "(f)" and insert "(e)"

Page 17, line 15, delete "(g)" and insert "(f)"

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

CALL OF THE HOUSE

On the motion of Sviggum and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

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

Long moved that further proceedings of the roll call be dispensed with and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

Sviggum; Valento; Stanius; Haukoos; Hugoson; Swenson; Schreiber; Morrison; Johnson, V.; Hufnagle; McPherson; Limmer; Koppendrayer; Goodno; Erhardt; Waltman; Blatz; Smith; Girard; Krinkie; Gutknecht; Bettermann; Frederick; Davids; Olsen, S.; Welker; Runbeck; Pellow; Abrams; Heir; Leppik; Macklin and Lynch moved to amend H. F. No. 1422, the third engrossment, as amended, as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

SCOPE OF COVERAGE/LIABILITY

Section 1. Minnesota Statutes 1990, section 176.011, subdivision 11a, is amended to read:

Subd. 11a. [FAMILY FARM.] "Family farm" means any farm operation which (1) pays or is obligated to pay less than ~~$8,000~~ $20,000 in cash wages, exclusive of machine hire, to farm laborers for services rendered during the preceding calendar year, and (2) has total liability and medical payment coverage equal to $300,000 and $5,000, respectively, under a farm liability insurance policy. For purposes of this subdivision, farm laborer does not include any spouse, parent or child, regardless of age, of a farmer employed by the farmer, or any executive officer of a family farm corporation as defined in section 500.24, subdivision 2, or any spouse, parent or child, regardless of age, of such an officer employed by that family farm corporation, or other farmers in the same community or members of their families exchanging work with the employer. Notwithstanding any law to the contrary, a farm laborer shall not be considered as an independent contractor for the purposes of this chapter; provided that a commercial baler or commercial thresher shall be considered an independent contractor.

Sec. 2. Minnesota Statutes 1990, section 176.041, subdivision 1a, is amended to read:

Subd. 1a. [ELECTION OF COVERAGE.] The persons, partnerships and corporations described in this subdivision may elect to provide the insurance coverage required by this chapter.

(a) An owner or owners of a business or farm may elect coverage for themselves.

(b) A partnership owning a business or farm may elect coverage for any partner.

(c) A family farm corporation as defined in section 500.24, subdivision 2, clause (c), may elect coverage for any executive officer.

(d) A closely held corporation which had less than 22,880 hours of payroll in the previous calendar year may elect coverage for any executive officer if that executive officer is also an owner of at least 25 percent of the stock of the corporation.

(e) A person, partnership, or corporation that receives the services of a voluntary uncompensated worker who is not required to be covered under this chapter may elect to provide coverage for that worker.

(f) A person, partnership, or corporation hiring an independent contractor, as defined by rules adopted by the commissioner, may elect to provide coverage for that independent contractor. A person, partnership, or corporation may charge the independent contractor a fee for providing the coverage only if the independent contractor (1) elects in writing to be covered, (2) is issued an endorsement setting forth the terms of the coverage, the name of the independent contractors, and the fee and how it is calculated.

The persons, partnerships, and corporations described in this subdivision may also elect coverage for an employee who is a spouse, parent, or child, regardless of age, of an owner, partner, or executive officer, who is eligible for coverage under this subdivision. Coverage may be elected for a spouse, parent, or child whether or not coverage is elected for the related owner, partner, or executive director and whether or not the person, partnership, or corporation employs any other person to perform a service for hire. Any person for whom coverage is elected pursuant to this subdivision shall be included within the meaning of the term employee for the purposes of this chapter.

Notice of election of coverage or of termination of election under this subdivision shall be provided in writing to the insurer. Coverage or termination of coverage is effective the day following receipt of notice by the insurer or at a subsequent date if so indicated in the notice. The insurance policy shall be endorsed to indicate the names of those persons for whom coverage has been elected or terminated under this subdivision. An election of coverage under this subdivision shall continue in effect as long as a policy or renewal policy of the same insurer is in effect.

Nothing in this subdivision shall be construed to limit the responsibilities of owners, partnerships, or corporations to provide coverage for their employees, if any, as required under this chapter.

Sec. 3. Minnesota Statutes 1990, section 176.183, subdivision 1, is amended to read:

Subdivision 1. When any employee sustains an injury arising out of and in the course of employment while in the employ of an employer, other than the state or its political subdivisions, not insured or self-insured as provided for in this chapter, the employee or the employee's dependents shall nevertheless receive benefits as provided for in this chapter from the special compensation fund, and the commissioner has a cause of action against the employer for reimbursement for all moneys paid out or to be paid out, and, in the discretion of the court, as punitive damages an additional amount not exceeding ~~50~~ 60 percent of all moneys paid out or to be paid out. As used in this subdivision, "employer" includes officers of corporations who have legal control, either individually or jointly with another or others, of the payment of wages. An action to recover the

moneys shall be instituted unless the commissioner determines that no recovery is possible. All moneys recovered shall be deposited in the general fund. There shall be no payment from the special compensation fund if there is liability for the injury under the provisions of section 176.215, by an insurer or self-insurer.

Sec. 4. Minnesota Statutes 1990, section 176.215, is amended by adding a subdivision to read:

Subd. 1a. [EXCLUSIVE REMEDY.] The liability of a general contractor, intermediate contractor, or subcontractor who pays compensation pursuant to subdivision 1, to an injured individual who is not an employee of the general contractor, intermediate contractor, or subcontractor is exclusive and in the place of any other liability to the individual, the individual's personal representative, surviving spouse, parent, any child, dependent, next of kin, or other person entitled to recover damages on account of the individual's injury or death.

Sec. 5. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1992. Sections 2 to 4 are effective the day following final enactment.

ARTICLE 2

COMPENSATION BENEFITS

Section 1. Minnesota Statutes 1990, section 176.011, subdivision 3, is amended to read:

Subd. 3. [DAILY WAGE.] "Daily wage" means the daily wage of the employee in the employment engaged in at the time of injury but does not include tips and gratuities paid directly to an employee by a customer of the employer and not accounted for by the employee to the employer. If the amount of the daily wage received or to be received by the employee in the employment engaged in at the time of injury was irregular or difficult to determine, or if the employment was part time, the daily wage shall be computed by dividing the total amount the employee actually earned in such employment in the last 26 weeks, by the total number of days in which the employee actually performed any of the duties of such employment, provided further, that in the case of the construction industry, mining industry, or other industry where the hours of work are affected by seasonal conditions, the weekly wage shall not be less than five times the daily wage. Where board or allowances other than tips and gratuities are made to an employee in addition to wages as a part of the wage contract they are deemed a part of earnings and computed at their value to the employee. In the case of persons performing services for municipal corporations in the case of

emergency, then the normal working day shall be considered and computed as eight hours, and in cases where such services are performed gratis or without fixed compensation the daily wage of the person injured shall, for the purpose of calculating compensation payable under this chapter, be taken to be the usual going wage paid for similar services in municipalities where such services are performed by paid employees. If, at the time of injury, the employee was regularly employed by two or more employers, the employee's earnings in all such employments shall be included in the computation of daily wage. Holiday pay and vacation pay shall not be included in the calculation of daily wage.

Sec. 2. Minnesota Statutes 1990, section 176.011, subdivision 18, is amended to read:

Subd. 18. [WEEKLY WAGE.] "Weekly wage" is arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved. If the employee normally works less than five days per week or works an irregular number of days per week, the number of days normally worked shall be computed by dividing the total number of days in which the employee actually performed any of the duties of employment in the last 26 weeks by the number of weeks in which the employee actually performed such duties, provided that the weekly wage for part time employment during a period of seasonal or temporary layoff shall be computed on the number of days and fractional days normally worked in the business of the employer for the employment involved. If, at the time of the injury, the employee was regularly employed by two or more employers, the employee's days of work for all such employments shall be included in the computation of weekly wage. Occasional overtime is not to be considered in computing the weekly wage, but if overtime is regular or frequent throughout the year it shall be taken into consideration. Holiday pay and vacation pay shall not be included in the calculation of weekly wage. The maximum weekly compensation payable to an employee, or to the employee's dependents in the event of death, shall not exceed ~~66 2/3~~ 80 percent of the ~~product of the daily wage times the number of days normally worked~~ employee's after-tax weekly wage, provided that the compensation payable for permanent partial disability under section 176.101, subdivision 3, and for permanent total disability under section 176.101, subdivision 4, or death under section 176.111, shall not be computed on less than the number of hours normally worked in the employment or industry in which the injury was sustained, subject also to such maximums as are specifically otherwise provided.

Sec. 3. Minnesota Statutes 1990, section 176.011, is amended by adding a subdivision to read:

Subd. 18a. [AFTER-TAX WEEKLY WAGE.] "After-tax weekly wage" means the weekly wage reduced by the amounts required to

be withheld by the Federal Insurance Contributions Act, United States Code, title 16, sections 3101 to 3126, but without regard to the yearly maximum, and by state and federal income tax laws using as the number of allowances the number of exemptions that the employee is entitled to under federal law for the employee and the employee's dependents and without additional allowances. The after-tax weekly wage must be determined as of the date of injury, and changes in dependents after that date may not be considered.

Sec. 4. Minnesota Statutes 1990, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of compensation at the time and in the manner prescribed by this chapter without the necessity of any agreement or any order of the division. Except for medical, burial, and other nonperiodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by section 176.101, subdivision 3. If doubt exists as to the eventual permanent partial disability, payment ~~for the economic recovery compensation or impairment compensation, whichever is due, pursuant to section 176.101,~~ shall be ~~then~~ made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. Prior to or at the time of commencement of the payment of ~~economic recovery compensation or lump sum or periodic payment of impairment~~ permanent partial disability compensation, the employee and employer shall be furnished *with a copy of the medical report* upon which the payment is based and all other medical reports which the insurer has that indicate a permanent partial disability rating, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. ~~Economic recovery compensation or impairment compensation pursuant to section 176.101 is payable in addition to but not concurrently with compensation for temporary total disability but is payable pursuant to section 176.101. Impairment compensation is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101. Economic recovery compensation or impairment compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total disability, and no credit shall be taken for payment of economic recovery compensation or impairment compensation against liability for temporary total or future permanent total disability. Liability on the part of an~~

~~employer or the insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and compensation is payable accordingly, subject to section 176.101. Economic recovery compensation or impairment compensation is payable for functional loss of use or impairment of function, permanent in nature, and payment therefore shall be separate, distinct, and in addition to payment for any other compensation, subject to section 176.101.~~ The right to receive temporary total, temporary partial, or permanent total disability payments vests in the injured employee or the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained and the right is not abrogated by the employee's death prior to the making of the payment.

The right to receive ~~economic recovery compensation or impairment~~ permanent partial compensation vests in an injured employee or in the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained, provided that the employee lives for at least 30 days beyond the date of the injury. ~~Upon the death of an employee who is receiving economic recovery compensation or impairment compensation, further compensation is payable pursuant to section 176.101. Impairment compensation is payable under this paragraph if vesting has occurred, the employee dies prior to reaching maximum medical improvement, and the requirements and conditions under section 176.101, subdivision 3e, are not met.~~

~~Disability ratings for permanent partial disability shall be based on objective medical evidence.~~ The right is not abrogated by the employee's death prior to the making of the payment.

Sec. 5. Minnesota Statutes 1990, section 176.061, subdivision 10, is amended to read:

Subd. 10. [INDEMNITY.] Notwithstanding the provisions of chapter 65B or any other law to the contrary, an employer has a right of indemnity for any compensation paid or payable pursuant to this chapter, including temporary total compensation, temporary partial compensation, permanent partial disability, ~~economic recovery compensation, impairment compensation,~~ medical compensation, rehabilitation, death, and permanent total compensation.

Sec. 6. Minnesota Statutes 1990, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] (a) For an injury producing temporary total disability, the compensation is ~~66 2/3~~ 80 percent of the after-tax weekly wage at the time of injury.

~~(1) provided that~~ (b) During the year commencing on October 1, ~~1979~~ 1991, and each year thereafter, commencing on October 1, the maximum weekly compensation payable is 105 percent of the statewide average weekly wage for the period ending December 31, of the preceding year.

~~(2)~~ (c) The minimum weekly compensation ~~benefits for temporary total disability shall be not less than 50~~ payable is 20 percent of the statewide average weekly wage or the injured employee's ~~actual~~ after-tax weekly wage, whichever is less. ~~In no case shall a weekly benefit be less than 20 percent of the statewide average weekly wage.~~

~~Subject to subdivisions 3a to 3u this~~ (d) Temporary total compensation shall be paid during the period of disability, ~~payment to be made at the intervals when the wage was payable, as nearly as may be.~~ and shall cease whenever any one of the following occurs:

(1) the disability ends;

(2) the employee returns to work;

(3) the employee retires by withdrawing from the labor market;

(4) the employee fails to diligently search for appropriate work;

(5) the employee refuses an offer of work that is consistent with a plan of rehabilitation filed with the commissioner which meets the requirements of section 176.102, subdivision 1, or, if no plan has been filed, the employee refuses an offer of work that the employee can do in the employee's physical condition; or

(6) 90 days pass after the employee has reached maximum medical improvement, except as provided in section 176.102, subdivision 11, paragraph (b).

(e) For purposes of this subdivision, the 90-day period after maximum medical improvement commences on the earlier of:

(1) the date that the employee receives a written medical report indicating that the employee has reached maximum medical improvement; or

(2) the date that the employer or insurer serves the report on the employee and the employee's attorney, if any, and files a copy with the division.

(f) Once temporary total disability compensation has ceased under paragraph (d), clause (1), (2), (3), or (4), it may be recommenced prior to 90 days after maximum medical improvement only as follows:

(1) if temporary total disability compensation ceased under paragraph (d), clause (1), it may be recommenced if the employee again becomes disabled as a result of the work-related injury;

(2) if temporary total disability compensation ceased under paragraph (d), clause (2), it may be recommenced if the employee is laid off or terminated for reasons other than misconduct or is medically unable to continue at the job;

(3) if temporary total disability compensation ceased under paragraph (d), clause (3), but the employee subsequently returned to work, it may be recommenced in accordance with paragraph (f), clause (2); or

(4) if temporary total disability compensation ceased under paragraph (d), clause (4), it may be recommenced if the employee begins diligently searching for appropriate work. Temporary total disability compensation recommenced under this paragraph is subject to cessation under paragraph (d).

Recommenced temporary total disability compensation may not be paid beyond 90 days after the employee reaches maximum medical improvement, except as provided under section 176.102, subdivision 11, paragraph (b).

(g) Once temporary total disability compensation has ceased under paragraph (d), clauses (5) and (6), it may not be recommenced at a later date except as provided under section 176.102, subdivision 11, paragraph (b).

Sec. 7. Minnesota Statutes 1990, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] (a) In all cases of temporary partial disability the compensation shall be ~~66 2/3 percent of the difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition.~~ 80 percent of the difference between the after-tax weekly wage of the employee at the time of injury and the after-tax weekly wage the employee is able to earn in the employee's partially disabled condition.

(b) ~~This~~ Temporary partial compensation shall be paid during the period of disability ~~except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation equal to the statewide average weekly wage.~~ when the employee is working, earning less than the employee's weekly wage at the time of the injury, and the reduction in the wage the employee is able to earn in the employee's partially disabled condition is due to the injury. Except as provided

in section 176.102, subdivision 11, paragraph (b), temporary partial compensation may not be paid after the employee has returned to work for 156 weeks, including weeks in which the employee has no wage loss, or after 350 weeks after the date of injury, whichever occurs first.

(c) Temporary partial compensation may not exceed the maximum rate for temporary total compensation and must be reduced to the extent that the wage the employee is able to earn in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 300 percent of the statewide average weekly wage.

Sec. 8. Minnesota Statutes 1990, section 176.101, is amended by adding a subdivision to read:

Subd. 3. [PERMANENT PARTIAL DISABILITY.] (a) Compensation for permanent partial disability is as provided in this subdivision. Permanent partial disability must be rated as a percentage of the whole body in accordance with rules adopted by the commissioner under section 176.105. The percentage determined pursuant to the rules must be multiplied by the corresponding amount in the following table:

Percent of Disability	Amount
0-25	$ 75,000
26-30	80,000
31-35	85,000
36-40	90,000
41-45	95,000
46-50	100,000
51-55	120,000
56-60	140,000
61-65	160,000
66-70	180,000
71-75	200,000
76-80	240,000
81-85	280,000
86-90	320,000
91-95	360,000
96-100	400,000

An employee may not receive compensation for more than a 100 percent disability of the whole body, even if the employee sustains disability to two or more body parts.

(b) Permanent partial disability is payable upon cessation of temporary total disability under subdivision 1. If the employee is not working, the compensation is payable in installments at the same intervals and in the same amount as the initial temporary total disability rate. If the employee returns to work, the remaining

compensation is payable in a lump sum 30 days after the employee returned to work, provided the employment has not been substantially interrupted by the injury for any part of the 30 days and the employee is still employed at the job at the end of the period. Permanent partial disability is not payable while temporary total compensation is being paid. Permanent partial disability is payable to permanently totally disabled employees in a lump sum at the time the disability can be ascertained.

Sec. 9. Minnesota Statutes 1990, section 176.101, subdivision 4, is amended to read:

Subd. 4. [PERMANENT TOTAL DISABILITY.] For permanent total disability, as defined in subdivision 5, the compensation shall be ~~66 2/3~~ 80 percent of the ~~daily~~ after-tax weekly wage at the time of the injury, subject to ~~a maximum weekly compensation equal to~~ the maximum ~~weekly compensation for a temporary total disability~~ and ~~a~~ minimum ~~weekly compensation equal to the minimum weekly compensation~~ rates for a temporary total disability. This compensation shall be paid during the permanent total disability of the injured employee but after a total of $25,000 of weekly compensation has been paid, the amount of the weekly compensation benefits being paid by the employer shall be reduced by the amount of any disability benefits being paid by any government disability benefit program if the disability benefits are occasioned by the same injury or injuries which give rise to payments under this subdivision. This reduction shall also apply to any old age and survivor insurance benefits. Permanent total disability payments shall cease at retirement. Payments shall be made at the intervals when the wage was payable, as nearly as may be. In case an employee who is permanently and totally disabled becomes an inmate of a public institution, no compensation shall be payable during the period of confinement in the institution, unless there is wholly dependent on the employee for support some person named in section 176.111, subdivision 1, 2 or 3, in which case the compensation provided for in section 176.111, during the period of confinement, shall be paid for the benefit of the dependent person during dependency. The dependency of this person shall be determined as though the employee were deceased.

Sec. 10. Minnesota Statutes 1990, section 176.101, subdivision 5, is amended to read:

Subd. 5. [~~TOTAL DISABILITY~~ DEFINITION.] (a) For purposes of subdivision 4, permanent total disability means only:

(1) the total and permanent loss of the sight of both eyes, the loss of both arms at the shoulder, the loss of both legs so close to the hips that no effective artificial members can be used, complete and permanent paralysis, total and permanent loss of mental faculties~~,~~; or

(2) any other injury which totally and permanently incapacitates the employee from working at an occupation which brings the employee an income ~~constitutes total disability~~.

(b) For purposes of paragraph (a), clause (2), "totally and permanently incapacitated" means that the employee's physical disability, in combination with the employee's age, education and training, and experience, causes the employee to be unable to secure anything more than sporadic employment resulting in an insubstantial income. Local labor market conditions may not be considered in making the total and permanent incapacitation determination.

Sec. 11. Minnesota Statutes 1990, section 176.101, subdivision 6, is amended to read:

Subd. 6. [MINORS.] If any employee entitled to the benefits of this chapter is a minor or is an apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total ~~or a compensable permanent partial~~ disability, for the purpose of computing the compensation to which the employee is entitled for the injury, the compensation rate for ~~temporary total, temporary partial,~~ a permanent total disability ~~or economic recovery compensation~~ shall be 105 percent of the statewide average weekly wage.

Sec. 12. Minnesota Statutes 1990, section 176.101, is amended by adding a subdivision to read:

Subd. 9. [MOVING EXPENSES.] An injured employee who has reached maximum medical improvement and who is unable to find suitable gainful employment consistent with the individual's physical disability, in combination with the individual's age, education and training, and experience, due to local labor market conditions is eligible to receive up to $5,000 for moving expenses, provided:

(1) 90 days have passed after the individual has reached maximum medical improvement;

(2) the individual has actually moved in order to take a new job which constitutes suitable gainful employment; and

(3) the new job is located at a distance greater than 35 miles from the individual's current residence.

Sec. 13. Minnesota Statutes 1990, section 176.102, subdivision 11, is amended to read:

Subd. 11. [RETRAINING; COMPENSATION.] (a) Retraining is limited to 156 weeks. An employee who has been approved for retraining may petition ~~the commissioner~~ for additional compensa-

tion not to exceed 25 percent of the compensation otherwise payable. If the commissioner or compensation judge determines that this additional compensation is warranted due to unusual or unique circumstances of the employee's retraining plan, the commissioner or compensation judge may award additional compensation in an amount ~~the commissioner determines is appropriate,~~ not to exceed the employee's request. This additional compensation shall cease at any time the commissioner or compensation judge determines the special circumstances are no longer present.

(b) If the employee is not working during a retraining plan that has been specifically approved under this section, temporary total compensation is payable for up to 90 days after the end of the retraining plan; except that, payment during the 90-day period is subject to cessation in accordance with section 176.101, subdivision 1, paragraph (d), clauses (1) to (5). If the employee is working during the retraining plan but earning less than at the time of injury, temporary partial compensation is payable at the rate of 80 percent of the difference between the employee's after-tax weekly wage at the time of injury and the after-tax weekly wage the employee is able to earn in the employee's partially disabled condition, subject to the maximum rate for temporary total compensation. Temporary partial compensation is not subject to either the 156-week or the 350-week limitation provided by section 176.101, subdivision 2, during the retraining plan, but is subject to those limitations before and after the plan.

(c) Retraining may not be approved if the employee has refused suitable gainful employment, as defined by rule.

Sec. 14. Minnesota Statutes 1990, section 176.105, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE; RULES.] (a) The commissioner of labor and industry shall by rule establish a schedule of degrees of disability resulting from different kinds of injuries. Disability ratings under the schedule for permanent partial disability must be based on objective medical evidence. The commissioner, in consultation with the medical services review board, shall periodically review the rules adopted under this paragraph to determine whether any injuries omitted from the schedule should be compensable and amend the rules accordingly.

(b) No permanent partial disability compensation shall be payable except in accordance with the disability ratings established under this subdivision. The schedule may provide that minor impairments receive a zero rating.

Sec. 15. Minnesota Statutes 1990, section 176.105, subdivision 4, is amended to read:

Subd. 4. [LEGISLATIVE INTENT; RULES; LOSS OF MORE THAN ONE BODY PART.] (a) For the purpose of establishing a disability schedule pursuant to clause (b), the legislature declares its intent that the commissioner establish a disability schedule ~~which, assuming the same number and distribution of severity of injuries, the aggregate total of impairment compensation and economic recovery compensation benefits under section 176.101, subdivisions 3a to 3u be approximately equal to the total aggregate amount payable for permanent partial disabilities under section 176.101, subdivision 3, provided, however, that awards for specific injuries under the proposed schedule need not be the same as they were for the same injuries under the schedule pursuant to section 176.101, subdivision 3. The schedule shall be determined by sound actuarial evaluation and shall be based on the benefit level which exists on January 1, 1983~~.

(b) The commissioner shall by rulemaking adopt procedures setting forth rules for the evaluation and rating of functional disability and the schedule for permanent partial disability and to determine the percentage of loss of function of a part of the body based on the body as a whole, including internal organs, described in section 176.101, subdivision 3, and any other body part not listed in section 176.101, subdivision 3, which the commissioner deems appropriate.

The rules shall promote objectivity and consistency in the evaluation of permanent functional impairment due to personal injury and in the assignment of a numerical rating to the functional impairment.

Prior to adoption of rules the commissioner shall conduct an analysis of the current permanent partial disability schedule for the purpose of determining the number and distribution of permanent partial disabilities and the average compensation for various permanent partial disabilities. The commissioner shall consider setting the compensation under the proposed schedule for the most serious conditions higher in comparison to the current schedule and shall consider decreasing awards for minor conditions in comparison to the current schedule.

The commissioner may consider, among other factors, and shall not be limited to the following factors in developing rules for the evaluation and rating of functional disability and the schedule for permanent partial disability benefits:

(1) the workability and simplicity of the procedures with respect to the evaluation of functional disability;

(2) the consistency of the procedures with accepted medical standards;

(3) rules, guidelines, and schedules that exist in other states that are related to the evaluation of permanent partial disability or to a schedule of benefits for functional disability provided that the commissioner is not bound by the degree of disability in these sources but shall adjust the relative degree of disability to conform to the expressed intent of clause (a);

(4) rules, guidelines, and schedules that have been developed by associations of health care providers or organizations provided that the commissioner is not bound by the degree of disability in these sources but shall adjust the relative degree of disability to conform to the expressed intent of clause (a);

(5) the effect the rules may have on reducing litigation;

(6) the treatment of preexisting disabilities with respect to the evaluation of permanent functional disability provided that any preexisting disabilities must be objectively determined by medical evidence; and

(7) symptomatology and loss of function and use of the injured member.

The factors in paragraphs (1) to (7) shall not be used in any individual or specific workers' compensation claim under this chapter but shall be used only in the adoption of rules pursuant to this section.

Nothing listed in paragraphs (1) to (7) shall be used to dispute or challenge a disability rating given to a part of the body so long as the whole schedule conforms with the expressed intent of clause (a).

(c) If an employee suffers a permanent functional disability of more than one body part due to a personal injury incurred in a single occurrence, the percent of the whole body which is permanently partially disabled shall be determined by the following formula so as to ensure that the percentage for all functional disability combined does not exceed the total for the whole body:

$$A + B (1 - A)$$

where: A is the greater percentage whole body loss of the first body part; and B is the lesser percentage whole body loss otherwise payable for the second body part. $A + B (1 - A)$ is equivalent to $A + B - AB$.

For permanent partial disabilities to three body parts due to a single occurrence or as the result of an occupational disease, the above formula shall be applied, providing that A equals the result

obtained from application of the formula to the first two body parts and B equals the percentage for the third body part. For permanent partial disability to four or more body parts incurred as described above, A equals the result obtained from the prior application of the formula, and B equals the percentage for the fourth body part or more in arithmetic progressions.

