STATE OF MINNESOTA

SEVENTY-EIGHTH SESSION -- 1993

TWENTY-NINTH DAY

SAINT PAUL, MINNESOTA, THURSDAY, APRIL 1, 1993

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

Prayer was offered by the Reverend Dr. Donald M. Meisel, House Chaplain.

The roll was called and the following members were present:

Abrams	Davids	Hausman	Krinkie	Murphy	Reding	Tompkins
Anderson, I.	Dawkins	Holsten	Krueger	Neary	Rest	Trimble
Anderson, R.	Dehler	Hugoson	Lasley	Nelson	Rhodes	Tunheim
Asch	Delmont	Huntley	Leppik	Ness	Rice	Van Dellen
Battaglia	Dempsey	Jacobs	Lieder	Olson, E.	Rodosovich	Vellenga
Bauerly	Dorn	Jaros	Limmer	Olson, K.	Rukavina	Vickerman
Beard	Erhardt	Jefferson	Lindner	Olson, M.	Sarna	Wagenius
Bergson	Evans	Jennings	Lourey	Onnen	Seagren	Waltman
Bertram	Farrell	Johnson, A.	Luther	Opatz	Sekhon	Weaver
Bettermann	Frerichs	Johnson, R.	Lynch	Orenstein	Simoneau	Wejcman
Bishop	Garcia	Johnson, V.	Macklin	Osthoff	Skoglund	Welle
Blatz	Girard	Kahn	Mahon	Ostrom	Smith	Wenzel
Brown, C.	Goodno	Kalis	Mariani	Ozment	Solberg	Winter
Brown, K.	Greenfield	Kelley	McCollum	Pauly	Sparby	Wolf
Carlson	Greiling	Kelso	Milbert	Pawlenty	Stanius	Worke
Carruthers	Gruenes	Kinkel	Molnau	Pelowski	Steensma	Workman
Commers	Gutknecht	Klinzing	Morrison	Perlt	Sviggum	Spk. Long
Cooper	Hasskamp	Knickerbocker	Mosel	Peterson	Swenson	
Dauner	Haukoos	Koppendrayer	Munger	Pugh	Tomassoni	

A quorum was present.

Clark and McGuire were excused.

Orfield was excused until 3:00 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Opatz moved that further reading of the Journal be dispensed with and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

REPORTS OF STANDING COMMITTEES

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 37, A bill for an act relating to children; regulating exchange programs; requiring a host family background check; requiring certain documents before school enrollment; proposing coding for new law in Minnesota Statutes, chapter 121.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [121.72] [EXCHANGE STUDENTS.]

Subdivision 1. [HOST FAMILY BACKGROUND CHECK.] Before placing a child from another country with a host family, the placing agency must have a completed child protection background check on the host family, as specified in sections 299C.60 to 299C.64, except that the background check must determine whether the subject has been convicted of any felony. The placing agency must conduct the background check by contacting the bureau of criminal apprehension under sections 299C.60 to 299C.64, and the district court or court services agency in the county where the host family resides, to determine whether there are conviction records involving members of the host family. The placing agency must contact the department of public safety to determine whether it holds conviction records on any member of the host family. Notwithstanding any contrary court rule regarding access to data, the district court or court services agency must provide the conviction data specified to a placing agency upon request under this subdivision. The background check must be used by the placement agency in determining the suitability of the subject family to be a host family. The agency placing the child with a host family shall pay the cost of the background check. The entity performing a background check under this section shall charge the placing agency an amount equal to the actual cost of each check or $10, whichever is less.

Subd. 2. [SCHOOL FILES.] Before a child who is an exchange student from another country may enroll in a public or nonpublic elementary, secondary, or post-secondary school in Minnesota, the school must have in its files a letter from a child placing agency stating:

(1) that the child is a participant in an exchange program of the child placing agency;

(2) that the host family has not been found to be objectionable by the child placing agency after completion of a background check under subdivision 1; and

(3) the name and telephone number of a contact person at the child placing agency familiar with the child's case and the exchange program in which the child is participating."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 199, A bill for an act relating to insurance; workers' compensation; regulating the state fund mutual insurance company; requiring the workers' compensation reinsurance association to provide funds; amending Minnesota Statutes 1992, sections 176A.02, by adding a subdivision; 176A.11; proposing coding for new law in Minnesota Statutes, chapter 79.

Reported the same back with the recommendation that 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. 431, A bill for an act relating to metropolitan airports commission; providing for additional commissioners; amending Minnesota Statutes 1992, section 473.604, subdivision 1.

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

The report was adopted.

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

H. F. No. 444, A bill for an act relating to local government; authorizing a local unit of government which self-insures health benefits for employees to enroll employees of the exclusive representative of its employees in those plans; amending Minnesota Statutes 1992, section 471.617, by adding a subdivision.

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

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 511, A bill for an act relating to housing and hotels; amending reasons for innkeeper ejection and refusal to admit persons; establishing parent or guardian responsibility for guests who are minors; establishing liability for damage to hotel or personal property or injury to persons; requiring notice; amending Minnesota Statutes 1992, sections 327.70, subdivision 3, and by adding a subdivision; and 327.73, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 327.

Reported the same back with the following amendments:

Page 2, lines 6 and 33, after "an" insert "obviously"

Page 3, lines 6 and 7, delete "or may bring in"

Page 3, line 7, after "property" insert "in"

Page 3, line 14, delete "in writing"

Page 3, delete lines 28 to 31

Page 4, line 6, after "(b)" insert ", if the parent or guardian provides a credit card or an advance cash deposit under section 327.73, subdivision 2, paragraph (b)"

Page 4, after line 10, insert:

"Sec. 6. Minnesota Statutes 1992, section 327.74, subdivision 1, is amended to read:

Subdivision 1. [PENALTY.] A person in a hotel who, by smoking or attempting to light or smoke cigarettes, cigars, pipes, or other smoking material, in any manner in which lighters or matches are used, negligently sets fire to a part of the building, or any furniture or furnishings within the building, so as to endanger life or property in any way or to any extent, is guilty of a gross misdemeanor."

Amend the title as follows:

Page 1, line 7, after the second semicolon insert "providing penalties;"

Page 1, line 9, delete the first "and" and after the second semicolon insert "and 327.74, subdivision 1;"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 580, A bill for an act relating to insurance; nonprofit health service plan corporations; regulating investments; amending Minnesota Statutes 1992, section 62C.10.

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

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 588, A bill for an act relating to human rights; providing for protection for disabled persons in employment; clarifying permissible absenteeism under the "reasonable accommodation" clause; extending the time frame from 45 to 90 days for bringing a civil action after a "no probable cause" determination; providing for the right to a jury trial; amending Minnesota Statutes 1992, sections 363.01, subdivision 13; 363.02, subdivision 5; 363.03, subdivision 1; 363.14, subdivision 2; and 363.117.

Reported the same back with the following amendments:

Page 2, line 19, after the period insert "While"

Page 2, line 20, after "advice" insert ", relevant evidence of a significant specific, current risk may include opinions of medical doctors, rehabilitation counselors, or physical therapists who have expertise in the disability involved or direct knowledge of the individual with the disability"

Page 5, line 28, delete "temporary"

Page 7, after line 25, insert:

"Sec. 5. Minnesota Statutes 1992, section 550.37, subdivision 12a, is amended to read:

Subd. 12a. One motor vehicle to the extent of a value not exceeding $2,000 or one motor vehicle to the extent of $20,000 which has been modified, at a cost of not less than $1,500, to accommodate the physical disability making a disabled person eligible for a certificate authorized by section 169.345."

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 8, after the semicolon insert "changing an exemption from judgment for certain motor vehicles;"

Page 1, line 10, delete "and" and before the period insert "; and 550.37, subdivision 12a"

With the recommendation that when so amended the bill pass.

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 655, A bill for an act relating to civil actions; authorizing appeals from the decisions of civil service commissions by both cities and their employees on the same basis and to the same extent; amending Minnesota Statutes 1992, section 480A.06, subdivision 4.

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

The report was adopted.

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

H. F. No. 665, A bill for an act relating to the hospital construction moratorium, making the moratorium permanent; amending Minnesota Statutes 1992, section 144.551, subdivision 1.

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

The report was adopted.

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

H. F. No. 670, A bill for an act relating to insurance; health; regulating benefits for outpatient mental or nervous disorder treatment; amending Minnesota Statutes 1992, section 62A.152, subdivisions 2 and 3.

Reported the same back with the following amendments:

Page 2, line 4, delete "section" and insert "sections" and delete "if" and insert "clauses (1) to (5); and 245.4871, subdivision 27, clauses (1) to (5)"

Page 2, line 5, delete "licensed"

Page 2, line 30, delete "section" and insert "sections"

Page 2, line 31, delete "if licensed" and insert "clauses (1) to (5); and 245.4871"

With the recommendation that when so amended the bill pass.

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 732, A bill for an act relating to law enforcement; exempting law enforcement agencies from the requirements of the criminal offender rehabilitation employment law; amending Minnesota Statutes 1992, section 364.09.

Reported the same back with the following amendments:

Page 1, line 10, before "law" insert "the licensing process for peace officers; to"

Page 1, line 11, after "agencies" insert "as defined in section 626.84, subdivision 1, paragraph (h)"

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

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 747, A bill for an act relating to civil actions; providing for stay of a bond required of plaintiffs in certain actions against a public body; amending Minnesota Statutes 1992, section 562.02.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 562.02, is amended to read:

562.02 [CIVIL ACTIONS AFFECTING A PUBLIC BODY; SURETY BOND REQUIRED OF PLAINTIFF.]

Subdivision 1. [GENERAL REQUIREMENT.] Whenever any action at law or in equity is brought in any court in this state questioning directly or indirectly the existence of any condition or thing precedent to, or the validity of any action taken or proposed to be taken, by any public body or its officers or agents in the course of the authorization or sale, issuance or delivery of bonds, the making of a contract for public improvement or the validity of any proceeding to alter the organization of a school district in any manner, such public body may move the court for an order requiring the party, or parties, bringing such action to file a surety bond as hereinafter set forth. Three days' written notice of such motion shall be given. If the public body is not a party to the action, but if it deems that such action be injurious to the public interest and to the taxpayers, such public body may intervene or appear specially for the purpose of making such motion. If the court determines that loss or damage to the public or taxpayers may result from the pendency of the action or proceeding, the court may require such party, or parties, to file a surety bond, which shall be approved by the court, in such amount as the court may determine. The court must also consider whether the action presents substantial constitutional issues or substantial issues of statutory construction, and the likelihood of a party prevailing on these issues, when determining the amount of a bond and whether a bond should be required under this section or section 473.675. Such bond shall be conditioned for payment to the public body of any loss or damage which may be caused to the public body or taxpayers by such delay, to the extent of the penal sum of such bond, if such party, or parties, shall not prevail therein. If such surety bond is not filed within a reasonable time allowed therefor by the court, the action shall be dismissed with prejudice. If such party, or parties, file a bond as herein required and prevail in the action, any premium paid on the bond shall be repaid by or taxed against the public body.

Subd. 2. [APPEAL.] An order granting or denying a motion to require the filing of a surety bond under subdivision 1 or under section 473.675, subdivision 3, is an appealable order. The appeal must be directly to the supreme court for hearing at the earliest feasible opportunity consistent with the public interest in speedily resolving the matter. Appellate review of the order shall be de novo.

Sec. 2. [EFFECTIVE DATE; APPLICATION.]

Section 1 is effective August 1, 1993, and applies to orders entered under Minnesota Statutes, section 562.02, on and after that date."

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon and insert "regulating the posting of a"

With the recommendation that when so amended the bill pass.

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 846, A bill for an act relating to civil commitment; authorizing new procedures for return of certain patients who are absent from treatment facilities without authorization; amending Minnesota Statutes 1992, section 253B.23, subdivision 1a.

Reported the same back with the following amendments:

Page 1, line 26, delete "center" and insert "facility"

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

The report was adopted.

Carlson from the Committee on Education to which was referred:

H. F. No. 879, A bill for an act relating to education; restricting eligibility for athletic participation for some students for one year following interdistrict transfer under open enrollment; amending Minnesota Statutes 1992, section 120.062, by adding a subdivision.

Reported the same back with the following amendments:

Page 2, lines 32 and 33, delete "this section" and insert "Minnesota Statutes, section 120.062"

With the recommendation that when so amended the bill pass.

The report was adopted.

Clark from the Committee on Housing to which was referred:

H. F. No. 884, A bill for an act relating to housing; appropriating money for multiunit blighted rental property removal.

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

The report was adopted.

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

H. F. No. 893, A bill for an act relating to local government; specifying the prosecuting attorney for certain offenses; amending Minnesota Statutes 1992, section 487.25, subdivision 10.

Reported the same back with the following amendments:

Page 1, line 14, delete the first "1,000" and insert "500" and delete the second "1,000" and insert "500"

Page 1, line 17, after the comma insert "and with the approval of the board of county commissioners,"

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. 898, A bill for an act relating to natural resources; clarifying, modifying, and expanding rulemaking authority and other powers and duties of the commissioner of natural resources relating to game and fish, wild rice, stromatolites, and cross-country ski passes; clarifying, modifying, and expanding provisions relating to the taking, purchase, sale, possession, and transportation of wild animals; regulating entry and uses on certain public lands and waters; providing for the expiration of certain commissioner's orders; providing an exemption from rulemaking requirements; authorizing emergency rules; providing penalties; amending Minnesota Statutes 1992, sections 84.14, subdivision 3; 84.1525, subdivision 2; 85.41, subdivision 2; 85.45; 97A.045, subdivision 4; 97A.055, by adding a subdivision; 97A.091, subdivisions 1 and 2; 97A.095, subdivision 2; 97A.105, subdivision 1, and by adding a subdivision; 97A.137; 97A.255, subdivision 2; 97A.401, subdivision 4; 97A.415, subdivision 2; 97A.431, subdivisions 1 and 4; 97A.433, subdivisions 1 and 4; 97A.435, subdivision 4; 97A.441, by adding a subdivision; 97A.451, by adding a subdivision; 97A.475, by adding a subdivision; 97A.485, subdivision 6, and by adding a subdivision; 97A.505, subdivision 5, and by adding a subdivision; 97A.535, subdivision 2; 97A.545, subdivisions 1, 2, 4, and by adding a subdivision; 97A.551, by adding a subdivision; 97B.425; 97B.671, subdivisions 1 and 2; 97B.711, subdivision 2, and by adding a subdivision; 97B.721; 97B.811, by adding a subdivision; 97C.025; 97C.051, subdivision 1; 97C.081, subdivisions 2, 3, and by adding a subdivision; 97C.205; 97C.311; 97C.331; 97C.345, subdivision 4, and by adding a subdivision; 97C.391, subdivision 1; 97C.405; 97C.505, subdivision 1; 97C.601, subdivision 6; 97C.805, subdivisions 1, 2, and 4; and 97C.865; Laws 1991, chapter 259, section 24; proposing coding for new law in Minnesota Statutes, chapters 97A; 97B; and 97C.

Reported the same back with the following amendments:

Page 4, line 14, after "a" insert "petty"

Page 4, after line 24, insert:

"Sec. 6. Minnesota Statutes 1992, section 97A.045, is amended by adding a subdivision to read:

Subd. 9. [NOTICE OF RULEMAKING.] In addition to notice requirements under chapter 14, the commissioner shall attempt to notify persons or groups of persons affected by rules adopted under the game and fish laws by public announcements, press releases, and other appropriate means as determined by the commissioner."

Page 5, delete lines 7 and 8 and insert:

"(2) an uncased bow."

Page 7, line 14, after "acquisition" insert "and disposal"

Page 10, delete section 26

Page 12, line 26, before the period, insert "unless otherwise provided by law"

Page 16, after line 15, insert:

"Sec. 45. [97B.928] [IDENTIFICATION OF TRAPS AND SNARES.]

Subdivision 1. [INFORMATION REQUIRED.] (a) A person may not set or place a trap or snare, other than on property owned or occupied by the person, unless the following information is affixed to the trap or snare in a manner that ensures that the information remains legible while the trap or snare is on the lands or waters:

(1) the number and state of the person's driver's license;

(2) the person's Minnesota identification card number; or

(3) the person's name and mailing address.

(b) The commissioner may not prescribe additional requirements for identification of traps or snares.

Subd. 2. [PROVISIONS NOT TO APPLY.] From April 1 to August 31, the trap identification provisions of subdivision 1 do not apply to traps set for the taking of unprotected wild animals.

Subd. 3. [PENALTY.] A person who violates subdivision 1, paragraph (a), is guilty of a petty misdemeanor."

Page 21, line 7, delete everything before "game" and insert "protect"

Page 22, line 6, after "person" insert "engaged in a business providing services to a person taking fish"

Page 22, line 11, strike "cosignee" and insert "consignee"

Page 23, line 16, delete "6, 9, 10, 13, 18 to 22" and insert "7, 10, 11, 14, 19 to 23"

Page 23, line 26, before the period insert ", except that section 45 is effective August 1, 1993, and applies to violations occurring on or after that date"

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 13, after "penalties;" insert "appropriating money;"

Page 1, line 16, after "4" insert ", and by adding a subdivision"

Page 1, lines 22 and 23, delete "97A.451, by adding a subdivision;"

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

The report was adopted.

Carlson from the Committee on Education to which was referred:

H. F. No. 902, A bill for an act relating to education; making the state board of education the governing body for the center for arts education except for purposes of statewide resource and outreach programs and services; amending Minnesota Statutes 1992, sections 129C.10, subdivisions 1, 2, and by adding a subdivision; and 129C.15.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 129C.10, subdivision 1, is amended to read:

Subdivision 1. [GOVERNANCE.] The board of the Minnesota center for arts education shall consist of 15 persons, one of whom shall be knowledgeable in the field of special education. 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.

Sec. 2. Minnesota Statutes 1992, section 129C.10, is amended by adding a subdivision to read:

Subd. 3b. [APPEAL.] A parent who disagrees with a board action that adversely affects the academic program of an enrolled pupil may appeal the board's action to the state board of education within 30 days of the board's action. The decision of the state board of education shall be binding on the board. The board shall inform each pupil and parent at the time of enrolling of a parent's right to appeal a board action affecting the pupil's academic program.

Sec. 3. [APPLICABILITY.]

The requirement under section 1 that a board member be knowledgeable in the field of special education shall apply to appointments to the board made after the effective date of this act."

Delete the title and insert:

"A bill for an act relating to education; providing for governance of the center for arts education and for certain appeals from the governing body's action; amending Minnesota Statutes 1992, section 129C.10, subdivision 1, and by adding a subdivision."

With the recommendation that when so amended the bill pass.

The report was adopted.

Sarna from the Committee on Commerce and Economic Development to which was referred:

H. F. No. 929, A bill for an act relating to taxation; providing for manufacturing opportunity districts in certain cities; providing tax credits and exemptions for certain industries located in a manufacturing opportunity district; proposing coding for new law in Minnesota Statutes, chapter 469.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [469.30] [DEFINITIONS.]

Subdivision 1. [GENERALLY.] For purposes of sections 1 to 7, the terms defined in this section have the meanings given them.

Subd. 2. [CITY.] "City" means a home rule charter or statutory city of the first or second class.

Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of revenue.

Subd. 4. [ELIGIBLE CITY.] "Eligible city" means a city that has had a loss of at least 2,000 manufacturing or food processing jobs since 1978, as determined by the Minnesota department of jobs and training.

Subd. 5. [MANUFACTURING BUSINESS.] "Manufacturing business" means a business that: (1) creates, processes, or assembles durable goods, food products, or tangible products that are stored, shipped, distributed, and marketed for eventual wholesale or consumer sale; or (2) provides computer software, data processing, or other computer-related information services.

Subd. 6. [MANUFACTURING OPPORTUNITY DISTRICT.] "Manufacturing opportunity district" means the area in the city designated as such by the governing body of the city.

Subd. 7. [NEW OR EXPANDING MANUFACTURING BUSINESS.] "New or expanding manufacturing business" means a manufacturing business that: (1) has not operated within this state prior to the effective date of sections 1 to 7, and has not entered into a contract to build or lease a facility within the eligible city prior to the effective date of sections 1 to 7; or (2) exceeds the maximum number of full-time employees employed during the previous 36 months, and which adds a net increase of Minnesota based jobs to the employer.

Sec. 2. [469.31] [DESIGNATION OF MANUFACTURING OPPORTUNITY DISTRICTS.]

Subdivision 1. [CREATION.] The governing body of an eligible city may designate an area within the city as a manufacturing opportunity district.

Subd. 2. [AREA REQUIREMENTS.] The boundary of the district must be continuous. It must consist of properly zoned land consistent with the city's current land use plans. The area must include vacant or underutilized industrial lands, or tax-forfeited lands.

Subd. 3. [LIMITATION.] No area may be designated as a manufacturing opportunity district after December 31, 1997.

Sec. 3. [469.32] [BUSINESS INCENTIVES.]

Subdivision 1. [DESIGNATION OF BUSINESS INCENTIVES.] The governing body of an eligible city may designate any or all of the following business incentives to a new or expanding manufacturing business located in the manufacturing opportunity district:

(1) a new or expanding manufacturing jobs credit as provided in section 4;

(2) a targeted employee's job credit as provided in section 5;

(3) a sales tax exemption as provided in section 6; and

(4) a property tax exemption as provided in section 7.

Subd. 2. [CERTIFICATION; FINDINGS.] (a) To qualify for business incentives under this section, a new or expanding manufacturing business must certify to the governing body of the eligible city and the city must make findings that the new or expanding manufacturing business:

(1) would not have located or expanded in Minnesota except for availability of business incentives under sections 1 to 7;

(2) conforms to all local zoning, building, and environmental codes, and is in conformance with all rules and regulations of the Occupational Safety and Health Administration;

(3) has an affirmative action and equal opportunity hiring program; and

(4) meets any other qualifications required by the city, including but not limited to, developer contract requirements, agreements to minimum estimated market valuations for determining minimum property tax obligations, and reporting and certification requirements regarding the employment of eligible employees for which a tax credit is allowed under section 4 or 5.

(b) With the certification under paragraph (a), the new or expanding manufacturing business must submit any supporting data or documents required by the city to determine compliance with the requirements of the city.

Subd. 3. [LOCAL CONTRIBUTION.] An eligible city must make a local contribution equal to at least ten percent of any projected state contribution under subdivision 1, clauses (1) to (3). The city contribution may be in any form of redevelopment assistance.

Subd. 4. [NOTIFICATION OF COMMISSIONER.] Upon approval by the city of qualification of a new or expanding manufacturing business for tax incentives, the city shall notify the commissioner of the business certification and findings by the city under subdivision 2, the city's local contribution under subdivision 3, and the terms of any credits and exemptions granted by the city.

Sec. 4. [469.33] [NEW OR EXPANDING MANUFACTURING JOB CREDIT.]

Subdivision 1. [CREDIT ALLOWED.] If designated by the city as a business incentive under section 3, a corporation that is a new or expanding manufacturing business is allowed a credit against the taxes imposed under chapter 290. A credit is allowed for the first five years of business activity. The amount of the credit is determined by the governing body of the city, but must not exceed a maximum amount as follows:

(1) for the first 12 months of operations, $5,000 per eligible employee;

(2) for months 13 to 24 of operations, $4,000 per eligible employee;

(3) for months 25 to 36 of operations, $3,000 per eligible employee;

(4) for months 37 to 48 of operations, $2,000 per eligible employee; and

(5) for months 49 to 60 of operations, $1,000 per eligible employee.

Subd. 2. [DEFINITIONS.] (a) For purposes of this section, "eligible employee" means:

(1) a permanent full-time employee of the new or expanding manufacturing business who is employed within the manufacturing opportunity district at the end of the taxable year in which the credit is claimed at annual wages exceeding $15,000; and

(2) an individual who had an annual income in the 12 months immediately prior to employment by the eligible business, equal to or less than 80 percent of median income, adjusted for family size, for the county or metropolitan statistical area as determined by the department of housing and urban development; or

(3) a member of a group that is evidenced by a statistical disparity in employment opportunities as compared to all state residents. Targeted residents may include women, persons with disability, or specific minorities.

(b) "Wages" has the meaning given it under section 3121(b) of the Internal Revenue Code of 1986, as amended through December 31, 1992.

Subd. 3. [CARRY FORWARD.] The credit for the taxable year may not exceed the liability for tax. If the amount of the credit exceeds the liability for tax for the taxable year, the balance of the credit is a carryover credit to each of the next ten taxable years. The entire amount of the credit is a credit carryover to the earliest of the taxable years to which it may be carried and then to each successive year. The sum of the credit and carryover credits allowed in a taxable year may not exceed the liability for tax.

Subd. 4. [RECAPTURE.] If an eligible employee for which a credit is allowed under subdivision 1 is not employed by the new or expanding manufacturing business on a permanent full-time basis at annual wages exceeding $15,000 for a period of 12 continuous months, the credit taken against the liability for tax under subdivision 1 must be repaid to the commissioner and no carryover credit is allowed.

Sec. 5. [469.34] [TARGETED EMPLOYEE'S JOB CREDIT.]

Subdivision 1. [CREDIT ALLOWED.] If designated by the city as a business incentive under section 3, a corporation that is a new or expanding manufacturing business is allowed a credit against the taxes imposed under chapter 290. A credit is allowed for the first five years of business activity. The credit is in addition to any credit allowed under section 4. The amount of the credit is determined by the governing body of the city, but must not exceed a maximum amount as follows:

(1) for the first 12 months of operations, $2,500 per eligible employee;

(2) for months 13 to 24 of operations, $2,000 per eligible employee;

(3) for months 25 to 36 of operations, $1,500 per eligible employee;

(4) for months 37 to 48 of operations, $1,000 per eligible employee; and

(5) for months 49 to 60 of operations, $500 per eligible employee.

Subd. 2. [DEFINITIONS.] (a) For purposes of this section, "eligible employee" means a permanent full-time employee of the new or expanding manufacturing business who is employed within the manufacturing district at the end of the taxable year in which the credit is claimed at annual wages exceeding $15,000. The employee must be 18 to 25 years of age, and have no more than a GED or high school diploma at the time the employee is first employed as a full-time permanent employee.

(b) "Wages" has the meaning given it under section 3121(b) of the Internal Revenue Code of 1986, as amended through December 31, 1992.

Subd. 3. [TRAINING.] To qualify for a credit under this section, the new or expanding manufacturing business must provide on-site training to the eligible employees. A plan for the training must be submitted to and approved by the governing body of the city. The training program must include an initial training program to teach the technical skills necessary to perform the job in a safe and productive manner, and must also include an ongoing training program to provide additional technical and general skills to help the eligible employee qualify for more advanced job opportunities and to keep pace with advances in new technologies.

Subd. 4. [CARRY FORWARD.] The credit for the taxable year may not exceed the liability for tax. If the amount of the credit exceeds the liability for tax for the taxable year, the balance of the credit is a carryover credit to each of the next ten taxable years. The entire amount of the credit is a credit carryover to the earliest of the taxable years to which it may be carried and then to each successive year. The sum of the credit and carryover credits allowed in a taxable year may not exceed the liability for tax.

Subd. 5. [RECAPTURE.] If an eligible employee for which a credit is allowed under subdivision 1 is not employed by the new or expanding manufacturing business on a permanent full-time basis at annual wages exceeding $15,000 for a period of 12 continuous months, the credit taken against the liability for tax under subdivision 1 must be repaid to the commissioner and no carryover credit is allowed.

Sec. 6. [469.35] [SALES TAX EXEMPTION.]

If designated by the city as a business incentive under section 3, the purchase of capital equipment as defined in section 297A.01, subdivision 16, and construction materials and supplies used or consumed by a new or expanding manufacturing business within a manufacturing opportunity district are exempt from the tax imposed under chapter 297A. The exemption under this section does not include equipment, materials, or supplies, purchased by a contractor or subcontractor.

Sec. 7. [469.36] [TAX-FORFEITED LAND.]

If designated by the city as a business incentive under section 3, tax-forfeited land acquired by the city, housing redevelopment authority, or port authority of the city within a manufacturing opportunity district is exempt from property taxes, penalties, and interest that accrued before and during the period of forfeiture.

Sec. 8. [REPORT.]

On or before January 15, 1996, the commissioner of revenue shall evaluate the program under sections 1 to 7 and submit the evaluation along with recommendations to the chair of the senate committee on taxes and tax laws and the chair of the house tax committee."

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

The report was adopted.

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

H. F. No. 961, A bill for an act relating to health; modifying lead abatement requirements; licenses and fees; establishing disposal methods; providing penalties; amending Minnesota Statutes 1992, section 144.871, subdivisions 2, 3, 6, 7a, and by adding subdivisions; 144.872, subdivisions 2 and 3; 144.873, subdivision 2; 144.874, subdivisions 1, 3, 4, and 6; 144.876, by adding subdivisions; 144.878, subdivisions 2 and 5; and Minnesota Rules, chapter 4761; proposing coding for new law in Minnesota Statutes, chapters 116 and 144; repealing Minnesota Statutes 1992, sections 144.8721; 144.874, subdivision 10; and 144.878, subdivision 2a.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Article 1
Lead Abatement

Section 1. Minnesota Statutes 1992, section 256B.0625, subdivision 14, is amended to read:

Subd. 14. [DIAGNOSTIC, SCREENING, AND PREVENTIVE SERVICES.] (a) Medical assistance covers diagnostic, screening, and preventive services.

(b) "Preventive services" include services related to pregnancy, including services for those conditions which may complicate a pregnancy and which may be available to a pregnant woman determined to be at risk of poor pregnancy outcome. Preventive services available to a woman at risk of poor pregnancy outcome may differ in an amount, duration, or scope from those available to other individuals eligible for medical assistance.

(c) "Screening services" include, but are not limited to, blood lead tests.

Sec. 2. Minnesota Statutes 1992, section 144.871, subdivision 2, is amended to read:

Subd. 2. [ABATEMENT.] "Abatement" means removal of, replacement of, or encapsulation of deteriorated paint, bare soil, dust, drinking water, or other lead-containing materials that are or may become readily accessible during the lead abatement process and pose an immediate threat of actual lead exposure to people.

Sec. 3. Minnesota Statutes 1992, section 144.871, subdivision 6, is amended to read:

Subd. 6. [ELEVATED BLOOD LEAD LEVEL.] "Elevated blood lead level" in a child ~~no more than six years old~~ before the sixth birthday or in a pregnant woman means a blood lead level that exceeds the federal Centers for Disease Control guidelines for preventing lead poisoning in young children, unless the commissioner finds that a lower concentration is necessary to protect public health.

Sec. 4. Minnesota Statutes 1992, section 144.871, subdivision 7a, is amended to read:

Subd. 7a. [HIGH RISK FOR TOXIC LEAD EXPOSURE.] "High risk for toxic lead exposure" means ~~either~~ a census tract that meets one or more of the following criteria:

(1) ~~that~~ a census tract where elevated blood lead levels have been diagnosed in a population of children or pregnant women;

(2) ~~without blood lead data, that a population of children or pregnant women resides in:~~

~~(i)~~ a census tract with many residential structures known to have or suspected of having deteriorated lead-based paint; or

~~(ii)~~ (3) a census tract with a median soil lead concentration greater than 100 parts per million for any sample collected according to Minnesota Rules, part 4761.0400, subpart 8, and rules adopted under section 144.878~~; or~~

~~(3) the priorities adopted by the commissioner under section 144.878, subdivision 2, shall apply to this subdivision.~~

Sec. 5. Minnesota Statutes 1992, section 144.871, subdivision 7b, is amended to read:

Subd. 7b. [PRIMARY PREVENTION FOR TOXIC LEAD EXPOSURE.] "Primary prevention for toxic lead exposure" ~~means performance of swab team services, encapsulation, and removal and replacement abatement, including lead cleanup and health education, before children develop elevated blood lead levels.~~ includes any or all of the following:

(1) education of the general public in populations where children under six years of age and pregnant women have been identified with blood lead levels greater than nine micrograms per deciliter;

(2) education for property owners and renters concerning in-place management of potential lead hazards to create lead-safe housing;

(3) in-place management of potential lead hazards using swab team services or property owner or renter lead abatement activities; and

(4) encapsulation, and removal and replacement abatement where necessary to make the residence lead safe.

Sec. 6. Minnesota Statutes 1992, section 144.871, is amended by adding a subdivision to read:

Subd. 7c. [LEAD INSPECTOR.] "Lead inspector" means a person who has successfully completed a training course in investigation of residences for possible sources of lead exposure and who is licensed by the commissioner under section 144.877 to perform this activity.

Sec. 7. Minnesota Statutes 1992, section 144.871, subdivision 9, is amended to read:

Subd. 9. [SWAB TEAM.] "Swab team" means a person or persons who implement in-place management of lead exposure sources~~, which includes~~. Swab team services include any or all of the following:

(1) ~~covering or replacing bare soil that has a lead concentration of 100 parts per million, and establishing safe exterior play and garden areas;~~ removing lead dust by washing, vacuuming, and cleaning the interior of residential property;

(2) other means that immediately protect children who engage in mouthing or pica behavior from lead sources, including cleanup and health education, advice and assistance to help a family locate and move to a temporary lead-safe residence while abatement is being completed, or to help a family locate and move to alternate lead-safe housing when abatement is not completed by the property owner, and any other assistance necessary to meet the family's immediate needs as a result of the relocation;

~~(2)~~ (3) removing loose paint and paint chips and installing guards to protect intact paint;

~~(3) removing lead dust by washing, vacuuming, and cleaning the interior of residential property including carpets;~~ and

(4) ~~other means, including cleanup and health education, that immediately protect children who engage in mouthing or pica behavior from lead sources~~ covering or replacing bare soil that has a lead concentration of 100 parts per million, and establishing safe exterior play and garden areas.

Sec. 8. Minnesota Statutes 1992, section 144.871, is amended by adding a subdivision to read:

Subd. 7d. [PERSON.] "Person" has the meaning given in Minnesota Statutes, section 103I.005, subdivision 16.

Sec. 9. Minnesota Statutes 1992, section 144.871, is amended by adding a subdivision to read:

Subd. 10. [VENOUS BLOOD SAMPLE.] "Venous blood sample" means a quantity of blood drawn from a vein.

Sec. 10. Minnesota Statutes 1992, section 144.872, subdivision 2, is amended to read:

Subd. 2. [HOME ASSESSMENTS.] (a) The commissioner shall, within available federal or state appropriations, contract with boards of health, who may determine priority for responding to cases of elevated blood lead levels, to conduct assessments to determine sources of lead contamination in the residences of pregnant women whose blood

lead levels are at least ten micrograms per deciliter and of children whose blood lead levels are at least 20 micrograms per deciliter or whose blood lead levels persist in the range of 15 to 19 micrograms per deciliter for 90 days after initial identification to the board of health or the commissioner. Assessments must be conducted within five working days of the board of health receiving notice that the criteria in this subdivision have been met. The commissioner or boards of health must be notified of all violations of standards under section 144.878, subdivision 2, that are identified during a home assessment.

(b) The commissioner or boards of health must identify the known addresses for the previous 12 months of the child or pregnant woman with elevated blood lead levels and notify the property owners at those addresses. The commissioner may also collect information on the race, sex, and family income of children and pregnant women with elevated blood lead levels.

(c) Within the limits of appropriations, a board of health shall conduct home assessments for children and pregnant women whose confirmed blood lead levels are in the range of ten to 19 micrograms per deciliter.

(d) The commissioner shall also provide educational materials on all sources of lead to boards of health to provide education on ways of reducing the danger of lead contamination. The commissioner may provide laboratory or field lead testing equipment to a board of health or may reimburse a board of health for direct costs associated with assessments.

Sec. 11. Minnesota Statutes 1992, section 144.872, subdivision 3, is amended to read:

Subd. 3. [SAFE HOUSING.] The commissioner shall, within the limits of available appropriations, contract with boards of health for safe housing to be used in meeting relocation requirements in section 144.874, subdivision 4. The commissioner shall, within available federal or state appropriations, award grants to boards of health for the purposes of paying housing and relocation costs under section 144.874, subdivision 4.

Sec. 12. Minnesota Statutes 1992, section 144.872, subdivision 4, is amended to read:

Subd. 4. [LEAD CLEANUP EQUIPMENT AND MATERIAL GRANTS.] (a) Within the limits of available state or federal appropriations, funds shall be made available under a grant program to nonprofit community-based organizations in areas at high risk for toxic lead exposure. Grantees shall use the money to purchase lead cleanup equipment ~~and educational materials,~~ and to pay for training for staff and volunteers for lead abatement certification. Grantees may work with licensed lead abatement contractors and certified trainers in order to ~~meet the requirements of this program~~ receive training necessary for certification under section 144.876, subdivision 1. Lead cleanup equipment shall include: high efficiency particle accumulator and wet vacuum cleaners, drop cloths, secure containers, respirators, scrapers, dust and particle containment material, and other cleanup and containment materials to remove loose paint and plaster, patch ~~loose paint and~~ plaster, control household dust, wax floors, clean carpets and sidewalks, and cover bare soil.

(b) Upon certification, the ~~grantees~~ grantee's staff and volunteers may make equipment and educational materials available to residents and property owners and instruct them on the proper use. Equipment shall be made available to low-income households on a priority basis at no fee, and other households on a sliding fee scale. Equipment shall not be made available to any person, licensed lead abatement contractor, or certified trainer who charges or intends to charge a fee for services performed using equipment or materials purchased by a nonprofit community-based organization through a grant obtained under this subdivision.

Sec. 13. Minnesota Statutes 1992, section 144.872, is amended by adding a subdivision to read:

Subd. 5. [SWAB TEAMS.] The commissioner shall, within the limits of available appropriations or grants under section 268.92, provide or contract with boards of health for swab teams to reduce residential lead exposure at the residences of children and pregnant women newly identified as having elevated blood lead levels. Boards of health may determine priority for responding to cases of elevated blood lead levels.

Sec. 14. Minnesota Statutes 1992, section 144.873, subdivision 2, is amended to read:

Subd. 2. [TEST OF CHILDREN IN HIGH RISK AREAS.] Within limits of available state and federal appropriations, the commissioner shall promote and subsidize a blood lead test of all children ~~under six years of age~~ before the sixth birthday who live in all areas of high risk for toxic lead exposure that are currently known or subsequently identified. Within the limits of available appropriations, the commissioner shall conduct surveys~~, especially soil assessments larger than a residence, as defined by the commissioner,~~ to determine probable sources of lead exposure in greater Minnesota communities where a case of elevated blood lead levels has been reported.

Surveys conducted under this subdivision must consist of evaluating census tracts to determine whether or not they are at high risk for toxic lead exposure. The evaluation shall consist of a priority response determination under section 144.878, subdivision 2a. In making this evaluation, the commissioner shall:

(1) conduct a soil survey in the manner provided for under Minnesota Rules, part 4761.0400, subpart 8; and

(2) evaluate housing quality, if data is available.

The commissioner may also conduct a blood lead screening of children under six years of age within the census tract.

Sec. 15. Minnesota Statutes 1992, section 144.873, subdivision 3, is amended to read:

Subd. 3. [STATEWIDE LEAD SCREENING.] Statewide lead screening by blood lead assays in conjunction with routine blood tests analyzed by laboratories that meet the center for disease control laboratory proficiency standards, by atomic absorption equipment, or other equipment with equivalent or better accuracy shall be ~~advocated~~ used by boards of health.

Sec. 16. Minnesota Statutes 1992, section 144.874, subdivision 1, is amended to read:

Subdivision 1. [RESIDENCE ASSESSMENT.] (a) A board of health must conduct a timely assessment of a residence and all common areas, if the residence is located in a building with two or more residential units, within five working days of receiving notification that the criteria in this subdivision have been met, as confirmed by lead analysis of a venous blood sample, to determine sources of lead exposure if:

(1) a pregnant woman in the residence is identified as having a blood lead level of at least ten micrograms of lead per deciliter of whole blood;

(2) a child in the residence is identified as having a blood lead level at or above 20 micrograms per deciliter; or

(3) a child in the residence is identified as having a blood lead level that persists in the range of 15 to 19 micrograms per deciliter for 90 days after initial identification.

(b) Within the limits of available state and federal appropriations, a board of health shall also conduct home assessments for children whose confirmed blood lead levels are in the range of ten to 19 micrograms per deciliter. A board of health may assess a residence even if none of the three criteria in this subdivision are met.

(c) If a child regularly spends several hours ~~per day~~ at one or more other sites such as another residence, ~~such as~~ or a residential or commercial child care facility, the board of health must also assess the other ~~residence~~ sites. The board of health shall have one additional day to complete the assessment for each additional site.

~~(b)~~ (d) The board of health must conduct the residential assessment according to rules adopted by the commissioner ~~according to~~ under section 144.878. A board of health must have residence assessments performed by lead inspectors licensed by the commissioner according to rules adopted under section 144.878. A board of health may observe the performance of lead abatement in progress and may enforce the provisions of sections 144.871 to 144.879 under section 144.8781. The staff complement of the department of health shall be increased by two full-time equivalent positions who shall be lead inspectors.

Sec. 17. Minnesota Statutes 1992, section 144.874, subdivision 2, is amended to read:

Subd. 2. [RESIDENTIAL LEAD ASSESSMENT GUIDE.] (a) The commissioner of health shall develop or purchase a residential lead assessment guide that enables parents and other caregivers to assess the possible lead sources present and that suggests lead abatement actions. The guide must provide information on safe abatement and disposal methods, sources of equipment, and telephone numbers for additional information to enable the persons to either perform the abatement or to intelligently select an abatement contractor. In addition, the guide must:

(1) meet the requirements of Minnesota laws and rules;

(2) be understandable at not more than an eighth grade reading level;

(3) include information on all necessary safety precautions for all lead source cleanup; and

(4) be the best available educational material.

(b) A board of health must provide the residential lead assessment guide at no cost to:

(1) parents and other caregivers of children who are identified as having blood lead levels of at least ten micrograms per deciliter; and

(2) all property owners ~~and occupants~~ who are issued housing code orders requiring ~~disruption~~ abatement of lead sources, and all occupants of those residences.

(c) A board of health must provide the residential lead assessment guide on request to owners or ~~tenants~~ occupants of residential property within the jurisdiction of the board of health.

Sec. 18. Minnesota Statutes 1992, section 144.874, subdivision 3, is amended to read:

Subd. 3. [SWAB TEAMS; LEAD ASSESSMENT; LEAD ABATEMENT ORDERS.] A board of health must order a property owner to perform abatement on a lead source that exceeds a standard adopted according to section 144.878 at the residence of a child with an elevated blood lead level or a pregnant woman with a blood lead level of at least ten micrograms per deciliter. Lead abatement orders must require that any source of damage, such as leaking roofs, plumbing, and windows, must be repaired or replaced, as needed, to prevent damage to lead-containing interior surfaces. The board of health is not required to pay for lead abatement. With each lead abatement order, the board of health must coordinate with swab team abatement and provide a residential lead abatement guide.

Sec. 19. Minnesota Statutes 1992, section 144.874, is amended by adding a subdivision to read:

Subd. 3a. [SWAB TEAM SERVICES.] After issuing abatement orders for a residence of a child or pregnant women with elevated blood lead levels, the commissioner or a board of health must send a swab team within five working days to the residence to perform swab team services as defined in section 144.871, subdivision 9. If the commissioner or board of health provides swab team services after an assessment, but before the issuance of an abatement order, swab team services do not need to be repeated after the issuance of an abatement order. Swab team services are not considered completed until the reassessment required under subdivision 6 shows no violation of one or more of the standards under section 144.878, subdivision 2. If assessments and abatement orders are conducted at times when weather or soil conditions do not permit the assessment or abatement of lead in soil, the residences shall have their soil assessed and abated, if necessary, at the first opportunity that weather and soil conditions allow.

Sec. 20. Minnesota Statutes 1992, section 144.874, subdivision 4, is amended to read:

Subd. 4. [RELOCATION OF RESIDENTS.] (a) A board of health must ensure that residents are relocated from rooms or dwellings during abatement that generates leaded dust, such as removal or disruption of lead-based paint or plaster that contains lead. Residents must be allowed to return to the residence or dwelling after completion of abatement. A board of health shall use grant funds under section 144.872, subdivision 3, in cooperation with local housing agencies, to pay for moving costs and rent for a temporary residence for any low-income resident temporarily relocated during lead abatement~~, not to exceed $250 per household~~. For purposes of this section, "low-income resident" means any resident whose gross household income is at or below 185 percent of the federal poverty level.

(b) Any resident of rental property who is notified by the board of health to vacate the premises during lead abatement notwithstanding any rental agreement or lease provisions:

(1) shall not be required to pay rent due the landlord for the period of time the tenant must vacate the premises; and

(2) may elect to immediately terminate the tenancy effective on the date the tenant vacates the premises for lead abatement, and shall not be liable for any further rent or other charges due under the terms of the tenancy.

(c) A landlord of rental property in which tenants must vacate the premises during lead abatement must:

(1) allow a tenant to return to the dwelling after lead abatement and retesting, as required under subdivision 6, is completed unless the tenant has elected to terminate the tenancy under paragraph (b); and

(2) return any security deposit due under section 504.20 to any tenant who terminates tenancy under paragraph (b) within five days of the date the tenant vacates the unit.

(d) In any proceeding brought under chapter 566 for the restitution of the premises on the ground of nonpayment of rent, it shall be a defense thereto if the tenant establishes by a preponderance of the evidence that the plaintiff increased the tenant's rent as a penalty, in whole or in part, due to the landlord's receipt of an order from a board of health that lead abatement is required, provided that the tenant tender to the court or to the plaintiff the amount of rent due and payable under the terms of the tenant's original obligation and this subdivision. If the notice of rent increase was served within 90 days of the date the landlord receives notice of an order for lead abatement, the burden of proving that the notice was not served as a penalty, in whole or in part, for a retaliatory purpose shall rest with the plaintiff.