Sec. 16. Minnesota Statutes 1990, section 176.111, subdivision 6, is amended to read:

Subd. 6. [SPOUSE, NO DEPENDENT CHILD.] If the deceased employee leaves a dependent surviving spouse and no dependent child, there shall be paid to the spouse weekly workers' compensation benefits at ~~50~~ 80 percent of the after-tax weekly wage at the time of the injury for a period of ten years, including adjustments as provided in section 176.645.

Sec. 17. Minnesota Statutes 1990, section 176.111, subdivision 7, is amended to read:

Subd. 7. [SPOUSE, ONE DEPENDENT CHILD.] If the deceased employee leaves a surviving spouse and one dependent child, there shall be paid to the surviving spouse for the benefit of the spouse and child ~~60~~ 80 percent of the ~~daily~~ after-tax weekly wage at the time of the injury of the deceased until the child is no longer a dependent as defined in subdivision 1. At that time there shall be paid to the dependent surviving spouse weekly benefits at ~~a~~ the same rate ~~which is 16 2/3 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent,~~ for a period of ten years, including adjustments as provided in section 176.645.

Sec. 18. Minnesota Statutes 1990, section 176.111, subdivision 8, is amended to read:

Subd. 8. [SPOUSE, TWO DEPENDENT CHILDREN.] If the deceased employee leaves a surviving spouse and two dependent children, there shall be paid to the surviving spouse for the benefit of the spouse and children ~~66 2/3~~ 80 percent of the ~~daily~~ after-tax weekly wage at the time of the injury of the deceased until the last dependent child is no longer dependent. At that time the dependent surviving spouse shall be paid weekly benefits at ~~a~~ the same rate ~~which is 25 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent,~~ for a period of ten years, adjusted according to section 176.645.

Sec. 19. Minnesota Statutes 1990, section 176.111, subdivision 12, is amended to read:

Subd. 12. [ORPHANS.] If the deceased employee leaves a dependent orphan, there shall be paid ~~55~~ 80 percent of the after-tax weekly wage at the time of the injury of the deceased, for two or more orphans there shall be paid ~~66-2/3~~ 80 percent of the ~~wages~~ after-tax weekly wage.

Sec. 20. Minnesota Statutes 1990, section 176.111, subdivision 14, is amended to read:

Subd. 14. [PARENTS.] If the deceased employee ~~leave~~ leaves no surviving spouse or child entitled to any payment under this chapter, but leaves both parents wholly dependent on the deceased, there shall be paid to such parents jointly ~~45~~ 80 percent of the after-tax weekly wage at the time of the injury of the deceased. In case of the death of either of the wholly dependent parents the survivor shall receive ~~35~~ 80 percent of the after-tax weekly wage thereafter. If the deceased employee ~~leave~~ leaves one parent wholly dependent on the deceased, there shall be paid to such parent ~~35~~ 80 percent of the after-tax weekly wage at the time of the injury of the deceased employee. The compensation payments under this section shall not exceed the actual contributions made by the deceased employee to the support of the employee's parents for a reasonable time immediately prior to the injury which caused the death of the deceased employee.

Sec. 21. Minnesota Statutes 1990, section 176.111, subdivision 15, is amended to read:

Subd. 15. [REMOTE DEPENDENTS.] If the deceased employee leaves no surviving spouse or child or parent entitled to any payment under this chapter, but leaves a grandparent, grandchild, brother, sister, mother-in-law, or father-in-law wholly dependent on the employee for support, there shall be paid to such dependent, if but one, ~~30~~ 40 percent of the after-tax weekly wage at the time of injury of the deceased, or if more than one, ~~35~~ 45 percent of the after-tax weekly wage at the time of the injury of the deceased, divided among them share and share alike.

Sec. 22. Minnesota Statutes 1990, section 176.111, subdivision 18, is amended to read:

Subd. 18. [BURIAL EXPENSE.] In all cases where death results to an employee from a personal injury arising out of and in the course of employment, the employer shall pay the expense of burial, not exceeding in amount ~~$2,500~~ $7,500. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, its reasonable value shall be determined and approved by the commissioner, a compensation judge, or workers' compensation court of appeals, in cases upon appeal, before payment, after reasonable notice to interested parties as is required by the commis-

sioner. If the deceased leaves no dependents, no compensation is payable, except as provided by this chapter.

Sec. 23. Minnesota Statutes 1990, section 176.111, subdivision 20, is amended to read:

Subd. 20. [ACTUAL DEPENDENTS, COMPENSATION.] Actual dependents are entitled to take compensation in the order named in subdivision 3 during dependency until ~~66-2/3~~ 80 percent of the after-tax weekly wage of the deceased at the time of injury is exhausted. The total weekly compensation to be paid to full actual dependents of a deceased employee shall not exceed in the aggregate an amount equal to the maximum weekly compensation for a temporary total disability.

Sec. 24. Minnesota Statutes 1990, section 176.111, subdivision 21, is amended to read:

Subd. 21. [DEATH, BENEFITS; COORDINATION WITH GOVERNMENTAL SURVIVOR BENEFITS.] The following provision shall apply to any dependent entitled to receive weekly compensation benefits under this section as the result of the death of an employee, and who is also receiving or entitled to receive benefits under any government survivor program:

The combined total of weekly government survivor benefits and workers' compensation death benefits provided under this section shall not exceed 100 percent of the after-tax weekly wage being earned by the deceased employee at the time of the injury causing death; provided, however, that no state workers' compensation death benefit shall be paid for any week in which the survivor benefits paid under the federal program, by themselves, exceed 100 percent of such weekly wage provided, however, the workers' compensation benefits payable to a dependent surviving spouse shall not be reduced on account of any governmental survivor benefits payable to decedent's children if the support of the children is not the responsibility of the dependent surviving spouse.

For the purposes of this subdivision "dependent" means dependent surviving spouse together with all dependent children and any other dependents. For the purposes of this subdivision, mother's or father's insurance benefits received pursuant to United States Code, title 42, section 402(g), are benefits under a government survivor program.

Sec. 25. Minnesota Statutes 1990, section 176.131, subdivision 8, is amended to read:

Subd. 8. [DEFINITIONS.] As used in this section, the following terms have the meanings given them:

"Physical impairment" means any physical or mental condition that is permanent in nature, whether congenital or due to injury, disease or surgery and which is or is likely to be a hindrance or obstacle to obtaining employment, except that physical impairment is limited to the following:

(a) epilepsy,

(b) diabetes,

(c) hemophilia,

(d) cardiac disease, provided that objective medical evidence substantiates at least the minimum permanent partial disability listed in the workers' compensation permanent partial disability schedule,

(e) partial or entire absence of thumb, finger, hand, foot, arm, or leg,

(f) lack of sight in one or both eyes or vision in either eye not correctable to 20/40,

(g) residual disability from poliomyelitis,

(h) cerebral palsy,

(i) multiple sclerosis,

(j) Parkinson's disease,

(k) cerebral vascular accident,

(l) chronic osteomyelitis,

(m) muscular dystrophy,

(n) thrombophlebitis,

(o) brain tumors,

(p) Pott's disease,

(q) seizures,

(r) cancer of the bone,

(s) leukemia,

(t) mental retardation or other related conditions,

(u) any other physical impairment resulting in a disability rating of at least ~~ten~~ 25 percent of the whole body if the physical impairment were evaluated according to standards used in workers' compensation proceedings, and

(v) any other physical impairments of a permanent nature which the commissioner may by rule prescribe.

"Compensation" has the meaning defined in section 176.011.

"Employer" includes insurer.

"Disability" means, unless otherwise indicated, any condition causing either temporary total, temporary partial, permanent total, permanent partial, death, medical expense, or rehabilitation.

"Mental retardation" means significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior that require supervision and protection for the person's welfare or the public welfare.

"Other related conditions" means severe chronic disabilities that are (i) attributable to cerebral palsy, epilepsy, autism, or any other condition, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment or services similar to those required for persons with mental retardation; (ii) likely to continue indefinitely; and (iii) result in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, or capacity for independent living.

Sec. 26. Minnesota Statutes 1990, section 176.131, is amended by adding a subdivision to read:

Subd. 13. [APPLICABLE LAW.] The right to reimbursement under this section is governed by the law in effect on the date of the subsequent injury.

Sec. 27. Minnesota Statutes 1990, section 176.132, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE RECIPIENTS.] (a) An employee who has suffered personal injury prior to October 1, 1983 for which benefits are payable under section 176.101 and who has been totally disabled for more than 104 weeks shall be eligible for supplementary benefits as prescribed in this section after 104 weeks have elapsed

and for the remainder of the total disablement. Regardless of the number of weeks of total disability, no totally disabled person is ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, ~~except as provided by clause (b),~~ provided that all periods of disability are caused by the same injury.

(b) An employee who has suffered personal injury after October 1, 1983, and before October 1, 1987, is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of total disability, no person who is receiving temporary total compensation shall be ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

(c) An employee who has suffered a personal injury after October 1, 1987, and is permanently totally disabled as defined in section 176.101, subdivisions 4 and 5, is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of total disability, no person who is receiving permanent total compensation shall be ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

Sec. 28. Minnesota Statutes 1990, section 176.132, subdivision 2, is amended to read:

Subd. 2. [AMOUNT.] (a) The supplementary benefit payable under ~~this section~~ subdivision 1, paragraphs (a) and (b), shall be the difference between the amount the employee receives on or after January 1, 1976, under section 176.101, subdivision 1 or 4, and 65 percent of the statewide average weekly wage as computed annually. The supplementary benefit payable under subdivision 1, paragraph (c), shall be the difference between:

(1) the amount the employee receives on or after October 1, 1991, under section 176.101, subdivision 4; plus the amount of disability benefits being paid under any government disability benefit program, provided those benefits are a result of the same injury or injuries giving rise to payments under section 176.101, subdivision 4; plus the amount of any federal old age and survivors insurance benefits; and

(2) 50 percent of the statewide average weekly wage, as computed annually.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation be-

cause of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or ~~65~~ 50 percent of the statewide average weekly wage as computed annually, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section. Attorney's fees shall be allowed in settlements of claims for supplementary benefits in accordance with this chapter.

(d) In the event an eligible recipient under subdivision 1, paragraph (a) or (b), is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and 65 percent of the statewide average weekly wage as computed annually.

(e) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent. If the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provisions of United States Code, title 42, section 424a(d), this reduction shall not apply.

(f) Notwithstanding any other provision in this subdivision to the contrary, if the ~~individual~~ eligible recipient does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provision of United States Code, title 42, section 424a(d), the calculation of supplementary benefits payable to the individual shall be as provided under this section in *Minnesota Statutes* ~~1988~~ 1990.

Sec. 29. Minnesota Statutes 1990, section 176.132, subdivision 3, is amended to read:

Subd. 3. [PAYMENT.] The payment of supplementary benefits shall be the responsibility of the employer or insurer currently paying total disability benefits under subdivision 1, paragraph (a) or (b), or currently paying permanent total disability benefits under subdivision 1, paragraph (c), or any other payer of such benefits.

When the eligible individual is not currently receiving benefits because the total paid has reached the maximum prescribed by law the employer and insurer shall, nevertheless, pay the supplementary benefits that are prescribed by law. The employer or insurer paying the supplementary benefit shall have the right of full reimbursement from the special compensation fund for the amount of such benefits paid.

Sec. 30. [176.178] [FRAUD.]

Any person who, with intent to defraud, receives workers' compensation benefits to which the person is not entitled by knowingly misrepresenting, misstating, or failing to disclose any material fact is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3.

Sec. 31. Minnesota Statutes 1990, section 176.179, is amended to read:

176.179 [~~PAYMENTS OF COMPENSATION RECEIVED IN GOOD FAITH~~ RECOVERY OF OVERPAYMENTS.]

Notwithstanding section 176.521, subdivision 3, or any other provision of this chapter to the contrary, except as provided in this section, no lump sum or weekly payment, or settlement, which is voluntarily paid to an injured employee or the survivors of a deceased employee in apparent or seeming accordance with the provisions of this chapter by an employer or insurer, or is paid pursuant to an order of the workers' compensation division, a compensation judge, or court of appeals relative to a claim by an injured employee or the employee's survivors, and received in good faith by the employee or the employee's survivors shall be refunded to the paying employer or insurer in the event that it is subsequently determined that the payment was made under a mistake in fact or law by the employer or insurer. When the payments have been made to a person who is entitled to receive further payments of compensation for the same injury, the mistaken compensation may be taken as a full credit against future lump sum benefit entitlement and as a partial credit against future weekly benefits. The credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits, death benefits, or weekly payments of ~~economic recovery or impairment~~ permanent partial compensation shall not exceed 20 percent of the amount that would otherwise be payable.

Where the commissioner or compensation judge determines that the mistaken compensation was not received in good faith, the commissioner or compensation judge may order reimbursement of the compensation or order a credit for the compensation against any future monetary benefits from the same injury. The credit may be up to 100 percent of the amount of monetary benefits otherwise

payable. For purposes of this section, a payment is not received in good faith if it is obtained through fraud, or if the employee knew or should have known that the compensation was paid under mistake of fact or law, and the employee has not refunded the mistaken compensation.

A credit may not be applied against medical expenses due or payable.

Sec. 32. Minnesota Statutes, section 176.221, subdivision 6a, is amended to read:

Subd. 6a. [MEDICAL, REHABILITATION, ~~ECONOMIC RECOVERY,~~ AND ~~IMPAIRMENT~~ PERMANENT PARTIAL COMPENSATION.] The penalties provided by this section apply in cases where payment for treatment under section 176.135, rehabilitation expenses under section 176.102, subdivisions 9 and 11, ~~economic recovery compensation~~ or ~~impairment~~ permanent partial compensation are not made in a timely manner as required by law or by rule adopted by the commissioner.

Sec. 33. Minnesota Statutes 1990, section 176.645, subdivision 1, is amended to read:

. . .

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2 and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, of the year previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on October 1, ~~1977~~ 1991 or thereafter under this section shall exceed ~~six~~ four percent a year. In those instances where the adjustment under the formula of this section would exceed this maximum the increase shall be deemed to be ~~six~~ four percent.

Sec. 34. Minnesota Statutes 1990, section 176.645, subdivision 2, is amended to read:

Subd. 2. [TIME OF FIRST ADJUSTMENT.] For injuries occurring on or after October 1, 1981, the initial adjustment made pursuant to subdivision 1 ~~shall be~~ is deferred until the first anniversary of the

date of the injury. For injuries occurring on or after October 1, 1991, the initial adjustment under subdivision 1 is deferred until the third anniversary of the date of injury.

Sec. 35. Minnesota Statutes 1990, section 176.66, subdivision 11, is amended to read:

Subd. 11. [AMOUNT OF COMPENSATION.] The compensation for an occupational disease is ~~66 2/3~~ 80 percent of the employee's after-tax weekly wage on the date of injury subject to a maximum compensation equal to the maximum compensation in effect on the date of last exposure. The employee shall be eligible for supplementary benefits notwithstanding the provisions of section 176.132, after four years have elapsed since the date of last significant exposure to the hazard of the occupational disease if that employee's weekly compensation rate is less than the current supplementary benefit rate.

Sec. 36. Minnesota Statutes 1990, section 268.08, subdivision 3, is amended to read:

Subd. 3. [NOT ELIGIBLE.] An individual shall not be eligible to receive benefits for any week with respect to which the individual is receiving, has received, or has filed a claim for remuneration in an amount equal to or in excess of the individual's weekly benefit amount in the form of:

(1) termination, severance, or dismissal payment or wages in lieu of notice whether legally required or not; provided that if a termination, severance, or dismissal payment is made in a lump sum, the employer may allocate such lump sum payment over a period equal to the lump sum divided by the employee's regular pay while employed by such employer; provided any such payment shall be applied for a period immediately following the last day of work but not to exceed 28 calendar days; or

(2) vacation allowance paid directly by the employer for a period of requested vacation, including vacation periods assigned by the employer under the provisions of a collective bargaining agreement, or uniform vacation shutdown; or

(3) compensation for loss of wages under the workers' compensation law of this state or any other state or under a similar law of the United States, or under other insurance or fund established and paid for by the employer except that this does not apply to an individual who is receiving temporary partial compensation pursuant to section 176.101, subdivision ~~3k~~ 2; or

(4) 50 percent of the pension payments from any fund, annuity or insurance maintained or contributed to by a base period employer

including the armed forces of the United States if the employee contributed to the fund, annuity or insurance and all of the pension payments if the employee did not contribute to the fund, annuity or insurance; or

(5) 50 percent of a primary insurance benefit under title II of the Social Security Act, as amended, or similar old age benefits under any act of congress or this state or any other state.

Provided, that if such remuneration is less than the benefits which would otherwise be due under sections 268.03 to 268.231, the individual shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration; provided, further, that if the appropriate agency of such other state or the federal government finally determines that the individual is not entitled to such benefits, this provision shall not apply. If the computation of reduced benefits, required by this subdivision, is not a whole dollar amount, it shall be rounded down to the next lower dollar amount.

Sec. 37. Minnesota Statutes 1990, section 353.33, subdivision 5, is amended to read:

Subd. 5. [BENEFITS PAID UNDER WORKERS' COMPENSATION LAW.] Disability benefits paid shall be coordinated with any amounts received or receivable under workers' compensation law, such as temporary total, permanent total, temporary partial, or permanent partial, ~~or economic recovery compensation~~ benefits, in either periodic or lump sum payments from the employer under applicable workers' compensation laws, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disabilitant. If the total of the single life annuity actuarial equivalent disability benefit and the workers' compensation benefit exceeds: (1) the salary the disabled member received as of the date of the disability or (2) the salary currently payable for the same employment position or an employment position substantially similar to the one the person held as of the date of the disability, whichever is greater, the disability benefit must be reduced to that amount which, when added to the workers' compensation benefits, does not exceed the greater of the salaries described in clauses (1) and (2).

Sec. 38. [176.90] [AFTER-TAX CALCULATION.]

For purposes of sections 176.011, subdivisions 18 and 18a; 176.101, subdivisions 1, 2, 3, and 4; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 20, and 21; and 176.66, the commissioner shall publish by September 1 of each year tables or formulas for determining the after-tax weekly wage to take effect the following October 1. The tables or formulas must be based on the applicable federal income tax and social security laws and state income tax laws in effect on

the preceding April 1. These tables or formulas are conclusive for the purposes of converting the weekly wage into after-tax weekly wage. The commissioner may contract with the department of revenue or any other person or organization in order to adopt the tables or formulas. The adoption of the tables or formulas is exempt from the administrative rulemaking provisions of chapter 14.

Sec. 39. [REPEALER.]

Minnesota Statutes 1990, sections 176.011, subdivision 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u; and 176.111, subdivision 8a, are repealed.

Sec. 40. [EFFECTIVE DATE.]

This article is effective October 1, 1991; except that; section 14, paragraph (b), is retroactively effective to January 1, 1984.

ARTICLE 3

LEGAL, REHABILITATION, MEDICAL PROVIDERS/BENEFITS

Section 1. [175.0075] [COMMISSION ON WORKERS' COMPENSATION.]

Subdivision 1. [CREATION; COMPOSITION.] (a) There is created a permanent commission on workers' compensation consisting of ten voting members as follows: six members appointed by the governor, three representing business, and three representing labor; two members appointed by the majority leader of the senate, one representing business and one representing labor; and two members appointed by the speaker of the house of representatives, one representing business and one representing labor. The members of the commission shall select a co-chair representing business and a co-chair representing labor. Each co-chair shall appoint an alternate for each member appointed by the co-chair and an alternate for the co-chair. An alternate shall serve in the absence of a member.

(b) The voting members shall serve for terms of five years and may be reappointed. The commissioner of labor and industry shall serve as an ex officio, nonvoting member of the commission.

(c) The commission shall designate liaisons to the commission representing workers' compensation insurers; medical, hospital, and rehabilitation providers; and the legal profession. The speaker and minority leader of the house of representatives shall appoint a member of their respective caucus as a liaison to the commission. The majority and minority leaders of the senate shall appoint a

member of their respective caucus to serve as a liaison to the commission.

Subd. 2. [EXPENSES.] Commission members shall serve without pay but are entitled to per diem and reimbursement for expenses as provided under section 15.059.

Subd. 3. [DUTIES.] (a) The commission shall thoroughly examine all elements of Minnesota's current system of workers' compensation and make specific recommendations for reform to the legislature with respect to the development of a workers' compensation system that fairly and justly serves injured workers in this state, at a cost that is affordable by Minnesota employers. The commission shall also advise the department of labor and industry in carrying out the purposes of chapter 176.

(b) In order to carry out its duties and responsibilities in an effective manner, the commission may consult with any government official or employee or other party.

(c) The commission shall submit its findings and recommendations to the legislature with respect to amendments to this chapter by February 1 of each year, and shall also report its views upon any pending bill relating to chapter 176 to the proper legislative committees.

(d) At the request of the chairpersons of the senate employment committee and the house labor-management relations committee, the commission shall schedule meetings with members of those respective committees to review and discuss matters of legislative concern arising under chapter 176.

Subd. 4. [MEETINGS; VOTING.] (a) The commission shall meet as frequently as necessary to carry out its duties and responsibilities. The commission shall also conduct public hearings throughout the state as may be necessary to give interested persons an opportunity to comment and make suggestions on the operation of the state's workers' compensation law.

(b) The meetings of the commission are subject to the state's open meeting law, section 471.705; except that, the business voting members and the labor voting members may meet in separate closed caucuses for the purpose of deliberating on matters before the commission. All votes of the commission must be public and recorded.

Subd. 5. [EXECUTIVE DIRECTOR.] (a) The commission shall employ an executive director for the commission, who shall be a state employee in the unclassified service and participate in the state unclassified employee retirement program. The range of

salary and the salary level within it for the executive director shall be set by the commission. The executive director shall serve at the pleasure of the commission.

(b) The executive director shall provide administrative support and information to the commission in order to allow it to monitor all elements of Minnesota's workers' compensation system. Specific duties of the executive director shall include:

(1) examining the activities of the various entities involved in Minnesota's workers' compensation system and identifying problem areas for the commission's consideration;

(2) identifying trends and developments in the workers' compensation law of other states, and reporting to the commission on issues that are developing and solutions that are being proposed or attempted;

(3) monitoring the decisions of Minnesota courts, including the workers' compensation court of appeals and the supreme court, to determine the impact of court decisions on the workers' compensation system;

(4) monitoring workers' compensation research activities and bringing important research findings and recommendations to the attention of the commission; and

(5) conducting other activities and duties as may be requested by the commission.

Subd. 6. [ADMINISTRATIVE SUPPORT.] The commissioner of labor and industry shall supply necessary office space, supplies, and staff support to assist the commission and its executive director in their duties.

Subd. 7. [CONSULTANTS.] The commission may contract with outside consultants having recognized expertise in the field of workers' compensation as may be needed to perform its duties and responsibilities.

Subd. 8. [APPROPRIATION.] The annual operating costs incurred by the commission in carrying out its duties and responsibilities shall be appropriated from the state general fund.

Sec. 2. Minnesota Statutes 1990, section 176.011, subdivision 27, is amended to read:

Subd. 27. [ADMINISTRATIVE CONFERENCE.] An "administrative conference" is a meeting conducted by a commissioner's designee where parties can discuss on an expedited basis and in an

informal setting their viewpoints concerning disputed issues arising under section ~~176.102, 176.103, 176.135, 176.136, or~~ 176.239. If the parties are unable to resolve the dispute, the commissioner's designee shall issue an administrative decision under that section ~~176.106 or 176.239~~.

Sec. 3. Minnesota Statutes 1990, section 176.081, subdivision 1, is amended to read:

Subdivision 1. [APPROVAL.] (a) A fee for legal services of 25 percent of the first $4,000 of compensation awarded to the employee and 20 percent of the next ~~$27,500~~ $70,000 of compensation awarded to the employee is permissible and does not require approval by the commissioner, compensation judge, or any other party except as provided in ~~clause (b)~~ paragraph (d). All fees must be calculated according to the formula under this subdivision or earned in hourly fees for representation at dispute resolution conferences under section 176.239. Hourly fees must be determined according to the criteria set forth under subdivision 5.

(b) Fees for legal services related to the same injury are cumulative and may not exceed $15,000, except as provided under subdivision 2. No other attorney fees for any proceeding under this chapter are allowed.

(c) If the employer or the insurer or the defendant is given written notice of claims for legal services or disbursements, the claim shall be a lien against the amount paid or payable as compensation. In no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be based solely upon genuinely disputed claims or portions of claims~~, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan. Fees for administrative conferences under section 176.239 shall be determined on an hourly basis, according to the criteria in subdivision 5~~.

~~(b)~~ (d) An attorney who is claiming legal fees ~~under this section~~ for representing an employee in a workers' compensation matter shall file a statement of ~~attorney's~~ attorney fees with the commissioner, compensation judge before whom the matter was heard, or workers' compensation court of appeals on cases before the court. A copy of the signed retainer agreement shall also be filed. The employee and insurer shall receive a copy of the statement. The statement shall be on a form prescribed by the commissioner, shall report the number of hours spent on the case, and shall clearly and conspicuously state that the employee or insurer has ten calendar days to object to the attorney fees requested. If no objection is timely made by the employee or insurer, the amount requested shall be conclusively presumed reasonable providing the amount does not exceed the limitation in subdivision 1. The commissioner, compensation judge, or court of appeals shall issue an order granting the fees and the

amount requested shall be awarded to the party requesting the fee. If a timely objection is filed, or the fee is determined on an hourly basis, the commissioner, compensation judge, or court of appeals shall review the matter and make a determination based on the criteria in subdivision 5. If no timely objection is made by an employer or insurer, reimbursement under subdivision 7 shall be made if the statement of fees requested this reimbursement.

Sec. 4. Minnesota Statutes 1990, section 176.081, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] An application for attorney fees in excess of the amount authorized in subdivision 1 shall be made to the commissioner, compensation judge, or district judge, before whom the matter was heard. An appeal of a decision by the commissioner, a compensation judge, or district court judge on additional fees may be made to the workers' compensation court of appeals. The application shall set forth the fee requested ~~and~~, the number of hours spent on the case, the basis for the request, and whether or not a hearing is requested. The application, with affidavit of service upon the employee, shall be filed by the attorney requesting the fee. If a hearing is requested by an interested party, a hearing shall be set with notice of the hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.