Sec. 21. Minnesota Statutes 1992, section 144.874, subdivision 5, is amended to read:

Subd. 5. [WARNING NOTICE; FINE.] A warning notice must be posted on all entrances to properties for which an order to abate a lead source has been issued by a board of health. A person who unlawfully removes a warning notice posted under this section shall be subject to a $250 fine. ~~This~~ The warning notice must be at least 8-1/2 by 11 inches in size and must include the following language, or substantially similar language:

(a) "This property contains dangerous amounts of lead to which children under age six and pregnant women should not be exposed."

(b) "It is unlawful to remove or deface this warning. ~~This warning may be removed only upon the direction of the board of health.~~"

(c) "Persons who remove or deface this warning shall be subject to a $250 fine. This warning may be removed only upon the direction of the board of health."

Sec. 22. Minnesota Statutes 1992, section 144.874, subdivision 6, is amended to read:

Subd. 6. [SERVICES AND RETESTING REQUIRED.] After completion of swab team services and the abatement as ordered, including any repairs ordered by a local housing or building inspector, the board of health must retest the residence to assure the violations no longer exist. The board of health is not required to test a residence after lead abatement that was not ordered by the board of health.

Sec. 23. Minnesota Statutes 1992, section 144.874, subdivision 9, is amended to read:

Subd. 9. [PRIMARY PREVENTION.] Although children who are found to already have elevated blood lead levels must have the highest priority for intervention, the commissioner shall pursue primary prevention ~~of lead poisoning~~ for toxic lead exposure within the limits of appropriations.

Sec. 24. Minnesota Statutes 1992, section 144.874, is amended by adding a subdivision to read:

Subd. 11a. [LEAD ABATEMENT DIRECTIVES.] In order to achieve statewide consistency in the application of lead abatement standards, the commissioner shall issue program directives that interpret the application of rules under section 144.878 in ambiguous or unusual lead abatement situations. These directives are guidelines to local boards of health. The commissioner shall periodically review the evaluation of lead abatement orders and the program directives to determine if the rules under section 144.878 need to be amended to reflect new understanding of lead abatement practices and methods.

Sec. 25. Minnesota Statutes 1992, section 144.876, is amended by adding a subdivision to read:

Subd. 4. [NOTICE OF ABATEMENT.] At least five days before starting work at each lead abatement worksite, a lead abatement contractor shall give written notice to the commissioner and the board of health.

Sec. 26. [144.877] [LEAD INSPECTORS; LICENSING.]

Subdivision 1. [LICENSE REQUIRED.] A lead inspector must obtain a license within 180 days of the effective date of this section and must renew it annually. The license must be readily available at assessment sites for inspection by the commissioner or by staff of a board of health with jurisdiction over a work site. A license cannot be transferred.

Subd. 2. [LICENSE APPLICATION.] An application for license or license renewal must be on a form provided by the commissioner and must include:

(1) a $50 nonrefundable fee, in the form of a check;

(2) evidence that the applicant has successfully completed a lead inspector training course approved in subdivision 6, or has, within the previous 180 days, successfully completed an initial lead inspection training course.

The fee required in this subdivision is waived for an employee of a board of health.

Subd. 3. [LICENSE RENEWAL.] A license is valid for one year from the issuance date unless the commissioner revokes it. An applicant must successfully complete either an initial lead inspection training course or an annual refresher lead inspection training course to apply for license renewal.

Subd. 4. [LICENSE REPLACEMENT.] A licensed lead inspector may obtain a replacement license by reapplying for a license. A replacement expires on the same date as the original license. A nonrefundable $25 fee is required with each replacement application.

Subd. 5. [DENIAL OF LICENSE APPLICATION.] The commissioner may deny an application, revoke, or impose limitations or conditions on a license, if the applicant or licensed lead inspector:

(1) violates rules adopted under sections 144.871 to 144.879;

(2) submits an application that is incomplete, inaccurate, or lacks the required fee, or submits an invalid check;

(3) obtains a license, certificate, or approval through error, fraud, or cheating;

(4) provides false or fraudulent information on forms;

(5) aids or allows an unlicensed or uncertified person to engage in activities for which a license or certificate is required;

(6) endangers public health or safety;

(7) has been convicted during the previous five years of a felony or gross misdemeanor related to residential lead assessment or residential lead abatement; or

(8) has been convicted during the previous five years of a violation of section 270.72, 325F.69, or 325F.71.

An application for licensure that has been denied may be resubmitted when the reasons for denial have been corrected. A person whose license is revoked may not apply for a license within one year of the date of revocation. After one year, the application requirements must be followed by an applicant for a license, certificate, or course approval. An applicant who submits an approvable application within 60 days of initial denial is not required to pay a second fee.

Subd. 6. [APPROVAL OF LEAD INSPECTION COURSE.] A lead inspection course sponsored by the United States Environmental Protection Agency is an approved course for the purpose of this section.

Subd. 7. [LEAD INSPECTION; RULES.] The commissioner may adopt rules to implement this section. The commissioner may also approve lead inspector courses offered by groups other than those approved by the United States Environmental Protection Agency and shall charge a fee to cover the costs of approving courses.

Sec. 27. Minnesota Statutes 1992, section 144.878, subdivision 2, is amended to read:

Subd. 2. [LEAD STANDARDS AND ABATEMENT METHODS.] (a) The commissioner shall adopt rules establishing standards and abatement methods for lead in paint, dust, and drinking water in a manner that protects public health and the environment for all residences, including residences also used for a commercial purpose. ~~The commissioner shall adopt priorities for providing abatement services to areas defined to be at high risk for toxic lead exposure. In adopting priorities, the commission shall consider the number of children and pregnant women diagnosed with elevated blood levels and the median concentration of lead in the soil. The commissioner shall give priority to areas having the largest population of children and pregnant women having elevated blood lead levels, areas with the highest median soil lead concentration, and areas where it has been determined that there are large numbers of residences that have deteriorating paint.~~ The commissioner shall differentiate between intact paint and deteriorating paint. The commissioner and political subdivisions shall require abatement of intact paint only if the commissioner or political subdivision finds that the intact paint is on a chewable or lead-dust producing surface that is a known source or reasonably expected to be a source of actual lead exposure to a specific person. In adopting rules under this subdivision, the commissioner shall require the best available technology for lead abatement methods, paint stabilization, and repainting.

(b) The commissioner of health shall adopt standards and abatement methods for lead in bare soil on playgrounds and residential property in a manner to protect public health and the environment. The commissioner shall adopt a maximum standard of 100 parts of lead per million in bare soil, unless it is proven that a different standard provides greater protection of public health.

(c) The commissioner of the pollution control agency shall adopt rules to ensure that removal of exterior lead-based coatings from residential property by abrasive blasting methods ~~and disposal of any hazardous waste are~~ is conducted in a manner that protects public health and the environment.

(d) All standards adopted under this subdivision must provide ~~adequate~~ reasonable margins of safety that are consistent with a detailed review of scientific evidence and an emphasis on overprotection rather than underprotection when the scientific evidence is ambiguous. The rules must apply to any individual performing or ordering the performance of lead abatement.

(e) No unit of local government may have an ordinance or regulation governing lead abatement methods for lead in paint, dust, or soil for residences and residential land that require a different lead abatement method than the lead abatement standards established under sections 144.871 to 144.879.

Sec. 28. Minnesota Statutes 1992, section 144.878, subdivision 2a, is amended to read:

Subd. 2a. [PRIORITIES FOR RESPONSE ACTION.] ~~By January 1, 1988,~~ The commissioner of health must adopt new rules establishing ~~the~~ a priority list of census tracts at high risk for toxic lead exposure for primary prevention response actions. ~~The rules must consider the potential for children's contact with the soil and the existing level of lead in the soil and may consider the relative risk to the public health, the size of the population at risk, and blood lead levels of resident populations.~~ In establishing the list, the commissioner shall award points under this subdivision to each census tract on which information is available. The priority for primary prevention response actions in census tracts at high risk for toxic lead exposure shall be based on the cumulative points awarded to each census tract. A greater number of points means a higher priority. If a tie occurs in the number of points, priority shall be given to the census tract with the higher percentage of population with blood lead levels greater than ten micrograms of lead per deciliter. All local governmental units and boards of health shall follow the priorities under this subdivision. The commissioner shall revise and update the priority list at least every five years. Points shall be awarded to each census tract for each criteria, considered independently, defined in section 144.871, subdivision 7a. Points shall be awarded as follows:

(a) In a census tract where at least 20 children have been screened in the last five years, one point shall be awarded for each five percent of children who were under six years old at the time they were screened for lead in blood and whose blood lead level exceeds ten micrograms of lead per deciliter. An additional point shall be awarded if one percent of the children had blood levels greater than 20 micrograms per deciliter of blood. Two points shall be awarded to a census tract, where the blood lead screening has been inadequate, that is contiguous with a census tract where more than ten percent of the children under six years of age have blood lead levels exceeding ten micrograms per deciliter.

(b) One point shall be awarded for every five percent of housing that is defined as dilapidated or deteriorated by the planning department or similar agency of the city in which the housing is located. Where data is available by neighborhood or section within a city, the percent of dilapidated or deteriorated housing shall apply equally to each census tract within the neighborhood or section.

(c) One point shall be awarded for every 100 parts per million of lead soil, based on the median soil lead values of foundation soil samples, calculated on 100 parts per million intervals, or fraction thereof. For the cities of St. Paul and Minneapolis, the commissioner shall use the June 1988 census tract version of the houseside map entitled "Distribution of Household Lead Content of Soil Dust in the Twin Cities," prepared by the center for urban and regional affairs. Where the map displays a census tract that is crossed by two or more intervals, the commissioner shall make a reasoned determination of the median foundation soil lead value for that tract. Values for census tracts may be updated by surveying the tract according to the procedures under Minnesota Rules, part 4761.0400, subpart 8.

Sec. 29. Minnesota Statutes 1992, section 144.878, subdivision 5, is amended to read:

Subd. 5. [LEAD ABATEMENT CONTRACTORS AND EMPLOYEES.] The commissioner shall adopt rules to license lead abatement contractors, to certify employees of lead abatement contractors who perform abatement, and to certify lead abatement trainers who provide lead abatement training for contractors, employees, or other lead abatement trainers. ~~The rules must include standards and procedures for on-the-job training for swab teams.~~ A person who performs painting, renovation, rehabilitation, remodeling, or other residential work that is not lead abatement need not be a licensed lead abatement contractor. However, a person who performs work that removes intact paint on residences built before February 27, 1978, must determine whether lead sources are present and whether the planned work would be lead abatement as defined in section 144.871, subdivision 2. This determination may be made by quantitative chemical analysis, X-ray fluorescence analyzer, or chemical spot test using sodium rhodizonate. If lead sources are identified, the work must be performed by a licensed lead abatement contractor. An owner of an owner-occupied residence with one or two units is not subject to the requirements under this subdivision. All lead abatement training must include a hands-on component and instruction on the health effects of lead exposure, the use of personal protective equipment, workplace hazards and safety problems, abatement methods and work practices, decontamination procedures, cleanup and waste disposal procedures, lead monitoring and testing methods, and legal rights and responsibilities. The commissioner shall adopt rules to approve lead abatement training courses and to charge a fee for approval. At least 30 days before publishing initial notice of proposed rules under this subdivision on the licensing of lead abatement contractors, the commissioner shall submit the rules to the chairs of the health and human services committees in the house of representatives and the senate, and to any legislative committee on licensing created by the legislature.

Sec. 30. [144.8781] [ENFORCEMENT.]

Subdivision 1. [CEASE AND DESIST ORDER.] (a) The commissioner may issue an order requiring a person to cease lead abatement if the commissioner determines that a condition exists that poses an immediate danger to the public health. For purposes of this subdivision, an immediate danger to the public health exists if the commissioner determines that:

(1) lead abatement is being performed in a manner that violates applicable state or federal law or related rules;

(2) the person performing lead abatement is not currently licensed or certified as required by rules adopted under sections 144.871 to 144.879; or

(3) the lead abatement contractor has not given prior written notice required by section 144.876 to the commissioner and board of health.

(b) An order to cease lead abatement is effective for a maximum of 60 days. Following issuance of the order, the commissioner shall provide the contractor or individual with an opportunity for a hearing under the contested case provisions of chapter 14. Within ten days of the hearing, the commissioner shall decide whether to rescind, modify, or reissue the previous order. A modified or reissued order is effective for a maximum of 60 days from the date of modification or reissuance.

Subd. 2. [ORDER FOR CORRECTIVE ACTION.] (a) The commissioner may issue an order requiring a person violating sections 144.871 to 144.879 or a rule adopted under sections 144.871 to 144.879 to take the corrective action the commissioner determines will accomplish the purpose of the project and prevent future violation. The order for corrective action shall state the conditions that constitute the violation, the specific statute or rule violated, and the time by which the violation must be corrected.

(b) If the person believes that the information contained in the commissioner's order for corrective action is in error, the person may ask the commissioner to reconsider the parts of the order that are alleged to be in error. The request must be in writing, delivered to the commissioner by certified mail within five working days of receipt of the order, and:

(1) specify which parts of the order for corrective action are alleged to be in error;

(2) explain why they are in error; and

(3) provide documentation to support the allegation of error.

The commissioner shall respond to a request made under this subdivision within 15 working days after receipt of the request. A request for reconsideration does not stay the order for corrective action but the commissioner may provide additional time to comply with the order after reviewing the request. The commissioner's disposition of a request for reconsideration is final.

Subd. 3. [INJUNCTIVE RELIEF.] In addition to any other remedy provided by law, the commissioner may bring an action for injunctive relief in the district court in Ramsey county or, at the commissioner's discretion, in the district court in the county in which the lead abatement is being undertaken, to halt the work or an activity connected with it. A temporary restraining order or other injunctive relief may be granted by the court if continuation of the lead abatement or an activity connected with it would result in an imminent risk of harm to any person.

Subd. 4. [PENALTIES.] (a) A person who violates any of the requirements of sections 144.871 to 144.879 or any requirement, rule, or order issued under this section is subject to a civil penalty of not more than $5,000 per day of violation. Penalties may be recovered in a civil action in the name of the state brought by the attorney general.

(b) The commissioner may issue an order assessing a penalty of not more than $5,000 per violation to any person who violates any of the requirements of sections 144.871 to 144.879 or any requirement, rule, or order issued under this section. A person subject to an administrative penalty order may request a contested case hearing under chapter 14 within 20 days from date of receipt of the penalty order. If the penalty order is not contested within 20 days of receipt, it becomes final and may not be contested.

(c) The amount of penalty shall be based on the past history of violations, the severity of violation, the culpability of the person, and other relevant factors.

(d) Penalties assessed under sections 144.871 to 144.879 shall be paid to the commissioner for deposit in the general fund. Unpaid penalties shall be increased to 125 percent of the original assessed amount if not paid within 60 days after the penalty order becomes final. After 60 days, interest shall accrue on the unpaid penalty balance at the rate established in section 549.09.

Subd. 5. [MISDEMEANOR PENALTY.] A person is guilty of a misdemeanor and may be sentenced to payment of a fine of not more than $700, imprisonment for not more than 30 days, or both, for each violation if that person:

(1) hinders or delays the commissioner or the commissioner's authorized representative in the performance of the duty to enforce sections 144.871 to 144.879;

(2) undertakes lead abatement without a current, valid license;

(3) refuses to make a license or certificate accessible to either the commissioner or the commissioner's authorized representative;

(4) employs a person to do lead abatement who does not have a valid certificate;

(5) fails to report lead abatement as required by section 144.876; or

(6) makes a false material statement related to a license, certificate, report, or other documents required under sections 144.871 to 144.879.

Subd. 6. [DISCRIMINATION.] A person who discriminates against or otherwise sanctions an employee who complains to or cooperates with the commissioner in administering sections 144.871 to 144.879 is guilty of a misdemeanor.

Sec. 31. [SWAB TEAM PILOT STUDY.]

By ....., the commissioner of health shall conduct or contract for two studies of the effectiveness of swab teams for residential lead abatement. The studies must be conducted in two cities of the first class, in neighborhoods that are at high risk of toxic lead exposure under Minnesota Statutes, section 144.871, subdivision 7a, that also have a high percentage of rental property, a population with incomes below the city average, and a concentrated Native American or other minority populations. The commissioner shall report the results of the study to the legislature by .....

Sec. 32. [APPROPRIATION; LEAD FUND.]

$..... is appropriated from the lead fund to the commissioner of health to be available until June 30, 1995. Of this sum, $..... is for contracts with boards of health to provide safe housing, under Minnesota Statutes, section 144.878, subdivision 3, to meet the relocation requirements of residential lead abatement. $..... shall be used for grants to nonprofit community-based organizations, in areas at high risk for toxic lead exposure, for lead cleanup equipment and material grants under Minnesota Statutes, section 144.872, subdivision 4.

Sec. 33. [REPEALER.]

Minnesota Statutes 1992, sections 144.8721; 144.874, subdivision 10; and 144.878, subdivision 2a, are repealed.

Sec. 34. [EFFECTIVE DATE.]

Sections 1 to 26 are effective the day following final enactment.

Article 2
Lead Abatement Programs

Section 1. [268.92] [LEAD ABATEMENT PROGRAM.]

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

(a) "Certified worker" means a lead abatement worker certified by the commissioner of health under section 144.878, subdivision 5.

(b) "Certified trainer" means a lead trainer certified by the commissioner of health under section 144.878, subdivision 5.

(c) "Certified worker" means a lead abatement worker certified by the commissioner of health under section 144.878, subdivision 5.

(d) "Commissioner" means the commissioner of health.

(e) "Eligible organization" means a licensed contractor, certified trainer, city, board of health, community health department, community action agency as defined in section 268.52, or community development corporation.

(f) "High risk for toxic lead exposure" has the meaning given in section 144.871, subdivision 7a.

(g) "Licensed contractor" means a contractor licensed by the department of health under section 144.876.

(h) "Removal and replacement abatement" means lead abatement on residential property that requires retrofitting and conforms to the rules established under section 144.878.

(i) "Swab team" has the meaning given in section 144.871, subdivision 9.

Subd. 2. [GRANTS; ADMINISTRATION.] The commissioner may make demonstration and training grants to eligible organizations for programs to train workers for swab teams and removal and replacement abatement, and to provide swab team services and removal and replacement abatement for residential property.

Grants awarded under this section must be made in consultation with the commissioners of the department of health, and the housing finance agency, and representatives of neighborhood groups from areas at high risk for toxic lead exposure, a labor organization, the lead coalition, and the legal aid society. The consulting team shall review grant applications and recommend awards to eligible organizations that meet requirements for receiving a grant under this section.

Subd. 3. [APPLICANTS.] (a) Interested eligible organizations may apply to the commissioner for grants under this section. Two or more eligible organizations may jointly apply for a grant. Applications must provide information requested by the commissioner, including at least the information required to assess the factors listed in paragraph (d).

(b) With grant awards under this section, the commissioner of health must contract under section 144.872 with boards of health to provide one swab team in each city of the first class and two swab teams for the remainder of the state. Swab teams, administered by the commissioner of health, that are not engaged daily in fulfilling the requirements of section 144.872, subdivision 5, must deliver swab team services in census tracts known to be at high risk for toxic lead exposure.

(c) Any additional grants shall be made to establish swab teams for primary prevention, without environmental lead testing, in census tracts at high risk for toxic lead exposure.

(d) In evaluating grant applications, the commissioner shall consider the following criteria:

(1) the use of licensed contractors and certified lead abatement workers for residential lead abatement;

(2) the participation of neighborhood groups and individuals, as swab team members, in areas at high risk for toxic lead exposure;

(3) plans for the provision of primary prevention through swab team services in areas at high risk for toxic lead exposure on a census tract basis without environmental lead testing;

(4) plans for supervision, training, career development, and postprogram placement of swab team members;

(5) plans for resident and property owner education on lead safety;

(6) plans for distributing cleaning supplies to area residents and educating residents and property owners on cleaning techniques;

(7) cost estimates for training, swab team services, equipment, monitoring, and administration;

(8) measures of program effectiveness; and

(9) coordination of program activities with other federal, state, and local public health, job training, apprenticeship, and housing renovation programs including the emergency jobs program under sections 268.672 to 268.881.

Subd. 4. [LEAD ABATEMENT CONTRACTORS.] (a) Eligible organizations and licensed lead abatement contractors may participate in the lead abatement program. An organization receiving a grant under this section must assure that all participating contractors are licensed and that all swab team, and removal and replacement employees are certified by the department of health under section 144.878, subdivision 5. Organizations and licensed contractors may distinguish between interior and exterior services in assigning duties and may participate in the program by:

(1) providing on-the-job training for swab teams;

(2) providing swab team services to the commissioner of health to meet the requirements of section 144.872;

(3) providing removal and replacement abatement using skilled craft workers;

(4) providing primary prevention, without environmental lead testing, in census tracts at high risk for toxic lead exposure;

(5) providing lead dust cleaning supplies, as described in section 144.872, subdivision 4, to residents; or

(6) instructing residents and property owners on appropriate lead control techniques.

(b) Participating licensed contractors must:

(1) demonstrate proof of workers' compensation and general liability insurance coverage;

(2) be knowledgeable about lead abatement requirements established by the department of housing and urban development and the occupational safety and health administration;

(3) demonstrate experience with on-the-job training programs;

(4) demonstrate an ability to recruit employees from areas at high risk for toxic lead exposure; and

(5) demonstrate experience in working with low-income clients.

Subd. 5. [LEAD ABATEMENT EMPLOYEES.] Each worker engaged in swab team services or removal and replacement abatement in programs established under this section must have blood lead concentrations below 15 micrograms per deciliter as determined by a baseline blood lead screening. Any organization receiving a grant under this section is responsible for lead screening and must assure that all workers in lead abatement programs, receiving grant funds under this section, meet the standards established in this subdivision. Grantees must use appropriate workplace procedures to reduce risk of elevated blood lead levels. Grantees and participating contractors must report all employee blood lead levels that exceed 15 micrograms per deciliter to the commissioner of health.

Subd. 6. [ON-THE-JOB TRAINING COMPONENT.] (a) Programs established under this section must provide on-the-job training for swab teams. Training methods must follow procedures established under section 144.878, subdivision 5.

(b) Swab team members must receive monetary compensation equal to the prevailing wage as defined in section 177.42, subdivision 6, for comparable jobs in the licensed contractor's principal business.

Subd. 7. [REMOVAL AND REPLACEMENT COMPONENT.] (a) Programs established under this section must identify if a need exists for removal and replacement abatement in residential properties. All removal and replacement abatement must be done using least-cost methods that meet the standards of section 144.878, subdivision 2. Removal and replacement abatement must be done by licensed lead abatement contractors. All craft work that requires a state license must be supervised by a person with a state license in the craft work being supervised.

(b) The program design must:

(1) identify the need for trained swab team workers and removal and replacement abatement workers;

(2) describe plans to involve appropriate groups in designing methods to meet the need for trained lead abatement workers; and

(3) include an examination of how program participants may achieve certification as a part of the work experience and training component. Certification may be achieved through licensing, apprenticeship, or other education programs.

Subd. 8. [PROGRAM BENEFITS.] As a condition of providing lead abatement under this section, an organization may require a property owner to not increase rents on a property solely as a result of a substantial improvement made with public funds under the programs in this section.

Subd. 9. [REQUIREMENTS OF ORGANIZATIONS RECEIVING GRANTS.] An eligible organization that is awarded a training and demonstration grant under this section shall prepare and submit a progress report to the commissioner by February 15, 1994.

Subd. 10. [REPORT.] The commissioner shall prepare and submit a lead abatement program report to the legislature and the governor by March 15, 1994, and every two years thereafter. At a minimum, the report must describe the programs that received grants under this section, and make recommendations for program changes.

Sec. 2. Minnesota Statutes 1992, section 462A.03, subdivision 15, is amended to read:

Subd. 15. [REHABILITATION.] "Rehabilitation" means the repair, reconstruction, or improvement of existing residential housing with the object of making such residential housing decent, safe, sanitary and more desirable to live in, of greater market value or in conformance with state, county, or city health, housing, building, fire prevention, and housing maintenance codes, and lead and other public standards applicable to housing, as determined by the agency.

Sec. 3. [APPROPRIATION.]

$..... is appropriated from the lead fund to the commissioner of health for the purposes of section 1. The unencumbered balance remaining in the first year does not cancel but is available for the second year."

Delete the title and insert:

"A bill for an act relating to health; modifying lead abatement requirements; licenses and fees; establishing enforcement procedures and disposal methods; establishing grant programs; providing penalties; appropriating money; amending Minnesota Statutes 1992, sections 144.871, subdivisions 2, 6, 7a, 7b, 9, and by adding subdivisions; 144.872, subdivisions 2, 3, 4, and by adding a subdivision; 144.873, subdivisions 2 and 3; 144.874, subdivisions 1, 2, 3, 4, 5, 6, 9, and by adding subdivisions; 144.876, by adding a subdivision; 144.878, subdivisions 2, 2a, and 5; 256B.0625, subdivision 14; and 462A.03, subdivision 15; proposing coding for new law in Minnesota Statutes, chapters 144; and 268; repealing Minnesota Statutes 1992, sections 144.8721; 144.874, subdivision 10; and 144.878, subdivision 2a."

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

The report was adopted.

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

H. F. No. 976, A bill for an act relating to counties; authorizing a county to transfer funds to and enter into contracts with community action agencies; amending Minnesota Statutes 1992, section 375.18, by adding a subdivision.

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

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 994, A bill for an act relating to children; foster care and adoption placement; specifying time limits for compliance with placement preferences; setting standards for changing out-of-home placement; requiring notice of certain adoptions; amending Minnesota Statutes 1992, sections 257.071, subdivision 1a; 259.255; 259.28, subdivision 2; 259.455; and 260.181, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 259.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [257.0651] [COMPLIANCE WITH INDIAN CHILD WELFARE ACT.]

Sections 257.066 to 257.075 must be construed consistently with the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901, et seq.

Sec. 2. Minnesota Statutes 1992, section 257.071, subdivision 1, is amended to read:

Subdivision 1. [PLACEMENT; PLAN.] A case plan shall be prepared within 30 days after any child is placed in a residential facility by court order or by the voluntary release of the child by the parent or parents.

For purposes of this section, a residential facility means any group home, family foster home or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county or other political subdivision, or any agency thereof, to provide those services.

For the purposes of this section, a case plan means a written document which is ordered by the court or which is prepared by the social service agency responsible for the residential facility placement and is signed by the parent or parents, or other custodian, of the child, the child's legal guardian, the social service agency responsible for the residential facility placement, and, if possible, the child. The document shall be explained to all persons involved in its implementation, including the child who has signed the document, and shall set forth:

(1) The specific reasons for the placement of the child in a residential facility, including a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home;

(2) The specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (1), and the time period during which the actions are to be taken;

(3) The financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the residential facility;

(4) The visitation rights and obligations of the parent or parents or other relatives as defined in section 260.181, if such visitation is consistent with the best interest of the child, during the period the child is in the residential facility;

(5) The social and other supportive services to be provided to the parent or parents of the child, the child, and the residential facility during the period the child is in the residential facility;

(6) The date on which the child is expected to be returned to the home of the parent or parents;

(7) The nature of the effort to be made by the social service agency responsible for the placement to reunite the family; and

(8) Notice to the parent or parents that placement of the child in foster care may result in termination of parental rights but only after notice and a hearing as provided in chapter 260.

The parent or parents and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social service agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved, the foster parents shall be fully informed of the provisions of the case plan.

When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had such an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has the examination within 30 days of coming into the agency's care and once a year in subsequent years.

Sec. 3. Minnesota Statutes 1992, section 257.071, subdivision 1a, is amended to read:

Subd. 1a. [PROTECTION OF HERITAGE OR BACKGROUND.] The authorized child placing agency shall ensure that the child's best interests are met by giving due consideration of the child's race or ethnic heritage in making a family foster care placement. The authorized child placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by following the preferences described in section 260.181, subdivision 3.

The agency shall notify the parents and the child, if the child is at least 12 years old, that the placement preferences will be followed unless the parents or the child, if the child is at least 12 years old, request that the preferences not be followed. For purposes of ensuring compliance with this subdivision, the agency shall ask the parents for information about the child's relatives, as defined in section 260.181, subdivision 3, who may be available to provide care for the child, and about the child's race or ethnicity. The agency shall document in the case record efforts to locate relatives and other efforts made to comply with this subdivision.

If the parents or the child, if the child is at least 12 years old, request that the placement preferences not be followed, there is a rebuttable presumption that the request is in the best interests of the child. If the agency opposes the request, it has the burden of proving that the request is not in the best interests of the child.

In instances where a child ~~from a family of color~~ is placed in a family foster home of a different racial or ethnic background, the local social service agency shall review the placement after 30 days and each 30 days thereafter for the first six months to determine if there is another available placement that would better satisfy the requirements of this subdivision. When the child has been placed outside the home for longer than six months, the child may be placed in a different family foster home only if the new placement is in the child's best interests.

Sec. 4. Minnesota Statutes 1992, section 257.072, subdivision 7, is amended to read:

Subd. 7. [DUTIES OF CHILD-PLACING AGENCIES.] Each authorized child-placing agency must:

(1) develop and follow procedures for implementing the order of preference prescribed by section 260.181, subdivision 3, and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923;

(a) In implementing the order of preference, an authorized child-placing agency may disclose private or confidential data, as defined in section 13.02, to relatives of the child for the purpose of locating a suitable placement. The agency shall disclose only data that is necessary to facilitate implementing the preference. If a parent makes an explicit request that the relative preference not be followed, the agency shall bring the matter to the attention of the court ~~to determine whether the parent's request is consistent with the best interests of the child~~ and the agency shall ~~not~~ contact relatives ~~unless~~ if ordered to do so by the juvenile court; and

(b) In implementing the order of preference, the authorized child-placing agency shall develop written standards for determining the suitability of proposed placements. The standards need not meet all requirements for foster care licensing, but must ensure that the safety, health, and welfare of the child is safeguarded. In the case of an Indian child, the standards to be applied must be the prevailing social and cultural standards of the Indian child's community, and the agency shall defer to tribal judgment as to suitability of a particular home when the tribe has intervened pursuant to the Indian Child Welfare Act;

(2) have a written plan for recruiting minority adoptive and foster families. The plan must include (a) strategies for using existing resources in minority communities, (b) use of minority outreach staff wherever possible, (c) use of minority foster homes for placements after birth and before adoption, and (d) other techniques as appropriate;

(3) have a written plan for training adoptive and foster families of minority children;

(4) if located in an area with a significant minority population, have a written plan for employing minority social workers in adoption and foster care. The plan must include staffing goals and objectives;

(5) ensure that adoption and foster care workers attend training offered or approved by the department of human services regarding cultural diversity and the needs of special needs children; and

(6) develop and implement procedures for implementing the requirements of the Indian Child Welfare Act and the Minnesota Indian family preservation act.

Sec. 5. Minnesota Statutes 1992, section 257.072, is amended by adding a subdivision to read:

Subd. 9. [RULES.] The commissioner of human services shall adopt rules to establish standards for conducting relative searches and determining the suitability of proposed relative placements. The standards need not impose on relatives all the requirements for foster care licensing but must ensure that the child's health, safety, and welfare are safeguarded.

Sec. 6. Minnesota Statutes 1992, section 259.255, is amended to read:

259.255 [PROTECTION OF HERITAGE OR BACKGROUND.]

(a) The policy of the state of Minnesota is to ensure that the best interests of the child are met by requiring due consideration of the child's race or ethnic heritage in adoption placements. For purposes of intercountry adoptions, due consideration is deemed to have occurred if the appropriate authority in the child's country of birth has approved the placement of the child.

(b) In the adoptive placement that commences not later than 12 months after the child has been placed outside the home, the authorized child placing agency shall give preference, in the absence of good cause to the contrary, to placing the child with ~~(a)~~ (1) a relative or relatives of the child, or, if that would be detrimental to the child or a relative is not available, ~~(b)~~ (2) a family with the same racial or ethnic heritage as the child, or, if that is not feasible, ~~(c)~~ (3) a family of different racial or ethnic heritage from the child which is knowledgeable and appreciative of the child's racial or ethnic heritage.

~~If the child's genetic parent or parents explicitly request that the preference described in clause (a) or clauses (a) and (b) not be followed, the authorized child placing agency shall honor that request consistent with the best interests of the child.~~

If the child's genetic parent or parents request that the preferences in clause (1) or clauses (1) and (2) not be followed, there is a rebuttable presumption that the request is in the best interests of the child. The authorized child-placing agency must notify a court reviewing an adoptive placement under section 259.28 of any request made by the parents under this paragraph. The authorized child-placing agency has the burden of proving that the request is not in the best interests of the child.

If the child's genetic parent or parents express a preference for placing the child in an adoptive home of the same or a similar religious background to that of the genetic parent or parents, in following the preferences in clause ~~(a)~~ (1) or ~~(b)~~ (2), the agency shall place the child with a family that also meets the genetic parent's religious preference. Only if no family is available that is described in clause ~~(a)~~ (1) or ~~(b)~~ (2) may the agency give preference to a family described in clause ~~(c)~~ (3) that meets the parent's religious preference. The agency must notify the court that reviews the adoptive placement under section 259.28 of any religious preference expressed by a parent under this paragraph.

(c) In an adoptive placement that commences more than 12 months after the child has been placed outside the home, the authorized child placing agency shall place the child according to the best interests standard in section 259.256.

Sec. 7. [259.256] [BEST INTERESTS IN CERTAIN CASES; STANDARD FOR CHILD-PLACING AGENCY AND COURT.]

In an adoptive placement that commences more than 12 months after a child has been placed outside the home, the authorized child placing agency making the placement and the court reviewing the adoption placement must be governed by the best interests of the child as defined in this section. A court transferring legal custody or appointing a guardian of a child who has been placed outside the home for more than 12 months must be governed by the best interests of the child as defined in this section. The "best interests of the child" means all relevant factors to be considered and evaluated. These factors must include, but are not limited to:

(1) the wishes of the genetic parent or parents as to placement;

(2) the relationship between the child and relatives, and the child and any other person who may significantly affect the child's best interests;

(3) the child's adjustment to home, school, and community and the ability to adjust to a proposed home, school, and community;

(4) the child's religious, racial, or ethnic background and the ability of the proposed family to be appreciative of and knowledgeable about, the child's religious, racial, or ethnic heritage, and to continue raising and educating the child in that heritage;

(5) the capacity and disposition of the proposed family to give the child love, affection, and guidance;

(6) the reasonable preference of the child, if the court deems the child of sufficient age to express a preference; and

(7) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity and stability for the child.

Sec. 8. [259.2565] [NOTICE REGARDING ADOPTION OF CERTAIN CHILDREN.]

If a child who has been placed outside the home for more than 12 months becomes available for adoption, the agency with guardianship of the child must give the notice provided in this section to any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan for the child. The notice shall state that an adoptive home is sought for the child and that any individual receiving the notice may apply to adopt the child within one month after receiving the notice.

Sec. 9. Minnesota Statutes 1992, section 259.28, subdivision 2, is amended to read:

Subd. 2. [PROTECTION OF HERITAGE OR BACKGROUND.] (a) The policy of the state of Minnesota is to ensure that the best interests of children are met by requiring due consideration of the child's race or ethnic heritage in adoption placements. For purposes of intercountry adoptions, due consideration is deemed to have occurred if the appropriate authority in the child's country of birth has approved the placement of the child.

(b) In reviewing an adoptive placement of a child who was placed outside the home not longer than 12 months before the adoptive placement began, the court shall consider ~~preference, and~~ the preferences specified in this subdivision in determining an appropriate adoption;. The court shall give preference, in the absence of good cause to the contrary, to ~~(a)~~ (1) a relative or relatives of the child, or, if that would be detrimental to the child or a relative is not available, to ~~(b)~~ (2) a family with the same racial or ethnic heritage as the child, or if that is not feasible, to ~~(c)~~ (3) a family of different racial or ethnic heritage from the child that is knowledgeable and appreciative of the child's racial or ethnic heritage.

~~If the child's genetic parent or parents explicitly request that the preference described in clause (a) or in clauses (a) and (b) not be followed, the court shall honor that request consistent with the best interests of the child.~~

If the child's genetic parent or genetic parents request that the preferences in clause (1) or clauses (1) and (2) not be followed, there is a rebuttable presumption that the request is in the best interests of the child. A party opposed to the request has the burden of proving that the request is not in the best interests of the child.

If the child's genetic parent or parents express a preference for placing the child in an adoptive home of the same or a similar religious background to that of the genetic parent or parents, in following the preferences in clause ~~(a)~~ (1) or ~~(b)~~ (2), the court shall place the child with a family that also meets the genetic parent's religious preference. Only if no family is available as described in clause ~~(a)~~ (1) or ~~(b)~~ (2) may the court give preference to a family described in clause ~~(c)~~ (3) that meets the parent's religious preference.

(c) In reviewing an adoptive placement of a child who was placed outside the home for more than 12 months before the adoptive placement began, the court shall be governed by the best interests standard in section 259.256.

Sec. 10. Minnesota Statutes 1992, section 259.28, is amended by adding a subdivision to read:

Subd. 3. [COMPLIANCE WITH INDIAN CHILD WELFARE ACT.] The provisions of this chapter must be construed consistently with the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901, et seq.

Sec. 11. Minnesota Statutes 1992, section 259.455, is amended to read:

259.455 [FAMILY RECRUITMENT.]

Each authorized child placing agency shall make special efforts to recruit an adoptive family from among the child's relatives~~, except as authorized in section 259.28, subdivision 2,~~ and among families of the same racial or ethnic heritage in the manner and to the extent provided in section 259.255. Special efforts include contacting and working with community organizations and religious organizations, utilizing local media and other local resources, and conducting outreach activities. The agency may accept any gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

Sec. 12. Minnesota Statutes 1992, section 260.012, is amended to read:

260.012 [DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS; NOTICE TO PARENTS OF PLACEMENT PREFERENCE.]

(a) If a child in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts including culturally appropriate services by the social service agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, consistent with the best interests, safety, and protection of the child. In the case of an Indian child, in proceedings under sections 260.172, 260.191, and 260.221 the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. If a child is under the court's delinquency jurisdiction, it shall be the duty of the court to ensure that reasonable efforts are made to reunite the child with the child's family at the earliest possible time, consistent with the best interests of the child and the safety of the public.

(b) "Reasonable efforts" means the exercise of due diligence by the responsible social service agency to use appropriate and available services to meet the needs of the child and the child's family in order to prevent removal of the child from the child's family; or upon removal, services to eliminate the need for removal and reunite the family. Services may include those listed under section 256F.07, subdivision 3, and other appropriate services available in the community. The social service agency has the burden of demonstrating that it has made reasonable efforts.

(c) The juvenile court, in proceedings under sections 260.172, 260.191, and 260.221 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

(1) relevant to the safety and protection of the child;

(2) adequate to meet the needs of the child and family;

(3) culturally appropriate;

(4) available and accessible;

(5) consistent and timely; and

(6) realistic under the circumstances.

(d) This section does not prevent out-of-home placement for treatment of a child with a mental disability when the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program.

(e) In proceedings under section 260.172, 260.191, 260.192, or 260.221, the court shall notify the parents and the child, if the child is at least 12 years old, of the placement preferences in section 260.181 and that the placement preferences will be followed unless the parent or the child, if the child is at least 12 years old, requests that they not be followed.

Sec. 13. Minnesota Statutes 1992, section 260.181, subdivision 3, is amended to read:

Subd. 3. [PROTECTION OF HERITAGE OR BACKGROUND.] (a) The policy of the state is to ensure that the best interests of children are met by requiring due consideration of the child's race or ethnic heritage in foster care placements.

~~The court,~~ (b) In transferring legal custody of any child who is in the custody of a parent or has been removed from the parent's custody for six months or less or appointing a guardian for ~~the~~ such a child under the laws relating to juvenile courts, the court shall place the child, in the following order of preference, in the absence of good cause to the contrary, in the legal custody or guardianship of an individual who ~~(a)~~ (1) is the child's relative, or if that would be detrimental to the child or a relative is not available, who ~~(b)~~ (2) is of the same racial or ethnic heritage as the child, or if that is not possible, who ~~(c)~~ (3) is knowledgeable and appreciative of the child's racial or ethnic heritage. The court may require the county welfare agency to continue efforts, for six months after the date of the child's removal from a parent's custody, to find a guardian of the child's racial or ethnic heritage when such a guardian is not immediately available. For purposes of this subdivision, "relative" includes members of a child's extended family and important friends with whom the child has resided or had significant contact.

~~If the child's genetic parent or parents explicitly request that the preference described in clause (a) or in clauses (a) and (b) not be followed, the court shall honor that request consistent with the best interests of the child.~~

If the child's parents request that the preferences in clause (1) or clauses (1) and (2) not be followed, there is a rebuttable presumption that the request is in the best interests of the child. A party opposed to the request has the burden of proving that the request is not in the best interests of the child.

If the child's genetic parent or parents express a preference for placing the child in a foster or adoptive home of the same or a similar religious background to that of the genetic parent or parents, in following the preferences in clause ~~(a)~~ (1) or ~~(b)~~ (2), the court shall order placement of the child with an individual who meets the genetic parent's religious preference. Only if no individual is available who is described in clause ~~(a)~~ (1) or ~~(b)~~ (2) may the court give preference to an individual described in clause ~~(c)~~ (3) who meets the parent's religious preference.

(c) In transferring legal custody or appointing a guardian of a child who has been removed from the custody of parents for more than six months, the court shall be governed by the best interests standard in section 259.256.

Sec. 14. Minnesota Statutes 1992, section 260.191, subdivision 1a, is amended to read:

Subd. 1a. [WRITTEN FINDINGS.] Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

(a) Why the best interests of the child are served by the disposition ordered;

(b) What alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case;

(c) ~~In the case of a child of minority racial or minority ethnic heritage,~~ How the court's disposition complies with the requirements of section 260.181, subdivision 3, relating to protection of heritage or background; and

(d) Whether reasonable efforts consistent with section 260.012 were made to prevent or eliminate the necessity of the child's removal and to reunify the family after removal. The court's findings must include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal.

If the court finds that the social services agency's preventive or reunification efforts have not been reasonable but that further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

Sec. 15. Minnesota Statutes 1992, section 260.191, subdivision 1d, is amended to read:

Subd. 1d. [~~PARENTAL~~ VISITATION.] If the court orders that the child be placed outside of the child's home or present residence, it shall set reasonable rules for supervised or unsupervised parental visitation that contribute to the objectives of the court order and the maintenance of the familial relationship. No parent may be denied visitation unless the court finds at the disposition hearing that the visitation would act to prevent the achievement of the order's objectives or that it would endanger the child's physical or emotional well-being. The court shall set reasonable rules for visitation for any relatives as defined in section 260.181, subdivision 3, if visitation is consistent with the best interests of the child.

Sec. 16. Minnesota Statutes 1992, section 260.191, subdivision 1e, is amended to read:

Subd. 1e. [CASE PLAN.] For each disposition ordered, the court shall order the appropriate agency to prepare a written case plan developed after consultation with any foster parents, and consultation with and participation by the child and the child's parent, guardian, or custodian, guardian ad litem, and tribal representative if the tribe has intervened. The case plan shall comply with the requirements of section 257.071, where applicable. The case plan shall, among other matters, specify the actions to be taken by the child and the child's parent, guardian, foster parent, or custodian to comply with the court's disposition order, and the services to be offered and provided by the agency to the child and the child's parent, guardian, or custodian. The court shall review the case plan and, upon approving it, incorporate the plan into its disposition order. The court may review and modify the terms of the case plan in the manner provided in subdivision 2. For each disposition ordered, the written case plan shall specify what reasonable efforts shall be provided to the family. The case plan must include a discussion of:

(1) the availability of appropriate prevention and reunification services for the family to prevent the removal of the child from the home or to reunify the child with the family after removal;

(2) any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of initial adjudication, and whether those services or resources were provided or the basis for denial of the services or resources;

(3) the need of the child and family for care, treatment, or rehabilitation;

(4) the need for participation by the parent, guardian, or custodian in the plan of care for the child;

(5) the visitation rights and obligations of the parent or other relatives, as defined in section 260.181, subdivision 3, during any period when the child is placed outside the home; and

(6) a description of any services that could prevent placement or reunify the family if such services were available.

A party has a right to request a court review of the reasonableness of the case plan upon a showing of a substantial change of circumstances.

Sec. 17. [EFFECTIVE DATE; APPLICATION.]

Sections 1 to 16 are effective August 1, 1993, for changes in out-of-home placement, for adoptive placements, for transferring legal custody of a child, and for guardianship appointments occurring on or after the effective date."

Delete the title and insert:

"A bill for an act relating to children; foster care and adoption placement; specifying time limits for compliance with placement preferences; setting standards for changing out-of-home placement; requiring notice of certain adoptions; clarifying certain language; requiring compliance with certain law; providing for rules; amending Minnesota Statutes 1992, sections 257.071, subdivision 1 and 1a; 257.072, subdivision 7, and by adding a subdivision; 259.255; 259.28, subdivision 2, and by adding a subdivision; 259.455; 260.012; 260.181, subdivision 3; and 260.191, subdivisions 1a, 1d, and 1e; proposing coding for new law in Minnesota Statutes, chapters 257; and 259."

With the recommendation that when so amended the bill pass.

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 1018, A bill for an act relating to limited liability companies; requiring biennial registration; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 322B.

Reported the same back with the following amendments:

Page 3, delete section 2

Amend the title as follows:

Page 1, line 3, delete "appropriating money;"

With the recommendation that when so amended 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. 1026, A bill for an act relating to the city of Garrison; establishing a dedicated fund to meet city expenses to pay for construction of a city sewer system; permitting a one percent local sales tax upon approval by the city council; providing for a sunset on the tax.