Sec. 5. Minnesota Statutes 1990, section 176.081, subdivision 3, is amended to read:

Subd. 3. [REVIEW.] ~~An employee who~~ A party that is dissatisfied with its attorney fees~~,~~ may file an application for review by the workers' compensation court of appeals. ~~Such~~ The application shall state the basis for the need of review and whether or not a hearing is requested. A copy of ~~such~~ the application shall be served upon the party's attorney ~~for the employee~~ by the court administrator and if a hearing is requested by either party, the matter shall be set for hearing. The notice of hearing shall be served upon known interested parties. ~~The attorney for the employee shall be served with a notice of the hearing.~~ The workers' compensation court of appeals shall have the authority to raise ~~the question of~~ the issue of the attorney fees at any time upon its own motion and shall have continuing jurisdiction over attorney fees.

Sec. 6. Minnesota Statutes 1990, section 176.102, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] (a) This section only applies to vocational rehabilitation of injured employees and their spouses as provided under subdivision 1a. Physical rehabilitation of injured employees is considered treatment subject to section 176.135.

(b) Rehabilitation is intended to restore the injured employee~~, through physical and vocational rehabilitation,~~ so the employee may return to a job related to the employee's former employment or to a job in another work area which produces an economic status as close as possible to that the employee would have enjoyed without disability. Rehabilitation to a job with a higher economic status than would have occurred without disability is permitted if it can be demonstrated that this rehabilitation is necessary to increase the likelihood of reemployment. Economic status is to be measured not only by opportunity for immediate income but also by opportunity for future income.

Sec. 7. Minnesota Statutes 1990, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner shall hire a director of rehabilitation services in the classified service. The commissioner shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services and shall by rule, subject to chapter 14, establish a fee schedule or otherwise limit fees charged by qualified rehabilitation consultants and vendors. By March 1, 1993, the commissioner shall report to the legislature on the status of the commission's monitoring of rehabilitation services. The commissioner may hire qualified personnel to assist in the commissioner's duties under this section and may delegate the duties and performance.

Sec. 8. Minnesota Statutes 1990, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review panel composed of the commissioner or a designee, who shall serve as an ex officio member, and ~~two~~ three members ~~each from~~ who shall represent both employers~~,~~ and insurers, ~~rehabilitation, and medicine,~~ one member representing chiropractors, ~~and four~~ one member representing medical doctors, three members representing labor, two members representing rehabilitation vendors, and five members representing qualified rehabilitation consultants. The members shall be appointed by the commissioner and shall serve four-year terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chair. The panel shall review and make a determination with respect to appeals from orders of the commissioner regarding certification approval of qualified rehabilitation consultants and vendors. The hearings are de novo and initiated by the panel under the contested case procedures of chapter 14, and are appealable to the workers'

compensation court of appeals in the manner provided by section 176.421.

Sec. 9. Minnesota Statutes 1990, section 176.102, subdivision 3a, is amended to read:

Subd. 3a. [DISCIPLINARY ACTIONS.] The panel has authority to discipline qualified rehabilitation consultants and vendors and may impose a penalty of up to $1,000 per violation, and may suspend or revoke certification. Complaints against registered qualified rehabilitation consultants and vendors shall be made to the commissioner who shall investigate all complaints. If the investigation indicates a violation of this chapter or rules adopted under this chapter, the commissioner may initiate a contested case proceeding under the provisions of chapter 14. In these cases, the rehabilitation review panel shall make the final decision following receipt of the report of an administrative law judge. The decision of the panel is appealable to the workers' compensation court of appeals in the manner provided by section 176.421. The panel shall continuously study rehabilitation services and delivery, develop and recommend rehabilitation rules to the commissioner, and assist the commissioner in accomplishing public education.

~~The commissioner may appoint alternates for one year terms to serve as a member when a member is unavailable. The number of alternates shall not exceed one labor member, one employer or insurer member, and one member representing medicine, chiropractic, or rehabilitation.~~

Sec. 10. Minnesota Statutes 1990, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] (a) ~~An employer or insurer shall provide rehabilitation consultation by a qualified rehabilitation consultant or by another person permitted by rule to provide consultation to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation shall be made within five days after the employee has 30 days of lost work time due to the injury. The lost work time in either case may be intermittent lost work time. If an employer or insurer has medical information at any time prior to the time specified in this subdivision that the employee will be unable to return to the job the employee held at the time of the injury rehabilitation consultation shall be provided immediately after receipt of this information.~~

~~For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by~~

~~seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time.~~ A rehabilitation consultation must be provided by the employer to an injured employee upon request of the employee, the employer, or the commissioner. If a rehabilitation consultation is requested, the employer shall provide a qualified rehabilitation consultant. If the injured employee objects to the employer's selection, the employee may select a qualified rehabilitation consultant of the employee's own *choosing within 30 days following the first in-person contact* between the employee and the original qualified rehabilitation consultant. If the consultation indicates that rehabilitation services are appropriate under subdivision 1, the employer shall provide the services. If the consultation indicates that rehabilitation services are *not* appropriate under subdivision 1, the employer shall notify the employee of this determination within 14 days after the consultation.

(b) In order to assist the commissioner in determining whether or *not to request rehabilitation consultation for an injured employee,* an employer shall notify the commissioner whenever the employee's temporary total disability will likely exceed 13 weeks. The notification must be made within 90 days from the date of the injury or when the likelihood of at least a 13-week disability can be determined, whichever is earlier, and must include a current physician's report.

(c) The qualified rehabilitation consultant ~~appointed by the employer or insurer~~ shall disclose in writing at the first meeting or *written communication with the employee* any ownership interest or affiliation between the firm which employs the qualified rehabilitation consultant and the employer, insurer, adjusting or servicing company, including the nature and extent of the affiliation or interest.

The consultant shall also disclose to all parties any affiliation, business referral or other arrangement between the consultant or the firm employing the consultant and any other party ~~to~~, attorney, or health care provider involved in the case ~~, including any attorneys, doctors, or chiropractors~~.

~~If the employee objects to the employer's selection of a qualified rehabilitation consultant, the employee shall notify the employer and the commissioner in writing of the objection. The notification shall include the name, address, and telephone number of the qualified rehabilitation consultant chosen by the employee to provide rehabilitation consultation.~~

(d) After the initial provision or selection of a qualified rehabilitation consultant as provided under paragraph (a), the employee may ~~choose~~ request a different qualified rehabilitation consultant ~~as follows:~~

~~(1) once during the first 60 days following the first in person contact between the employee and the original consultant;~~

~~(2) once after the 60-day period referred to in clause (1); and~~

~~(3) subsequent requests~~ which shall be ~~determined~~ granted or denied by the commissioner or compensation judge according to the best interests of the parties.

(e) The employee and employer shall ~~enter into a program if one is prescribed in~~ develop a rehabilitation plan within 30 days of the rehabilitation consultation if the qualified rehabilitation consultant determines that rehabilitation is appropriate. A copy of the plan, including a target date for return to work, shall be submitted to the commissioner within 15 days after the plan has been developed.

~~(b)~~ (f) If the employer does not provide rehabilitation consultation, or the employee does not select a qualified rehabilitation consultant, as ~~required by this section~~ provided in paragraph (a), the commissioner or compensation judge shall notify the employer that if the employer fails to ~~appoint~~ provide, or the employee fails to select, whichever is applicable, a qualified rehabilitation consultant ~~or other persons as permitted by clause (a)~~ within 15 days to conduct a rehabilitation consultation, the commissioner or compensation judge shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner or compensation judge determines the consultation is not required.

~~(c)~~ (g) In developing a rehabilitation plan consideration shall be given to the employee's qualifications, including but not limited to age, education, previous work history, interest, transferable skills, and present and future labor market conditions.

~~(d)~~ (h) The commissioner or compensation judge may waive rehabilitation services under this section if the commissioner or compensation judge is satisfied that the employee will return to work in the near future or that rehabilitation services will not be useful in returning an employee to work.

Sec. 11. Minnesota Statutes 1990, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner or a compensation judge shall determine eligibility for rehabilitation services and shall review, approve, modify, or reject rehabilitation plans developed under subdivision 4. The commissioner or a compensation judge shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determina-

tions regarding whether an employee is eligible for further rehabilitation and the benefits under subdivisions 9 and 11 to which an employee is entitled. A plan that is not completed within six months or after $3,000 has been paid in rehabilitation benefits must be specifically approved by the commissioner. This approval may not be waived by the parties.

Sec. 12. Minnesota Statutes 1990, section 176.102, subdivision 7, is amended to read:

Subd. 7. [PLAN IMPLEMENTATION; REPORTS.] (a) Upon request by the commissioner, insurer, employer or employee, medical and rehabilitation reports shall be made by the provider of the medical and rehabilitation service to the commissioner, insurer, employer, or employee.

(b) If a rehabilitation plan has not already been filed under subdivision 4, an employer shall report to the commissioner after 90 days and before 120 days from the date of the injury, as to what rehabilitation consultation and services have been provided to the injured employee or why rehabilitation consultation and services have not been provided.

Sec. 13. Minnesota Statutes 1990, section 176.102, subdivision 9, is amended to read:

Subd. 9. [PLAN, COSTS.] An employer is liable for the following rehabilitation expenses under this section:

(a) Cost of rehabilitation evaluation and preparation of a plan;

(b) Cost of all rehabilitation services and supplies necessary for implementation of the plan;

(c) Reasonable cost of tuition, books, travel, and custodial day care; and, in addition, reasonable costs of board and lodging when rehabilitation requires residence away from the employee's customary residence;

(d) Reasonable costs of travel and custodial day care during the job interview process;

(e) Reasonable cost for moving expenses of the employee and family if a job is found in a geographic area beyond reasonable commuting distance after a diligent search within the present community. Relocation shall not be paid more than once during any rehabilitation program, and relocation shall not be required if the new job is located within the same standard metropolitan statistical area as the employee's job at the time of injury. An employee shall not be required to relocate and a refusal to relocate shall not result

in a suspension or termination of compensation under this chapter; and

(f) Any other expense agreed to be paid.

Charges for services provided by a rehabilitation consultant or vendor must be submitted on a billing form prescribed by the commissioner. No payment for the services shall be made until the charges are submitted on the prescribed form.

Sec. 14. [176.107] [MEDICAL AND REHABILITATION DISPUTES.]

Any dispute for benefits under section 176.102, 176.103, 176.135, or 176.136 may be referred to the mediation services section of the department for consideration. All health care providers, qualified rehabilitation consultants, intervenors or potential intervenors, or any other third parties who have or may have an interest in the resolution of the dispute must be notified of the proceeding and requested to be in attendance. Any agreement by the parties who attend the hearing or appear by telephone conference is binding on any other party who had notice and did not participate in the hearing.

Sec. 15. Minnesota Statutes 1990, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, PSYCHOLOGICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] (a) The employer shall furnish any medical, psychological, ~~chiropractic,~~ podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. ~~This treatment shall include treatments necessary to physical rehabilitation.~~ An employer may fulfill its obligation under this section by utilizing a certified managed care plan as provided in this chapter.

(b) The employer shall furnish reasonably required chiropractic treatment for a maximum of 30 days from the date the employee first seeks the treatment, or 15 chiropractic treatment visits, whichever occurs first. The employer shall furnish reasonably required physical therapy treatment for a maximum of 30 days from the date the employee first seeks the treatment. Chiropractic or physical therapy treatment is compensable thereafter only with the consent of the employer or insurer, or after a specific determination by the commissioner or a compensation judge, pursuant to para-

graph (f), that treatment for an additional specified period of time is reasonably required. This paragraph is effective for treatment provided after July 1, 1992.

(c) The employer shall pay for the reasonable value of nursing services provided by a member of the employee's family in cases of permanent total disability.

(d) Exposure to rabies is an injury and an employer shall furnish preventative treatment to employees exposed to rabies.

(e) The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches, or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of the employer's inability or refusal seasonably to ~~do so~~ provide the items required to be provided under this paragraph, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing the same, including costs of copies of any medical records or medical reports that are in existence, obtained from health care providers, and that directly relate to the items for which payment is sought under this chapter, limited to the charges allowed by subdivision 7; ~~and attorney fees incurred by the employee. No action to recover the cost of copies may be brought until the commissioner adopts a schedule of reasonable charges under subdivision 7. Attorney's fees shall be determined on an hourly basis according to the criteria in section 176.081, subdivision 5. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability~~.

~~(b)~~ (f) Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with ~~sections 176.106 and~~ section 176.305 and to issue orders approving mediated settlements in accordance with section 176.107.

Sec. 16. Minnesota Statutes 1990, section 176.135, subdivision 1a, is amended to read:

Subd. 1a. [NONEMERGENCY SURGERY; SECOND SURGICAL OPINION.] The employer is required to furnish surgical treatment pursuant to subdivision 1 when the surgery is reasonably required to cure and relieve the effects of the personal injury or occupational disease. An employee may not be compelled to undergo surgery. If an employee desires a second opinion on the necessity of the surgery, the employer shall pay the costs of obtaining the second opinion. Except in cases of emergency surgery, the employer or insurer may require the employee to obtain a second opinion on the necessity of the surgery, at the expense of the employer, before the employee undergoes surgery. Failure to obtain a second surgical opinion, if required by the employer or insurer, shall not be reason for

nonpayment of the charges for the surgery. ~~The employer is required to pay the reasonable value of the surgery~~, unless the commissioner or compensation judge determines that the surgery is not reasonably required.

Sec. 17. Minnesota Statutes 1990, section 176.135, subdivision 5, is amended to read:

Subd. 5. [OCCUPATIONAL DISEASE MEDICAL ELIGIBILITY.] Notwithstanding section 176.66, an employee who has contracted an occupational disease is eligible to receive compensation under this section even if the employee is not disabled from earning full wages at the work at which the employee was last employed.

Payment of compensation under this section shall be made by the employer and insurer on the date of the employee's last exposure to the hazard of the occupational disease. Reimbursement for medical benefits paid under this subdivision or subdivision 1a is allowed from the employer and insurer liable under section 176.66, subdivision 10, only in the case of disablement.

Sec. 18. Minnesota Statutes 1990, section 176.135, subdivision 6, is amended to read:

Subd. 6. [COMMENCEMENT OF PAYMENT.] As soon as reasonably possible, and no later than 30 calendar days after receiving the bill, the employer or insurer shall pay the charge or any portion of the charge which is not denied, or deny all or a part of the charge ~~on the basis of excessiveness or noncompensability, or specify the additional data needed,~~ with written notification to the employee and the provider, explaining the basis for denial. All or part of a charge must be denied if any of the following conditions exist:

(1) the injury or condition is not compensable under this chapter;

(2) the charge or service is excessive under this section or section 176.136;

(3) the provider is not enrolled with or certified by the department in accordance with rules adopted under section 176.183;

(4) the charges are not submitted on the prescribed billing form; or

(5) additional medical records or reports are required under subdivision 7 to substantiate the nature of the charge and its relationship to the work injury.

If payment is denied under clause (3), (4), or (5), the employer or insurer shall reconsider the charges in accordance with this subdivision within 30 calendar days after receiving additional medical

data, a prescribed billing form, or documentation of enrollment or certification as a provider.

Sec. 19. Minnesota Statutes 1990, section 176.135, subdivision 7, is amended to read:

Subd. 7. [MEDICAL BILLS AND RECORDS.] Health care providers shall submit to the insurer an itemized statement of charges on a billing form prescribed by the commissioner. Health care providers ~~other than hospitals~~ shall also submit copies of medical records or reports that substantiate the nature of the charge and its relationship to the work injury~~, provided, however, that hospitals must submit any copies of records or reports requested under subdivision 6~~. Health care providers may charge for copies of any records or reports that are in existence and directly relate to the items for which payment is sought under this chapter. ~~Charges for copies provided under this subdivision shall be reasonable.~~ The commissioner shall adopt a schedule of reasonable charges by ~~emergency rules~~ rule.

A health care provider shall not collect, attempt to collect, refer a bill for collection, or commence an action for collection against the employee, employer, or any other party until the information required by this section has been furnished.

Sec. 20. [176.1351] [MANAGED CARE.]

Subdivision 1. [APPLICATION.] Any health care provider, health care providers, or business entities providing health care services may make written application to the commissioner to become certified to provide managed care to injured workers for injuries and diseases compensable under this chapter. Each application for certification shall be accompanied by a reasonable fee prescribed by the commissioner. A certificate is valid for the period the commissioner prescribes unless revoked or suspended. Application for certification shall be made in the form and manner and shall set forth information regarding the proposed plan for providing services as the commissioner may prescribe. The information shall include, but not be limited to:

(a) a list of the names of all health care providers who will provide services under the managed care plan, together with appropriate evidence of compliance with any licensing or certification requirements for those providers to practice in this state;

(b) a description of the places and manner of providing services under the plan;

(c) a description of the places and manner of providing other related optional services the applicants wish to provide; and

(d) satisfactory evidence of ability to comply with any financial requirements to ensure delivery of service in accordance with the plan which the commissioner may prescribe.

Subd. 2. [CERTIFICATION.] The commissioner shall certify a health care provider, health care providers, or business entities providing health care services to provide managed care under a plan if the commissioner finds that the plan:

(a) proposes to provide services that meet quality, continuity, and other treatment standards prescribed by the commissioner and will provide all medical and health care services that may be required by this chapter in a manner that is timely, effective, and convenient for the worker;

(b) provides appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service;

(c) provides adequate methods of peer review, utilization review, and dispute resolution to prevent inappropriate or not medically necessary treatment, to exclude participation in the plan those individuals who violate these treatment standards and to provide for the resolution of such medical disputes as the commissioner considers appropriate;

(d) provides a program for early return to work for injured workers involving, where appropriate, cooperative efforts by the workers, the employer, and the managed care organizations to promote workplace health and safety consultative and other services;

(e) provides a timely and accurate method of reporting to the commissioner necessary information regarding medical and health care service cost and utilization to enable the commissioner to determine the effectiveness of the plan;

(f) authorizes workers to receive compensable medical treatment from a health care provider who is not a member of the managed care organization, but who maintains the worker's medical records and with whom the worker has a documented history of treatment, if that health care provider agrees to refer the worker to the managed care organization for any specialized treatment, including physical therapy, to be furnished by another provider that the worker may require and if that health care provider agrees to comply with all the rules, terms, and conditions regarding services performed by the managed care organization. Nothing in this paragraph is intended to limit the worker's right to change health care providers prior to the filing of a workers' compensation claim; and

(g) complies with any other requirement the commissioner determines is necessary to provide quality medical services and health care to injured workers.

Subd. 3. [REVOCATION, SUSPENSION, AND REFUSAL TO CERTIFY.] The commissioner shall refuse to certify or shall revoke or suspend the certification of any health care provider or group of medical service providers to provide managed care if the commissioner finds that the plan for providing medical or health care services fails to meet the requirements of this section, or service under the plan is not being provided in accordance with the terms of a certified plan.

Subd. 4. [REVIEW.] (a) Utilization review, quality assurance and peer review activities pursuant to this section and authorization of medical services to be provided by other than an attending physician pursuant to this chapter shall be subject to review by the commissioner or the commissioner's designated representatives. Data generated by or received in connection with these activities, including written reports, notes or records of any such activities, or of the commissioner's review shall be confidential, and shall not be disclosed except as considered necessary by the commissioner in the administration of this section. The commissioner may report professional misconduct to an appropriate licensing board.

(b) No data generated by utilization review, quality assurance or peer review activities pursuant to this section or the commissioner's review thereof shall be used in any action, suit or proceeding except to the extent considered necessary by the commissioner in the administration of this chapter.

(c) A person participating in utilization review, quality assurance or peer review activities pursuant to this section shall not be examined as to any communication made in the course of such activities or the findings thereof, nor shall any person be subject to an action for civil damages for affirmative actions taken or statements made in good faith.

(d) No person who participates in forming managed care plans, collectively negotiating fees or otherwise solicits or enters into contracts in a good faith effort to provide medical or health care services according to the provisions of this section shall be examined or subject to administrative or civil liability regarding any such participation except pursuant to the commissioner's active supervision of such activities and the managed care organization. Before engaging in such activities, the person shall provide notice of intent to the commissioner on a prescribed form.

(e) The provisions of this section shall not affect the confidentiality or admission in evidence of a claimant's medical treatment records.

Subd. 5. [RULES.] The commissioner in cooperation with the commissioners of the department of health, department of commerce, and department of human services, shall adopt such rules as may be necessary to carry out the provisions of this section.

Sec. 21. Minnesota Statutes 1990, section 176.136, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE.] (a) The commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups.

(b) The procedures established by the commissioner ~~shall~~ must limit, in accordance with subdivisions 1a and 1b, the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135~~, based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing~~. The procedures established by the commissioner for determining whether or not the charge for a health service is excessive ~~shall~~ must be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures ~~shall~~ must incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees.

Sec. 22. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1a. [RELATIVE VALUE FEE SCHEDULE.] The liability of an employer for services included in the medical fee schedule is limited to the maximum fee allowed by the schedule in effect on the date of the medical service, or the provider's actual fee, whichever is lower. The medical fee schedule effective on October 1, 1990, shall remain in effect until the commissioner adopts a new schedule by permanent rule, but shall remain in effect no later than June 1, 1993. The commissioner shall adopt permanent rules regulating fees, except fees limited by subdivision 1b, by implementing a relative value fee schedule to be effective on October 1, 1992, or as soon thereafter as possible. The conversion factors for the relative value fee schedule shall reasonably reflect a 15 percent overall reduction from 1991 charges, based on a sample of the most common services billed in the first six months of 1991 that is large enough to be statistically valid.

After permanent rules have been adopted to implement this section, the conversion factors must be adjusted annually on October 1, by the percentage change in the statewide average weekly wage as set forth in section 176.645, subdivision 1. The commissioner shall annually give notice in the State Register of the adjusted conversion factors. This notice shall be in lieu of the requirements of chapter 14.

Sec. 23. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1b. [LIMITATION OF LIABILITY.] (a) The liability of the employer for treatment, articles, and supplies provided to an employee while an inpatient or outpatient at a hospital or an outpatient at a same-day surgical facility or emergency room shall be limited to 85 percent of the amount charged.

(b) For the services rendered under paragraph (a) by a hospital with 100 or fewer licensed acute care beds, the liability of employers shall be the actual hospital charges.

(c) The liability of the employer for the treatment, articles, and supplies that are not limited by subdivision 1a or paragraph (a) shall be limited to the provider's actual charge, or the charges that prevail in the same community for similar treatment, articles, and supplies furnished to an injured person when paid for by the injured person, whichever is lower. On this basis, the commissioner or compensation judge may determine the reasonable value of all treatment, services, and supplies, and the liability of the employer is limited to that amount.

Sec. 24. Minnesota Statutes 1990, section 176.136, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVE FEES.] If the employer or insurer determines that the charge for a health service or medical service is excessive, no payment in excess of the reasonable charge for that service shall be made under this chapter nor may the provider collect or attempt to collect from the injured employee or any other insurer or government amounts in excess of the amount payable under this chapter unless the commissioner, compensation judge, or court of appeals determines otherwise. In such a case, the health care provider may initiate an action under this chapter for recovery of the amounts deemed excessive by the employer or insurer, but the employer or insurer shall have the burden of proving excessiveness.

A charge for a health service or medical service is excessive if it:

(1) exceeds the maximum permissible charge pursuant to subdivision 1 or section 176.135, subdivision 1a;

(2) is for a service provided at a level, duration, or frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards;

(3) is for a service that is outside the scope of practice of the particular provider or is not generally recognized within the particular profession of the provider as of therapeutic value for the specific injury or condition treated; or

(4) is otherwise deemed excessive or inappropriate pursuant to rules adopted pursuant to this chapter.

Where the sole issue in dispute is whether medical fees are excessive, the only parties to the proceeding shall be the health care provider and employer or insurer. The rights of an employee shall not be affected by a determination under this subdivision.

Sec. 25. Minnesota Statutes 1990, section 176.305, subdivision 1, is amended to read:

Subdivision 1. [HEARINGS ON PETITIONS.] The petitioner shall serve a copy of the petition on each adverse party personally or by first class mail. The original petition shall then be filed with the commissioner together with an appropriate affidavit of service. When any petition has been filed with the workers' compensation division, the commissioner shall, within ten days, refer the matter presented by the petition for a settlement conference under this section, for ~~an administrative~~ a mediation conference under section ~~176.106~~ 176.107, or for hearing to the office.

Sec. 26. Minnesota Statutes 1990, section 176.351, subdivision 2a, is amended to read:

Subd. 2a. [SUBPOENAS NOT PERMITTED.] A member of the rehabilitation review panel or medical services board or an employee of the department who has conducted an administrative, mediation, or settlement conference, or hearing under section ~~176.106~~ 176.107 or 176.239, shall not be subpoenaed to testify regarding the conference, hearing, or concerning a mediation session. A member of the rehabilitation review panel, medical services board, or an employee of the department may be required to answer written interrogatories limited to the following questions:

(a) Were all statutory and administrative procedural rules adhered to in reaching the decision?

(b) If the answer to question (a) is no, what deviations took place?

(c) Did the person making the decision consider all the information presented prior to rendering a decision?

(d) Did the person making the decision rely on information outside of the information presented at the conference or hearing in making the decision?

(e) If the answer to question (d) is yes, what other information was relied upon in making the decision?

In addition, for a hearing with a compensation judge and with the consent of the compensation judge, an employee of the department who conducted an administrative conference, hearing, or mediation session, may be requested to answer written interrogatories relating to statements made by a party at the prior proceeding. These interrogatories shall be limited to affirming or denying that specific statements were made by a party.

Sec. 27. Minnesota Statutes 1990, section 176.421, subdivision 7, is amended to read:

Subd. 7. [RECORD OF PROCEEDINGS.] At the division's own expense, the commissioner shall make a complete record of all proceedings before the commissioner and shall provide a stenographer or an audio magnetic recording device to make the record of the proceedings.

The commissioner shall furnish a transcript of these proceedings to any person who requests it and who pays a reasonable charge which shall be set by the commissioner. Upon a showing of cause, the commissioner may direct that a transcript be prepared without expense to the person requesting the transcript, in which case the cost of the transcript shall be paid by the division. Transcript fees received under this subdivision shall be paid to the workers' compensation division account in the state treasury and shall be annually appropriated to the division for the sole purpose of providing a record and transcripts as provided in this subdivision. This subdivision does not apply to any administrative conference or other proceeding before the commissioner which may be heard de novo in another proceeding including but not limited to proceedings under section ~~176.106~~ 176.107 or 176.239.