Reported the same back with the following amendments:

Page 1, line 18, after "construction" insert "and maintenance"

Delete page 1, line 21 to page 2, line 3

Renumber the remaining subdivisions

Amend the title as follows:

Page 1, line 4, after "construction" insert "and maintenance"

Page 1, line 6, delete "; providing for a sunset on the tax"

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

The report was adopted.

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

H. F. No. 1057, A bill for an act relating to taxation; authorizing the commissioner of revenue to deduct debts owed by one political subdivision to another from aids payable to the debtor; amending Minnesota Statutes 1992, section 270.66, by adding a subdivision.

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

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 1058, A bill for an act relating to landlord and tenant; modifying action to recover leased premises; providing for actions for destruction of leased residential rental property; allowing expedited proceedings; amending Minnesota Statutes 1992, sections 504.02, subdivision 1; and 566.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 504; and 566.

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

The report was adopted.

Sarna from the Committee on Commerce and Economic Development to which was referred:

H. F. No. 1081, A bill for an act relating to commerce; regulating collection agencies; modifying prohibited practices; requiring notification to the commissioner upon certain employee terminations; repealing inconsistent surety bond and term and fee rules; regulating credit services organizations; modifying registration and bond requirements; modifying enforcement powers; amending Minnesota Statutes 1992, sections 332.37; 332.54, subdivision 1, and by adding subdivisions; 332.55; and 332.59; proposing coding for new law in Minnesota Statutes, chapter 332; repealing Minnesota Rules, parts 2870.1300; and 2870.1600.

Reported the same back with the following amendments:

Page 3, delete lines 16 to 27 and insert:

"(15) when a debtor has a listed telephone number, enlist the aid of a neighbor or third party to request that the debtor contact the licensee, except a person who resides with the debtor or a third party with whom the debtor has authorized the licensee to place the request. This clause does not apply to a call back message left at the debtor's place of employment which is limited to the licensee's telephone and the collector's name;

(16) when attempting to collect a debt, fail to provide the debtor with the full name of the collection agency as it appears on its license;

(17) collect any money from a debtor that is not reported to a creditor or fail to return any amount of overpayment from a debtor to the debtor or to the state of Minnesota pursuant to the requirements of chapter 345;"

Page 3, delete lines 31 to 34 and insert:

"(19) when initially contacting a Minnesota debtor by mail, to include a disclosure on the contact notice, in a type size or font which is equal to or larger than the largest other type of type size or font used in the text of the notice. The disclosure must state: "This collection agency is licensed by the Minnesota Department of Commerce.""

Page 5, delete lines 18 to 24

Page 5, line 25, delete "9" and insert "8"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Economic Development, Infrastructure and Regulation Finance.

The report was adopted.

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

H. F. No. 1095, A bill for an act relating to insurance; regulating investments, assets and liabilities, and annual statements of companies; providing for continuance of coverage upon liquidation; modifying the definition of resident for purposes of the Minnesota insurance guaranty association; regulating dividends and other distributions of insurance holding company systems; regulating risk retention groups; enacting the NAIC model legislation; amending Minnesota Statutes 1992, sections 60A.11, subdivision 9; 60A.12, subdivision 3; 60A.13, subdivisions 1 and 6; 60A.23, subdivision 4; 60B.22, subdivision 1; 60C.03, subdivision 7; 60D.20, subdivisions 2 and 4; 60E.01; 60E.02, subdivisions 9 and 12; 60E.03; 60E.04, subdivisions 1, 2, 3, 4, 7, 8, 11, and by adding a subdivision; 60E.05; 60E.07; 60E.08; 60E.09; 60E.10; 60E.12; and 60E.13; proposing coding for new law in Minnesota Statutes, chapters 60A and 60E; repealing Minnesota Statutes 1992, sections 60A.07, subdivision 5d; 60A.12, subdivision 10; 60B.24; and 60E.11.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 60A.11, subdivision 9, is amended to read:

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

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

(b) The purpose of this section is to protect and further the interests of policyholders, claimants, creditors and the public by providing standards for the development and administration of programs for the investment of the assets of domestic companies. These standards and the investment programs developed by companies must take into account the safety of company's principal, investment yield and growth, stability in the value of the investment, the liquidity necessary to meet the company's expected business needs, and investment diversification;

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

(d) Investments must be valued in accordance with the valuation procedures established by the National Association of Insurance Commissioners, unless the commissioner requires or finds another method of valuation reasonable under the circumstances. Another method of valuation permitted by the commissioner must be at least as conservative as those prescribed in the association's manual. Other invested assets must be valued according to the procedures promulgated by the National Association of Insurance Commissioners', if not addressed in another section, unless the commissioner requires or finds another method of valuation reasonable under the circumstances;

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

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

Sec. 2. Minnesota Statutes 1992, section 60A.12, subdivision 3, is amended to read:

Subd. 3. [VALUATION OF EVIDENCES OF INDEBTEDNESS.] All bonds or other evidences of debt, having a fixed term and rate, held by an insurance company or fraternal benefit society authorized to do business in this state may, if amply secured and not in default as to principal and interest, be valued as follows: If purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield, in the meantime, the effective rate of interest at which the purchase was made; provided, that the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase~~; and, provided, that the commissioner shall have full discretion in determining the method of calculating values according to the foregoing rule~~. If the notes or bonds secured by mortgage or trust deed in the nature thereof which the federal housing administrator has insured, or made a commitment to insure, are purchased above par, they may, if not in default as to principal and interest, be valued during the first five years after purchase on the basis of the purchase price adjusted in equal annual installments to bring the value to par at the end of five years.

Sec. 3. [60A.129] [LOSS RESERVE CERTIFICATION AND ANNUAL AUDIT.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this section.

(a) "Qualified actuary," except as it relates to subdivision 2, paragraph (c), for companies authorized to provide life insurance coverage under section 60A.06, subdivision 1, clause (4), is a person who is either:

(1) a member in good standing of the Casualty Actuarial Society; or

(2) a member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries; or

(3) a person who otherwise has competency in loss reserve evaluation as demonstrated to the satisfaction of the insurance regulatory official of the domiciliary state. In such case, at least 90 days prior to the filing of its annual statement, the insurer must request approval that the person be deemed qualified and that request must be approved or denied. The request must include the NAIC Biographical form and a list of all loss reserve opinions issued in the last three years by this person.

(b) For purposes of subdivision 2, paragraph (c), a qualified actuary for companies authorized to write life insurance coverage under section 60A.06, subdivision 1, clause (4), shall be:

(1) a member in good standing of the American Academy of Actuaries;

(2) qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing these statements;

(3) familiar with the valuation requirements applicable to life and health insurance companies.

(c) A qualified actuary as defined by this subdivision is an individual who:

(1) has not been found by the commissioner, or if so found has subsequently been reinstated as a qualified actuary, following appropriate notice and hearing to have:

(i) violated any provision of, or any obligation imposed by, the state insurance law or other law in the course of the actuary's dealings as a qualified actuary;

(ii) been found guilty of fraudulent or dishonest practices;

(iii) demonstrated incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary; or

(iv) submitted to the commissioner during the past five years, pursuant to this chapter, an actuarial opinion that the commissioner rejected because it did not meet the provisions of this chapter including standards set by the actuarial standards board;

(2) has resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards of the American Academy of Actuaries; and

(3) has not failed to notify the commissioner of any action taken by any commissioner of any other state similar to that under clause (1).

(d) "Accountant" and "independent public accountant" mean an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant or firm is licensed to practice. For Canadian and British companies, the term means a Canadian-chartered or British-chartered accountant.

Subd. 2. [LOSS RESERVE CERTIFICATION.] (a) Each domestic company engaged in providing the types of coverage described in section 60A.06, subdivision 1, clause (1), (2), (3), (5)(b), (6), (8), (9), (10), (11), (12), (13), or (14), must have its loss reserves certified by a qualified actuary. The company must file the certification with the commissioner within 30 days of completion of the certification, but not later than June 1. The actuary providing the certification must not be an employee of the company. This subdivision does not apply to township mutual companies, or to other domestic insurers having less than $1,000,000 of premiums written in any year and fewer than 1,000 policyholders. The commissioner may allow an exception to the stand alone certification where it can be demonstrated that a company in a group has a pooling or 100 percent reinsurance agreement used in a group which substantially affects the solvency and integrity of the reserves of the company, or where it is only the parent company of a group which is licensed to do business in Minnesota. If these circumstances exist, the company may file a written request with the commissioner for an exception. Companies writing reinsurance alone are not exempt from this requirement. The certification must contain the following statement: "The loss reserves and loss expense reserves have been examined and found to be calculated in accordance with generally accepted actuarial principles and practices and are fairly stated."

(b) Each foreign company engaged in providing the types of coverage described in section 60A.06, subdivision 1, clause (1), (2), (3), (5)(b), (6), (8), (9), (10), (11), (12), (13), or (14), required by this section to file an annual audited financial report, whose total net earned premium for Schedule P, Part 1A to Part 1H plus Part 1R, (Schedule P, Part 1A to Part 1H plus Part 1R, Column 4, current year premiums earned, from the company's most currently filed annual statement) is equal to one-third or more of the company's total net earned premium (Underwriting and Investment Exhibit, Part 2, Column 4, total line, of the annual statement) must have a reserve certification by a qualified actuary at least every three years. In the year that the certification is due, the company must file the certification with the commissioner within 30 days of completion of the certification, but not later than June 1. The actuary providing the certification must not be an employee of the company. Companies writing reinsurance alone are not exempt from this requirement. The certification must contain the following statement: "The loss reserves and loss expense reserves have been examined and found to be calculated in accordance with generally accepted actuarial principles and practices and are fairly stated."

(c) Each company providing life and/or health insurance coverages described in section 60A.06, subdivision 1, clause (4) or (5)(a), required by this section to file an audited annual financial report, whose premiums and annuity considerations (net of reinsurance) from Accident and Health equal one-third or more of the company's total premiums and annuity considerations (net of reinsurance), as reported in the summary of operations, must have its aggregate reserve for accident and health policies and liability for policy and contract claims for Accident and Health certified by a qualified actuary at least once every three years. The actuary providing the certification must not be an employee of the company. Companies writing reinsurance alone are not exempt from this requirement. The certification must contain the following statement: "The policy and contract claims reserves for Accident and Health have been examined and found to be calculated in accordance with generally accepted actuarial principles and practices and are fairly stated."

Subd. 3. [ANNUAL AUDIT.] (a) Every insurance company doing business in this state, including fraternal benefit societies, reciprocal exchanges, service plan corporations licensed pursuant to chapter 62C, and legal service plans licensed pursuant to chapter 62G, unless exempted by the commissioner pursuant to subdivision 4, paragraph (a) or by subdivision 7 shall have an annual audit of the financial activities of the most recently completed fiscal year performed by an independent certified public accountant as prescribed by the commissioner, and shall file the report of this audit with the commissioner on or before June 30 for the year ending December 31.

Extensions of the June 30 filing date may be granted by the commissioner for 30-day periods upon a showing by the insurer and its independent certified public accountant of the reasons for requesting the extension and a determination by the commissioner of good cause for the extension.

The request for extension must be submitted in writing not less than ten days before the due date in sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

(b) Insurers filing audited financial reports in another state under the other state's requirements of audited financial reports which have been found by the commissioner to be substantially similar to these requirements are exempt from this subdivision if a copy of the audited financial report, the evaluation of accounting procedures, and systems of internal control report, which are filed with the other state, are filed with the commissioner in accordance with the filing dates specified in paragraphs (a) and (i), (Canadian insurers may submit accountants' reports as filed with the Canadian Dominion Department of Insurance); and a copy of any notification of adverse financial condition report filed with the other state is filed with the commissioner within the time specified in paragraph (h).

(c)(i) The annual audited financial report shall report, in conformity with statutory accounting practices required or permitted by the commissioner of insurance of the state of domicile, the financial condition of the insurer as of the end of the most recent calendar year and the results of its operations, changes in financial position, and changes in capital and surplus for the year ended. The annual audited financial report shall include a report of an independent certified public accountant; a balance sheet reporting admitted assets, liabilities, capital, and surplus; a statement of gain or loss from operations; a statement of cash flows; a statement of changes in capital and surplus; any notes to financial statements; and any additional information that the commissioner may from time to time require to be disclosed.

(ii) The notes required under item (i), shall be those required by generally accepted accounting principles and shall include reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed under section 60A.13, subdivision 1, with a written description of the nature of these differences; and a narrative explanation of all significant intercompany transactions and balances.

(iii) The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the commissioner. The financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. In the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted. The amounts may be rounded to the nearest $1,000, and all insignificant amounts may be combined.

(d) Each insurer required by this section to file an annual audited financial report must notify the commissioner in writing of the name and address of the certified public accountant or accounting firm retained to conduct the annual audit within 60 days after becoming subject to the annual audit requirement. The insurer shall obtain from the accountant a letter which states that the accountant is aware of the provisions that relate to accounting and financial matters in the insurance laws and the rules of the insurance regulatory authority of the state of domicile. The letter shall affirm that the opinions on the financial statements will be expressed in terms of their conformity to the statutory accounting practices prescribed or other permitted by that insurance regulatory authority, unless exceptions to these practices are appropriate. The letter shall specify all exceptions believed to be appropriate. A copy of this letter shall be filed with the commissioner.

(e) If an accountant who was not the accountant for the immediately preceding filed audited financial report is engaged to audit the insurer's financial statements, the insurer shall notify the commissioner of this event within 30 days of the date the accountant is engaged. The insurer shall also furnish the commissioner with a separate letter stating whether in the 24 months preceding this engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former accountant, would have caused that person to make reference to the subject matter of the disagreement in connection with the opinion. The insurer shall also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for any disagreement. The insurer shall furnish this responsive letter from the former accountant to the commissioner together with its own.

(f) The commissioner shall not recognize any person or firm as an independent certified public accountant that is not in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice, or for a Canadian or British company, that is not a chartered accountant. Except as otherwise provided, a certified public accountant shall be recognized as independent as long as the person conforms to the standards of the person's profession. The commissioner, after notice and hearing under chapter 14, may find that the accountant is not independent for purposes of expressing an opinion on the financial statements in the annual audited financial report. The commissioner may require the insurer to replace the accountant with another whose relationship with the insurer is independent.

(g) Financial statements furnished under paragraph (a), shall be examined by an independent certified public accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards and consideration should be given to other procedures illustrated in the Financial Condition Examiners Handbook, in the Examiners Handbook, issued by the National Association of Insurance Commissioners as the independent certified public accountant considers necessary.

(h) The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to immediately notify in writing an executive officer and all directors of the insurer of the final determination by that independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the balance sheet date currently under examination or that the insurer does not meet the minimum capital and surplus requirement of section 60A.07 as of that date. An executive officer or director of an insurer required to file an annual audited financial report who received a notification of adverse financial condition from the accountant shall make a written report to the commissioner of the existence of the materially misstated financial condition or the failure to meet the minimum capital and surplus requirements of the commissioner within three business days of the notification. If the accountant becomes aware of facts which might have affected this report after the date of the audited financial report filed under this section, the accountant shall take the action prescribed by Professional Standards issued by the American Institute of Certified Public Accountants.

(i) In addition to the annual audited financial report, each insurer shall furnish the commissioner with a report of the evaluation performed by the accountant, in connection with the examination, of the accounting procedures of the insurer and its system of internal control. A report of the evaluation by the accountant of the accounting procedures of the insurer and its system of internal control, including any remedial action taken or proposed, shall be filed annually by the insurer with the division within 60 days after the filing of the annual audited financial report. This report on internal control shall be in the form prescribed by generally accepted auditing standards.

(j) Workpapers are the records kept by the independent certified public accountant of the procedures followed, tests performed, information obtained, and conclusions reached pertinent to the examination of the financial statements of an insurer. Workpapers may include work programs, analyses, memoranda, letters of confirmation and representation, management letters, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of the examination of the financial statements of an insurer and that support the accountant's opinion. Every insurer required to file an audited financial report shall require the accountant, through the insurer, to make available for review by the examiners the workpapers prepared in the conduct of the examination. The insurer shall require that the accountant retain the audit workpapers for a period of not less than five years after the period reported upon. In the conduct of the periodic review by the examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the department of commerce. These copies shall be part of the commissioner's workpapers.

(k) With the commissioner's approval, an insurer may comply with this section by filing the requisite reports that have been prepared in accordance with generally accepted accounting principles if the notes to the financial statements include a reconciliation of differences between net income and capital and surplus on the annual statement filed pursuant to section 60A.13, subdivision 1, and comparable totals on the audited financial statements, and a written description of the nature of these differences.

(l)(i) In the case of Canadian and British insurers, the annual audited financial report means the annual statement of total business on the form filed by these companies with their domiciliary supervision authority and duly audited by an independent chartered accountant.

(ii) For these insurers, the letter required in paragraph (d), shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the commissioner under paragraph (a), and shall affirm that the opinion expressed is in conformity with those requirements.

(m) The audit report of the independent certified public accountant that performs the audit of an insurer's annual statement as required under paragraph (a), shall contain a statement as to whether anything, in connection with the audit, came to the accountant's attention that caused the accountant to believe that the insurer failed to adopt and consistently apply the valuation procedures as required by sections 60A.122 and 60A.123.

Subd. 4. [EXAMINATIONS.] (a) The commissioner or a designated representative shall determine the nature, scope, and frequency of examinations under this section conducted by examiners under section 60A.031. These examinations may cover all aspects of the insurer's assets, condition, affairs, and operations and may include and be supplemented by audit procedures performed by independent certified public accountants. Scheduling of examinations will take into account all relevant matters with respect to the insurer's condition, including results of the National Association of Insurance Commissioner, Insurance Regulatory Information Systems, changes in management, results of market conduct examinations, and audited financial reports. The type of examinations performed by examiners under this section shall be compliance examinations, targeted examinations, and comprehensive examinations.

(b) Compliance examinations will consist of a review of the accountant's workpapers defined under this section and a general review of the insurer's corporate affairs and insurance operations to determine compliance with the Minnesota insurance laws and the rules of the department of commerce. The examiners may perform alternative or additional examination procedures to supplement those performed by the accountant when the examiners determine that the procedures are necessary to verify the financial condition of the insurer.

(c) Targeted examinations may cover limited areas of the insurer's operations as the commissioner may deem appropriate.

(d) Comprehensive examinations will be performed when the report of the accountant as provided for in subdivision 3, paragraph (g), the notification required by subdivision 3, paragraph (h), the results of compliance or targeted examinations, or other circumstances indicate in the judgment of the commissioner or a designated representative that a complete examination of the condition and affairs of the insurer is necessary.

(e) Upon completion of each targeted, compliance, or comprehensive examination, the examiner appointed by the commissioner shall make a full and true report on the results of the examination. Each report shall include a general description of the audit procedures performed by the examiners and the procedures of the accountant that the examiners may have utilized to supplement their examination procedures and the procedures that were performed by the registered independent certified public accountant if included as a supplement to the examination.

Subd. 5. [CONSOLIDATED FILING.] (a) The commissioner may allow an exception to the stand alone loss reserve certification required by subdivision 2, and audited financial statements required by subdivision 3, paragraph (a), where it can be demonstrated that a company in a group has a pooling or 100 percent reinsurance agreement used in a group which substantially affects the solvency and integrity of the reserves of the company or where it is only the parent company of a group which is licensed to do business in Minnesota. If these circumstances exist, then the company may file a written application to file loss reserve certification and a report of an annual audit. This application shall be for a specified period.

(b) A consolidated annual audit filing shall include an organizational chart of the companies together with a columnar consolidated or combining worksheet. Amounts shown on the audited consolidated or combined financial statement shall be shown on the worksheet. Amounts for each insurer shall be stated separately. Noninsurance operations may be shown on the worksheet on a combined or individual basis. Explanations of consolidating or eliminating entries shall be shown on the worksheet. A reconciliation of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statement of the insurers shall be included on the worksheet.

Subd. 6. [PENALTIES.] No annual statement, report, or document related to the business of insurance shall be filed with the commissioner or issued to the public if it is signed by anyone who is represented in the instrument as an "actuary" or "accountant," unless the person is qualified as defined by this section. A violation of this subdivision is a violation of section 72A.19 and punishable in accordance with section 72A.25.

Subd. 7. [EXEMPTIONS.] (a) Upon written application of any company, the commissioner may grant an exemption from compliance with the provisions of this section. In order to receive an exemption, a company must demonstrate to the satisfaction of the commissioner that compliance would constitute a financial hardship upon the company. An exemption may be granted at any time and from time to time for specified periods. Within ten days from the denial of an insurer's written request for an exemption, the insurer may request in writing a hearing on its application for an exemption. This hearing shall be held in accordance with chapter 14. Upon written application of any insurer, the commissioner may permit an insurer to file annual audited financial reports on some basis other than a calendar year basis for a specified period. No exemption shall be granted until the insurer presents an alternative method satisfying the purposes of this section. Within ten days from a denial of a written request for an exemption, the insurer may request in writing a hearing on its application. The hearing shall be held in accordance with chapter 14.

(b) This section applies to all insurers, unless otherwise indicated, required to file an annual audit by subdivision 3, paragraph (a), except insurers having less than $1,000,000 of direct written premiums in any year and fewer than 1,000 policyholders in this state at the end of any year, are exempt from this section for that year.

Sec. 4. Minnesota Statutes 1992, section 60A.13, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL STATEMENTS REQUIRED.] Every insurance company, including fraternal benefit societies, and reciprocal exchanges, doing business in this state, shall transmit to the commissioner, annually, on or before March 1, the appropriate verified National Association of Insurance Commissioners' annual statement blank, prepared in accordance with the association's instructions handbook and following those accounting procedures and practices prescribed by the association's accounting practices and procedures manual, unless the commissioner requires or finds another method of valuation reasonable under the circumstances. Another method of valuation permitted by the commissioner must be at least as conservative as those prescribed in the association's manual. In addition, the commissioner may require the filing of any other information determined to be reasonably necessary for the continual enforcement of these laws. The statement may be limited to the insurer's business and condition in the United States unless the commissioner finds that the business conducted outside the United States may detrimentally affect the interests of policyholders in this state. The statements shall also contain a verified schedule showing all details required by law for assessment and taxation. The statement or schedules shall be in the form and shall contain all matters the commissioner may prescribe, and it may be varied as to different types of insurers so as to elicit a true exhibit of the condition of each insurer.

Sec. 5. Minnesota Statutes 1992, section 60A.13, subdivision 6, is amended to read:

Subd. 6. [COMPANY OR AGENT CANNOT CONTINUE BUSINESS UNLESS STATEMENT IS FILED.] No company shall transact any new business in this state after May thirty-first in any year unless it shall have previously transmitted its annual statement to the commissioner and filed a copy of its statement with the National Association of Insurance Commissioners. The commissioner may by order annually require that each insurer pay the required fee to the National Association of Insurance Commissioners for the filing of annual statements, but the fee shall not be more than 50 percent greater than the fee set by the National Association of Insurance Commissioners ~~on January 1, 1984~~. Failure to file the annual statement with the commissioner or the National Association of Insurance Commissioners is a violation of section 72A.061, subdivision 1. The fee shall be based on the relative premium volume of each insurer. The commissioner's order shall not be subject to chapter 14.

Sec. 6. Minnesota Statutes 1992, section 60A.23, subdivision 4, is amended to read:

Subd. 4. [DIVIDENDS; LIMITATIONS.] ~~No domestic stock company shall declare a dividend either in cash or stock, except from its actual net surplus computed as required by law in its annual statement; nor shall any such company which has ceased to do new business divide any portion of its assets, except surplus, until it shall have performed or canceled its policy obligations. It may declare and pay, annually, semiannually or quarterly from its surplus, cash dividends of not more than ten percent of its capital stock and surplus in any year and, if the dividends in any one year are less than ten percent, the difference may be made up in any subsequent year or years from surplus accumulations. It may pay such dividend as the directors deem prudent out of any surplus remaining after charging, in addition to all liabilities except unearned premiums, an amount equal to the whole amount of premiums on unexpired risks and deducting from the assets all securities and accounts receivable on which no part of the principal or interest has been paid within the preceding year, or for which foreclosure or suit has been commenced, or upon which judgment obtained has remained more than two years unsatisfied and on which interest has not been paid, and also deducting all liens due and unpaid on any of its property.~~ Stock companies shall follow the dividend limitation and reporting requirements set forth in chapter 60D.

Sec. 7. Minnesota Statutes 1992, section 60B.22, subdivision 1, is amended to read:

Subdivision 1. [LENGTH OF CONTINUED COVERAGE.] All insurance policies or similar contracts of coverage issued by the insurer shall continue in force:

(a) For a period of ~~15~~ 30 days from the date of entry of the liquidation order;

(b) Until the normal expiration of the policy or contract coverage;

(c) Until the insured has replaced the coverage with equivalent coverage in another insurer; or

(d) Until the liquidator has effected a transfer of the policy or contract obligation pursuant to section 60B.25, clause (8), whichever time is less.

Sec. 8. Minnesota Statutes 1992, section 60C.03, subdivision 7, is amended to read:

Subd. 7. [RESIDENT.] "Resident" means:

(a) An individual person who fixes habitation in this state without any intention of removing therefrom and who, whenever absent therefrom, intends to return; or

(b) Any other person whose principal place of business is located in this state at the time of the insured event; ~~or~~

~~(c) A person whose principal place of business is in Wisconsin, Iowa, North Dakota, or South Dakota, but who maintains substantial business in Minnesota~~.

Sec. 9. Minnesota Statutes 1992, section 60D.20, subdivision 2, is amended to read:

Subd. 2. [DIVIDENDS AND OTHER DISTRIBUTIONS.] (a) Subject to the limitations and requirements of this subdivision, the board of directors of any domestic insurer within an insurance holding company system may authorize and cause the insurer to declare and pay any dividend or distribution to its shareholders as the directors deem prudent from the earned surplus of the insurer. An insurer's earned surplus, also known as unassigned funds, shall be determined in accordance with the accounting procedures and practices governing preparation of its annual statement, minus 25 percent of earned surplus attributable to unrealized capital gains. Dividends which are paid from sources other than an insurer's earned surplus or are extraordinary dividends or distributions may be paid only as provided in paragraphs (d), (e), and (f).

(b) The insurer shall notify the commissioner within five business days following declaration of a dividend declared pursuant to paragraph (a) and at least ten days prior to its payment. The commissioner shall promptly consider the notification filed pursuant to this paragraph, taking into consideration the factors described in subdivision 4.

(c) The commissioner shall review at least annually the dividends paid by an insurer pursuant to paragraph (a) for the purpose of determining if the dividends are reasonable based upon (1) the adequacy of the level of surplus as regards policyholders remaining after the dividend payments, and (2) the quality of the insurer's earnings and extent to which the reported earnings include extraordinary items, such as surplus relief reinsurance transactions and reserve destrengthening.

(d) No domestic insurer shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until: (1) 30 days after the commissioner has received notice of the declaration of it and has not within the period disapproved the payment; or (2) the commissioner has approved the payment within the 30-day period.

~~(b)~~ (e) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the greater of (1) ten percent of the insurer's surplus as regards policyholders as of the 31st day of December next preceding; or (2) the net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the 31st day of December next preceding, but does not include pro rata distributions of any class of the insurer's own securities. ~~In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous two calendar years that has not already been paid out as dividends. This carry forward is computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years.~~

~~(c)~~ (f) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution that is conditional upon the commissioner's approval, and the declaration shall confer no rights upon shareholders until: (1) the commissioner has approved the payment of such a dividend or distribution; or (2) the commissioner has not disapproved the payment within the 30-day period referred to above.

Sec. 10. Minnesota Statutes 1992, section 60D.20, subdivision 4, is amended to read:

Subd. 4. [ADEQUACY OF SURPLUS.] For purposes of this chapter, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, must be considered:

(1) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(2) the extent to which the insurer's business is diversified among the several lines of insurance;

(3) the number and size of risks insured in each line of business;

(4) the extent of the geographical dispersion of the insurer's insured risks;

(5) the nature and extent of the insurer's reinsurance program;

(6) the quality, diversification and liquidity of the insurer's investment portfolio;

(7) the recent past and projected future trend in the size of the insurer's investment portfolio;

(8) the surplus as regards policyholders maintained by other comparable insurers;

(9) the adequacy of the insurer's reserves; ~~and~~

(10) the quality and liquidity of investments in affiliates. The commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the commissioner's judgment the investment so warrants; and

(11) the quality of the insurer's earnings and the extent to which the reported earnings include extraordinary items, such as surplus relief reinsurance transactions and reserve destrengthening.

Sec. 11. Minnesota Statutes 1992, section 60E.01, is amended to read:

60E.01 [PURPOSE.]

The purpose of sections 60E.01 to 60E.14 is to regulate the formation and operation of risk retention groups and purchasing groups in this state formed under the federal Liability Risk Retention Act of 1986, to the extent permitted by that law.

Sec. 12. Minnesota Statutes 1992, section 60E.02, subdivision 9, is amended to read:

Subd. 9. [PLAN OF OPERATION OR FEASIBILITY STUDY.] "Plan of operation" or "feasibility study" means an analysis that presents the expected activities and results of a risk retention group including, at a minimum:

(1) information sufficient to verify that its members are engaged in business or activities similar or related with respect to the liability to which the members are exposed by virtue of any related, similar or common business, trade, product, services, premises, or operations;

(2) for each state in which it intends to operate, the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer;

~~(2)~~ (3) historical and expected loss experience of the proposed members and national experience of similar exposures to the extent that this experience is reasonably available;

~~(3)~~ (4) pro forma financial statements and projections;

~~(4)~~ (5) appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition;

~~(5)~~ (6) identification of management, underwriting and claims procedures, marketing methods, managerial oversight methods, investment policies, and reinsurance agreements; ~~and~~

~~(6)~~ (7) identification of each state in which the risk retention group has obtained, or sought to obtain, a charter and license, and a description of its status in each state; and

(8) other matters prescribed by the commissioner for liability insurance companies authorized by the insurance laws of the state.

Sec. 13. Minnesota Statutes 1992, section 60E.02, subdivision 12, is amended to read:

Subd. 12. [RISK RETENTION GROUP.] "Risk retention group" means a corporation or other limited liability association ~~formed under the laws of a state, Bermuda, or the Cayman Islands~~:

(1) whose primary activity consists of assuming and spreading all, or a portion, of the liability exposure of its group members;

(2) which is organized for the primary purpose of conducting the activity described under clause (1);

(3) which:

(a) is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of a state; or

(b) before January 1, 1985, was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before that date, had certified to the insurance commissioner of at least one state that it satisfied the capitalization requirements of the state, except that the group shall be considered to be a risk retention group only if it has been engaged in business continuously since that date and only for the purpose of continuing to provide insurance to cover product liability or completed operations liability, as such terms were defined in the Product Liability Risk Retention Act of 1981 before the date of the enactment of the Risk Retention Act of 1986;

(4) which does not exclude a person from membership in the group solely to provide for members of the group a competitive advantage over that person;

(5) which:

(a) has as its members only persons who have an ownership interest in the group and which has as its owners only persons who are members who are provided insurance by the risk retention group; or

(b) has as its ~~sole member and~~ sole owner an organization which ~~is owned by persons who are provided insurance by the risk retention group~~ has as its members only persons who comprise the membership of the risk retention group and which has as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by that group;

(6) whose members are engaged in businesses or activities similar or related with respect to the liability of which the members are exposed by virtue of any related, similar, or common business trade, product, services, premises, or operations;

(7) whose activities do not include the provision of insurance other than:

(a) liability insurance for assuming and spreading all or a portion of the liability of its group members; and

(b) reinsurance with respect to the liability of any other risk retention group, or any members of the other group, which is engaged in businesses or activities so that the group or member meets the requirement described in clause (6) from membership in the risk retention group which provides the reinsurance; and

(8) the name of which includes the phrase "risk retention group."

Sec. 14. Minnesota Statutes 1992, section 60E.03, is amended to read:

60E.03 [RISK RETENTION GROUPS CHARTERED IN THIS STATE.]

A risk retention group ~~seeking to be chartered in this state must~~ shall be chartered and licensed ~~as a~~ to write only liability insurance ~~company authorized by the insurance laws of this state~~ pursuant to sections 60E.01 to 60E.14 and, except as provided elsewhere in sections 60E.01 to 60E.14, must comply with all of the laws, rules, and requirements applicable to insurers chartered and licensed in this state and with section 60E.04 to the extent those requirements are not a limitation on laws, rules, or requirements of this state. ~~Before it may offer insurance in a state, a risk retention group shall also submit for approval to the commissioner of commerce a plan of operation or a feasibility study and revisions of the plan or study if the group intends to offer additional lines of liability insurance.~~

Notwithstanding any other provision to the contrary, all risk retention groups chartered in this state shall file with the department and the National Association of Insurance Commissioners (NAIC), an annual statement in a form prescribed by the NAIC, and in diskette form if required by the commissioner, and completed in accordance with its instructions and the NAIC accounting practices and procedures manual.

Before it may offer insurance in a state, each risk retention group shall also submit for approval to the commissioner of commerce a plan of operation or feasibility study. The risk retention group shall submit an appropriate revision in the event of any subsequent material change in any item of the plan of operation or feasibility study, within ten days of a change. The group shall not offer any additional kinds of liability insurance, in this state or in any other state, until a revision of the plan or study is approved by the commissioner.

At the time of filing its application for charter, the risk retention group shall provide to the commissioner in summary form the following information: the identity of the initial members of the group, the identity of those individuals who organized the group or who will provide administrative services or otherwise influence or control the activities of the group, the amount and nature of initial capitalization, the coverages to be afforded, and the states in which the group intends to operate. Upon receipt of this information, the commissioner shall forward the information to the National Association of Insurance Commissioners.

Providing notification to the NAIC is in addition to and shall not be sufficient to satisfy the requirements of section 60E.04 or any other sections of this chapter.

Sec. 15. Minnesota Statutes 1992, section 60E.04, subdivision 1, is amended to read:

Subdivision 1. [REGULATION.] Risk retention groups chartered and licensed in states other than this state and seeking to do business as a risk retention group in this state must observe and abide by the laws of this state as set forth in subdivisions 2 to 12.

Sec. 16. Minnesota Statutes 1992, section 60E.04, subdivision 2, is amended to read:

Subd. 2. [NOTICE OF OPERATIONS AND DESIGNATION OF COMMISSIONER AS AGENT.] (a) Before offering insurance in this state, a risk retention group shall submit to the commissioner on a form prescribed by the NAIC:

(1) a statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, date of chartering, its principal place of business, and other information including information on its membership, the commissioner may require to verify that the risk retention group is qualified under section 60E.02, subdivision 12;

(2) a copy of its plan of operations or a feasibility study and revisions of the plan or study submitted to ~~its~~ the state ~~of domicile~~ in which the risk retention group is chartered and licensed; provided, however, that the provision relating to the submission of a plan of operation or a feasibility study shall not apply with respect to a line or classification of liability insurance that was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986, and was offered before that date by a risk retention group that had been chartered and operating for not less than three years before that date; ~~and~~.

~~(3)~~ (b) The risk retention group shall submit a copy of any revision to its plan of operation or feasibility study required by section 60E.03 at the same time that the revision is submitted to the commissioner of its chartering state.

(c) The risk retention group shall submit a statement of registration, for which a filing fee shall be determined by the commissioner, that designates the commissioner as its agent for the purpose of receiving service of legal documents or process.

Sec. 17. Minnesota Statutes 1992, section 60E.04, subdivision 3, is amended to read:

Subd. 3. [FINANCIAL CONDITION.] A risk retention group doing business in this state shall submit to the commissioner:

(1) a copy of the group's financial statement submitted to ~~its~~ the state ~~of domicile~~ in which the risk retention group is chartered and licensed, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a qualified loss reserve specialist, under criteria established by the National Association of Insurance Commissioners;

(2) a copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination;

(3) upon request by the commissioner, a copy of ~~an~~ any information or document pertaining to any outside audit performed with respect to the risk retention group; and

(4) the information required to verify its continuing qualification as a risk retention group under section 60E.02, subdivision 12.

Sec. 18. Minnesota Statutes 1992, section 60E.04, subdivision 4, is amended to read:

Subd. 4. [TAXATION.] (a) ~~All premiums paid for coverages within this state to risk retention groups are subject to taxation at the same rate and subject to the same interest, fines, and penalties for nonpayment as that applicable to other insurers.~~ Each risk retention group is liable for the payment of premium taxes and taxes on premiums of direct business for risks resident or located within this state, and shall report to the commissioner the net premiums written for risks resident or located within this state. The risk retention group shall be subject to taxation, and any applicable taxation-related fines and penalties, on the same basis as a foreign admitted insurer.

(b) ~~To the extent agents or brokers are utilized, they shall report and pay the taxes for the premiums for risks which they have placed with or on behalf of a risk retention group not chartered in this state. The agents or brokers are subject to the provisions of sections 60A.195 to 60A.209.~~ To the extent licensed agents or brokers are utilized pursuant to section 60E.12, they shall report to the commissioner the premiums for direct business for risks resident or located within this state which the licensees have placed with or on behalf of a risk retention group not chartered in this state.

(c) ~~To the extent agents or brokers are not utilized or fail to pay the tax, each risk retention group shall pay the tax for risks insured within the state. Each risk retention group shall report all premiums paid to it for risks insured within the state and shall be subject to the same interest, fines, and penalties for nonpayment as that applicable to foreign admitted insurers.~~ To the extent that insurance agents or brokers are utilized pursuant to section 60E.12, each agent or broker shall keep a complete and separate record of all policies procured from each risk retention group, which shall be open to examination by the commissioner, as provided in section 60A.031. These records shall, for each policy and each kind of insurance provided, include the following:

(1) the limit of liability;

(2) the time period covered;

(3) the effective date;

(4) the name of the risk retention group which issued the policy;

(5) the gross premium charged; and

(6) the amount of return premiums, if any.

Sec. 19. Minnesota Statutes 1992, section 60E.04, subdivision 7, is amended to read:

Subd. 7. [EXAMINATION REGARDING FINANCIAL CONDITION.] A risk retention group must submit to an examination by the commissioner to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered and licensed has not initiated an examination or does not initiate an examination within ~~ten business~~ 60 days after a request by the commissioner of commerce. The examination must be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the National Association of Insurance Commissioner's Examiner Handbook.

Sec. 20. Minnesota Statutes 1992, section 60E.04, subdivision 8, is amended to read:

Subd. 8. [NOTICE TO PURCHASERS.] An application form for insurance from a risk retention group and the front and declaration pages of a policy issued by a risk retention group must contain in 10 point type ~~on the front page and the declaration page~~, the following notice:

NOTICE

This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and rules of your state. State insurance insolvency guaranty funds are not available for your risk retention group.

Sec. 21. Minnesota Statutes 1992, section 60E.04, subdivision 11, is amended to read:

Subd. 11. [PROHIBITED COVERAGE.] ~~No risk retention group may offer~~ The terms of an insurance policy issued by a risk retention group shall not provide, or be construed to provide, coverage prohibited by ~~the insurance laws or rules of this~~ state statute or declared unlawful by the highest court of ~~this~~ the state whose law applies to the policy.

Sec. 22. Minnesota Statutes 1992, section 60E.04, is amended by adding a subdivision to read:

Subd. 13. [PENALTIES.] A risk retention group that violates any provision of this chapter is subject to fines and penalties including revocation of its right to do business in this state, applicable to licensed insurers generally.

Sec. 23. Minnesota Statutes 1992, section 60E.05, is amended to read:

60E.05 [COMPULSORY ASSOCIATIONS.]

No risk retention group shall be required or permitted to join or contribute financially to an insurance insolvency guaranty fund, or similar mechanism, in this state, nor shall any risk retention group, or its insureds, or claimants against its insureds receive a benefit from the fund for claims arising out of the operations of the risk retention group.

~~A risk retention group shall participate in this state's joint underwriting associations and mandatory liability pools as provided by chapters 60A to 72A and 340A.~~ When a purchasing group obtains insurance covering its members' risks from an insurer not authorized in this state or a risk retention group, no such risks, wherever resident or located, shall be covered by any insurance guaranty fund or similar mechanism in this state.

When a purchasing group obtains insurance covering its members' risks from an authorized insurer, only risks resident or located in this state shall be covered by the Minnesota guaranty association under chapter 60C.

Notwithstanding chapter 62I, the commissioner may require or exempt a risk retention group from participation in any mechanism established or authorized under the law of this state for the equitable apportionment among insurers of liability insurance losses and expenses incurred on policies written through this mechanism, and the risk retention group shall submit sufficient information to the commissioner to enable the commissioner to apportion on a nondiscriminatory basis the risk retention group's proportionate share of these losses and expenses.

Sec. 24. Minnesota Statutes 1992, section 60E.07, is amended to read:

60E.07 [PURCHASING GROUPS; EXEMPTION FROM CERTAIN LAWS RELATING TO THE GROUP PURCHASE OF INSURANCE.]

A purchasing group ~~meeting the criteria established under the Federal Liability Risk Retention Act of 1986 is exempt from any law of this state relating to the creation of groups for the purchase of insurance, prohibition of group purchasing or any law that would discriminate against a purchasing group or its members. In addition, an insurer is exempt from any law of this state that prohibits providing, or offering to provide, to a purchasing group or its members advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters. A purchasing group is subject to all other applicable laws of this state.~~ and its insurer or insurers are subject to all applicable laws of this state, except that a purchasing group and its insurer or insurers are exempt, in regard to liability insurance for the purchasing group, from any law that would:

(1) prohibit the establishment of a purchasing group;

(2) make it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its members, advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters;

(3) prohibit a purchasing group or its members from purchasing insurance on a group basis described in clause (2);

(4) prohibit a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time;

(5) require that a purchasing group must have a minimum number of members, common ownership or affiliation, or certain legal form;

(6) require that a certain percentage of a purchasing group must obtain insurance on a group basis;

(7) otherwise discriminate against a purchasing group or any of its members; or

(8) require that any insurance policy issued to a purchasing group or any of its members be countersigned by an insurance agent or broker residing in this state.

Sec. 25. Minnesota Statutes 1992, section 60E.08, is amended to read:

60E.08 [NOTICE AND REGISTRATION REQUIREMENTS OF PURCHASING GROUPS.]

Subdivision 1. [NOTICE TO COMMISSIONER.] A purchasing group that intends to do business in this state shall, prior to doing business, furnish notice to the commissioner on forms prescribed by the NAIC which shall:

(1) identify the state in which the group is domiciled;

(2) identify all other states in which the group intends to do business;

(3) specify the lines and classifications of liability insurance which the purchasing group intends to purchase;

~~(3)~~ (4) identify the insurance company or companies from which the group intends to purchase its insurance and the domicile of the company;

~~(4)~~ (5) specify the method by which, and the person or persons, if any, through whom insurance will be offered to its members whose risks are resident or located in this state;

(6) identify the principal place of business of the group; and

~~(5)~~ (7) provide other information required by the commissioner to verify that the purchasing group is qualified under section 60E.02, subdivision 11.

Subd. 2. [NOTICE OF CHANGE.] A purchasing group shall, within ten days, notify the commissioner of any changes in any items set forth in subdivision 1.

Subd. 3. [SERVICE OF PROCESS.] The purchasing group shall register with and designate the commissioner or other appropriate authority as its agent solely for the purpose of receiving service of legal documents or process for which a filing fee shall be determined by the commissioner. These requirements do not apply to a purchasing group that only purchases insurance that was authorized under the federal Product Liability Risk Retention Act of 1981, and that in any state of the United States:

(1) was domiciled before April 2, 1986, and is domiciled on and after October 27, 1986, in any state of the United States;

(2) before October 27, 1986, purchased insurance from an insurance carrier licensed in any state, and since October 27, 1986, purchased its insurance from an insurance carrier licensed in any state; and

(3) was a purchasing group under the requirements of the federal Product Liability Retention Act of 1981 before October 27, 1986~~; and~~

~~(4) does not purchase insurance that was not authorized for purposes of an exemption under the act referred to in clause (3), as in effect before October 27, 1986~~.

Subd. 4. [ADDITIONAL INFORMATION.] Each purchasing group that is required to give notice pursuant to subdivision 1 shall also furnish information required by the commissioner to:

(1) verify that the entity qualifies as a purchasing group;

(2) determine where the purchasing group is located; and

(3) determine appropriate tax treatment.

Sec. 26. Minnesota Statutes 1992, section 60E.09, is amended to read:

60E.09 [RESTRICTIONS ON INSURANCE PURCHASED BY PURCHASING GROUPS.]

A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus lines laws and regulations of the state.

A purchasing group which obtains liability insurance from an insurer not admitted in this state or a risk retention group shall inform each of the members of the group which have a risk resident or located in this state that the risk is not protected by an insurance insolvency guaranty fund in this state, and that the risk retention group or insurer may not be subject to all insurance laws and regulations of this state.

No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole, however, coverage may provide for a deductible or self-insured retention applicable to individual members.

Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits which are applicable to all purchases of group insurance.

Sec. 27. [60E.095] [PURCHASING GROUP TAXATION.]

Premium taxes and taxes on premiums paid for coverage of risks resident or located in this state by a purchasing group or any members of the purchasing groups shall be:

(1) imposed at the same rate and subject to the same interest, fines, and penalties as that applicable to premium taxes and taxes on premiums paid for similar coverage from a similar insurance source by other insureds; and

(2) paid first by the insurance source, and if not by the source by the agent or broker for the purchasing group, and if not by the agent or broker then by the purchasing group, and if not by the purchasing group then by each of its members.