Sec. 28. Minnesota Statutes 1990, section 176.442, is amended to read:

176.442 [APPEALS FROM DECISIONS OF COMMISSIONER.]

Except for a commissioner's decision which may be heard de novo in another proceeding including but not limited to a decision from an administrative conference under section ~~176.102,~~ ~~176.103,~~ ~~176.106,~~ 176.239, or a summary decision under section 176.305, any decision or determination of the commissioner affecting a right, privilege, benefit, or duty which is imposed or conferred under this

chapter is subject to review by the workers' compensation court of appeals. A person aggrieved by the determination may appeal to the workers' compensation court of appeals by filing a notice of appeal with the commissioner in the same manner and within the same time as if the appeal were from an order or decision of a compensation judge to the workers' compensation court of appeals.

Sec. 29. Minnesota Statutes 1990, section 176.82, is amended to read:

176.82 [ACTION FOR CIVIL DAMAGES FOR OBSTRUCTING EMPLOYEE SEEKING BENEFITS.]

Subdivision 1. [GENERALLY.] Any person discharging or threatening to discharge an employee for seeking workers' compensation benefits or in any manner intentionally obstructing an employee seeking workers' compensation benefits is liable in a civil action for damages incurred by the employee including any diminution in workers' compensation benefits caused by a violation of this section including costs and reasonable attorney fees, and for punitive damages not to exceed three times the amount of any compensation benefit to which the employee is entitled. Damages awarded under this section shall not be offset by any workers' compensation benefits to which the employee is entitled.

Subd. 2. [REFUSAL TO REHIRE.] Any employer who without reasonable cause refuses to rehire an employee who is injured in the course of employment, where suitable employment is available within the employee's physical and mental limitations, upon order of the department and in addition to other benefits, has exclusive liability to pay to the employee the wages lost during the period of the refusal, not exceeding six months wages or a maximum of $15,000. In determining the availability of suitable employment, the continuance in business of the employer shall be considered and any written rules promulgated by the employer with respect to seniority or the provisions of any collective bargaining agreement with respect to seniority shall govern.

Sec. 30. Minnesota Statutes 1990, section 176.83, subdivision 5, is amended to read:

Subd. 5. [EXCESSIVE MEDICAL SERVICES.] In consultation with the medical services review board or the rehabilitation review panel, rules establishing standards and procedures for determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the payer that the level, frequency or cost of a procedure or service of a provider is excessive according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer, and the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program unless the commissioner or compensation judge determines at a hearing or administrative conference that the level, frequency, or cost was not excessive in which case the insurer, self-insurer, or group self-insurer shall make the payment deemed reasonable.

A health or rehabilitation provider who is determined by the rehabilitation review panel or medical services review board, after hearing, to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under this chapter. A prohibition imposed on a provider under this subdivision may be grounds for revocation or suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing certifying body.

~~The rules adopted under this subdivision shall require insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this clause.~~

Sec. 31. Minnesota Statutes 1990, section 176.83, is amended by adding a subdivision to read:

Subd. 5a. [REPORTING.] Rules requiring insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this section and chapter 176.

Sec. 32. Minnesota Statutes 1990, section 176.83, subdivision 6, is amended to read:

Subd. 6. [CERTIFICATION OF MEDICAL PROVIDERS.] Rules establishing procedures and standards for the certification or enrollment of physicians, chiropractors, osteopaths, podiatrists, and other health care providers, which may include hospitals and other business entities providing health care services, in order to assure the coordination of treatment, rehabilitation, and other services and requirements of chapter 176 for carrying out the purposes and intent of this chapter.

After the rules for provider enrollment have been promulgated, a provider must be enrolled in accordance with the rules to receive payment for services rendered under section 176.135. An unenrolled

provider may not receive payment or attempt to collect from any source, including the employee, any insurer or self-insured employer, the special compensation fund, or any government program. Retroactive enrollment must be permitted pursuant to guidelines established by rule. A list of currently enrolled providers must be given to all self-insured employers and insurers. The list must be made available to others upon request.

Sec. 33. [APPROPRIATION.]

$300,000 is appropriated from the general fund for the biennium ending June 30, 1993, to the commission on workers' compensation for the purposes of carrying out its duties and responsibilities as provided under section 1.

Sec. 34. [REPEALER.]

Minnesota Statutes 1990, sections 175.007; 176.106; 176.135, subdivision 3; and 176.136, subdivision 5, are repealed.

Sec. 35. [EFFECTIVE DATE.]

This article is effective October 1, 1991; except that sections 1 and 33 are effective July 1, 1991.

ARTICLE 4

COURTS/JURISDICTION

Section 1. Minnesota Statutes 1990, section 15A.083, subdivision 7, is amended to read:

Subd. 7. [WORKERS' COMPENSATION COURT OF APPEALS AND COMPENSATION JUDGES.] Salaries of judges of the workers' compensation court of appeals are the same as the salary for district judges as set under section 15A.082, subdivision 3. Salaries of compensation judges are ~~75~~ 80 percent of the salary of district court judges. The chief workers' compensation settlement judge at the department of labor and industry may be paid an annual salary that is up to five percent greater than the salary of workers' compensation settlement judges at the department of labor and industry. The assistant chief administrative law judge for workers' compensation at the office of administrative hearings shall be paid in conformity with the salary provisions of the managerial plan under section 43A.18, but the minimum salary shall be equal to the salary of a compensation judge.

Sec. 2. Minnesota Statutes 1990, section 176.061, is amended by adding a subdivision to read:

Subd. 6a. [JURISDICTION.] Notwithstanding section 573.02 or any other law to the contrary, the commissioner or compensation judge has jurisdiction to order the distribution of proceeds in accordance with subdivision 6 in all cases except where the district court has awarded a specific amount in satisfaction of the employer's subrogation interest or has specifically denied the employer's subrogation interest.

Sec. 3. [176.2615] [SMALL CLAIMS COURT.]

Subdivision 1. [PURPOSE.] There is established in the department of labor and industry a small claims court, to be presided over by settlement judges for the purpose of settling small claims.

Subd. 2. [ELIGIBILITY.] The claim is eligible for determination in the small claims court if referred by the commissioner or if all parties agree to submit to its jurisdiction; and

(1) the claim is for rehabilitation benefits only under section 176.102 or medical benefits only under section 176.135; or

(2) the claim in its total amount does not equal more than $5,000; and

(3) where the claim is for apportionment or for contribution or reimbursement, no counterclaim in excess of $5,000 is asserted.

Subd. 3. [TESTIMONY; EXHIBITS.] At the hearing a settlement judge shall hear the testimony of the parties and consider any exhibits offered by them and may also hear any witnesses introduced by either party.

Subd. 4. [APPEARANCE OF PARTIES.] A party may appear on the party's own behalf without an attorney, or may retain and be represented by a duly admitted attorney who may participate in the hearing to the extent and in the manner that the settlement judge considers helpful. Attorney fees awarded under this subdivision are included in the overall limit allowed under section 176.081, subdivision 1.

Subd. 5. [EVIDENCE ADMISSIBLE.] At the hearing the settlement judge shall receive evidence admissible under the rules of evidence. In addition, in the interest of justice and summary determination of issues before the court, the settlement judge may receive, in the judge's discretion, evidence not otherwise admissible. The settlement judge, on the judge's own motion, may receive into evidence any documents which have been filed with the department.

Subd. 6. [SETTLEMENT.] A settlement judge may attempt to

conciliate the parties. If the parties agree on a settlement, the judge shall issue an order in accordance with that settlement.

Subd. 7. [DETERMINATION.] If the parties do not agree to a settlement, the settlement judge shall summarily hear and determine the issues and issue an order in accordance with section 176.305, subdivision 1a. Any determination by a settlement judge is not res judicata with respect to any other proceeding between or among the parties under this chapter, nor may it be considered as evidence in any other proceeding.

Subd. 8. [COSTS.] The prevailing party is entitled to costs and disbursements as in any other workers' compensation case.

Sec. 4. Minnesota Statutes 1990, section 176.461, is amended to read:

176.461 [SETTING ASIDE AWARD.]

Except when a writ of certiorari has been issued by the supreme court and the matter is still pending in that court or if as a matter of law the determination of the supreme court cannot be subsequently modified, the workers' compensation court of appeals, for cause, at any time after an award, upon application of either party and not less than five working days after written notice to all interested parties, may set the award aside and grant a new hearing and refer the matter for a determination on its merits to the chief administrative law judge for assignment to a compensation judge, who shall make findings of fact, conclusions of law, and an order of award or disallowance of compensation or other order based on the pleadings and the evidence produced and as required by the provisions of this chapter or rules adopted under it.

As used in this section, the phrase "for cause" is limited to the following grounds:

(1) a mutual mistake of fact that was not discoverable at the time of the award;

(2) newly discovered evidence that was not discoverable at the time of the award;

(3) fraud; or

(4) a substantial change in medical condition since the time of the award that was clearly not anticipated and could not reasonably have been anticipated at the time of the award.

Sec. 5. Minnesota Statutes 1990, section 480A.06, subdivision 3, is amended to read:

Subd. 3. [CERTIORARI REVIEW.] The court of appeals shall have jurisdiction to issue writs of certiorari to all agencies, public corporations and public officials, except the tax court ~~and the workers' compensation court of appeals~~. The court of appeals shall have jurisdiction to review decisions of the commissioner of jobs and training, pursuant to section 268.10.

Sec. 6. Minnesota Statutes 1990, section 480A.06, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATIVE REVIEW.] The court of appeals shall have jurisdiction to review on the record: the validity of administrative rules, as provided in sections 14.44 and 14.45~~, and~~; the decisions of administrative agencies in contested cases, as provided in sections 14.63 to 14.69; and workers' compensation cases and peace officer death benefits cases, as provided under chapters 176 and 176A.

Sec. 7. [TRANSFER OF JURISDICTION AND PERSONNEL.]

The jurisdiction of the workers' compensation court of appeals, as provided under Minnesota Statutes, section 175A.01, subdivision 5, is transferred to the court of appeals. All contracts, books, plans, papers, records, and property of every description of the workers' compensation court of appeals relating to its transferred responsibilities and within its jurisdiction or control are transferred to the court of appeals; except that all case files are transferred to the clerk of the appellate courts. All classified employees and staff attorneys of the workers' compensation court of appeals must be given preference in the employment of personnel required to staff the increased caseload of the court of appeals as a result of transfer of jurisdiction under this section.

Sec. 8. [INCREASED JUDGES.]

The number of judges on the court of appeals as of January 1, 1992, shall be increased by five.

Sec. 9. [INSTRUCTION TO REVISOR.]

In every instance in Minnesota Statutes in which the term "workers' compensation court of appeals" appears, the revisor of statutes shall change that reference to the "court of appeals."

Sec. 10. [REAPPROPRIATION.]

$..... is reappropriated from the special compensation fund, as a result of the savings to that fund in fiscal years 1992 and 1993 due to the abolition of the workers' compensation court of appeals, to the court of appeals for the purposes of this article.

Sec. 11. [REPEALER.]

Minnesota Statutes 1990, sections 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; and 175A.10, are repealed.

Sec. 12. [EFFECTIVE DATE.]

This article is effective January 1, 1992; except that section 1 is effective July 1, 1991.

ARTICLE 5

WORKERS' COMPENSATION INSURANCE

Section 1. Minnesota Statutes 1990, section 79.095, is amended to read:

79.095 [APPOINTMENT OF ACTUARY.]

The commissioner ~~shall~~ may employ the services of ~~a~~ casualty ~~actuary~~ actuaries experienced in ~~worker's~~ workers' compensation whose duties shall include but not be limited to investigation of complaints by insured parties relative to rates, rate classifications, or discriminatory practices of an insurer. The salary of ~~the~~ an actuary employed pursuant to this section is not subject to the provisions of section 43A.17, subdivision 1.

Sec. 2. Minnesota Statutes 1990, section 79.251, subdivision 1, is amended to read:

Subdivision 1. [ASSIGNED RISK PLAN; PARTICIPATION.] ~~(1) An assigned risk plan review board is created for the purposes of review of the operation of section 79.252 and this section.~~ The state fund mutual insurance company and all insurers authorized to write workers' compensation and employers' liability insurance in this state shall participate in a plan providing for the equitable apportionment of insurance coverage to employers who have been rejected for insurance coverage by a licensed insurer in the manner set forth in section 79.252.

Subd. 1a. [BOARD OF GOVERNORS.] (1) The operation of the assigned risk plan is subject to the supervision of the board of governors of the plan. The board shall have all the usual powers and authorities necessary for the discharge of its duties under this section and may contract with individuals in discharge of those duties.

(2) The board shall consist of six members to be appointed by the commissioner of commerce. ~~Three members shall be insureds hold-~~

~~ing policies or contracts~~ One member shall be an insured holding a policy or contract of coverage issued pursuant to subdivision 4. ~~Two~~ Five members shall be insurers pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b). ~~The commissioner shall be the sixth member and shall vote.~~

Initial appointments to the board shall be made by ~~September~~ January 1, ~~1981~~ 1992, and terms shall be for three years duration. Removal, the filling of vacancies and compensation of the members ~~other than the commissioner~~ shall be as provided in section 15.059.

(3) The ~~assigned risk plan review~~ board shall audit the reserves established (a) for individual cases arising under policies and contracts of coverage issued under subdivision 4 and (b) for the total book of business issued under subdivision 4.

(4) The ~~assigned risk plan review~~ board shall ~~monitor the operations of section 79.252 and this section and shall periodically make recommendations to the commissioner, and to the governor and legislature when appropriate, for improvement in the operation of those sections~~ prepare a plan of operation for the assigned risk plan subject to the approval of the commissioner. The policy forms, rates, merit rating, rating plans, and classification and rating systems of the assigned risk plan shall be those filed for use by the Minnesota workers' compensation insurers rating association, and approved by the commissioner, subject to the requirements of this chapter.

The board shall meet quarterly, or more frequently if necessary, to review plan enrollment, plan administration, rate adequacy, loss ratios, and reserving practices. No later than June 30 of each year, the board shall file an annual report with the legislature and the workers' compensation insurers association. The report must be signed by each member of the board. The report must include an actuarial evaluation of the plan by a fellow of the casualty actuarial society who shall be retained and paid by the board.

(5) ~~All insurers and self-insurance administrators issuing policies or contracts under subdivision 4 shall pay to the commissioner a .25 percent assessment on premiums for policies and contracts of coverage issued under subdivision 4 for the purpose of defraying the costs of the assigned risk plan review board. Proceeds of the assessment shall be deposited in the state treasury and credited to the general fund.~~

~~(6)~~ The assigned risk plan and the ~~assigned risk plan review~~ board of governors shall not be deemed a state agency.

Sec. 3. Minnesota Statutes 1990, section 79.251, subdivision 2, is amended to read:

Subd. 2. [APPROPRIATE MERIT RATING PLAN.] The board of governors, subject to approval by the commissioner of commerce, shall develop an appropriate merit rating plan which shall be applicable to all nonexperience rated insureds holding policies or contracts of coverage issued pursuant to subdivision 4, and to the insurers or self-insurance administrators issuing those policies or contracts. The plan ~~shall~~ must provide a maximum merit credit or debit adjustment equal to ten percent of earned premium. The actual adjustment may vary with insured's loss experience.

Sec. 4. Minnesota Statutes 1990, section 79.251, subdivision 3, is amended to read:

Subd. 3. [RATES.] ~~Insureds served by the assigned risk plan shall be charged premiums based upon a rating plan, including a merit rating plan adopted by the commissioner by rule.~~ (a) The ~~commissioner~~ board of governors shall ~~annually, not later than January 1 of each year, establish the~~ file with the commissioner a schedule of rates ~~applicable to~~ for use in determining premiums charged employers in the assigned risk plan ~~business~~ at least 30 days prior to their effective date. Assigned risk ~~premiums shall~~ rates must not be lower than rates generally charged by insurers for the business. ~~The commissioner shall fix the compensation received by the agent of record. The establishment of the assigned risk plan rates and agent fees are not subject to chapter 14.~~

(b) The rates filed by the board shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within 30 days after the filing is made. In disapproving a filing made pursuant to this section, the commissioner shall have the same authority, and follow the same procedure, as in disapproving a filing pursuant to section 79.58.

(c) The board shall fix the compensation received by the agent of record. Agent compensation shall be established at a level that is neither an incentive nor a disincentive to place an employer in the assigned risk plan. The establishment of the assigned risk plan rates and agent fees are not subject to chapter 14.

Sec. 5. Minnesota Statutes 1990, section 79.251, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATION.] The ~~commissioner~~ board of governors shall enter into service contracts as necessary or beneficial for accomplishing the purposes of the assigned risk plan. Services related to the administration of policies or contracts of coverage shall be performed by one or more qualified insurance companies licensed pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b), or self-insurance administrators licensed pursuant to section 176.181, subdivision 2, clause (2), paragraph (a). A qualified insurer or self-insurance administrator shall possess sufficient fi-

nancial, professional, administrative, and personnel resources to provide the services contemplated in the contract. Services related to assignments, data management, assessment collection, and other services shall be performed by a licensed data service organization. The cost of those services is an obligation of the assigned risk plan.

Each insurer or self-insured administrator who performs services pursuant to this subdivision shall be required to report loss experience data to the Minnesota workers' compensation insurers association in accordance with the statistical plan and rules of the organization as approved by the commissioner, and shall keep a record of the premium and losses paid under each workers' compensation policy written in Minnesota in the form required by the commissioner.

Sec. 6. Minnesota Statutes 1990, section 79.251, subdivision 5, is amended to read:

Subd. 5. [ASSESSMENTS.] ~~The commissioner shall assess~~ All insurers licensed pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b), shall be assessed an amount sufficient to fully fund the obligations of the assigned risk plan, if the ~~commissioner determines that the assets of the assigned risk plan are insufficient to meet its obligations~~ annual report of the board of governors reveals a deficit in the plan. The assessment must be made within 30 days of the date the annual report of the board is filed. The assessment of each insurer shall be in a proportion equal to the proportion which the amount of compensation insurance written in this state during the preceding calendar year by that insurer bears to the total compensation insurance written in this state during the preceding calendar year by all licensed insurers.

Sec. 7. Minnesota Statutes 1990, section 79.252, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] The purpose of the assigned risk plan is to provide workers' compensation coverage to employers rejected by ~~a~~ two nonaffiliated licensed insurance ~~company~~ companies, pursuant to subdivision 2. One of these two rejections must come from the insurance company that most recently provided workers' compensation coverage to the employer, unless the employer had no previous coverage. Each rejection must be in writing and must be obtained within 60 days before the date of application to the assigned risk plan. In addition, the rejections must also show the name of the insurance company and the representative contacted.

Sec. 8. Minnesota Statutes 1990, section 79.252, subdivision 3, is amended to read:

Subd. 3. [COVERAGE.] (a) Policies and contracts of coverage issued pursuant to section 79.251, subdivision 4, shall contain the

usual and customary provisions of workers' compensation insurance policies, and shall be deemed to meet the mandatory workers' compensation insurance requirements of section 176.181, subdivision 2.

(b) Policies issued by the assigned risk plan pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The board of governors may apply for and obtain any licensure required in any other state to issue that coverage.

Sec. 9. Minnesota Statutes 1990, section 79.252, subdivision 5, is amended to read:

Subd. 5. [RULES.] The commissioner may adopt rules, including ~~emergency~~ temporary rules, as may be necessary to implement section 79.251 and this section.

Sec. 10. Minnesota Statutes 1990, section 79.55, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVENESS.] ~~No premium is excessive in a competitive market. In the absence of a competitive market,~~ Premiums are excessive if the expected underwriting profit, together with expected income from invested reserves for the market in question, that would accrue to an insurer would be unreasonably high in relation to the risk undertaken by the insurer in transacting the business.

Sec. 11. Minnesota Statutes 1990, section 79.56, is amended by adding a subdivision to read:

Subd. 5. [RATE REGULATION.] (a) Whenever an insurer files a change in its existing rate level or rating plan, the commissioner may hold a hearing to determine if the rate level or rating plan is excessive, inadequate, or unfairly discriminatory. The hearing must be conducted pursuant to chapter 14. The commissioner shall give notice of intent to hold a hearing within 90 days of the filing of the change. It is the responsibility of the insurer to show that the rate level or rating plan is not excessive, inadequate, or unfairly discriminatory. The rate level or rating plan is effective unless it is determined as a result of the hearing that the rate level or rating plan is excessive, inadequate, or unfairly discriminatory. Upon such a finding, the rate level or rating plan is retroactively rescinded and any premiums collected under it must be refunded. This subdivision does not apply to any changes resulting from assessments for the assigned risk plan, reinsurance association, guarantee fund, special compensation fund, or statutory benefit level changes to sections 176.101, subdivisions 1, 2, and 4, 176.111, 176.132, and 176.645 as a result of annual adjustments in the statewide average weekly

wage. The disapproval of a rate level or rating plan under this subdivision must be done in the same manner as under section 70A.11, except that the standards of section 79.55 apply.

(b) Notwithstanding paragraph (a), if the commissioner of labor and industry petitions the commissioner for a hearing pursuant to this subdivision, the commissioner must hold a hearing if the commissioner of labor and industry certifies that the hearing is necessary because a decision of the supreme court or enactment of a statute has effected a substantial change in the basis upon which the existing rate levels or rating plan was filed. The commissioner of labor and industry must make a prima facie showing that law change has effected a substantial change in the basis upon which the existing rate levels or rating plan was filed.

(c) Notwithstanding paragraph (a), the commissioner may hold a hearing if the commissioner determines that the hearing is necessary because of circumstances which result in a substantial change in the basis upon which the existing rate levels or rating plan was filed. The commissioner must make a prima facie showing that the circumstances resulted in a substantial change in the basis upon which the existing rate levels or rating plan was filed.

Sec. 12. [79.565] [PARTICIPATION.]

An employer, or person representing a group of employers, that will be directly affected by a change in an insurer's existing rate level or rating plan filed under section 79.56, subdivision 5, and the commissioner of labor and industry, must be allowed to participate in any hearing under that subdivision challenging the change in rate level or rating plan as being excessive, inadequate, or unfairly discriminatory.

Sec. 13. Minnesota Statutes 1990, section 79.58, subdivision 2, is amended to read:

Subd. 2. [RATING PLANS.] The commissioner may disapprove a rating plan of a data service organization if, after a hearing conducted pursuant to chapter 14, the commissioner finds that it is excessive, inadequate, or unfairly discriminatory. The rating plan is effective until disapproved. It is the responsibility of the data service organization to show that the rating plan is not excessive, inadequate, or unfairly discriminatory. Any order of disapproval shall require the data service organization to use an alternative rating plan until approval of a rating plan by the commissioner. The commissioner shall not approve any rating plan based upon any data other than Minnesota data, except that other data may be utilized as a supplement to Minnesota data when the commissioner determines that an exceptional case requires such data to establish the statistical credibility of an occupational classification.

Sec. 14. Minnesota Statutes 1990, section 79.61, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED ACTIVITY.] Any data service organization shall perform the following activities:

(a) File statistical plans, including classification definitions, amendments to the plans, and definitions, with the commissioner for approval, and assign each compensation risk written by its members to its approved classification for reporting purposes;

(b) Establish requirements for data reporting and monitoring methods to maintain a high quality data base;

(c) Prepare and distribute a periodic report, in a form prescribed by the commissioner, on ratemaking including, but not limited to the following elements:

(i) development factors and alternative derivations;

(ii) trend factors and alternative derivations and applications;

(iii) pure premium relativities for the approved classification system for which data are reported, provided that the relativities for insureds engaged in similar occupations and presenting substantially similar risks shall, if different, differ by at least ten percent; and

(iv) an evaluation of the effects of changes in law on loss data.

The report shall also include explicit discussion and explanation of methodology, alternatives examined, assumptions adopted, and areas of judgment and reasoning supporting judgments entered into, and the effect of various combinations of these elements on indications for modification of an overall pure premium rate level change. The pure premium relativities and rate level indications shall not include a loading for expenses or profit and no expense or profit data or recommendations relating to expense or profit shall be included in the report or collected by a data service organization;

(d) Collect, compile, summarize, and distribute data from members or other sources pursuant to a statistical plan approved by the commissioner;

(e) Prepare merit rating plan and calculate any variable factors necessary for utilization of the plan. Such a plan may be used by any of its members, at the option of the member provided that the application of a plan shall not result in rates that are unfairly discriminatory;

(f) Provide loss data specific to an insured to the insured at a reasonable cost;

(g) Distribute information to an insured or interested party that is filed with the commissioner and is open to public inspection; ~~and~~

(h) Assess its members for operating expenses on a fair and equitable basis;

(i) Separate the incurred but unreported losses of its members;

(j) Separate paid and outstanding losses of its members;

(k) Provide information indicating cases in which its members have established a reserve in excess of $50,000;

(l) File information based solely on Minnesota data concerning its members' premium income, indemnity, and medical benefits paid.

Sec. 15. [79.65] [DATA SERVICE ORGANIZATIONS; COVERAGE.]

Subdivision 1. [EXAMINATION BY COMMISSIONER.] Data service organizations are subject to all the provisions of this chapter. The commissioner or an authorized representative of the commissioner may visit the rating association at any reasonable time and examine, audit, or evaluate the rating association's operations, records, and practices. For purposes of this section, "authorized representative of the commissioner" includes employees of the departments of commerce or labor and industry or other parties retained by the commissioner. An examination under this section may be done of any member of data service organizations for purposes of workers' compensation insurance regulation.

Subd. 2. [COSTS AND EXPENSES.] The commissioner may order and the data service organization shall pay the costs and expenses of any examination, audit, or evaluation conducted pursuant to subdivision 1. If no order is issued, a sum sufficient to pay these costs and expenses is appropriated from the special compensation fund to the commissioner of commerce.

Sec. 16. [79.70] [INVESTIGATIONS AND SUBPOENAS.]