Sec. 28. Minnesota Statutes 1992, section 60E.10, is amended to read:

60E.10 [ADMINISTRATIVE AND PROCEDURAL AUTHORITY REGARDING RISK RETENTION GROUPS AND PURCHASING GROUPS.]

The commissioner of commerce may use any of the powers established under the insurance laws ~~and rules~~ of this state to enforce the laws ~~and rules~~ of this state ~~so long as those powers are~~ not specifically preempted by the Product Liability Risk Retention Act of 1981, as amended by the Risk Retention Amendments of 1986. This includes, but is not limited to, the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, ~~and~~ impose penalties, and seek injunctive relief. With regard to an investigation, administrative proceedings, or litigation, the commissioner can rely on the procedural ~~law and rules~~ laws of the state. The injunctive authority of the commissioner in regard to risk retention groups is restricted by the requirement that an injunction be issued by a court of competent jurisdiction.

Sec. 29. Minnesota Statutes 1992, section 60E.12, is amended to read:

60E.12 [DUTY ON AGENTS OR BROKERS TO OBTAIN LICENSE.]

~~A person acting, or offering to act, as an agent or broker for a risk retention group or purchasing group, that solicits members, sells insurance coverage, purchases coverage for its members located within the state or otherwise does business in this state shall, before commencing this activity, obtain a license from the commissioner.~~

Subdivision 1. [RISK RETENTION GROUPS.] No person, firm, association, or corporation shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state from a risk retention group unless the person, firm, association, or corporation is licensed as an insurance agent or broker in accordance with chapter 60K.

Subd. 2. [PURCHASING GROUPS.] (a) No person, firm, association, or corporation shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance in this state for a purchasing group from an authorized insurer or a risk retention group chartered in a state unless the person, firm, association, or corporation is licensed as an insurance agent or broker in accordance with chapter 60K.

(b) No person, firm, association, or corporation shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance coverage in this state for any member of a purchasing group under a purchasing group's policy unless the person, firm, association, or corporation is licensed as an insurance agent or broker in accordance with chapter 60K.

(c) No person, firm, association, or corporation shall act or aid in any manner in soliciting, negotiating, or procuring liability insurance from an insurer not authorized to do business in this state on behalf of a purchasing group located in this state unless the person, firm, association, or corporation is licensed as a surplus lines agent or excess line broker in accordance with sections 60A.195 to 60A.209.

Subd. 3. [AGENT OR BROKER RESIDENCE REQUIREMENT.] For purposes of acting as an agent or broker for a risk retention group or purchasing group pursuant to subdivisions 1 and 2, the requirement of residence in this state do not apply.

Subd. 4. [NOTICE TO INSUREDS.] Every person, firm, association, or corporation licensed pursuant to chapter 60A, on business placed with risk retention groups or written through a purchasing group, shall inform each prospective insured of the provisions of the notice required by section 60E.04, subdivision 8, in the case of a risk retention group and section 60E.09 in the case of a purchasing group.

Sec. 30. Minnesota Statutes 1992, section 60E.13, is amended to read:

60E.13 [BINDING EFFECT OF ORDERS ISSUED IN UNITED STATES DISTRICT COURT.]

An order issued by any district court of the United States enjoining a risk retention group from soliciting or selling insurance, or operating, in a state, or in all states or in a territory or possession of the United States, upon a finding that the group is in a hazardous financial condition or financially impaired condition shall be enforceable in the courts of the state.

Sec. 31. [TRANSITIONAL PROVISIONS.]

(a) In addition to complying with the requirements of Minnesota Statutes, section 60E.04, a risk retention group operating in this state before the effective date of this act shall, within 30 days after that date, comply with the provisions of Minnesota Statutes, section 60F.04, subdivision 2, paragraph (a).

(b) A purchasing group which was doing business in this state before the enactment of this act shall, within 30 days after the effective date of this act, furnish notice to the commissioner pursuant to Minnesota Statutes, section 60E.08, subdivision 1, and furnish the information required pursuant to Minnesota Statutes, section 60E.08, subdivisions 2 and 3.

Sec. 32. [REPEALER.]

Minnesota Statutes 1992, sections 60A.07, subdivision 5d; 60A.12, subdivision 10; 60B.24; and 60E.11, are repealed."

Delete the title and insert:

"A bill for an act relating to insurance; regulating investments, assets and liabilities, and annual statements of companies; providing for continuance of coverage upon liquidation; modifying the definition of resident for purposes of the Minnesota insurance guaranty association; regulating dividends and other distributions of insurance holding company systems; regulating risk retention groups; enacting the NAIC model legislation; amending Minnesota Statutes 1992, sections 60A.11, subdivision 9; 60A.12, subdivision 3; 60A.13, subdivisions 1 and 6; 60A.23, subdivision 4; 60B.22, subdivision 1; 60C.03, subdivision 7; 60D.20, subdivisions 2 and 4; 60E.01; 60E.02, subdivisions 9 and 12; 60E.03; 60E.04, subdivisions 1, 2, 3, 4, 7, 8, 11, and by adding a subdivision; 60E.05; 60E.07; 60E.08; 60E.09; 60E.10; 60E.12; and 60E.13; proposing coding for new law in Minnesota Statutes, chapters 60A and 60E; repealing Minnesota Statutes 1992, sections 60A.07, subdivision 5d; 60A.12, subdivision 10; 60B.24; and 60E.11."

With the recommendation that when so amended the bill pass.

The report was adopted.

Sarna from the Committee on Commerce and Economic Development to which was referred:

H. F. No. 1137, A bill for an act relating to real estate; regulating fees, licenses, and agreements; requiring certain disclosures; providing for meetings of the real estate appraiser advisory board; changing terms; regulating fees and licenses; amending Minnesota Statutes 1992, sections 82.17, subdivision 4, and by adding subdivisions; 82.19, subdivision 5, and by adding subdivisions; 82.20, subdivisions 7, 8, and 15; 82.21, subdivision 1, and by adding a subdivision; 82.22, subdivisions 6 and 13; 82.24, subdivision 1; 82.27, subdivision 1; 82.33, subdivision 2, and by adding subdivisions; 82.34, subdivisions 3 and 4; 82B.02, by adding a subdivision; 82B.05, subdivision 5; 82B.09, subdivision 1; 82B.11; 82B.14; 82B.19, subdivision 2; and 507.45, subdivision 4; Laws 1992, chapter 555, article 1, section 12; proposing coding for new law in Minnesota Statutes, chapter 82; repealing Minnesota Statutes 1992, section 82.22, subdivision 7; Minnesota Rules, part 2805.1200.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 82.17, subdivision 4, is amended to read:

Subd. 4. "Real estate broker" or "broker" means any person who:

(a) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys or rents, manages, or offers or attempts to negotiate a sale, option, exchange, purchase or rental of an interest or estate in real estate, or advertises or holds out as engaged in these activities;

(b) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly negotiates or offers or attempts to negotiate a loan, secured or to be secured by a mortgage or other encumbrance on real estate;

(c) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys, rents, manages, offers or attempts to negotiate a sale, option, exchange, purchase or rental of any business opportunity or business, or its good will, inventory, or fixtures, or any interest therein;

(d) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly offers, sells or attempts to negotiate the sale of property that is subject to the registration requirements of chapter 83, concerning subdivided land;

(e) ~~engages in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the person undertakes to promote the sale of real estate through its listing in a publication issued primarily for this purpose;~~ for another and for commission, fee, or other valuable consideration or with the intention or expectation of receiving the same, promotes the sale of real estate by advertising it in a publication issued primarily for this purpose, if the person:

(1) negotiates on behalf of any party to a transaction;

(2) disseminates any information regarding the property to any party or potential party to a transaction subsequent to the publication of the advertisement, except that in response to an initial inquiry from a potential purchaser, the person may forward additional written information regarding the property which has been prepared prior to the publication by the seller or broker or a representative of either;

(3) counsels, advises, or offers suggestions to the seller or a representative of the seller with regard to the marketing, offer, sale, or lease of the real estate, whether prior to or subsequent to the publication of the advertisement;

(4) counsels, advises, or offers suggestions to a potential buyer or a representative of the seller with regard to the purchase or rental of any advertised real estate; or

(5) engages in any other activity otherwise subject to licensure under this chapter;

(f) engages wholly or in part in the business of selling real estate to the extent that a pattern of real estate sales is established, whether or not the real estate is owned by the person. A person shall be presumed to be engaged in the business of selling real estate if the person engages as principal in five or more transactions during any 12-month period, unless the person is represented by a licensed real estate broker or salesperson;

(g) offers or makes more than five loans secured by real estate during any 12-month period and who is not a bank, savings bank, mutual savings bank, building and loan association, or savings and loan association organized under the laws of this state or the United States, trust company, trust company acting as a fiduciary, or other financial institution subject to the supervision of the commissioner of commerce, or mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the Farmers Home Administration, or approved or certified by the Federal Home Loan Mortgage Corporation, or approved or certified by the Federal National Mortgage Association.

Sec. 2. Minnesota Statutes 1992, section 82.17, is amended by adding a subdivision to read:

Subd. 11. [DUAL AGENCY.] "Dual agency" means a situation in which a licensee owes a duty to more than one party to the transaction.

Circumstances which establish dual agency include the following:

(1) when one licensee represents both the buyer and the seller in a real estate transaction; or

(2) when two or more licensees, licensed to the same broker, each represent a party to the transaction.

Sec. 3. Minnesota Statutes 1992, section 82.17, is amended by adding a subdivision to read:

Subd. 12. [RESIDENTIAL REAL PROPERTY OR RESIDENTIAL REAL ESTATE.] "Residential real property" or "residential real estate" means property occupied by, or intended to be occupied by, one to four families as their residence.

Sec. 4. Minnesota Statutes 1992, section 82.19, is amended by adding a subdivision to read:

Subd. 4a. [SELF-SERVING PROVISION PROHIBITED.] No purchase agreement, earnest money contract, or similar contract for the purchase, rental, or lease of real property may contain any hold harmless clause or arbitration clause which addresses the rights or liabilities of persons required to be licensed pursuant to this chapter unless the person required to be licensed is a principal in the transaction.

This does not prohibit separate and independent written agreements between any of the parties and persons required to be licensed pursuant to this chapter.

Sec. 5. Minnesota Statutes 1992, section 82.19, subdivision 5, is amended to read:

Subd. 5. [DISCLOSURE REGARDING REPRESENTATION OF PARTIES.] (a) No person licensed pursuant to this chapter or who otherwise acts as a real estate broker or salesperson shall represent any party ~~or parties~~ to a real estate transaction or otherwise act as a real estate broker or salesperson unless that person makes an affirmative written disclosure ~~to all parties to the transaction~~ as to which party that person represents in the transaction. In a residential real property transaction, the disclosure must be made at the first substantive contact between the licensee and the party or potential party to the transaction. The disclosure shall be printed ~~in at least 6 point bold type on the purchase agreement and acknowledged by separate signatures of the buyer and seller~~ as a separate document, and acknowledged by the signature of the buyer, seller, or customer.

(b) The disclosure required by this subdivision must be made by the licensee ~~prior to any offer being made to or accepted by the buyer. A change in licensee's representation that makes the initial disclosure incomplete, misleading, or inaccurate requires that a new disclosure be made at once.~~ with respect to any residential property transaction:

(1) when representing the seller, at the signing of a listing agreement;

(2) when representing the buyer, at the signing of a buyer's broker agreement;

(3) as to all other parties (potential buyers or sellers) who are not represented by the licensee, before discussion of financial information or the commencement of negotiations, which could affect that party's bargaining position in the transaction.

A change in the licensee's representation, including dual agency, that makes the initial disclosure required by this paragraph incomplete, misleading, or inaccurate requires that a new disclosure be made at once.

(c) The seller may, in the listing agreement, authorize the seller's broker to disburse part of the broker's compensation to other brokers, including the buyer's brokers solely representing the buyer. A broker representing a buyer shall make known to the seller or the seller's agent the fact of the agency relationship before any showing or negotiations are initiated.

Sec. 6. Minnesota Statutes 1992, section 82.19, is amended by adding a subdivision to read:

Subd. 8. [CLOSING SERVICES.] No real estate broker, salesperson, or closing agent shall require a person to use any particular lender, licensed attorney, real estate broker, real estate salesperson, real estate closing agent, or title company in connection with a residential real estate closing.

Sec. 7. [82.195] [LISTING AGREEMENTS.]

Subdivision 1. [REQUIREMENT.] Licensees shall obtain a signed listing agreement from the owner of real property or from another person authorized to offer the property for sale or lease before advertising to the general public that the real property is available for sale or lease.

For the purposes of this section "advertising" includes placing a sign on the owner's property that indicates that the property is being offered for sale or lease.

Subd. 2. [CONTENTS.] All listing agreements must be in writing and must include:

(1) a definite expiration date;

(2) a description of the real property involved;

(3) the list price and any terms required by the seller;

(4) the amount of any compensation or commission or the basis for computing the commission;

(5) a clear statement explaining the events or conditions that will entitle a broker to a commission;

(6) information regarding an override clause, if applicable, including a statement to the effect that the override clause will not be effective unless the licensee supplies the seller with a protective list within 72 hours after the expiration of the listing agreement;

(7) the following notice in not less than ten point boldface type immediately preceding any provision of the listing agreement relating to compensation of the licensee:

"NOTICE: THE COMMISSION RATE FOR THE SALE, LEASE, RENTAL, OR MANAGEMENT OF REAL PROPERTY SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL BROKER AND ITS CLIENT.";

(8) if the broker chooses to represent both buyers and sellers in connection with residential property transactions, a "dual agency" disclosure statement;

(9) a notice requiring the seller to indicate in writing whether it is acceptable to the seller to have the licensee arrange for closing services or whether the seller wishes to arrange for others to conduct the closing. The notice must also include the disclosure of any controlled business arrangement, as the term is defined in United States Code, title 12, section 1602, between the licensee and the real estate closing agent through which the licensee proposes to arrange closing services; and

(10) for residential listings, a notice stating that after the expiration of the listing agreement, the seller will not be obligated to pay the licensee a fee or commission if the seller has executed another valid listing agreement pursuant to which the seller is obligated to pay a fee or commission to another licensee for the sale, lease, or exchange of the real property in question. This notice may be used in the listing agreement for any other type of real estate.

Subd. 3. [PROHIBITED PROVISIONS.] Except as otherwise provided in subdivision 4, paragraph (b), licensees shall not include in a listing agreement a holdover clause, automatic extension, or any similar provision, or an override clause the length of which is more than six months after the expiration of the listing agreement.

Subd. 4. [OVERRIDE CLAUSES.] (a) Licensees shall not seek to enforce an override clause unless a protective list has been furnished to the seller within 72 hours after the expiration of the listing agreement.

(b) A listing agreement may contain an override clause of up to two years in length when used in conjunction with the purchase or sale of a business. The length of the override clause must be negotiable between the licensee and the seller of the business. The protective list provided in connection with the override clause must include the written acknowledgment of each party named on the protective list, that the business which is the subject of the listing agreement was presented to that party by the licensee.

Subd. 5. [PROTECTIVE LISTS.] A broker or salesperson has the burden of demonstrating that each person on the protective list has, during the period of the listing agreement, either made an affirmative showing of interest in the property by responding to an advertisement or by contacting the broker or salesperson involved or has been physically shown the property by the broker or salesperson. For the purpose of this section, the mere mailing or other distribution by a licensee of literature setting forth information about the property in question does not, of itself, constitute an affirmative showing of interest in the property on the part of a subsequent purchaser.

For listings of nonresidential real property which do not contain the notice described in subdivision 2, clause (10), the protective list must contain the following notice in boldface type:

"IF YOU RELIST WITH ANOTHER BROKER WITHIN THE OVERRIDE PERIOD AND THEN SELL YOUR PROPERTY TO ANYONE WHOSE NAME APPEARS ON THIS LIST, YOU COULD BE LIABLE FOR FULL COMMISSIONS TO BOTH BROKERS. IF THIS NOTICE IS NOT FULLY UNDERSTOOD, SEEK COMPETENT ADVICE."

Sec. 8. [82.196] [BUYER'S BROKER AGREEMENTS.]

Subdivision 1. [REQUIREMENTS.] Licensees shall obtain a signed buyer's broker agreement from a buyer before performing any acts as a buyer's representative.

Subd. 2. [CONTENTS.] All buyer's broker agreements must be in writing and must include:

(1) a definite expiration date;

(2) the amount of any compensation or commission, or the basis for computing the commission;

(3) a clear statement explaining the services to be provided to the buyer by the broker, and the events or conditions that will entitle a broker to a commission or other compensation;

(4) a provision for cancellation of the agreement by either party upon terms agreed upon by the parties;

(5) information regarding an override clause, if applicable, including a statement to the effect that the override clause will not be effective unless the licensee supplies the buyer with a protective list within 72 hours after the expiration of the buyer's broker agreement;

(6) the following notice in not less than ten point bold face type immediately preceding any provision of the buyer's broker agreement relating to compensation of the licensee:

"NOTICE: THE COMMISSION RATE FOR THE PURCHASE, LEASE, RENTAL, OR MANAGEMENT OF REAL PROPERTY IS NEGOTIABLE AND SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL BROKER AND ITS CLIENT.";

(7) if the broker chooses to represent both buyers and sellers, a "dual agency" disclosure statement; and

(8) for buyer's broker agreements which involve residential real property, a notice stating that after the expiration of the buyer's broker agreement, the buyer will not be obligated to pay the licensee a fee or commission if the buyer has executed another valid buyer's broker agreement pursuant to which the buyer is obligated to pay a fee or commission to another licensee for the purchase, lease, or exchange of real property.

Subd. 3. [PROHIBITED PROVISIONS.] Licensees shall not include in a buyer's broker agreement a holdover clause, automatic extension, or any other similar provision, or an override clause the length of which is more than six months after the expiration of the buyer's broker agreement.

Subd. 4. [OVERRIDE CLAUSES.] Licensees shall not seek to enforce an override clause unless a protective list has been furnished to the buyer within 72 hours after the expiration of the buyer's broker agreement.

Subd. 5. [PROTECTIVE LISTS.] A licensee has the burden of demonstrating that each property on the protective list has been shown to the buyer, or specifically brought to the attention of the buyer, during the time the buyer's broker agreement was in effect.

Subd. 6. [APPLICATION.] This section applies only to residential real property transactions.

Sec. 9. [82.197] [DISCLOSURE REQUIREMENTS.]

Subdivision 1. [AGENCY DISCLOSURE.] The listing agreement or a buyer's broker agreement must include a clear and complete explanation of how the broker will represent the interests of the seller or buyer, and, if the broker represents both sellers and buyers, state how that representation would be altered in a dual agency situation, and require the seller or buyer to choose whether to authorize the broker to initiate any transaction which would give rise to dual agency. Disclosure to a customer of a licensee's agency relationship with other parties must be made at a time and in a manner sufficient to protect the customer's bargaining position.

Subd. 2. [CREATION OF DUAL AGENCY.] If circumstances create a dual agency situation, the broker must make full disclosure to all parties to the transaction as to the change in relationship of the parties to the broker due to dual agency. A broker, having made full disclosure, must obtain the consent of all parties to these circumstances before accepting the dual agency.

Subd. 3. [SCOPE AND EFFECT.] The requirements for disclosure of agency relationships set forth in this chapter are intended only to establish a minimum standard for regulatory purposes, and are not intended to abrogate common law.

Subd. 4. [AGENCY DISCLOSURE FORMS.] (a) Disclosures of agency relationships shall be made in substantially the form set forth in paragraphs (b) to (e):

(b) ADDENDUM TO LISTING AGREEMENT

....(Broker).... will be representing you as your broker in the sale of your property located at ..... This relationship is called an agency. As your agent, ...(Broker).... owes you the duties of loyalty, obedience, disclosure, confidentiality, reasonable care and diligence, and full accounting. However, ...(Broker).... also represents buyers looking for properties. If a buyer represented by ....(Broker).... becomes interested in your property, a dual agency will be created. This means that ....(Broker).... will owe the same duties to the buyer that we owe to you. This conflict of interest will prohibit ....(Broker).... from advocating exclusively on your behalf when attempting to effect the sale of your property. Dual agency will limit the level of representation which ....(Broker).... can provide.

If a dual agency should arise, you will need to agree that confidential information about price, terms, and motivation will still be kept confidential unless you instruct ....(Broker).... in writing to disclose specific information about you or your property. All other information will be shared. Regardless of whether a dual agency occurs, ...(Broker).... must disclose to the buyer any material facts of which ....(Broker).... is aware that may adversely and significantly affect the buyer's use or enjoyment of the property. In addition, ...(Broker).... must disclose to both parties any information of which ....(Broker).... is aware that a party will not perform in accordance with the terms of the purchase agreement or similar written agreement to convey real estate.

....(Broker).... cannot act as a dual agent unless both you and the buyer agree to the dual agency after it is disclosed to you. By agreeing to a possible dual agency, you will be giving up the right to exclusive representation in an in-house transaction. However, if you should decide not to agree to a possible dual agency, and you want ....(Broker).... to represent you, you may give up the opportunity to sell your property to buyers represented by ....(Broker).....

SELLER'S INSTRUCTIONS TO BROKER

Having read and understood this information about dual agency, you now instruct ....(Broker).... as follows:

.... Seller agrees to dual agency representation and will consider offers made by buyers represented by ....(Broker).....

.... Seller does not agree to dual agency representation and will not consider offers made by buyers represented by ....(Broker).....

.....	.....
Seller	(Broker)
.....	BY: .....
Seller	Salesperson
Dated:	

(c) ADDENDUM TO BUYER REPRESENTATION AGREEMENT

....(Broker).... will be representing you as your broker to assist you in finding and purchasing a property. This relationship is called an agency. As your agent, ...(Broker).... owes you the duties of loyalty, obedience, disclosure, confidentiality, reasonable care and diligence, and full accounting. However, ...(Broker).... also represents sellers by listing their property for sale. If you become interested in a property listed by ....(Broker)...., a dual agency will be created. This means that ....(Broker).... will owe the same duties to the seller that ....(Broker).... owes to you. This conflict of interest will prohibit ....(Broker).... from advocating exclusively on your behalf when attempting to effect the purchase of the property. Dual agency will limit the level of representation ....(Broker).... can provide.

If a dual agency should arise, you will need to agree that confidential information about price, terms, and motivation will still be kept confidential unless you instruct ....(Broker).... in writing to disclose specific information about you. All other information will be shared. Regardless of whether a dual agency occurs, ...(Broker).... must disclose to the buyer any material facts of which ....(Broker).... is aware that may adversely and significantly affect the buyer's use or enjoyment of the property. In addition, ...(Broker).... must disclose to both parties any information of which ....(Broker).... is aware that a party will not perform in accordance with the terms of the purchase agreement or similar written agreement to convey real estate.

....(Broker).... cannot act as a dual agent unless both you and the seller agree to the dual agency after it is disclosed to you. By agreeing to a possible dual agency, you will be giving up the right to exclusive representation in an in-house transaction. However, if you should decide not to agree to a possible dual agency, and you want ....(Broker).... to represent you, you may give up the opportunity to purchase the properties listed by ....(Broker).....