Subdivision 1. [GENERAL POWERS.] In connection with the administration of this chapter, the commissioner of commerce may:

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate this chapter or any rule

or order under this chapter, or to aid in the enforcement of this chapter, or in the prescribing of rules or forms under this chapter;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the administration of this chapter;

(4) conduct investigations and hold hearings for the purpose of compiling information with a view to recommending changes in this chapter to the legislature;

(5) examine the books, accounts, records, and files of every licensee under this chapter and of every person who is engaged in any activity regulated under this chapter; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner; and

(7) require any person subject to this chapter to report all sales or transactions that are regulated under this chapter. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction.

Subd. 2. [POWER TO COMPEL PRODUCTION OF EVIDENCE.] For the purpose of any investigation, hearing, or proceeding under this chapter, the commissioner or a designated representative may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner considers relevant or material to the inquiry.

Subd. 3. [COURT ORDERS.] In case of a refusal to appear or a refusal to obey a subpoena issued to any person, the district court, upon application by the commissioner, may issue to any person an order directing that person to appear before the commissioner, or the officer designated by the commissioner, to produce documentary evidence if so ordered or to give evidence relating to the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

Subd. 4. [SCOPE OF PRIVILEGE.] No person is excused from attending and testifying or from producing any document or record before the commissioner, or from obedience to the subpoena of the commissioner or any officer designated by the commissioner or in a proceeding instituted by the commissioner, on the ground that the testimony or evidence required may tend to incriminate that person or subject that person to a penalty or forfeiture. No person may be prosecuted or subjected to a penalty or forfeiture for a transaction, matter, or thing concerning which the person is compelled, after claiming the privilege against self-incrimination, to testify or produce documentary or other evidence except that the individual is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

Subd. 5. [LEGAL ACTIONS; INJUNCTIONS; CEASE AND DESIST ORDERS.] (a) Whenever it appears to the commissioner that any person has engaged in or is about to engage in any act or practice constituting a violation of this chapter, or any rule or order adopted under this chapter, the commissioner has the powers indicated under paragraphs (b) and (c).

(b) The commissioner may bring an action in the name of the state in the district court of the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter, or any rule or order adopted or issued under this chapter, or the commissioner may refer the matter to the attorney general or the county attorney of the appropriate county. Upon a proper showing, a permanent or temporary injunction, restraining order, or other appropriate relief must be granted.

(c) The commissioner may issue and serve an order requiring a person to cease and desist from violations of this chapter, or any rule or order adopted or issued under this chapter. The order must give reasonable notice of the rights of the person to request a hearing and must state the reasons for the entry of the order. A hearing must be held not later than seven days after the request for the hearing is received by the commissioner. Within 20 days after receiving the administrative law judge's report, the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. If no hearing is requested within 30 days of service of the order, the order will become final and will remain in effect until it is modified or vacated by the commissioner. Unless otherwise provided, all hearings must be conducted in accordance with chapter 14. If a person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default, and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted under this paragraph.

Subd. 6. [VIOLATIONS AND PENALTIES.] The commissioner may impose a civil penalty not to exceed $2,000 per violation upon a person who violates this chapter, unless a different penalty is specified under this chapter.

Subd. 7. [ACTIONS AGAINST LICENSEES.] In addition to any other actions authorized by this section, the commissioner may, by order, deny, suspend, or revoke the authority or license of a person subject to this chapter, or censure that person if the commissioner finds that the order is in the public interest or the person has violated this chapter.

Subd. 8. [POWERS ADDITIONAL.] The powers contained in subdivisions 1 to 8 are in addition to all other powers of the commissioner.

Sec. 17. [79.75] [ACCESS TO INSURER.]

The commissioner, or the designated person, shall have free access during normal business hours to all books, records, securities, documents, and any or all papers relating to the property, assets, business, and affairs of any company, applicant, association, or person that may be examined pursuant to this chapter for the purpose of ascertaining, appraising, and evaluating the assets, conditions, affairs, operations, ability to fulfill obligations, and compliance with all the provisions of law of the company or person insofar as any of the above pertain to the business of insurance of a person, organization, or corporation transacting, having transacted, or being organized to transact business in this state. Every company or person being examined including officers, directors, and agents, shall provide to the commissioner or the designated person convenient and free access at all reasonable hours at its office to all books, records, securities, documents, and any or all papers relating to the property, assets, business, and affairs of the company or person. The officers, directors, and agents of the company or person shall facilitate the examination and aid in the examination so far as it is in their power to do so.

Sec. 18. Minnesota Statutes 1990, section 176A.03, is amended by adding a subdivision to read:

Subd. 3. [COVERAGE OUTSIDE STATE.] Policies issued by the fund pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The fund may apply for and obtain any licensure required in any other state in order to issue the coverage.

Sec. 19. Minnesota Statutes 1990, section 221.141, subdivision 1, is amended to read:

Subdivision 1. [FINANCIAL RESPONSIBILITY OF CERTAIN CARRIERS.] No motor carrier and no interstate carrier shall operate a vehicle until it has obtained and has in effect the minimum amount of financial responsibility required by this section. Policies of insurance, surety bonds, other types of security, and endorsements must be continuously in effect and must remain in effect until canceled. Before providing transportation, the motor carrier or interstate carrier shall secure and cause to be filed with the commissioner and maintain in full effect, both a certificate of insurance in a form required by the commissioner, evidencing public liability insurance in the amount prescribed, and acceptable evidences of compliance with the workers' compensation insurance coverage requirements of section 176.181, subdivision 2, by providing the name of the insurance company, the policy number, and the dates of coverage, or the permit to self-insure. The insurance must cover injuries and damage to persons or property resulting from the operation or use of motor vehicles, regardless of whether each vehicle is specifically described in the policy. This insurance does not apply to injuries or death to the employees of the motor carrier or to property being transported by the carrier. The commissioner shall require cargo insurance for certificated carriers, except those carrying passengers exclusively. The commissioner may require a permit carrier to file cargo insurance when the commissioner deems necessary to protect the users of the service.

Sec. 20. [NOTICE OF INTENT TO CHALLENGE RATE LEVEL CHANGE.]

Notwithstanding Minnesota Statutes, section 79.56, subdivision 5, the commissioner shall have an additional 90 days to give notice of intent to hold a hearing pursuant to that section. This section applies only to challenges to an insurer's change in existing rate levels or rating plan filed between the date the 1992 report required under section 79.60 is approved by the commissioner of commerce and six months thereafter.

Sec. 21. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in articles 1 to 4 and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of rates in effect on October 1, 1991, must be reduced by 17 percent and applied by the insurer to all policies issued, renewed, or outstanding on or after that date. An insurer may not adjust its filed rating plan to recoup the 17 percent mandated rate reduction under this section. The reduction must be computed on the basis of a 17 percent premium reduction prorated to the expiration of that policy. An insurer shall provide a written notice by November 1, 1991, to all employers having an outstanding policy with the insurer as of October 1, 1991, that reads as follows: "As a result of the changes in the workers' compensation insurance system enacted by the 1991

legislature, you are entitled to a credit or refund to your current premium in an amount of $..... which reflects a 17 percent mandated premium reduction prorated to the expiration of your policy."

(b) No rate increases may be filed between April 1, 1991 and January 1, 1992.

(c) The commissioner of labor and industry shall survey Minnesota employers to determine if the mandated workers' compensation insurance rate reductions required under this section have been implemented by insurers, both as to amount and in a manner that is uniform and nondiscriminatory between employers having similar risks with respect to a particular occupational classification. The commissioner shall present a report detailing the findings and conclusions to the legislature by March 1, 1992.

Sec. 22. [ADJUSTMENT.]

Within 60 days of final enactment of this legislation, the board shall determine whether any adjustment in the assigned risk rates in effect as of the date of enactment are required by this section.

Sec. 23. [REPEALER.]

Minnesota Statutes 1990, sections 79.54, 79.57, and 79.58, subdivision 1, are repealed.

Sec. 24. [EFFECTIVE DATE.]

This article is effective January 1, 1992; except that, section 21, paragraphs (a) and (c), are effective October 1, 1991; and section 21, paragraph (b), is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to workers' compensation; regulating benefits, providers, dispute resolution, and insurance; appropriating money; imposing penalties; amending Minnesota Statutes 1990, sections 15A.083, subdivision 7; 79.095; 79.251, subdivisions 1, 2, 3, 4, and 5; 79.252, subdivisions 1, 3, and 5; 79.55, subdivision 2; 79.56, by adding a subdivision; 79.58, subdivision 2; 79.61, subdivision 1; 176.011, subdivisions 3, 11a, 18, 27, and by adding a subdivision; 176.021, subdivision 3; 176.041, subdivision 1a; 176.061, subdivision 10, and by adding a subdivision; 176.081, subdivisions 1, 2, and 3; 176.101, subdivisions 1, 2, 4, 5, 6, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 3a, 4, 6, 7, 9, and 11; 176.105, subdivisions 1 and 4; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 18, 20, and 21; 176.131, subdivision 8, and by adding a subdivision; 176.132, subdivisions 1, 2, and 3; 176.135, subdivisions 1, 1a, 5, 6, and 7; 176.136, subdivisions 1, 2, and by adding subdivisions;

176.179; 176.183, subdivision 1; 176.215, by adding a subdivision; 176.221, subdivision 6a; 176.305, subdivision 1; 176.351, subdivision 2a; 176.421, subdivision 7; 176.442; 176.461; 176.645, subdivisions 1 and 2; 176.66, subdivision 11; 176.82; 176.83, subdivisions 5, 6, and by adding a subdivision; 176A.03, by adding a subdivision; 221.141, subdivision 1; 268.08, subdivision 3; 353.33, subdivision 5; and 480A.06, subdivisions 3 and 4; proposing coding for new law in Minnesota Statutes, chapters 79; and 176; repealing Minnesota Statutes 1990, sections 79.54; 79.57; 79.58, subdivision 1; 175.007; 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; 175A.10; 176.011, subdivision 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u; 176.106; 176.111, subdivision 8a; 176.135, subdivision 3; and 176.136, subdivision 5."

A roll call was requested and properly seconded.

Sviggum moved to amend the Sviggum et al amendment to H. F. No. 1422, the third engrossment, as amended, as follows:

Page 44, line 13, delete "six" and insert "eight" and delete "$3,000" and insert "$4,000"

Page 46, line 16, delete everything after "(b)"

Page 46, delete lines 17 to 28

Page 46, line 29, delete "(c)"

The motion prevailed and the amendment to the amendment was adopted.

The question recurred on the Sviggum et al amendment, as amended, and the roll was called.

Long moved that those not voting be excused from voting. The motion prevailed.

There were 65 yeas and 66 nays as follows:

Those who voted in the affirmative were:

Abrams	Bodahl	Dille	Gruenes	Hufnagle
Anderson, R. H.	Boo	Erhardt	Gutknecht	Hugoson
Bertram	Cooper	Frederick	Hartle	Johnson, V.
Bettermann	Dauner	Frerichs	Haukoos	Kelso
Bishop	Davids	Girard	Heir	Knickerbocker
Blatz	Dempsey	Goodno	Henry	Koppendrayer

Krinkie	Morrison	Ozment	Seaberg	*Tompkins*
Leppik	Nelson, S.	Pauly	Smith	Uphus
Limmer	Newinski	Pellow	Sparby	Valento
Lynch	Olsen, S.	Peterson	Stanius	Waltman
Macklin	Omann	Runbeck	Steensma	Weaver
Marsh	Onnen	Schafer	Sviggum	Welker
McPherson	Ostrom	Schreiber	Swenson	Welle

Those who voted in the negative were:

Anderson, I.	Hanson	Lieder	Orenstein	Solberg
Battaglia	Hasskamp	Long	Orfield	Thompson
Bauerly	Hausman	Lourey	Osthoff	Trimble
Beard	Jacobs	Mariani	Pelowski	Tunheim
Begich	Janezich	McEachern	Pugh	Vellenga
Brown	Jaros	McGuire	Reding	Wagenius
Carlson	Jefferson	Milbert	Rest	Wejcman
Carruthers	Johnson, A.	Munger	Rice	Wenzel
Clark	Johnson, R.	Murphy	Rukavina	Winter
Dawkins	Kahn	Nelson, K.	Sarna	Spk. Vanasek
Dorn	Kalis	O'Connor	Scheid	
Farrell	Kinkel	Ogren	Segal	
Garcia	Krueger	Olson, E.	Simoneau	
Greenfield	Lasley	Olson, K.	Skoglund	

The motion did not prevail and the amendment, as amended, was not adopted.

Frerichs; Valento; Knickerbocker; Olsen, S.; Davids; Krinkie; Abrams; Frederick; Welker; Hugoson; Johnson, V.; Limmer; Pauly; Goodno; Runbeck; Waltman; Hufnagle; Smith; Omann; Stanius; Girard; Marsh; McPherson; Schafer; Pellow; Hartle; Anderson, R. H.; Weaver; Dille; Henry; Leppik; Bettermann; Uphus; Schreiber; Gutknecht; Sviggum and Dempsey moved to amend H. F. No. 1422, the third engrossment, as amended, as follows:

Pages 29 and 30, delete sections 2 to 5

Page 30, line 22, delete "Sections 2, 3 and"

Page 30, delete lines 23 and 24

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Frerichs et al amendment and the roll was called.

Long moved that those not voting be excused from voting. The motion prevailed.

There were 62 yeas and 71 nays as follows:

Those who voted in the affirmative were:

Abrams	Erhardt	Jennings	Nelson, S.	Smith
Anderson, R. H.	Frederick	Johnson, V.	Newinski	Stanius
Bertram	Frerichs	Kelso	Olsen, S.	Sviggum
Bettermann	Girard	Knickerbocker	Olson, K.	Swenson
Bishop	Goodno	Koppendrayer	Omann	Tompkins
Blatz	Gruenes	Krinkie	Onnen	Uphus
Bodahl	Gutknecht	Leppik	Ozment	Valento
Boo	Hartle	Limmer	Pauly	Waltman
Cooper	Haukoos	Lynch	Pellow	Weaver
Dauner	Heir	Macklin	Runbeck	Welker
Davids	Henry	Marsh	Schafer	
Dempsey	Hufnagle	McPherson	Schreiber	
Dille	Hugoson	Morrison	Seaberg	

Those who voted in the negative were:

Anderson, I.	Hanson	Lourey	Pelowski	Steensma
Anderson, R.	Hausman	Mariani	Peterson	Thompson
Battaglia	Jacobs	McEachern	Pugh	Trimble
Bauerly	Janezich	McGuire	Reding	Tunheim
Beard	Jaros	Milbert	Rest	Vellenga
Begich	Jefferson	Munger	Rice	Wagenius
Brown	Johnson, A.	Murphy	Rodosovich	Wejcman
Carlson	Johnson, R.	Nelson, K.	Rukavina	Welle
Carruthers	Kahn	O'Connor	Sarna	Wenzel
Clark	Kalis	Ogren	Scheid	Winter
Dawkins	Kinkel	Olson, E.	Segal	Spk. Vanasek
Dorn	Krueger	Orenstein	Simoneau	
Farrell	Lasley	Orfield	Skoglund	
Garcia	Lieder	Osthoff	Solberg	
Greenfield	Long	Ostrom	Sparby	

The motion did not prevail and the amendment was not adopted.

Sviggum; Valento; Olsen, S.; Weaver; Frerichs; Swenson; Morrison; Goodno; Davids; Heir; Hufnagle; Omann; Waltman; Bettermann; Johnson, V.; Smith; Lynch; Uphus; Hugoson; Abrams; Haukoos; McPherson; Pauly; Welker; Henry; Hartle; Koppendrayer; Frederick; Pellow; Erhardt; Schafer; Dille; Schreiber; Girard; Stanius; Gutknecht; Leppik; Runbeck and Macklin moved to amend H. F. No. 1422, the third engrossment, as amended, as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. Minnesota Statutes 1990, section 176.155, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYER'S PHYSICIAN.] The injured employee must submit to examination by the employer's physician, if requested by the employer, and at reasonable times thereafter upon the employer's request. The examination must be scheduled at a location within 150 miles of the employee's residence unless the employer can show cause to the department or a compensation judge to order an examination at a location further from the petitioner's residence. The employee is entitled upon request to have a personal physician present at any such examination. Each party shall defray the cost of that party's physician. Any report or written statement made by the employer's physician as a result of an examination of the employee, regardless of whether the examination preceded the injury or was made subsequent to the injury, shall be made available, upon request and without charge, to the injured employee or representative of the employee. The employer shall pay reasonable travel expenses, in advance if requested, incurred by the employee in attending the examination including mileage, parking, and, if necessary, lodging and meals. The employer shall also pay the employee for any lost wages resulting from attendance at the examination. A self-insured employer or insurer who is served with a claim petition pursuant to section 176.271, subdivision 1, or 176.291, shall schedule any necessary examinations of the employee, if an examination by the employer's physician or health care provider is necessary to evaluate benefits claimed. The examination shall be completed and the report of the examination shall be served on the employee and filed with the commissioner within 120 days of service of the claim petition.

No evidence relating to the examination or report shall be received or considered by the commissioner, a compensation judge, or the court of appeals in determining any issues unless the report has been served and filed as required by this section, unless a written extension has been granted by the commissioner or compensation judge. The commissioner or a compensation judge shall extend the time for completing the adverse examination and filing the report upon good cause shown. The extension must not be for the purpose of delay and the insurer must make a good faith effort to comply with this subdivision. Good cause shall include but is not limited to:

(1) that the extension is necessary because of the limited number of physicians or health care providers available with expertise in the particular injury or disease, or that the extension is necessary due to the complexity of the medical issues, or

(2) that the extension is necessary to gather additional information which was not included on the petition as required by section 176.291.

ARTICLE 2

WORKERS' COMPENSATION SYSTEM CHANGES

Section 1. Minnesota Statutes 1990, section 176.011, subdivision 11a, is amended to read:

Subd. 11a. [FAMILY FARM.] "Family farm" means any farm operation which (1) pays or is obligated to pay less than ~~$8,000~~ $20,000 in cash wages, exclusive of machine hire, to farm laborers for services rendered during the preceding calendar year, and (2) has total liability and medical payment coverage equal to $250,000 and $5,000, respectively, under a farm liability insurance policy. For purposes of this subdivision, farm laborer does not include any spouse, parent or child, regardless of age, of a farmer employed by the farmer, or any executive officer of a family farm corporation as defined in section 500.24, subdivision 2, or any spouse, parent or child, regardless of age, of such an officer employed by that family farm corporation, or other farmers in the same community or members of their families exchanging work with the employer. Notwithstanding any law to the contrary, a farm laborer shall not be considered as an independent contractor for the purposes of this chapter; provided that a commercial baler or commercial thresher shall be considered an independent contractor.

Sec. 2. Minnesota Statutes 1990, section 176.011, subdivision 18, is amended to read:

Subd. 18. [WEEKLY WAGE.] "Weekly wage" is arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved. If the employee normally works less than five days per week or works an irregular number of days per week, the number of days normally worked shall be computed by dividing the total number of days in which the employee actually performed any of the duties of employment in the last 26 weeks by the number of weeks in which the employee actually performed such duties, provided that the weekly wage for part time employment during a period of seasonal or temporary layoff shall be computed on the number of days and fractional days normally worked in the business of the employer for the employment involved. If, at the time of the injury, the employee was regularly employed by two or more employers, the employee's days of work for all such employments shall be included in the computation of weekly wage. Occasional overtime is not to be considered in computing the weekly wage, but if overtime is regular or frequent throughout the year it shall be taken into consideration. The maximum weekly compensation payable to an employee, or to the employee's dependents in the event of death, shall not exceed ~~66 2/3~~ 80 percent of the ~~product of the daily wage times the number of days normally worked~~ employee's after-tax weekly wage, provided that the compensation payable for permanent

partial disability under section 176.101, subdivision 3, and for permanent total disability under section 176.101, subdivision 4, or death under section 176.111, shall not be computed on less than the number of hours normally worked in the employment or industry in which the injury was sustained, subject also to such maximums as are specifically otherwise provided.

Sec. 3. Minnesota Statutes 1990, section 176.011, is amended by adding a subdivision to read:

Subd. 18a. [AFTER-TAX WEEKLY WAGE.] After-tax weekly wage means the weekly wage reduced by the amounts required to be withheld by the Federal Insurance Contributions Act, United States Code, title 16, sections 3101 to 3126, but without regard to the yearly maximum, and by state and federal income tax laws using as the number of allowances the number of exemptions that the employee is entitled to under federal law for the employee and the employee's dependents.

Sec. 4. Minnesota Statutes 1990, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of compensation at the time and in the manner prescribed by this chapter without the necessity of any agreement or any order of the division. Except for medical, burial, and other nonperiodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by section ~~176.101~~ 13. If doubt exists as to the eventual permanent partial disability, payment ~~for the economic recovery compensation or impairment compensation, whichever is due, pursuant to section 176.101,~~ shall be ~~then~~ made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. Prior to or at the time of commencement of the payment of ~~economic recovery compensation or lump sum or periodic payment of impairment compensation~~ permanent partial disability compensation, the employee and employer shall be furnished with a copy of the medical report upon which the payment is based and all other medical reports which the insurer has that indicate a permanent partial disability rating, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. ~~Economic recovery compensation or impairment compensation pursuant to section 176.101 is payable in~~

~~addition to but not concurrently with compensation for temporary total disability but is payable pursuant to section 176.101. Impairment compensation is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101. Economic recovery compensation or impairment compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total disability, and no credit shall be taken for payment of economic recovery compensation or impairment compensation against liability for temporary total or future permanent total disability. Liability on the part of an employer or the insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and compensation is payable accordingly, subject to section 176.101. Economic recovery compensation or impairment compensation is payable for functional loss of use or impairment of function, permanent in nature, and payment therefore shall be separate, distinct, and in addition to payment for any other compensation, subject to section 176.101.~~ The right to receive temporary total, temporary partial, or permanent total disability payments vests in the injured employee or the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained and the right is not abrogated by the employee's death prior to the making of the payment.

The right to receive ~~economic recovery compensation or impairment~~ permanent partial compensation vests in an injured employee or in the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained, provided that the employee lives for at least 30 days beyond the date of the injury. ~~Upon the death of an employee who is receiving economic recovery compensation or impairment compensation, further compensation is payable pursuant to section 176.101. Impairment compensation is payable under this paragraph if vesting has occurred, the employee dies prior to reaching maximum medical improvement, and the requirements and conditions under section 176.101, subdivision 3e, are not met.~~

~~Disability ratings for permanent partial disability shall be based on objective medical evidence.~~ The right is not abrogated by the employee's death prior to the making of the payment.

Sec. 5. Minnesota Statutes 1990, section 176.041, subdivision 4, is amended to read:

Subd. 4. [OUT-OF-STATE EMPLOYMENTS.] (a) Except as provided in paragraph (b), if an employee who regularly performs the primary duties of employment outside of this state or is hired to perform the primary duties of employment outside of this state, receives an injury within this state in the employ of the same

employer, such injury shall be covered within the provisions of this chapter if the employee chooses to forego any workers' compensation claim resulting from the injury that the employee may have a right to pursue in some other state, provided that the special compensation fund is not liable for payment of benefits pursuant to section 176.183 if the employer is not insured against workers' compensation liability pursuant to this chapter and the employee is a nonresident of Minnesota on the date of the personal injury.

(b) An employee who has been hired outside of this state, or regularly performs the primary duties of employment outside of this state, and the employee's employer, are exempt from the provisions of this chapter while the employee is temporarily within this state performing work for the employer provided the employer has furnished workers' compensation insurance coverage under the workers' compensation law or other similar law of another state which covers the employee's employment while in this state. The benefits under the workers' compensation law or similar law of the other state, or other remedies under that state's law, are the exclusive remedy against the employer for any injury, whether resulting in death or not, received by the employee while working for that employer within this state. A certificate from the commissioner of labor and industry or other similar official of another state certifying that the employer is insured in that state and has provided extraterritorial coverage insuring its employees while working within this state is prima facie evidence that the employer carries workers' compensation insurance on those employees.

Sec. 6. Minnesota Statutes 1990, section 176.061, subdivision 10, is amended to read:

Subd. 10. [INDEMNITY.] Notwithstanding the provisions of chapter 65B or any other law to the contrary, an employer has a right of indemnity for any compensation paid or payable pursuant to this chapter, including temporary total compensation, temporary partial compensation, permanent partial disability, ~~economic recovery compensation, impairment compensation,~~ medical compensation, rehabilitation, death, and permanent total compensation.

Sec. 7. Minnesota Statutes 1990, section 176.081, subdivision 1, is amended to read:

Subdivision 1. (a) A fee for legal services of 25 percent of the first $4,000 of compensation awarded to the employee and 20 percent of the next $27,500 of compensation awarded to the employee is permissible and does not require approval by the commissioner, compensation judge, or any other party except as provided in ~~clause~~ paragraph (b). If the employer or the insurer or the defendant is given written notice of claims for legal services or disbursements, the claim shall be a lien against the amount paid or payable as compensation. In no case shall fees be calculated on the basis of any

undisputed portion of compensation awards. Allowable fees under this chapter shall be based solely upon genuinely disputed portions of claims, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan. Fees for administrative conferences under ~~section~~ sections 176.106 and 176.239 shall be determined on an hourly basis, according to the criteria in subdivision 5.

(b) An attorney who is claiming legal fees ~~under this section~~ for representing an employee in a workers' compensation matter shall file a statement of ~~attorney's~~ attorney fees with the commissioner, compensation judge before whom the matter was heard, or workers' compensation court of appeals on cases before the court. A copy of the signed retainer agreement shall also be filed. The employee and insurer shall receive a copy of the statement. The statement shall be on a form prescribed by the commissioner and shall clearly and conspicuously state that the employee or insurer has ten calendar days to object to the attorney fees requested. If no objection is timely made by the employee or insurer, the amount requested shall be conclusively presumed reasonable providing the amount does not exceed the limitation in subdivision 1. The commissioner, compensation judge, or court of appeals shall issue an order granting the fees and the amount requested shall be awarded to the party requesting the fee.

If a timely objection is filed, or the fee is determined on an hourly basis, the commissioner, compensation judge, or court of appeals shall review the matter and make a determination based on the criteria in subdivision 5.

If no timely objection is made by an employer or insurer, reimbursement under subdivision 7 shall be made if the statement of fees requested this reimbursement.

(c) An attorney representing employers or insurers shall file a statement of attorney fees or wages with the commissioner, compensation judge before whom the matter was heard, or workers' compensation court of appeals on cases before the court. The statement of attorney fees or wages must contain the following information: the average hourly wage or the value of hours worked on that case if the attorney is an employee of the employer or insurer, the number of hours worked on that case, and the average hourly rate or amount charged an employer or insurer for that case if the attorney is not an employee of the employer or insurer.

(d) Employers and insurers may not pay attorney fees or wages for legal services of more than $6,500 per case unless the additional fees or wages are approved under subdivision 2.

Sec. 8. Minnesota Statutes 1990, section 176.081, subdivision 2, is amended to read:

Subd. 2. An application for attorney fees in excess of the amount authorized in subdivision 1 shall be made to the commissioner, compensation judge, or district judge, before whom the matter was heard. An appeal of a decision by the commissioner, a compensation judge, or district court judge on additional fees may be made to the workers' compensation court of appeals. The application shall set forth the fee requested ~~and~~, the number of hours spent on the case, the basis for the request, and whether or not a hearing is requested. The application, with affidavit of service upon the ~~employee~~ attorney's client, shall be filed by the attorney requesting the fee. If a hearing is requested by an interested party, a hearing shall be set with notice of the hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.

Sec. 9. Minnesota Statutes 1990, section 176.081, subdivision 3, is amended to read:

Subd. 3. ~~An employee who~~ A party that is dissatisfied with its attorney fees, may file an application for review by the workers' compensation court of appeals. Such application shall state the basis for the need of review and whether or not a hearing is requested. A copy of such application shall be served upon the party's attorney ~~for the employee~~ by the court administrator and if a hearing is requested by either party, the matter shall be set for hearing. The notice of hearing shall be served upon known interested parties. ~~The attorney for the employee shall be served with a notice of the hearing.~~ The workers' compensation court of appeals shall have the authority to raise ~~the question of~~ the issue of the attorney fees at any time upon its own motion and shall have continuing jurisdiction over attorney fees.

Sec. 10. Minnesota Statutes 1990, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] (a) For an injury producing temporary total disability, the compensation is ~~66 2/3~~ 80 percent of the after-tax weekly wage at the time of injury.

~~(1) provided that during the year commencing on October 1, 1979, and each year thereafter, commencing on October 1,~~ (b) The maximum weekly compensation payable is 105 percent of the statewide average weekly wage for the period ending December 31, of the preceding year.

~~(2)~~ (c) The minimum weekly compensation benefits for temporary total disability shall be not less than ~~50~~ 20 percent of the statewide average weekly wage or the injured employee's ~~actual~~ after-tax weekly wage, whichever is less. ~~In no case shall a weekly benefit be less than 20 percent of the statewide average weekly wage.~~

~~Subject to subdivisions 3a to 3u~~ (d) This compensation shall be

paid during the period of disability, payment to be made at the intervals when the wage was payable, as nearly as may be., and shall cease whenever any one of the following occurs:

(1) the disability ends;

(2) the employee returns to work;

(3) the employee retires by withdrawing from the labor market;

(4) the employee refuses an offer of work that is consistent with a plan of rehabilitation filed with the commissioner, which meets the requirements of section 176.102, subdivision 1, or, if no plan has been filed, that the employee can do in the employee's physical condition; or

(5) 90 days have passed after the employee has reached maximum medical improvement, except as provided in section 176.102, subdivision 11, paragraph (b).

(e) For purposes of paragraph (d), clause (5), the 90-day period after maximum medical improvement commences on the earlier of:

(1) the date that the employee receives a written medical report indicating that the employee has reached maximum medical improvement; or

(2) the date that the employer or insurer serves the report on the employee and the employee's legal representative and files a copy with the division.

(f) Once compensation has ceased under paragraph (d), clauses (1), (2), and (3), it may be recommenced at a later date if: the employee returns to work, the employee is laid off due to economic conditions or is medically unable to continue at the job, and the layoff or inability to continue occurs prior to 90 days after the employee reaches maximum medical improvement. Compensation recommenced under this paragraph is subject to cessation under paragraph (d). Recommenced compensation may not be paid beyond 90 days after the employee reaches maximum medical improvement, except as provided under section 176.102, subdivision 11, paragraph (b).

(g) Once compensation has ceased under paragraph (d), clauses (4) and (5), it may not be recommenced at a later date except as provided under section 176.102, subdivision 11, paragraph (b).

Sec. 11. Minnesota Statutes 1990, section 176.101, is amended by adding a subdivision to read:

Subd. 1a. [EXTENDED DISABILITY COMPENSATION.] (a) If an employee, who has a permanent partial disability, is not working because of the personal injury after payment of permanent partial disability benefits is complete, the employee shall be eligible for extended disability compensation. If an employee received any permanent partial compensation in a lump sum, payment will be considered complete after expiration of the period that the employee would have received permanent partial compensation had it been paid periodically.

(b) Extended disability compensation is paid at the rate for temporary total compensation, escalated under section 176.645, for the number of weeks equal to 246 multiplied by the employee's percentage rating of permanent partial disability, determined according to the rules adopted by the commissioner pursuant to section 176.105, subdivision 4. The total extended compensation for any injury may not exceed this product.

(c) Extended disability compensation shall cease if the employee is no longer disabled, returns to work, refuses a job offer described in subdivision 1, paragraph (d), clause (4), or retires from the labor market.

(d) An employee is not eligible for extended disability compensation if, at any time before the employee would have become eligible:

(1) the employee refuses a job offer, as described in subdivision 1, paragraph (d), clause (4); or

(2) the employee returns to work and terminates employment, unless the employee was medically unable to continue work or was terminated without just cause.

(e) An employee is eligible for extended compensation at any time after payment of permanent partial benefits is complete so long as the employee meets the qualifications of this section and has not been paid the maximum number of weeks under paragraph (b) for that injury; provided that, extended compensation may not be paid beyond 350 weeks after the date of injury.

Sec. 12. Minnesota Statutes 1990, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] (a) In all cases of temporary partial disability the compensation shall be ~~66 2/3 percent of the difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition.~~ paid as follows:

(1) for the first 26 weeks that the employee returns to work, the

compensation shall be 80 percent of the difference between the after-tax weekly wage of the employee at the time of injury and the after-tax weekly wage the employee is earning in the employee's partially disabled condition;

(2) for the second 26 weeks that the employee returns to work, the compensation shall be 60 percent of the difference between the after-tax weekly wage of the employee at the time of injury and the after-tax weekly wage the employee is earning in the employee's partially disabled condition; and

(3) for the third 26 weeks that the employee returns to work, the compensation shall be 40 percent of the difference between the after-tax weekly wage of the employee at the time of injury and the after-tax weekly wage the employee is earning in the employee's partially disabled condition.

(b) This compensation shall be paid during the period of disability except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation equal to 105 percent of the statewide average weekly wage.

(c) Temporary partial compensation may be paid only while the employee is working and earning less than the employee's weekly wage at the time of the injury. Except as provided in section 176.102, subdivision 11, paragraph (b), temporary partial compensation may not be paid after the employee has returned to work for 78 weeks or after 350 weeks after the date of injury, whichever occurs first.

Sec. 13. Minnesota Statutes 1990, section 176.101, is amended by adding a subdivision to read:

Subd. 3. [PERMANENT PARTIAL DISABILITY.] (a) Compensation for permanent partial disability is as provided in this subdivision. For permanent partial disability up to the percent of the whole body shown in the following schedule, the amount of compensation is equal to the proportion that the loss of function of the disabled part bears to the whole body multiplied by the amount aligned with that percent in the following schedule:

Percent of Disability	Amount
0-25	$ 75,000
26-30	80,000
31-35	85,000
36-40	90,000
41-45	95,000
46-50	100,000
51-55	120,000
56-60	140,000

61-65	160,000
66-70	180,000
71-75	200,000
76-80	240,000
81-85	280,000
86-90	320,000
91-95	360,000
96-100	400,000

An employee may not receive compensation for more than a 100 percent disability of the whole body, even if the employee sustains disability to two or more body parts.

(b) Permanent partial disability is payable upon cessation of temporary total disability under subdivision 1. If the employee is not working, the compensation is payable in installments at the same intervals and in the same amount as the initial temporary total disability rate. If the employee returns to work, the remaining compensation is payable in a lump sum 30 days after the employee returned to work provided the employment has not been substantially interrupted by the injury for any part of the 30 days and the employee is still employed at the job at the end of the period.

Sec. 14. Minnesota Statutes 1990, section 176.101, subdivision 4, is amended to read:

Subd. 4. [PERMANENT TOTAL DISABILITY.] For permanent total disability, as defined in subdivision 5, the compensation shall be ~~66 2/3~~ 80 percent of the ~~daily~~ after-tax weekly wage at the time of the injury, subject to a maximum weekly compensation equal to the maximum weekly compensation for a temporary total disability and a minimum weekly compensation equal to the minimum weekly compensation for a temporary total disability. This compensation shall be paid during the permanent total disability of the injured employee but after a total of $25,000 of weekly compensation has been paid, the amount of the weekly compensation benefits being paid by the employer shall be reduced by the amount of any disability benefits being paid by any government disability benefit program if the disability benefits are occasioned by the same injury or injuries which give rise to payments under this subdivision. This reduction shall also apply to any old age and survivor insurance benefits. Payments shall be made at the intervals when the wage was payable, as nearly as may be. In case an employee who is permanently and totally disabled becomes an inmate of a public institution, no compensation shall be payable during the period of confinement in the institution, unless there is wholly dependent on the employee for support some person named in section 176.111, subdivision 1, 2 or 3, in which case the compensation provided for in section 176.111, during the period of confinement, shall be paid for the benefit of the dependent person during dependency. The depen-

dency of this person shall be determined as though the employee were deceased.

Sec. 15. Minnesota Statutes 1990, section 176.101, subdivision 5, is amended to read:

Subd. 5. [~~TOTAL DISABILITY~~ DEFINITION.] (a) For purposes of subdivision 4, permanent total disability means only:

(1) the total and permanent loss of the sight of both eyes, the loss of both arms at the shoulder, the loss of both legs so close to the hips that no effective artificial members can be used, complete and permanent paralysis, total and permanent loss of mental faculties~~,~~; or

(2) any other injury which totally and permanently incapacitates the employee from working at an occupation which brings the employee an income ~~constitutes total disability~~.

(b) For purposes of paragraph (a), clause (2), totally and permanently incapacitated means that the employee's physical disability, in combination with the employee's age, education and training, and experience, causes the employee to be unable to secure anything more than sporadic employment resulting in an insubstantial income. Local labor market conditions may not be considered in making the total and permanent incapacitation determination.

Sec. 16. Minnesota Statutes 1990, section 176.102, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] (a) This section only applies to vocational rehabilitation of injured employees and their spouses as provided under subdivision 1a. Physical rehabilitation of injured employees is considered treatment subject to section 176.135.

(b) Rehabilitation is intended to restore the injured employee~~, through physical and vocational rehabilitation,~~ so the employee may return to a job related to the employee's former employment or to a job in another work area which produces an economic status as close as possible to that the employee would have enjoyed without disability. Rehabilitation to a job with a higher economic status than would have occurred without disability is permitted if it can be demonstrated that this rehabilitation is necessary to increase the likelihood of reemployment. Economic status is to be measured not only by opportunity for immediate income but also by opportunity for future income.

Sec. 17. Minnesota Statutes 1990, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner shall hire a director of rehabilitation services in the classified service. The commissioner shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services and shall by rule, subject to chapter 14, establish a fee schedule or otherwise limit fees charged by qualified rehabilitation consultants and vendors. The commissioner may hire qualified personnel to assist in the commissioner's duties under this section and may delegate the duties and performance.

Sec. 18. Minnesota Statutes 1990, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review panel composed of the commissioner or a designee, who shall serve as an ex officio member and ~~two members~~ one member each ~~from~~ representing employers, insurers, ~~rehabilitation,~~ and medicine, ~~one member representing chiropractors, and four~~ two members each representing labor and rehabilitation vendors, and six members who are qualified rehabilitation consultants. The members shall be appointed by the commissioner and shall serve four-year terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chair. The panel shall review and make a determination with respect to appeals from orders of the commissioner regarding certification approval of qualified rehabilitation consultants and vendors. The hearings are de novo and initiated by the panel under the contested case procedures of chapter 14, and are appealable to the workers' compensation court of appeals in the manner provided by section 176.421.

Sec. 19. Minnesota Statutes 1990, section 176.102, subdivision 3a, is amended to read:

Subd. 3a. [DISCIPLINARY ACTIONS.] The panel has authority to discipline qualified rehabilitation consultants and vendors and may impose a penalty of up to $1,000 per violation, and may suspend or revoke certification. Complaints against registered qualified rehabilitation consultants and vendors shall be made to the commissioner who shall investigate all complaints. If the investigation indicates a violation of this chapter or rules adopted under this chapter, the commissioner may initiate a contested case proceeding under the provisions of chapter 14. In these cases, the rehabilitation review panel shall make the final decision following receipt of the report of an administrative law judge. The decision of the panel is appealable to the workers' compensation court of appeals in the manner provided by section 176.421. The panel shall continuously

study rehabilitation services and delivery, develop and recommend rehabilitation rules to the commissioner, and assist the commissioner in accomplishing public education.

The commissioner may appoint alternates for one-year terms to serve as a member when a member is unavailable. The number of alternates shall not exceed one labor member, one employer or insurer member, ~~and~~ one member representing medicine~~, chiropractic~~, or rehabilitation vendors, and one member representing qualified rehabilitation consultants.

Sec. 20. Minnesota Statutes 1990, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] (a) ~~An employer or insurer shall provide rehabilitation consultation by a qualified rehabilitation consultant or by another person permitted by rule to provide consultation to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation shall be made within five days after the employee has 30 days of lost work time due to the injury. The lost work time in either case may be intermittent lost work time. If an employer or insurer has medical information at any time prior to the time specified in this subdivision that the employee will be unable to return to the job the employee held at the time of the injury rehabilitation consultation shall be provided immediately after receipt of this information.~~

~~For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time.~~ A rehabilitation consultation must be provided by the employer to an injured employee upon request of the employee, the employer, or the commissioner. If a rehabilitation consultation is requested, the employer shall provide a qualified rehabilitation consultant; except that, if the injured employee objects to the employer's selection, the employee may select a qualified rehabilitation consultant of the employee's own choosing within 30 days following the first in-person contact between the employee and the original qualified rehabilitation consultant. If the consultation indicates that rehabilitation services are appropriate under subdivision 1, the employer shall provide such services. If the consultation indicates that rehabilitation services are not appropriate under subdivision 1, the employer shall notify the employee of this determination within seven days after the consultation.

(b) In order to assist the commissioner in determining whether or

not to request rehabilitation consultation for an injured employee, an employer must notify the commissioner when the employee's temporary total disability will likely exceed 13 weeks. The notification must be made within 90 days from the date of the injury or when the likelihood of at least a 13-week disability can be determined, whichever is earlier, and must include a current physician's report.

(c) The qualified rehabilitation consultant ~~appointed by the employer or insurer~~ shall disclose in writing at the first meeting or written communication with the employee any ownership interest or affiliation between the firm which employs the qualified rehabilitation consultant and the employer, insurer, adjusting or servicing company, including the nature and extent of the affiliation or interest.

The consultant shall also disclose to all parties any affiliation, business referral or other arrangement between the consultant or the firm employing the consultant and any other party to the case, ~~including~~ or to any attorneys, doctors, or chiropractors.

~~If the employee objects to the employer's selection of a qualified rehabilitation consultant, the employee shall notify the employer and the commissioner in writing of the objection. The notification shall include the name, address, and telephone number of the qualified rehabilitation consultant chosen by the employee to provide rehabilitation consultation.~~

(d) After the initial provision or selection of a qualified rehabilitation consultant as provided under paragraph (a), the employee may ~~choose~~ request a different qualified rehabilitation consultant ~~as follows:~~

~~(1) once during the first 60 days following the first in-person contact between the employee and the original consultant;~~

~~(2) once after the 60-day period referred to in clause (1); and~~

~~(3) subsequent requests~~ which shall be ~~determined~~ granted or denied by the commissioner or compensation judge according to the best interests of the parties.

(e) The employee and employer shall ~~enter into a program if one is prescribed in~~ develop a rehabilitation plan within 30 days of the rehabilitation consultation if the qualified rehabilitation consultant determines that rehabilitation is appropriate. A copy of the plan, including a target date for return to work, shall be submitted to the commissioner within 15 days after the plan has been developed.

~~(b)~~ (f) If the employer does not provide rehabilitation consultation,

or the employee does not select a qualified rehabilitation consultant, as ~~required by this section~~ provided under paragraph (a), the commissioner or compensation judge shall notify the employer that if the employer fails to ~~appoint~~ provide, or the employee fails to select, whichever is applicable, a qualified rehabilitation consultant ~~or other persons as permitted by clause (a)~~ within 15 days to conduct a rehabilitation consultation, the commissioner or compensation judge shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner or compensation judge determines the consultation is not required.

~~(e)~~ (g) In developing a rehabilitation plan consideration shall be given to the employee's qualifications, including but not limited to age, education, previous work history, interest, transferable skills, and present and future labor market conditions.

~~(d)~~ (h) The commissioner or compensation judge may waive rehabilitation services under this section if the commissioner or compensation judge is satisfied that the employee will return to work in the near future or that rehabilitation services will not be useful in returning an employee to work.

Sec. 21. Minnesota Statutes 1990, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner or a compensation judge shall determine eligibility for rehabilitation services and shall review, approve, modify, or reject rehabilitation plans developed under subdivision 4. The commissioner or a compensation judge shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivisions 9 and 11 to which an employee is entitled. A plan that is not completed within six months or that will cost more than $3,000 must be specifically approved by the commissioner. This approval may not be waived by the parties.

Sec. 22. Minnesota Statutes 1990, section 176.102, subdivision 7, is amended to read:

Subd. 7. [PLAN IMPLEMENTATION; REPORTS.] (a) Upon request by the commissioner, insurer, employer or employee, medical and rehabilitation reports shall be made by the provider of the medical and rehabilitation service to the commissioner, insurer, employer, or employee.

(b) If a rehabilitation plan has not already been filed under subdivision 4, an employer shall report to the commissioner after 90 days from the date of the injury, but before 120 days therefrom, as

to what rehabilitation consultation and services, if any, have been provided to the injured employee or why rehabilitation consultation and services have not been provided.

Sec. 23. Minnesota Statutes 1990, section 176.102, subdivision 11, is amended to read:

Subd. 11. [RETRAINING; COMPENSATION.] (a) Retraining is limited to 156 weeks. An employee who has been approved for retraining may petition ~~the commissioner~~ for additional compensation not to exceed 25 percent of the compensation otherwise payable. If the commissioner or compensation judge determines that this additional compensation is warranted due to unusual or unique circumstances of the employee's retraining plan, the commissioner or compensation judge may award additional compensation in an amount ~~the commissioner determines is appropriate,~~ not to exceed the employee's request. This additional compensation shall cease at any time the commissioner or compensation judge determines the special circumstances are no longer present.

(b) Pursuant to section 176.101, subdivisions 1 and 2, temporary total disability or temporary partial disability shall be paid during a retraining plan that has been specifically approved under this section and for up to 90 days after the end of the plan; except that, payment during the 90-day period is subject to cessation in accordance with section 176.101, subdivision 1, paragraph (d), clauses (1) to (4). Compensation paid under this paragraph must cease if the employee terminates participation in the approved retraining plan without good cause.

Sec. 24. Minnesota Statutes 1990, section 176.105, subdivision 1, is amended to read:

Subdivision 1. (a) The commissioner of labor and industry shall by rule establish a schedule of degrees of disability resulting from different kinds of injuries. The commissioner, in consultation with the medical services review board, shall annually review these rules to determine whether any injuries omitted from the schedule should be compensable and, if so, amend the rules accordingly.

(b) Disability ratings for permanent partial disability must be based on objective medical evidence.

Sec. 25. Minnesota Statutes 1990, section 176.111, subdivision 6, is amended to read:

Subd. 6. [SPOUSE, NO DEPENDENT CHILD.] If the deceased employee leaves a dependent surviving spouse and no dependent child, there shall be paid to the spouse weekly workers' compensation benefits at ~~50~~ 80 percent of the after-tax weekly wage at the

time of the injury for a period of ten years, including adjustments as provided in section 176.645.

Sec. 26. Minnesota Statutes 1990, section 176.111, subdivision 7, is amended to read:

Subd. 7. [SPOUSE, ONE DEPENDENT CHILD.] If the deceased employee leaves a surviving spouse and one dependent child, there shall be paid to the surviving spouse for the benefit of the spouse and child ~~60~~ 80 percent of the ~~daily~~ after-tax weekly wage at the time of the injury of the deceased until the child is no longer a dependent as defined in subdivision 1. ~~At that time there shall be paid to the dependent surviving spouse weekly benefits at a rate which is 16-2/3 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent, for a period of ten years, including adjustments as provided in section 176.645.~~

Sec. 27. Minnesota Statutes 1990, section 176.111, subdivision 8, is amended to read:

Subd. 8. [SPOUSE, TWO DEPENDENT CHILDREN.] If the deceased employee leaves a surviving spouse and two dependent children, there shall be paid to the surviving spouse for the benefit of the spouse and children ~~66-2/3~~ 80 percent of the ~~daily~~ after-tax weekly wage at the time of the injury of the deceased until the last dependent child is no longer dependent. ~~At that time the dependent surviving spouse shall be paid weekly benefits at a rate which is 25 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent, for a period of ten years, adjusted according to section 176.645.~~

Sec. 28. Minnesota Statutes 1990, section 176.111, subdivision 12, is amended to read:

Subd. 12. [ORPHANS.] If the deceased employee leaves a dependent orphan, there shall be paid ~~55~~ 80 percent of the after-tax weekly wage at the time of the injury of the deceased, for two or more orphans there shall be paid ~~66-2/3~~ 80 percent of the ~~wages~~ after-tax weekly wage.

Sec. 29. Minnesota Statutes 1990, section 176.111, subdivision 14, is amended to read:

Subd. 14. [PARENTS.] If the deceased employee leave no surviving spouse or child entitled to any payment under this chapter, but leaves both parents wholly dependent on deceased, there shall be paid to such parents jointly ~~45~~ 80 percent of the after-tax weekly wage at the time of the injury of the deceased. In case of the death

of either of the wholly dependent parents the survivor shall receive ~~35~~ 80 percent of the after-tax weekly wage thereafter. If the deceased employee leave one parent wholly dependent on the deceased, there shall be paid to such parent ~~35~~ 80 percent of the after-tax weekly wage at the time of the injury of the deceased employee. The compensation payments under this section shall not exceed the actual contributions made by the deceased employee to the support of the employee's parents for a reasonable time immediately prior to the injury which caused the death of the deceased employee.

Sec. 30. Minnesota Statutes 1990, section 176.111, subdivision 15, is amended to read:

Subd. 15. [REMOTE DEPENDENTS.] If the deceased employee leaves no surviving spouse or child or parent entitled to any payment under this chapter, but leaves a grandparent, grandchild, brother, sister, mother-in-law, or father-in-law wholly dependent on the employee for support, there shall be paid to such dependent, if but one, ~~30~~ 40 percent of the after-tax weekly wage at the time of injury of the deceased, or if more than one, ~~35~~ 45 percent of the after-tax weekly wage at the time of the injury of the deceased, divided among them share and share alike.

Sec. 31. Minnesota Statutes 1990, section 176.111, subdivision 20, is amended to read:

Subd. 20. [ACTUAL DEPENDENTS, COMPENSATION.] Actual dependents are entitled to take compensation in the order named in subdivision 3 during dependency until ~~66 2/3~~ 80 percent of the after-tax weekly wage of the deceased at the time of injury is exhausted. The total weekly compensation to be paid to full actual dependents of a deceased employee shall not exceed in the aggregate an amount equal to the maximum weekly compensation for a temporary total disability.

Sec. 32. Minnesota Statutes 1990, section 176.111, subdivision 21, is amended to read:

Subd. 21. [DEATH, BENEFITS; COORDINATION WITH GOVERNMENTAL SURVIVOR BENEFITS.] The following provision shall apply to any dependent entitled to receive weekly compensation benefits under this section as the result of the death of an employee, and who is also receiving or entitled to receive benefits under any government survivor program:

The combined total of weekly government survivor benefits and workers' compensation death benefits provided under this section shall not exceed 100 percent of the after-tax weekly wage being earned by the deceased employee at the time of the injury causing death; provided, however, that no state workers' compensation death benefit shall be paid for any week in which the survivor benefits paid

under the federal program, by themselves, exceed 100 percent of such weekly wage provided, however, the workers' compensation benefits payable to a dependent surviving spouse shall not be reduced on account of any governmental survivor benefits payable to decedent's children if the support of the children is not the responsibility of the dependent surviving spouse.

For the purposes of this subdivision "dependent" means dependent surviving spouse together with all dependent children and any other dependents. For the purposes of this subdivision, mother's or father's insurance benefits received pursuant to United States Code, title 42, section 402(g), are benefits under a government survivor program.

Sec. 33. Minnesota Statutes 1990, section 176.131, subdivision 1, is amended to read:

Subdivision 1. If an employee incurs personal injury and suffers disability from that injury alone that is substantially greater, because of a preexisting physical impairment, than what would have resulted from the personal injury alone, the employer or insurer shall pay all compensation provided by this chapter, but the employer shall be reimbursed from the special compensation fund for ~~all~~ compensation paid in excess of 52 weeks of monetary benefits and ~~$2,000~~ $3,500 in medical expenses, subject to the exceptions in paragraphs (a) and (b):

(a) If the disability caused by the subsequent injury is made substantially greater by the employee's registered preexisting physical impairment, there shall be apportionment of liability among all injuries. The special compensation fund shall only reimburse for that portion of the compensation, medical expenses, and rehabilitation expenses attributed to the subsequent injury after the applicable deductible has been met.

(b) If the subsequent personal injury alone results in permanent partial disability to a scheduled member under the schedule adopted by the commissioner pursuant to section 176.105, the special compensation fund shall not reimburse permanent partial disability, medical expenses, or rehabilitation expenses.

(c) Reimbursement for compensation paid shall be at the rate of 75 percent.

Sec. 34. Minnesota Statutes 1990, section 176.131, subdivision 1a, is amended to read:

Subd. 1a. If an employee is employed in an on-the-job training program pursuant to an approved rehabilitation plan under section 176.102 and the employee incurs a personal injury that aggravates the personal injury for which the employee has been certified to

enter the on-the-job training program, the on-the-job training employer shall pay the medical expenses and compensation required by this chapter, and shall be reimbursed from the special compensation fund for the compensation and medical expense that is attributable to the aggravated injury; except that, reimbursement for compensation paid shall be at the rate of 75 percent. The employer, at the time of the personal injury for which the employee has been approved for on-the-job training, is liable for the portion of the disability that is attributable to that injury.

Sec. 35. Minnesota Statutes 1990, section 176.131, subdivision 2, is amended to read:

Subd. 2. If the employee's personal injury results in disability or death, and if the injury, death, or disability would not have occurred except for the preexisting physical impairment registered with the special compensation fund, the employer shall pay all compensation provided by this chapter, and shall be ~~fully~~ reimbursed from the special compensation fund for the compensation, except that:

(1) this ~~full~~ reimbursement shall not be made for cardiac disease or a condition registered pursuant to subdivision 8, clause (u) or (v), unless the commissioner by rule provides otherwise; and

(2) reimbursement for compensation paid shall be at the rate of 75 percent.

Sec. 36. Minnesota Statutes 1990, section 176.131, subdivision 8, is amended to read:

Subd. 8. As used in this section, the following terms have the meanings given them:

"Physical impairment" means any physical or mental condition that is permanent in nature, whether congenital or due to injury, disease or surgery and which is or is likely to be a hindrance or obstacle to obtaining employment, except that physical impairment is limited to the following:

(a) epilepsy,

(b) diabetes,

(c) hemophilia,

(d) cardiac disease, provided that objective medical evidence substantiates at least the minimum permanent partial disability listed in the workers' compensation permanent partial disability schedule,

(e) partial or entire absence of thumb, finger, hand, foot, arm, or leg,

(f) lack of sight in one or both eyes or vision in either eye not correctable to 20/40,

(g) residual disability from poliomyelitis,

(h) cerebral palsy,

(i) multiple sclerosis,

(j) Parkinson's disease,

(k) cerebral vascular accident,

(l) chronic osteomyelitis,

(m) muscular dystrophy,

(n) thrombophlebitis,

(o) brain tumors,

(p) Pott's disease,

(q) seizures,

(r) cancer of the bone,

(s) leukemia,

(t) mental retardation or other related conditions,

(u) any other physical impairment resulting in a disability rating of at least ~~ten~~ 25 percent of the whole body if the physical impairment were evaluated according to standards used in workers' compensation proceedings, and

(v) any other physical impairments of a permanent nature which the commissioner may by rule prescribe.

"Compensation" has the meaning defined in section 176.011.

"Employer" includes insurer.

"Disability" means, unless otherwise indicated, any condition causing either temporary total, temporary partial, permanent total, permanent partial, death, medical expense, or rehabilitation.

"Mental retardation" means significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior that require supervision and protection for the person's welfare or the public welfare.

"Other related conditions" means severe chronic disabilities that are (i) attributable to cerebral palsy, epilepsy, autism, or any other condition, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment or services similar to those required for persons with mental retardation; (ii) likely to continue indefinitely; and (iii) result in substantial functional limitations in three or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, or capacity for independent living.

Sec. 37. Minnesota Statutes 1990, section 176.131, is amended by adding a subdivision to read:

Subd. 13. [APPLICABLE LAW.] The right to reimbursement under this section is governed by the law in effect on the date of the subsequent injury.

Sec. 38. Minnesota Statutes 1990, section 176.132, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE RECIPIENTS.] (a) ~~An employee who has suffered personal injury prior to October 1, 1983 for which benefits are payable under section 176.101 and who has been totally disabled for more than 104 weeks shall be eligible for supplementary benefits as prescribed in this section after 104 weeks have elapsed and for the remainder of the total disablement. Regardless of the number of weeks of total disability, no totally disabled person is ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, except as provided by clause (b), provided that all periods of disability are caused by the same injury.~~

~~(b)~~ An employee who has suffered personal injury after October 1, 1983, and before August 1, 1991, is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of total disability, no person who is receiving temporary total compensation shall be ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

(b) An employee who has suffered personal injury after August 1, 1991, that caused a permanent total disability, as defined in section

176.101, subdivision 5, is eligible to receive supplementary benefits after four years have elapsed since the first date of the total disability, provided that the employee continues to have a permanent total disability.

Sec. 39. Minnesota Statutes 1990, section 176.132, subdivision 2, is amended to read:

Subd. 2. [AMOUNT.] (a) The supplementary benefit payable under this section ~~shall be the difference between~~ is:

(1) the sum of the amount the employee receives ~~on or after January 1, 1976,~~ under section 176.101, subdivision ~~1 or~~ 4, ~~and 65~~ plus the amount of any disability benefits being paid by any government disability benefit program if those benefits are occasioned by the same injury or injuries giving rise to payments under section 176.101, subdivision 4, plus any old age and survivor's insurance benefits, subtracted from

(2) 50 percent of the statewide average weekly wage, as computed annually.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or ~~65~~ 50 percent of the statewide average weekly wage as computed annually, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section. Attorney's fees shall be allowed in settlements of claims for supplementary benefits in accordance with this chapter.

(d) ~~In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and 65 percent of the statewide average weekly wage as computed annually.~~

~~(e)~~ In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent. If the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provisions of United States Code, title 42, section 424a(d), this reduction shall not apply.

~~(f)~~ (e) Notwithstanding any other provision in this subdivision to the contrary, if the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provision of United States Code, title 42, section 424a(d), the calculation of supplementary benefits payable to the individual shall be as provided under this section in Minnesota Statutes ~~1988~~ 1990.

Sec. 40. Minnesota Statutes 1990, section 176.132, subdivision 3, is amended to read:

Subd. 3. [PAYMENT.] The payment of supplementary benefits shall be the responsibility of the employer or insurer ~~currently paying total disability benefits, or any other payer of such benefits. When the eligible individual is not currently receiving benefits because the total paid has reached the maximum prescribed by law the employer and insurer shall, nevertheless, pay the supplementary benefits that are prescribed by law~~. The employer or insurer paying the supplementary benefit shall have the right of full reimbursement from the special compensation fund for the amount of such benefits paid.

Sec. 41. Minnesota Statutes 1990, section 176.136, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE.] (a) The commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups. The procedures established by the commissioner ~~shall~~ must limit the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135, based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing.

(b) The medical fee rules for providers other than hospitals, which are promulgated on October 1, 1990, and based upon 1989 medical cost data, must remain in effect until September 30, 1992; and the medical fee rules for providers other than hospitals, which are

promulgated on October 1, 1992, must be based on the 1990 medical cost data and must remain in effect until September 30, 1993.

(c) The procedures established by the commissioner for determining whether or not the charge for a health service is excessive ~~shall~~ must be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures ~~shall~~ must incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees.

Sec. 42. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1a. [CHARGES FOR INDEPENDENT MEDICAL EXAMINATIONS.] The commissioner shall adopt rules that reasonably limit amounts which may be charged for, or in connection with, independent or adverse medical examinations requested by any party, including the amount that may be charged for depositions, witness fees, or other expenses. The scheduled amount for the examination itself may not exceed the scheduled amount for complex consultations by treating physicians, although additional reasonable charges may be permitted to reflect additional duties or activities. An insurer or employer may not pay fees above the amount in the schedule.

Sec. 43. Minnesota Statutes 1990, section 176.221, subdivision 1, is amended to read:

Subdivision 1. [COMMENCEMENT OF PAYMENT.] Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of temporary total compensation shall commence. Within 14 days of notice to or knowledge by an employer of a new period of temporary total disability which is caused by an old injury compensable under this chapter, the payment of temporary total compensation shall commence; provided that the employer or insurer may file for an extension with the commissioner within this 14-day period, in which case the compensation need not commence within the 14-day period but shall commence no later than 30 days from the date of the notice to or knowledge by the employer of the new period of disability. Commencement of payment by an employer or insurer does not waive any rights to any defense the employer has on any claim or incident either with respect to the compensability of the claim under this chapter or the amount of the compensation due. Where there are multiple employers, the first employer shall pay, unless it is shown that the injury has arisen out of employment with the second or subsequent employer. Liability for compensation under this chapter may be denied by the employer or insurer by giving the

employee written notice of the denial of liability. If liability is denied for an injury which is required to be reported to the commissioner under section 176.231, subdivision 1, the denial of liability must be filed with the commissioner within 14 days after notice to or knowledge by the employer of an injury which is alleged to be compensable under this chapter. If the employer or insurer has commenced payment of compensation under this subdivision but determines within ~~30~~ 60 days of notice to or knowledge by the employer of the injury that the disability is not a result of a personal injury, payment of compensation may be terminated upon the filing of a notice of denial of liability within ~~30~~ 60 days of notice or knowledge. After the ~~30-day~~ 60-day period, payment may be terminated only by the filing of a notice as provided under section 176.239. Upon the termination, payments made may be recovered by the employer if the commissioner or compensation judge finds that the employee's claim of work related disability was not made in good faith. A notice of denial of liability must state in detail specific reasons explaining why the claimed injury or occupational disease was determined not to be within the scope and course of employment and shall include the name and telephone number of the person making this determination.

Sec. 44. Minnesota Statutes 1990, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under ~~section~~ sections 176.101, subdivisions 1, 2 and ~~4,~~ 4; and ~~section~~ 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, of the year previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on October 1, 1977 or thereafter under this section shall exceed ~~six~~ four percent a year. In those instances where the adjustment under the formula of this section would exceed this maximum the increase shall be deemed to be ~~six~~ four percent.

Sec. 45. Minnesota Statutes 1990, section 176.645, subdivision 2, is amended to read:

Subd. 2. [TIME OF FIRST ADJUSTMENT.] For injuries occurring on or after October 1, 1981, the initial adjustment made pursuant to

subdivision 1 ~~shall be~~ is deferred until the first anniversary of the date of the injury. For injuries occurring on or after August 1, 1991, the initial adjustment under subdivision 1 is deferred until the third anniversary of the date of injury.

Sec. 46. Minnesota Statutes 1990, section 176.66, subdivision 11, is amended to read:

Subd. 11. [AMOUNT OF COMPENSATION.] The compensation for an occupational disease is ~~66 2/3~~ 80 percent of the employee's after-tax weekly wage on the date of injury subject to a maximum compensation equal to the maximum compensation in effect on the date of last exposure. The employee shall be eligible for supplementary benefits notwithstanding the provisions of section 176.132, after four years have elapsed since the date of last significant exposure to the hazard of the occupational disease if that employee's weekly compensation rate is less than the current supplementary benefit rate.

Sec. 47. [176.90] [AFTER-TAX CALCULATION.]

For purposes of sections 176.011, subdivision 18; 176.101, subdivisions 1, 2, 3, and 4; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 20, and 21; and 176.66, the commissioner shall publish by September 1 of each year tables or formulas for determining the after-tax weekly wage to take effect the following October 1. The tables or formulas must be based on the applicable federal income tax and social security laws and state income tax laws in effect on the preceding April 1. These tables or formulas are conclusive for the purposes of converting weekly wage into after-tax weekly wage. The commissioner may contract with the department of revenue or any other person or organization in order to adopt the tables or formulas. The adoption of the tables or formulas is exempt from the administrative rulemaking provisions of chapter 14.

Sec. 48. [176.95] [ADMINISTRATIVE COSTS.]

The annual cost to the commissioner of labor and industry of administering the workers' compensation system under this chapter must be charged to the state general fund. Administrative costs include the cost of administering the workers' compensation division of the department of labor and industry and the workers' compensation division of the office of administrative hearings.

Sec. 49. [ADMINISTRATIVE COSTS CHANGE-OVER.]

For the biennium beginning July 1, 1991, 50 percent of the costs of administering the workers' compensation system must be charged to the state general fund and 50 percent to the special compensation fund.

Sec. 50. [EXISTING DISABILITY RATINGS.]

Existing disability ratings adopted under Minnesota Statutes, section 176.105, subdivision 1, may not be changed before June 30, 1994.

Sec. 51. [AFTER-TAX CALCULATION.]

Notwithstanding section 47, the commissioner of labor and industry shall publish by July 15, 1991, a table or formula for determining the after-tax weekly wage effective August 1, 1991, until October 1, 1991, as otherwise required under that section.

Sec. 52. [APPROPRIATION.]

$434,800 is appropriated from the workers' compensation special compensation fund to the commissioner of labor and industry to administer the workers' compensation system in accordance with this article. $124,800 is for fiscal year 1991 and is available until June 30, 1992. $310,000 is for fiscal year 1992. The approved complement of the department of labor and industry is increased by ten positions.

Sec. 53. [REPEALER.]

Minnesota Statutes 1990, sections 176.011, subdivision 26; and 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, 3u, and 6, are repealed.

Sec. 54. [EFFECTIVE DATE.]

Sections 5, 17, 18, 19, 24, 43, 47, 50, and 51 are effective the day following final enactment. Section 48 is effective July 1, 1994. Notwithstanding Minnesota Statutes, section 176.1321, sections 1 to 4, 6 to 16, 20 to 23, 25 to 41, 44 to 46, 49, and 53 are effective August 1, 1991. Section 42 is effective January 1, 1992.

ARTICLE 3

WORKERS' COMPENSATION INSURANCE

Section 1. Minnesota Statutes 1990, section 79.095, is amended to read:

79.095 [APPOINTMENT OF ACTUARY.]

The commissioner ~~shall~~ may employ the services of ~~a~~ casualty ~~actuary~~ actuaries experienced in ~~worker's~~ workers' compensation whose duties shall include but not be limited to investigation of

complaints by insured parties relative to rates, rate classifications, or discriminatory practices of an insurer. The salary of ~~the~~ an actuary employed pursuant to this section is not subject to the provisions of section 43A.17, subdivision 1.

Sec. 2. Minnesota Statutes 1990, section 79.55, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVENESS.] ~~No premium is excessive in a competitive market. In the absence of a competitive market,~~ Premiums are excessive if the expected underwriting profit, together with expected income from invested reserves for the market in question, that would accrue to an insurer would be unreasonably high in relation to the risk undertaken by the insurer in transacting the business.

Sec. 3. Minnesota Statutes 1990, section 79.56, is amended by adding a subdivision to read:

Subd. 5. [RATE REGULATION.] (a) Whenever an insurer files a change in its existing rate level or rating plan, the commissioner may hold a hearing to determine if the rate level or rating plan is excessive, inadequate, or unfairly discriminatory. The hearing must be conducted pursuant to chapter 14. The commissioner shall give notice of intent to hold a hearing within 90 days of the filing of the change. It is the responsibility of the insurer to show that the rate level or rating plan is not excessive, inadequate, or unfairly discriminatory. The rate level or rating plan is effective unless it is determined as a result of the hearing that the rate level or rating plan is excessive, inadequate, or unfairly discriminatory. Upon such a finding, the rate level or rating plan is retroactively rescinded and any premiums collected thereunder must be refunded. This subdivision does not apply to any changes resulting from assessments for the assigned risk plan, reinsurance association, guarantee fund, special compensation fund, or statutory benefit level changes to sections 176.101, subdivisions 1, 2, and 4; 176.111; 176.132; and 176.645 as a result of annual adjustments in the statewide average weekly wage. The disapproval of a rate level or rating plan under this subdivision must be done in the same manner as under section 70A.11, except that the standards of section 79.55 apply.

(b) Notwithstanding paragraph (a), if the commissioner of labor and industry petitions the commissioner for a hearing pursuant to this subdivision, the commissioner must hold a hearing if the commissioner of labor and industry certifies that the hearing is necessary because a decision of the supreme court or enactment of a statute has effected a substantial change in the basis upon which the existing rate levels or rating plan was filed. The commissioner of labor and industry must make a prima facie showing that law change has effected a substantial change in the basis upon which the existing rate levels or rating plan was filed.

(c) Notwithstanding paragraph (a), the commissioner may hold a hearing if the commissioner determines that the hearing is necessary because of circumstances which result in a substantial change in the basis upon which the existing rate levels or rating plan was filed. The commissioner must make a prima facie showing that the circumstances resulted in a substantial change in the basis upon which the existing rate levels or rating plan was filed.

Sec. 4. [79.561] [PARTICIPATION.]

An employer, or person representing a group of employers, which will be directly affected by a change in an insurer's existing rate level or rating plan filed under section 3, and the commissioner of labor and industry, must be allowed to participate in any hearing under that subdivision challenging the change in rate level or rating plan as being excessive, inadequate, or unfairly discriminatory.

Sec. 5. Minnesota Statutes 1990, section 79.58, subdivision 2, is amended to read:

Subd. 2. [RATING PLANS.] The commissioner may disapprove a rating plan of a data service organization if, after a hearing conducted pursuant to chapter 14, the commissioner finds that it is excessive, inadequate, or unfairly discriminatory. The rating plan is effective until disapproved. It is the responsibility of the data service organization to show that the rating plan is not excessive, inadequate, or unfairly discriminatory. Any order of disapproval shall require the data service organization to use an alternative rating plan until approval of a rating plan by the commissioner. The commissioner shall not approve any rating plan based upon any data other than Minnesota data, except that other data may be utilized as a supplement to Minnesota data when the commissioner determines that an exceptional case requires such data to establish the statistical credibility of an occupational classification.

Sec. 6. Minnesota Statutes 1990, section 79.61, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED ACTIVITY.] Any data service organization shall perform the following activities:

(a) File statistical plans, including classification definitions, amendments to the plans, and definitions, with the commissioner for approval, and assign each compensation risk written by its members to its approved classification for reporting purposes;

(b) Establish requirements for data reporting and monitoring methods to maintain a high quality data base;

(c) Prepare and distribute a periodic report, in a form prescribed by the commissioner, on ratemaking including, but not limited to the following elements:

(i) development factors and alternative derivations;

(ii) trend factors and alternative derivations and applications;

(iii) pure premium relativities for the approved classification system for which data are reported, provided that the relativities for insureds engaged in similar occupations and presenting substantially similar risks shall, if different, differ by at least ten percent; and

(iv) an evaluation of the effects of changes in law on loss data.

The report shall also include explicit discussion and explanation of methodology, alternatives examined, assumptions adopted, and areas of judgment and reasoning supporting judgments entered into, and the effect of various combinations of these elements on indications for modification of an overall pure premium rate level change. The pure premium relativities and rate level indications shall not include a loading for expenses or profit and no expense or profit data or recommendations relating to expense or profit shall be included in the report or collected by a data service organization;

(d) Collect, compile, summarize, and distribute data from members or other sources pursuant to a statistical plan approved by the commissioner;

(e) Prepare merit rating plan and calculate any variable factors necessary for utilization of the plan. Such a plan may be used by any of its members, at the option of the member provided that the application of a plan shall not result in rates that are unfairly discriminatory;

(f) Provide loss data specific to an insured to the insured at a reasonable cost;

(g) Distribute information to an insured or interested party that is filed with the commissioner and is open to public inspection; ~~and~~

(h) Assess its members for operating expenses on a fair and equitable basis;

(i) Separate the incurred but not reported losses of its members;

(j) Separate paid and outstanding losses of its members;

(k) Provide information indicating cases in which its members have established a reserve in excess of $50,000;

(l) Provide information on the income on invested reserves of its members;

(m) Provide information as to policies written at other than the filed rates;

(n) File information based solely on Minnesota premium income of its members concerning investment income, legal expenses, subrogation recoveries, administrative expenses, and commission expenses;

(o) File information based solely on Minnesota data concerning its members' reserving practices, premium income, indemnity, and medical benefits paid; and

(p) Provide any records of the data service organizations that are requested by the commissioner or otherwise required by statute.

Sec. 7. [79.65] [CHAPTER APPLICABILITY TO DATA SERVICE ORGANIZATIONS.]

Subdivision 1. [EXAMINATION BY COMMISSIONER.] Data service organizations are subject to all the provisions of this chapter. The commissioner or an authorized representative of the commissioner may visit the rating association at any reasonable time and examine, audit, or evaluate the rating association's operations, records, and practices. For purposes of this section, "authorized representative of the commissioner" includes employees of the departments of commerce or labor and industry or other parties retained by the commissioner. Examination under this section may be done of any member of data service organizations for purposes of workers' compensation insurance regulation.

Subd. 2. [COSTS AND EXPENSES.] The commissioner may order and the data service organization shall pay the costs and expenses of any examination, audit, or evaluation conducted pursuant to subdivision 1. A sum sufficient to pay these costs and expenses is appropriated from the special compensation fund to the commissioner of commerce.

Sec. 8. [79.651] [INVESTIGATIONS AND SUBPOENAS.]

Subdivision 1. [GENERAL POWERS.] In connection with the administration of this chapter, the commissioner of commerce may:

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether

any person has violated or is about to violate this chapter or any rule or order under this chapter, or to aid in the enforcement of this chapter, or in the prescribing of rules or forms under this chapter;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the administration of this chapter;

(4) conduct investigations and hold hearings for the purpose of compiling information with a view to recommending changes in this chapter to the legislature;

(5) examine the books, accounts, records, and files of every licensee under this chapter and of every person who is engaged in any activity regulated under this chapter; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner; and

(7) require any person subject to this chapter to report all sales or transactions that are regulated under this chapter.

The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction.

Subd. 2. [POWER TO COMPEL PRODUCTION OF EVIDENCE.] For the purpose of any investigation, hearing, or proceeding under this chapter, the commissioner or a designated representative may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner considers relevant or material to the inquiry.

Subd. 3. [COURT ORDERS.] In case of a refusal to appear or a refusal to obey a subpoena issued to any person, the district court, upon application by the commissioner, may issue to any person an order directing that person to appear before the commissioner, or the officer designated by the commissioner, there to produce documentary evidence if so ordered or to give evidence relating to the

matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

Subd. 4. [SCOPE OF PRIVILEGE.] No person is excused from attending and testifying or from producing any document or record before the commissioner, or from obedience to the subpoena of the commissioner or any officer designated by the commissioner or in a proceeding instituted by the commissioner, on the ground that the testimony or evidence required may tend to incriminate that person or subject that person to a penalty of forfeiture. No person may be prosecuted or subjected to a penalty or forfeiture for or on account of a transaction, matter, or thing concerning which the person is compelled, after claiming the privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

Subd. 5. [LEGAL ACTIONS; INJUNCTIONS; CEASE AND DESIST ORDERS.] Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter, or any rule or order adopted under this chapter, the commissioner has the following powers: (1) the commissioner may bring an action in the name of the state in the district court of the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter, or any rule or order adopted or issued under this chapter, or the commissioner may refer the matter to the attorney general or the county attorney of the appropriate county. Upon a proper showing, a permanent or temporary injunction, restraining order, or other appropriate relief must be granted; and (2) the commissioner may issue and cause to be served upon the person an order requiring the person to cease and desist from violations of this chapter, or any rule or order adopted or issued under this chapter. The order must be calculated to give reasonable notice of the rights of the person to request a hearing and must state the reasons for the entry of the order. A hearing must be held not later than seven days after the request for the hearing is received by the commissioner, after which and within 20 days after receiving the administrative law judge's report, the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. If no hearing is requested within 30 days of service of the order, the order will become final and will remain in effect until it is modified or vacated by the commissioner. Unless otherwise provided, all hearings must be conducted in accordance with chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default, and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted under this subdivision.

Subd. 6. [VIOLATIONS AND PENALTIES.] The commissioner may impose a civil penalty not to exceed $2,000 per violation upon a person who violates this chapter, unless a different penalty is specified.

Subd. 7. [ACTIONS AGAINST LICENSEES.] In addition to any other actions authorized by this section, the commissioner may, by order, deny, suspend, or revoke the authority or license of a person subject to this chapter, or censure that person if the commissioner finds that:

(1) the order is in the public interest; or

(2) the person has violated this chapter.

Subd. 8. [STOP ORDER.] In addition to any other actions authorized by this section, the commissioner may issue a stop order denying effectiveness to or suspending or revoking any registration subject to this chapter.

Subd. 9. [POWERS ADDITIONAL.] The powers contained in subdivisions 1 to 8 are in addition to all other powers of the commissioner.

Sec. 9. [79.652] [ACCESS TO INSURER.]

The commissioner, or the designated person, shall have free access during normal business hours to all books, records, securities, documents, and any or all papers relating to the property, assets, business, and affairs of any company, applicant, association, or person 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 convenient and free access at all reasonable hours at its office to all its books, records, securities, documents, any or all papers relating to the property, assets, business, and affairs of the company or person. The officers, directors, and agents of the company or person shall facilitate the examination and aid in the examination so far as it is in their power to do so.

Sec. 10. Minnesota Statutes 1990, section 176A.03, is amended by adding a subdivision to read:

Subd. 3. [COVERAGE OUTSIDE STATE.] Policies issued by the

fund pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The fund may apply for and obtain any licensure required in any other state in order to issue such coverage.

Sec. 11. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in article 2 and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of rates in effect on August 1, 1991, must be reduced by 16 percent and applied by the insurer to all policies issued, renewed, or outstanding on or after that date. An insurer may not adjust its filed rating plan to recoup the 16 percent mandated rate reduction under this section. The reduction must be computed on the basis of a 16 percent premium reduction prorated to the expiration of that policy. An insurer shall provide written notice by September 1, 1991, to all employers having an outstanding policy with the insurer as of August 1, 1991, to read as follows: "As a result of the changes in the workers' compensation insurance system enacted by the 1991 legislature, you are entitled to a credit or refund to your current premium in an amount of $..... which reflects a 16 percent mandated premium reduction prorated to the expiration of your policy."

(b) No rate increases may be filed between April 10, 1991, and January 1, 1992.

Sec. 12. [NOTICE OF INTENT TO CHALLENGE RATE LEVEL CHANGE.]

Notwithstanding section 3, the commissioner shall have an additional 90 days to give notice of intent to hold a hearing pursuant to that section. This section applies only to challenges to an insurer's change in existing rate levels or rating plan filed between the date the 1992 rate-making report is approved by the commissioner of commerce and six months thereafter.

Sec. 13. [RECORDS DEPOSITED WITH THE COMMISSIONER.]

All records of data services organizations authorized by Minnesota Statutes, section 79.61, or its predecessors, pertaining to proceedings before the department of commerce or its predecessors regarding rates or classifications must be deposited with the commissioner no later than August 1, 1991.

Sec. 14. [CONTINGENT APPROPRIATION.]

(a) $250,000 is appropriated from the special compensation fund to a workers' compensation contingent account for the purposes of

this article. The appropriation in this section may only be spent with the approval of the governor after consultation with the legislative advisory commission under Minnesota Statutes, section 3.30. The appropriation in this section does not cancel but is available until June 30, 1992.

(b) $100,000 from the special compensation fund is appropriated and is available for the purposes of article 2.

Sec. 15. [REPEALER.]

Minnesota Statutes 1990, sections 79.54; 79.57; and 79.58, subdivision 1, are repealed.

Sec. 16. [EFFECTIVE DATE.]

Section 11, paragraph (b), is effective the day following final enactment.

ARTICLE 4

WORKERS' COMPENSATION COURT OF APPEALS ABOLISHED

Section 1. Minnesota Statutes 1990, section 176.421, subdivision 1, is amended to read:

Subdivision 1. [TIME FOR TAKING; GROUNDS.] When a petition has been heard before a compensation judge, within 30 days after a party in interest has been served with notice of an award or disallowance of compensation, or other order affecting the merits of the case, the party may appeal to the workers' compensation court of appeals on any of the following grounds:

(1) the order does not conform with this chapter; or

(2) the compensation judge committed an error of law; or

(3) the findings of fact and order were clearly erroneous and unsupported by substantial evidence in view of the entire record as submitted; or

(4) the findings of fact and order were procured by fraud, or coercion, or other improper conduct of a party in interest.

Sec. 2. Minnesota Statutes 1990, section 176.421, subdivision 6, is amended to read:

Subd. 6. [POWERS OF WORKERS' COMPENSATION COURT OF APPEALS ON APPEAL.] On an appeal taken under this section, the workers' compensation court of appeals' review is limited to the issues raised by the parties in the notice of appeal or by a cross-appeal. On review, the court may not substitute its judgment for that of the compensation judge as to the weight or credibility of the evidence on any finding of fact. In these cases, on those issues raised by the appeal, the workers' compensation court of appeals may:

(1) grant an oral argument based on the record before the compensation judge;

(2) examine the record;

(3) ~~substitute for the findings of fact made by the compensation judge findings based on the total evidence;~~

~~(4)~~ sustain, reverse, make or modify an award or disallowance of compensation or other order based on the facts, findings, and law; and~~,~~

~~(5)~~ (4) remand or make other appropriate order.

Sec. 3. Minnesota Statutes 1990, section 480A.06, subdivision 3, is amended to read:

Subd. 3. [CERTIORARI REVIEW.] The court of appeals shall have jurisdiction to issue writs of certiorari to all agencies, public corporations and public officials, except the tax court ~~and the workers' compensation court of appeals~~. The court of appeals shall have jurisdiction to review decisions of the commissioner of jobs and training, pursuant to section 268.10.

Sec. 4. Minnesota Statutes 1990, section 480A.06, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATIVE REVIEW.] The court of appeals shall have jurisdiction to review on the record: the validity of administrative rules, as provided in sections 14.44 and 14.45~~, and~~; the decisions of administrative agencies in contested cases, as provided in sections 14.63 to 14.69; and workers' compensation cases and peace officer death benefits cases, as provided under chapters 176 and 176A.

Sec. 5. [TRANSFER OF JURISDICTION AND PERSONNEL.]

The jurisdiction of the workers' compensation court of appeals, as provided under Minnesota Statutes, section 175A.01, subdivision 2, is transferred to the court of appeals. All contracts, books, plans,

papers, records, and property of every description of the workers' compensation court of appeals relating to its transferred responsibilities and within its jurisdiction or control are transferred to the court of appeals; except that, all case files are transferred to the clerk of the appellate courts. All classified employees and staff attorneys of the workers' compensation court of appeals must be given preference in the employment of personnel required to staff the increased caseload of the court of appeals as a result of transfer of jurisdiction under this section.

Sec. 6. [INCREASED JUDGES.]

The number of judges on the court of appeals as of April 1, 1992, shall be increased by three. The three additional judges are subject to senate confirmation.

Sec. 7. [INSTRUCTION TO REVISOR.]

In every instance in Minnesota Statutes in which the term "workers' compensation court of appeals" appears, the revisor of statutes shall change that reference to the "court of appeals."

Sec. 8. [REAPPROPRIATION.]

$190,000 is reappropriated from the special compensation fund, as a result of the savings to that fund in fiscal year 1992 due to the abolishment of the workers' compensation court of appeals, to the court of appeals for the purposes of this article.

Sec. 9. [REPEALER.]

Minnesota Statutes 1990, sections 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; and 175A.10, are repealed.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment. Sections 3 to 9 are effective April 1, 1992.

ARTICLE 5

REPORTS TO THE LEGISLATURE/ COMMISSION ON WORKERS' COMPENSATION

Section 1. [175.0075] [COMMISSION ON WORKERS' COMPENSATION.]

Subdivision 1. [CREATION; COMPOSITION.] (a) There is created a permanent commission on workers' compensation consisting of ten voting members as follows: six members appointed by the governor, three representing business, and three representing labor; two members appointed by the majority leader of the senate, one representing business and one representing labor; and two members appointed by the speaker of the house of representatives, one representing business and one representing labor. The members of the commission shall select a co-chair representing business and a co-chair representing labor. Each co-chair shall appoint an alternate for each member appointed by the co-chair and an alternate for the co-chair. An alternate shall serve in the absence of a member.

(b) The voting members shall serve for terms of five years and may be reappointed. The commissioner of labor and industry shall serve as an ex officio, nonvoting member of the commission.

(c) The commission shall designate liaisons to the commission representing workers' compensation insurers; medical, hospital, and rehabilitation providers; and the legal profession. The speaker and minority leader of the house of representatives shall appoint a member of their respective caucus as a liaison to the commission. The majority and minority leaders of the senate shall appoint a member of their respective caucus to serve as a liaison to the commission.

Subd. 2. [EXPENSES.] Commission members shall serve without pay but are entitled to per diem and reimbursement for expenses as provided under section 15.059.

Subd. 3. [DUTIES.] (a) The commission shall thoroughly examine all elements of Minnesota's current system of workers' compensation and make specific recommendations for reform to the legislature with respect to the development of a workers' compensation system that fairly and justly serves injured workers in this state, at a cost that is affordable by Minnesota employers. The commission shall also advise the department of labor and industry in carrying out the purposes of chapter 176.

(b) In order to carry out its duties and responsibilities in an effective manner, the commission may consult with any government official or employee or other party.

(c) The commission shall submit its findings and recommendations to the legislature with respect to amendments to this chapter by February 1 of each year, and shall also report its views upon any pending bill relating to chapter 176 to the proper legislative committees.

(d) At the request of the chairpersons of the senate employment committee and the house labor-management relations committee,

the commission shall schedule meetings with members of those respective committees to review and discuss matters of legislative concern arising under chapter 176.

Subd. 4. [MEETINGS; VOTING.] (a) The commission shall meet as frequently as necessary to carry out its duties and responsibilities. The commission shall also conduct public hearings throughout the state as may be necessary to give interested persons an opportunity to comment and make suggestions on the operation of the state's workers' compensation law.

(b) The meetings of the commission are subject to the state's open meeting law, section 471.705; except that, the business voting members and the labor voting members may meet in separate closed caucuses for the purpose of deliberating on matters before the commission. All votes of the commission must be public and recorded.

Subd. 5. [EXECUTIVE DIRECTOR.] (a) The commission shall employ an executive director for the commission, who shall be a state employee in the unclassified service and participate in the state unclassified employee retirement program. The range of salary and the salary level within it for the executive director shall be set by the commission. The executive director shall serve at the pleasure of the commission.

(b) The executive director shall provide administrative support and information to the commission in order to allow it to monitor all elements of Minnesota's workers' compensation system. Specific duties of the executive director shall include:

(1) examining the activities of the various entities involved in Minnesota's workers' compensation system and identifying problem areas for the commission's consideration;

(2) identifying trends and developments in the workers' compensation law of other states, and reporting to the commission on issues that are developing and solutions that are being proposed or attempted;

(3) monitoring the decisions of Minnesota courts, including the workers' compensation court of appeals and the supreme court, to determine the impact of court decisions on the workers' compensation system;

(4) monitoring workers' compensation research activities and bringing important research findings and recommendations to the attention of the commission; and

(5) conducting other activities and duties as may be requested by the commission.

Subd. 6. [ADMINISTRATIVE SUPPORT.] The commissioner of labor and industry shall supply necessary office space, supplies, and staff support to assist the commission and its executive director in their duties.

Subd. 7. [CONSULTANTS.] The commission may contract with outside consultants having recognized expertise in the field of workers' compensation as may be needed to perform its duties and responsibilities.

Subd. 8. [APPROPRIATION.] The annual operating costs incurred by the commission in carrying out its duties and responsibilities shall be appropriated from the state general fund.

Sec. 2. [REPORT TO THE LEGISLATURE ON USE OF NEUTRAL PHYSICIANS.]

The commissioner of labor and industry shall present a report to the legislature concerning workers' compensation before January 1, 1992, which develops and evaluates a detailed proposal for establishing a system of neutral doctors for use in such areas as determining maximum medical improvement and rating permanent partial disabilities. The report must contain a bill proposal to implement the commissioner's recommendations.

Sec. 3. [*REPORT TO THE LEGISLATURE ON USE OF* NEUTRAL QUALIFIED REHABILITATION CONSULTANTS.]

To reduce cost and contention in the rehabilitation system, the commissioner of labor and industry shall develop and evaluate a detailed proposal to establish a system to ensure that qualified rehabilitation consultants will not be aligned with either insurers or claimants. The commissioner shall consider alternative methods of selection and payment to ensure neutrality. The commissioner shall present a report and proposal to the legislature by January 1, 1992.

Sec. 4. [REPORT TO THE LEGISLATURE ON IMPLEMENTATION OF MANDATED RATE REDUCTIONS.]

The commissioner of labor and industry shall survey Minnesota employers to determine if the mandated workers' compensation insurance rate reductions required under article 4, section 11, have been implemented by insurers, both as to amount and in a manner that is uniform and nondiscriminatory between employers having similar risks with respect to a particular occupational classification. The commissioner must present a report detailing findings and conclusions to the legislature by February 1, 1992.

Sec. 5. [REPORT TO THE LEGISLATURE ON RECODIFICATION OF WORKERS' COMPENSATION LAW.]

The revisor of statutes shall recodify the workers' compensation law, including Minnesota Statutes, chapter 176.

The recodification must not make any substantive changes but shall provide a comprehensive, accurate, and complete restatement.

Each state department agency and legislative staff, including senate counsel and house of representatives research, shall provide assistance in the recodification as requested by the revisor of statutes.

The revisor shall report to the legislature by January 1, 1992, on the progress of the recodification. The revisor shall prepare a bill to implement its recommendations for recodification by January 1, 1993.

Sec. 6. [HEARINGS AT THE OFFICE OF ADMINISTRATIVE HEARINGS; REPORT OF THE CHIEF ADMINISTRATIVE LAW JUDGE.]

The chief administrative law judge shall consider methods to reduce the formality and length of hearings in workers' compensation cases at the office of administrative hearings, with a goal of completing 50 percent of the hearings in less than two hours, 75 percent in less than four hours, and nearly all of the cases in less than one day. Before January 1, 1992, the chief judge shall report to the legislature on the efforts to meet these goals, including any recommendations for legislation needed to achieve these goals.

Sec. 7. [REPORT TO THE LEGISLATURE ON STATE REGULATION OF WORKERS' COMPENSATION INSURANCE.]

Legislative staff shall prepare and present a report to the legislature surveying the different processes for regulation of workers' compensation insurance rating plans under other states' workers' compensation insurance laws. The report must be presented to the legislature by January 1, 1992.

Sec. 8. [APPROPRIATION.]

$100,000 is appropriated from the special compensation fund to the commissioner of labor and industry for the purposes of sections 2 to 4.

Sec. 9. [APPROPRIATION.]

$300,000 is appropriated from the general fund for the biennium ending June 30, 1993, to the commission on workers' compensation for the purposes of carrying out its duties and responsibilities as provided under section 1.

Sec. 10. [REPEALER.]

Minnesota Statutes 1990, section 175.007 is repealed.

Sec. 11. [EFFECTIVE DATE.]

Sections 1 and 9 are effective July 1, 1991. Sections 2 to 8 and 10 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to labor and industry; regulating workers' compensation benefits and administration; regulating workers' compensation insurance; providing for the appointment of actuaries; abolishing the workers' compensation court of appeals and transferring its jurisdiction to the court of appeals; requiring certain reports relating to workers' compensation; appropriating money; amending Minnesota Statutes 1990, sections 79.095; 79.55, subdivision 2; 79.56, by adding a subdivision; 79.58, subdivision 2; 79.61, subdivision 1; 176.011, subdivisions 11a, 18, and by adding a subdivision; 176.021, subdivision 3; 176.041, subdivision 4; 176.061, subdivision 10; 176.081, subdivisions 1, 2, and 3; 176.101, subdivisions 1, 2, 4, 5, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 3a, 4, 6, 7, and 11; 176.105, subdivision 1; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 20, and 21; 176.131, subdivisions 1, 1a, 2, 8, and by adding a subdivision; 176.132, subdivisions 1, 2, and 3; 176.136, subdivision 1, and by adding a subdivision; 176.155, subdivision 1; 176.221, subdivision 1; 176.421, subdivisions 1 and 6; 176.645, subdivisions 1 and 2; 176.66, subdivision 11; 176A.03, by adding a subdivision; and 480A.06, subdivisions 3 and 4; proposing coding for new law in Minnesota Statutes, chapters 79 and 176; repealing Minnesota Statutes 1990, sections 79.54; 79.57; 79.58, subdivision 1; 175.007; 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; 175A.10; 176.011, subdivision 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, 3u, and 6."

A roll call was requested and properly seconded.

The question was taken on the Sviggum et al amendment and the roll was called.

Long moved that those not voting be excused from voting. The motion prevailed.

There were 65 yeas and 68 nays as follows:

Those who voted in the affirmative were:

Abrams	Dille	Hugoson	Morrison	Schafer
Anderson, R.	Erhardt	Jennings	Nelson, S.	Schreiber
Anderson, R. H.	Frederick	Johnson, V.	Newinski	Seaberg
Bertram	Frerichs	Kelso	Olsen, S.	Smith
Bettermann	Girard	Knickerbocker	Olson, K.	Stanius
Bishop	Goodno	Koppendrayer	Omann	Steensma
Blatz	Gruenes	Krinkie	Onnen	Sviggum
Bodahl	Gutknecht	Leppik	Ostrom	Swenson
Boo	Hartle	Limmer	Ozment	Tompkins
Cooper	Haukoos	Lynch	Pauly	Uphus
Dauner	Heir	Macklin	Pellow	Valento
Davids	Henry	Marsh	Peterson	Waltman
Dempsey	Hufnagle	McPherson	Runbeck	Welker

Those who voted in the negative were:

Anderson, I.	Hanson	Lieder	Orfield	Solberg
Battaglia	Hasskamp	Long	Osthoff	Sparby
Bauerly	Hausman	Lourey	Pelowski	Thompson
Beard	Jacobs	Mariani	Pugh	Trimble
Begich	Janezich	McEachern	Reding	Tunheim
Brown	Jaros	McGuire	Rest	Vellenga
Carlson	Jefferson	Milbert	Rice	Wagenius
Carruthers	Johnson, A.	Munger	Rodosovich	Wejcman
Clark	Johnson, R.	Murphy	Rukavina	Welle
Dawkins	Kahn	Nelson, K.	Sarna	Wenzel
Dorn	Kalis	O'Connor	Scheid	Winter
Farrell	Kinkel	Ogren	Segal	Spk. Vanasek
Garcia	Krueger	Olson, E.	Simoneau	
Greenfield	Lasley	Orenstein	Skoglund	

The motion did not prevail and the amendment was not adopted.

Abrams moved to amend H. F. No. 1422, the third engrossment, as amended, as follows:

Pages 30 through 33, delete Article 5

A roll call was requested and properly seconded.

The question was taken on the Abrams amendment and the roll was called. There were 54 yeas and 80 nays as follows:

Those who voted in the affirmative were:

Abrams	Blatz	Erhardt	Goodno	Haukoos
Anderson, R. H.	Boo	Frederick	Gruenes	Heir
Bettermann	Davids	Frerichs	Gutknecht	Henry
Bishop	Dempsey	Girard	Hartle	Hufnagle

Hugoson	Limmer	Olsen, S.	Schafer	Tompkins
Jennings	Lynch	Omann	Schreiber	Uphus
Johnson, V.	Macklin	Onnen	Seaberg	Valento
Knickerbocker	Marsh	Ozment	Smith	Waltman
Koppendrayer	McPherson	Pauly	Stanius	Weaver
Krinkie	Morrison	Pellow	Sviggum	Welker
Leppik	Newinski	Runbeck	Swenson	

Those who voted in the negative were:

Anderson, I.	Dorn	Kinkel	Olson, E.	Segal
Anderson, R.	Farrell	Krueger	Olson, K.	Simoneau
Battaglia	Garcia	Lasley	Orenstein	Skoglund
Bauerly	Greenfield	Lieder	Orfield	Solberg
Beard	Hanson	Long	Osthoff	Sparby
Begich	Hasskamp	Lourey	Ostrom	Steensma
Bertram	Hausman	Mariani	Pelowski	Thompson
Bodahl	Jacobs	McEachern	Peterson	Trimble
Brown	Janezich	McGuire	Pugh	Tunheim
Carlson	Jaros	Milbert	Reding	Vellenga
Carruthers	Jefferson	Munger	Rest	Wagenius
Clark	Johnson, A.	Murphy	Rice	Wejcman
Cooper	Johnson, R.	Nelson, K.	Rodosovich	Welle
Dauner	Kahn	Nelson, S.	Rukavina	Wenzel
Dawkins	Kalis	O'Connor	Sarna	Winter
Dille	Kelso	Ogren	Scheid	Spk. Vanasek

The motion did not prevail and the amendment was not adopted.

Swenson; Valento; Johnson, V.; Hugoson; Gutknecht; Blatz; Sviggum; McPherson; Frederick; Schreiber; Krinkie; Hufnagle; Lynch; Runbeck; Leppik; Stanius; Dempsey; Morrison; Newinski; Welker; Macklin; Heir; Frerichs; Onnen and Uphus moved to amend H. F. No. 1422, the third engrossment, as amended, as follows:

Pages 8 and 9, delete sections 11 and 12

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Swenson et al amendment and the roll was called. There were 58 yeas and 76 nays as follows:

Those who voted in the affirmative were:

Abrams	Bishop	Dempsey	Frederick	Gruenes
Anderson, R.	Blatz	Dille	Frerichs	Gutknecht
Anderson, R. H.	Boo	Dorn	Girard	Hartle
Bettermann	Davids	Erhardt	Goodno	Haukoos

Heir	Leppik	Olsen, S.	Runbeck	Tompkins
Henry	Limmer	Omann	Schafer	Uphus
Hufnagle	Lynch	Onnen	Schreiber	Valento
Hugoson	Macklin	Ostrom	Seaberg	Waltman
Johnson, V.	Marsh	Ozment	Smith	Weaver
Knickerbocker	McPherson	Pauly	Stanius	Welker
Koppendrayer	Morrison	Pellow	Sviggum	
Krinkie	Newinski	Pelowski	Swenson	

Those who voted in the negative were:

Anderson, I.	Greenfield	Lasley	Orenstein	Sparby
Battaglia	Hanson	Lieder	Orfield	Steensma
Bauerly	Hasskamp	Long	Osthoff	Thompson
Beard	Hausman	Lourey	Peterson	Trimble
Begich	Jacobs	Mariani	Pugh	Tunheim
Bertram	Janezich	McEachern	Reding	Vellenga
Bodahl	Jaros	McGuire	Rest	Wagenius
Brown	Jefferson	Milbert	Rice	Wejcman
Carlson	Jennings	Munger	Rodosovich	Welle
Carruthers	Johnson, A.	Murphy	Rukavina	Wenzel
Clark	Johnson, R.	Nelson, K.	Sarna	Winter
Cooper	Kahn	Nelson, S.	Scheid	Spk. Vanasek
Dauner	Kalis	O'Connor	Segal	
Dawkins	Kelso	Ogren	Simoneau	
Farrell	Kinkel	Olson, E.	Skoglund	
Garcia	Krueger	Olson, K.	Solberg	

The motion did not prevail and the amendment was not adopted.

Kalis moved to amend H. F. No. 1422, the third engrossment, as amended, as follows:

Page 33, after line 27, insert:

"Sec. 4. [REPEALER.]

Minnesota Statutes 1990, chapters 79, 175A, and 176 are repealed effective July 1, 1993."

Renumber the remaining section

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Kalis amendment and the roll was called. There were 95 yeas and 39 nays as follows:

Those who voted in the affirmative were:

Abrams	Bauerly	Bishop	Boo	Dauner
Anderson, R.	Bertram	Blatz	Brown	Davids
Anderson, R. H.	Bettermann	Bodahl	Cooper	Dempsey

Dille	Hugoson	Limmer	Omann	Sparby
Dorn	Jacobs	Lynch	Onnen	Stanius
Erhardt	Jennings	Macklin	Ozment	Steensma
Frederick	Johnson, R.	Mariani	Pauly	Sviggum
Frerichs	Johnson, V.	Marsh	Pellow	Swenson
Garcia	Kahn	McEachern	Pelowski	Thompson
Girard	Kalis	McGuire	Peterson	Tompkins
Goodno	Kelso	McPherson	Reding	Tunheim
Gruenes	Kinkel	Morrison	Rodosovich	Uphus
Gutknecht	Knickerbocker	Munger	Runbeck	Valento
Hartle	Koppendrayer	Nelson, S.	Sarna	Vellenga
Hasskamp	Krinkie	Newinski	Schafer	Waltman
Haukoos	Krueger	O'Connor	Schreiber	Weaver
Heir	Lasley	Olsen, S.	Seaberg	Welker
Henry	Leppik	Olson, E.	Simoneau	Winter
Hufnagle	Lieder	Olson, K.	Smith	Spk. Vanasek

Those who voted in the negative were:

Anderson, I.	Farrell	Long	Osthoff	Skoglund
Battaglia	Greenfield	Lourey	Ostrom	Solberg
Beard	Hanson	Milbert	Pugh	Trimble
Begich	Hausman	Murphy	Rest	Wagenius
Carlson	Janezich	Nelson, K.	Rice	Wejcman
Carruthers	Jaros	Ogren	Rukavina	Welle
Clark	Jefferson	Orenstein	Scheid	Wenzel
Dawkins	Johnson, A.	Orfield	Segal	

The motion prevailed and the amendment was adopted.

H. F. No. 1422, A bill for an act relating to workers' compensation; regulating benefits and insurance; establishing a permanent commission on workers' compensation; providing penalties; appropriating money; amending Minnesota Statutes 1990, sections 79.252, by adding a subdivision; 176.011, subdivisions 3, 11a, and 18; 176.101, subdivisions 1, 2, and 3f; 176.102, subdivisions 1, 2, 3, 3a, 4, 6, 9, and 11; 176.111, subdivision 18; 176.135, subdivisions 1, 6, and 7; 176.136, subdivisions 1, 2, and by adding subdivisions; 176.155, subdivision 1; 176.645, subdivisions 1 and 2; 176.83, subdivisions 5, 6, and by adding a subdivision; 176A.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 175 and 176; repealing Minnesota Statutes 1990, sections 175.007; and 176.136, subdivision 5; and chapters 79, 175A, and 176.

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 78 yeas and 56 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Beard	Carlson	Dauner	Garcia
Anderson, R.	Begich	Carruthers	Dawkins	Greenfield
Battaglia	Bodahl	Clark	Dorn	Hanson
Bauerly	Brown	Cooper	Farrell	Hasskamp

Hausman	Lasley	O'Connor	Rest	Thompson
Jacobs	Lieder	Ogren	Rice	Trimble
Janezich	Long	Olson, E.	Rodosovich	Tunheim
Jaros	Lourey	Olson, K.	Rukavina	Vellenga
Jefferson	Mariani	Orenstein	Sarna	Wagenius
Johnson, A.	McEachern	Orfield	Scheid	Wejcman
Johnson, R.	McGuire	Osthoff	Segal	Welle
Kahn	Milbert	Ostrom	Simoneau	Wenzel
Kalis	Munger	Pelowski	Skoglund	Winter
Kelso	Murphy	Peterson	Solberg	Spk. Vanasek
Kinkel	Nelson, K.	Pugh	Sparby	
Krueger	Nelson, S.	Reding	Steensma	

Those who voted in the negative were:

Abrams	Frerichs	Johnson, V.	Olsen, S.	Sviggum
Anderson, R. H.	Girard	Knickerbocker	Omann	Swenson
Bertram	Goodno	Koppendrayer	Onnen	Tompkins
Bettermann	Gruenes	Krinkie	Ozment	Uphus
Bishop	Gutknecht	Leppik	Pauly	Valento
Blatz	Hartle	Limmer	Pellow	Waltman
Boo	Haukoos	Lynch	Runbeck	Weaver
Davids	Heir	Macklin	Schafer	Welker
Dempsey	Henry	Marsh	Schreiber	
Dille	Hufnagle	McPherson	Seaberg	
Erhardt	Hugoson	Morrison	Smith	
Frederick	Jennings	Newinski	Stanius	

The bill was passed, as amended, and its title agreed to.

Long moved that the remaining bills on Special Orders for today be continued. The motion prevailed.

GENERAL ORDERS

Long moved that the bills on General Orders for today be continued. The motion prevailed.

CALL OF THE HOUSE LIFTED

Long moved that the Call of the House be dispensed with. The motion prevailed and it was so ordered.

MOTIONS AND RESOLUTIONS

Bertram moved that the name of Limmer be added as an author on H. F. No. 1150. The motion prevailed.

Carruthers moved that the names of Winter, Skoglund and Abrams be added as authors on H. F. No. 1467. The motion prevailed.

Reding moved that H. F. No. 1147, now on General Orders, be re-referred to the Committee on General Legislation, Veterans Affairs and Gaming. The motion prevailed.

Orenstein moved that H. F. No. 1515, now on the Technical Consent Calendar, be placed on Technical General Orders. The motion prevailed.

ADJOURNMENT

Long moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:30 p.m., Tuesday, April 23, 1991.

EDWARD A. BURDICK, Chief Clerk, House of Representatives