BUYER'S INSTRUCTIONS TO BROKER

Having read and understood this information about dual agency, you now instruct ....(Broker).... as follows:

.... Buyer will agree to a dual agency representation and will consider properties listed by ....(Broker).....

.... Buyer will not agree to a dual agency representation and will not consider properties listed by ....(Broker).....

.....	.....
Buyer	(Broker)
.....	BY: .....
Buyer	Salesperson
Dated:	

(d) DISCLOSURE TO CUSTOMER

Before ....(Broker).... begins to assist you in finding and purchasing a property, we must disclose to you that ....(Broker).... will be representing the seller in the transaction.

....(Broker).... will disclose to you all material facts about the property of which ....(Broker).... is aware, that could adversely and significantly affect your use or enjoyment of the property. ....(Broker).... will also assist you with the mechanics of the transaction.

When it comes to the price and terms of an offer, ...(Broker).... will ask you to make the decision as to how much to offer for any property and upon what terms and conditions. ....(Broker).... can explain your options to you, but the ultimate decision is yours. ....(Broker).... will attempt to show you properties in the price range and category you desire so that you will have information on which to base your decision.

....(Broker).... will present to the seller any written offer that you ask ....(Broker).... to present. ....(Broker).... asks you to keep to yourself any information about the price or terms of your offer, or your motivation for making an offer, that you do not want the seller to know. ....(Broker).... would be required, as the seller's agent, to disclose this information to the seller. You should carefully consider sharing any information with ....(Broker).... that you do not want disclosed to the seller.

.....	.....
Customer	(Broker)
.....	BY: .....
Customer	Salesperson
Dated:	

(e) DISCLOSURE TO BUYER AND SELLER AT TIME OF OFFER TO PURCHASE

....(Broker).... represents the seller at the property located at .....

....(Broker).... also represents a buyer who offered to purchase the seller's property.

When ....(Broker).... represents both the buyer and the seller in a transaction, a dual agency is created. This means that ....(Broker).... and its agents owe a fiduciary duty to both buyer and seller. Because buyer and seller may have conflicting interests, ...(Broker).... and its agents are prohibited from advocating exclusively for either party.

....(Broker).... cannot represent both the buyer and seller in this transaction unless both the buyer and seller agree to this dual agency.

Buyer and seller acknowledge and agree that:

1. Confidential information communicated to ....(Broker).... which regards price, terms, or motivation to buy or sell will remain confidential unless buyer or seller instructs ....(Broker).... in writing to disclose this information about the buyer or seller. Other information will be shared.

2. ....(Broker).... and its salespersons will disclose to buyer all material facts of which they are aware which could adversely and significantly affect the buyer's use or enjoyment of the property or any intended use of the property of which ....(Broker).... or its salespersons are aware (this disclosure is required by law whether or not a dual agency is involved).

3. ....(Broker).... and its salespersons will disclose to both parties all information of which they are aware that either party will not perform in accordance with the terms of the purchase agreement or other written agreement to convey real estate (this disclosure is required by law whether or not a dual agency is involved).

4. ....(Broker).... and its salespersons will not represent the interests of either party to the detriment of the other.

5. Within the limits of dual agency, ...(Broker).... and its salespersons will work diligently to facilitate the mechanics of the sale.

With the knowledge and understanding of the explanation above, buyer and seller authorize and instruct ....(Broker).... and its salespersons to act as dual agents in this transaction.

.....	.....
Buyer	Seller
.....	.....
Buyer	Seller
Date:	Date: .....

Subd. 5. [APPLICATION.] The disclosures required by subdivision 4 apply only to residential real property transactions.

Sec. 10. Minnesota Statutes 1992, section 82.20, subdivision 15, is amended to read:

Subd. 15. [EXEMPTION.] The following persons, when acting as closing agents, are exempt from the requirements of sections 82.19 and 82.24 unless otherwise required in this section or chapter:

(1) a direct employee of a title company, or a person who has an agency agreement with a title company in which the agent agrees to perform closing services on the title company's behalf and the title company assumes responsibility for the actions of the agent as if the agent were a direct employee of the title company;

(2) a licensed attorney or a direct employee of a licensed attorney;

(3) a licensed real estate broker or salesperson;

(4) a direct employee of a licensed real estate broker if the broker maintains all funds received in connection with the closing services in the broker's trust account; and

(5) any bank, trust company, savings and loan association, credit union, industrial loan and thrift company, regulated lender under chapter 56, public utility, or land mortgage or farm loan association organized under the laws of this state or the United States, when engaged in the transaction of businesses within the scope of its corporate powers as provided by law.

Sec. 11. Minnesota Statutes 1992, section 82.21, subdivision 1, is amended to read:

Subdivision 1. [AMOUNTS.] The following fees shall be paid to the commissioner:

(a) A fee of $100 per year for each initial individual broker's license, and a fee of $50 per year for each ~~annual~~ renewal thereof;

(b) A fee of $50 per year for each initial salesperson's license, and a fee of $20 per year for each ~~annual~~ renewal thereof;

(c) A fee of $55 per year for each initial real estate closing agent license, and a fee of $30 per year for each ~~annual~~ renewal;

(d) A fee of $100 per year for each initial corporate or partnership license, and a fee of $50 per year for each ~~annual~~ renewal thereof;

(e) A fee ~~not to exceed~~ of $40 per year for payment to the education, research and recovery fund in accordance with section 82.34;

(f) A fee of $20 for each transfer;

(g) A fee of $50 for a corporation or partnership name change;

(h) A fee of $10 for an agent name change;

(i) A fee of $20 for a license history;

(j) A fee of $10 for a duplicate license;

(k) A fee of $50 for license reinstatement;

(l) A fee of $20 for reactivating a corporate or partnership license without land;

(m) A fee of $100 for course coordinator approval; and

(n) A fee of ~~$10~~ $20 for each hour or fraction of one hour of course approval sought.

Sec. 12. Minnesota Statutes 1992, section 82.21, is amended by adding a subdivision to read:

Subd. 2a. [BROKER PAYMENT CONSOLIDATION.] For all license renewal fees, recovery fund renewal fees, and recovery fund assessments pursuant to this section and section 82.34, the broker must remit the fees or assessments for the company, broker, and all salespersons licensed to the broker, in the form of a single check.

Sec. 13. Minnesota Statutes 1992, section 82.22, subdivision 6, is amended to read:

Subd. 6. [INSTRUCTION; NEW LICENSES.] (a) ~~After January 1, 1987,~~ Every applicant for a salesperson's license shall be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before taking the examination specified in subdivision 1. ~~After January 1, 1987,~~ Every applicant for a salesperson's license shall be required to successfully complete an additional course of study in the real estate field consisting of 60 hours of instruction approved by the commissioner, of which three hours shall consist of training in state and federal fair housing laws, regulations, and rules, before filing an application for the license. Every salesperson ~~licensed after January 1, 1987,~~ shall, within one year of licensure, be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner.

(b) ~~After December 31, 1983, and before January 1, 1987, every applicant for a salesperson's license shall be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before taking the examination specified in subdivision 1. After December 31, 1983, and before January 1, 1987, every applicant for a salesperson's license shall be required to successfully complete an additional course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before filing an application for the license. Every salesperson licensed after December 31, 1983, and before January 1, 1987, shall, within one year of the date a license was first issued, be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner.~~

~~(c)~~ The commissioner may approve courses of study in the real estate field offered in educational institutions of higher learning in this state or courses of study in the real estate field developed by and offered under the auspices of the national association of realtors, its affiliates, or private real estate schools. The commissioner shall not approve any course offered by, sponsored by, or affiliated with any person or company licensed to engage in the real estate business. The commissioner may by rule prescribe the curriculum and qualification of those employed as instructors.

~~(d) After January 1, 1988,~~ (c) An applicant for a broker's license must successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner, of which three hours shall consist of training in state and federal fair housing laws, regulations, and rules. The course must have been completed within six months prior to the date of application for the broker's license.

~~(e) After August 1, 1989,~~ (d) An applicant for a real estate closing agent's license must successfully complete a course of study relating to closing services consisting of eight hours of instruction approved by the commissioner.

Sec. 14. Minnesota Statutes 1992, section 82.22, subdivision 13, is amended to read:

Subd. 13. [CONTINUING EDUCATION.] (a) ~~After July 1, 1987,~~ All real estate salespersons and all real estate brokers shall be required to successfully complete 15 hours of real estate education, either as a student or a lecturer, in courses of study approved by the commissioner, each year after their initial annual renewal date or after the expiration of their currently assigned three year continuing education due date. All salespersons and brokers shall report continuing education on an annual basis no later than ~~June 30, 1990~~ May 31. Hours in excess of 15 earned in any one year may be carried forward to the following year.

(b) The commissioner shall adopt rules defining the standards for course and instructor approval, and may adopt rules for the proper administration of this subdivision.

(c) Any program approved by Minnesota continuing legal education shall be approved by the commissioner of commerce for continuing education for real estate brokers and salespeople if the program or any part thereof relates to real estate.

(d) As part of the continuing education requirements of this section, the commissioner shall require that all real estate brokers and salespersons receive at least two hours of training every even-numbered year in courses in state and federal fair housing laws, regulations, and rules, or other antidiscrimination laws.

Sec. 15. Minnesota Statutes 1992, section 82.24, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] (a) All trust funds received by a broker or the broker's salespeople or closing agents shall be deposited forthwith upon receipt in a trust account, maintained by the broker for such purpose in a bank, savings and loan association, credit union, or an industrial loan and thrift company with deposit liabilities designated by the broker or closing agent, except as such money may be paid to one of the parties pursuant to express written agreement between the parties to a transaction. The depository bank shall be a Minnesota bank or trust company or any foreign bank and shall authorize the commissioner to examine its records of such deposits upon demand by the commissioner. The industrial loan and thrift company shall be organized under chapter 53. The savings and loan association or credit union shall be organized under the laws of any state or the United States.

(b) All trust accounts opened or maintained pursuant to requirements of paragraph (a) must be established through the use of an employer identification number. Any trust account currently identified with a broker's personal social security number must be changed to reflect the broker's employer's identification number rather than the broker's personal social security number.

Sec. 16. Minnesota Statutes 1992, section 82.27, subdivision 1, is amended to read:

Subdivision 1. The commissioner may by order deny, suspend or revoke any license or may censure a licensee if the commissioner finds (1) that the order is in the public interest, and (2) that the applicant or licensee or, in the case of a broker, any officer, director, partner, employee or agent or any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker or closing agent or controlled by the broker or closing agent:

(a) has filed an application for a license which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(b) has engaged in a fraudulent, deceptive, or dishonest practice;

(c) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the real estate business;

(d) has failed to reasonably supervise brokers, salespersons, or closing agents so as to cause injury or harm to the public;

(e) has violated or failed to comply with any provision of this chapter or any rule or order under this chapter; ~~or~~

(f) has, in the conduct of the licensee's affairs under the license, been shown to be incompetent, untrustworthy, or financially irresponsible; or

(g) has acted on behalf of any party to a transaction, where the licensee has a conflict of interest that may affect the licensee's ability to represent that party, without the knowledge and consent of the party.

Sec. 17. Minnesota Statutes 1992, section 82.33, subdivision 2, is amended to read:

Subd. 2. No person required by this chapter to be licensed shall be entitled to or may bring or maintain any action in the courts for any commission, fee or other compensation with respect to the purchase, sale, lease or other disposition or conveyance of real property, or with respect to the negotiation or attempt to negotiate any sale, lease or other disposition or conveyance of real property unless there is a written agreement with the person ~~bringing or maintaining the action~~ required to be licensed.

Sec. 18. Minnesota Statutes 1992, section 82.33, is amended by adding a subdivision to read:

Subd. 3. No person required by this chapter to be licensed shall be entitled to bring any action to recover any commission, fee, or other compensation with respect to the purchase, sale, lease, or other disposition or conveyance of residential real property, or with respect to the negotiation or attempt to negotiate any sale, lease, or other disposition or conveyance of residential real property unless the person's agency relationships have been disclosed to the parties to the transaction in accordance with the requirements of this chapter.

Sec. 19. Minnesota Statutes 1992, section 82.33, is amended by adding a subdivision to read:

Subd. 4. No person required to be licensed by this chapter may maintain an action in the courts of this state to enforce any provision of a purchase agreement, earnest money contract, or similar contract for the purchase, rental, or lease of real property if the provision to be enforced violates section 82.19, subdivision 4a.

Sec. 20. Minnesota Statutes 1992, section 82.34, subdivision 3, is amended to read:

Subd. 3. [FEE FOR REAL ESTATE FUND.] Each real estate broker, real estate salesperson, and real estate closing agent entitled under this chapter to renew a license shall pay in addition to the appropriate renewal fee a further fee of $25 per year which shall be credited to the real estate education, research, and recovery fund. Any person who receives ~~a~~ an initial license shall pay the fee of $50 in addition to all other fees payable.

Sec. 21. Minnesota Statutes 1992, section 82.34, subdivision 7, is amended to read:

Subd. 7. When any aggrieved person obtains a final judgment in any court of competent jurisdiction regardless of whether the judgment has been discharged by a bankruptcy court against an individual licensed under this chapter, on grounds of fraudulent, deceptive, or dishonest practices, or conversion of trust funds arising directly out of any transaction when the judgment debtor was licensed and performed acts for which a license is required under this chapter, or performed acts permitted by section 327B.04, subdivision 5, the aggrieved person may, upon the judgment becoming final, and upon termination of all proceedings, including reviews and appeals, file a verified application in the court in which the judgment was entered for an order directing payment out of the fund of the amount of actual and direct out of pocket loss in the transaction, but excluding any attorney's fees, interest on the loss and on any judgment obtained as a result of the loss, up to the sum of $150,000 of the amount unpaid upon the judgment, provided that nothing in this chapter shall be construed to obligate the fund for more than $150,000 per claimant, per transaction, subject to the limitations set forth in subdivision 14, regardless of the number of persons aggrieved or parcels of real estate involved in the transaction, provided that regardless of the number of claims against a licensee, nothing in this chapter may obligate the fund for more than $250,000 per licensee. An aggrieved person who has a cause of action under section 80A.23 shall first seek recovery as provided in section 80A.05, subdivision 5, before the commissioner may order payment from the recovery fund. For purposes of this section, persons who are joint tenants or tenants in common are deemed to be a single claimant. A copy of the verified application shall be served upon the commissioner and upon the judgment debtor, and a certificate or affidavit of service filed with the court. For the purpose of this section, "aggrieved person" shall not include a licensee unless (1) the licensee is acting in the capacity of principal in the sale of interests in real property owned by the licensee; or (2) the licensee is acting in the capacity of principal in the purchase of interests in real property to be owned by the licensee. Under no circumstances shall a licensee be entitled to payment under this section for the loss of a commission or similar fee.

For the purposes of this section, recovery is limited to transactions where the property involved is intended for the direct personal habitation or commercial use of the buyer.

Except for securities permitted to be sold by a licensee pursuant to section 82.19, subdivision 7, for any action commenced after July 1, 1993, recovery under this section is not available where the buyer's participation is for investment purposes only, and is limited to providing capital to fund the transaction.

Sec. 22. Minnesota Statutes 1992, section 82B.02, is amended by adding a subdivision to read:

Subd. 14. [TRANSACTION VALUE.] "Transaction value" means:

(1) for loans or other extensions of credit, the amount of the loan or extension of credit;

(2) for sales, leases, purchases, and investments in or exchanges of real property, the market value of the real property interest involved; and

(3) for the pooling of loans or interests in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

Sec. 23. Minnesota Statutes 1992, section 82B.05, subdivision 5, is amended to read:

Subd. 5. [CONDUCT OF MEETINGS.] Places of regular board meetings must be decided by the vote of members. Written notice must be given to each member of the time and place of each meeting of the board at least ten days before the scheduled date of regular board meetings. The board shall establish procedures for emergency board meetings and other operational procedures, subject to the approval of the commissioner.

The members of the board shall elect a chair from among the members to preside at board meetings.

A quorum of the board is eight members.

The board shall meet ~~at least quarterly, except that a meeting may be canceled, subject to the approval by the commissioner if~~ as determined by a majority vote of the members ~~determine that the meeting is not necessary~~ or a call of the commissioner.

~~The commissioner or a majority of the members may schedule additional meetings as necessary.~~

Sec. 24. Minnesota Statutes 1992, section 82B.11, is amended to read:

82B.11 [CLASSES OF LICENSE.]

Subdivision 1. [GENERALLY.] There are five classes of license for real estate appraisers.

Subd. 2. [~~STATE~~ REGISTERED REAL PROPERTY APPRAISER.] When a net income capitalization analysis is not required by the uniform standards of professional appraisal practice, a ~~state~~ registered real property appraiser may appraise residential real property or agricultural property.

Subd. 3. [~~FEDERAL RESIDENTIAL~~ LICENSED REAL PROPERTY APPRAISER.] A ~~federal residential~~ licensed real property appraiser may appraise noncomplex ~~one to four~~ residential ~~units~~ property or agricultural property having a transaction value less than $1,000,000 and complex ~~one to four~~ residential ~~units~~ or agricultural property having a transaction value less than $250,000.

Subd. 4. [CERTIFIED ~~FEDERAL~~ RESIDENTIAL REAL PROPERTY APPRAISER.] A certified ~~federal~~ residential real property appraiser may appraise ~~one to four~~ residential ~~units~~ property or agricultural property without regard to transaction value or complexity.

Subd. 5. [CERTIFIED ~~FEDERAL~~ GENERAL REAL PROPERTY APPRAISER.] A certified ~~federal~~ general real property appraiser may appraise all types of real property.

Subd. 6. [TEMPORARY PRACTICE.] The commissioner shall issue a license for temporary practice as a real estate appraiser under subdivision 3, 4, or 5 to a person certified or licensed by another state if:

(1) the property to be appraised is part of a federally-related transaction and the person is licensed to appraise property limited to the same transaction value or complexity provided in subdivision 3, 4, or 5;

(2) the appraiser's business is of a temporary nature; and

(3) the appraiser registers with the commissioner to obtain a temporary license ~~prior to~~ before conducting appraisals within the state.

Sec. 25. Minnesota Statutes 1992, section 82B.14, is amended to read:

82B.14 [EXPERIENCE REQUIREMENT.]

(a) A license under section 82B.11, subdivision 3, 4, or 5, may not be issued to a person who does not have the equivalent of two years of experience in real property appraisal supported by adequate written reports or file memoranda.

(b) Each applicant for license under section 82B.11, subdivision 3, 4, or 5, shall give under oath a detailed listing of the real estate appraisal reports or file memoranda for each year for which experience is claimed by the applicant. Upon request, the applicant shall make available to the commissioner for examination, a sample of appraisal reports that the applicant has prepared in the course of appraisal practice.

(c) Applicants may not receive credit for experience accumulated while unlicensed, if the experience is based on activities which required a license under this section.

Sec. 26. Minnesota Statutes 1992, section 82B.19, subdivision 2, is amended to read:

Subd. 2. [RULES.] (a) The commissioner may adopt rules to assure that persons renewing their licenses as licensed real estate appraisers have current knowledge of real property appraisal theories, practices, and techniques that will provide a high degree of service and protection to those members of the public with whom they deal in a professional relationship under authority of their license. ~~The rules must include the following:~~

~~(1) policies and procedures for obtaining approval of courses of instruction;~~

~~(2) standards, monitoring methods, and systems for recording attendance to be employed by course sponsors as a prerequisite to approval of courses for credit; and~~

~~(3) coordination with real estate continuing education requirements so that as the commissioner considers courses or parts of courses appropriate they may be used to satisfy both real estate and appraiser continuing education requirements.~~

(b) To the extent the commissioner considers it appropriate, courses or parts of courses may be considered to satisfy both continuing education requirements under this section and continuing real estate education requirements.

(c) As a prerequisite for course approval, sponsors shall submit proposed monitoring methods, and systems for recording attendance sufficient to ensure that participants receive course credit only for portions actually attended.

Sec. 27. Minnesota Statutes 1992, section 507.45, subdivision 4, is amended to read:

Subd. 4. [CHOICE OF CLOSING AGENT; LISTING NOTICE; RULES.] (a) No real estate salesperson, broker, attorney, auctioneer, builder, title company, financial institution, or other person making a mortgage loan may require a person to use any particular licensed attorney, real estate broker, real estate salesperson, or real estate closing agent in connection with a residential real estate closing.

(b) All listing agreements must include a notice informing sellers of their rights under this subdivision. The notice must require the seller to indicate in writing whether it is acceptable to the seller to have the licensee arrange for closing services or whether the seller wishes to arrange for others to conduct the closing. The notice must also include the disclosure of any controlled business arrangement, as the term is defined in United States Code, title 12, section 1602, between the licensee and the real estate closing agent through which the licensee proposes to arrange closing services.

~~(c) The commissioner of commerce may adopt rules under chapter 14 to implement, administer, and enforce this subdivision.~~

Sec. 28. Laws 1992, chapter 555, article 1, section 12, is amended to read:

Sec. 12. [PENDING CLAIMS.]

The change in the per year limit contained in section 6 does not apply to a ~~cause of action~~ civil or administrative proceeding that was commenced before August 1, 1992.

Sec. 29. [REVISOR INSTRUCTION.]

The revisor shall change terms in Minnesota Statutes and Minnesota Rules to reflect the changes in the names of the five classes of licenses for real estate appraisers made in section 24.

Sec. 30. [REPEALER.]

(a) Minnesota Statutes 1992, sections 82.22, subdivision 7; and 462A.201, subdivision 5, are repealed.

(b) Minnesota Rules, part 2805.1200, is repealed.

Sec. 31. [EFFECTIVE DATE.]

Sections 1 to 9, 18, 19, and 30 are effective October 1, 1993.

Sections 10 to 17, 20 to 27, and 29 are effective July 1, 1993.

Section 28 is effective retroactive to the effective date of the section being amended."

Amend the title as follows:

Page 1, line 9, delete "subdivisions 7, 8, and" and insert "subdivision"

Page 1, line 13, delete "4" and insert "7"

Page 1, lines 14 and 15, delete "82B.09, subdivision 1;"

Page 1, line 19, delete "section" and insert "sections" and after the semicolon insert "and 462A.201, subdivision 5;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Economic Development, Infrastructure and Regulation Finance.

The report was adopted.

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

H. F. No. 1147, A bill for an act relating to the city of Floodwood and the towns of Floodwood, Van Buren, Halden, Cedar Valley, Ness, Arrowhead, Fine Lakes, and Prairie Lake, and unorganized territory 52-21; authorizing establishment of a joint ambulance district and imposition of a tax to finance the district.

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

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 1153, A bill for an act relating to civil actions; clarifying the limits on recovery for economic loss caused by components of manufactured goods; amending Minnesota Statutes 1992, section 604.10.

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

The report was adopted.

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

H. F. No. 1174, A bill for an act relating to health; changing the membership requirements of the board of nursing; amending Minnesota Statutes 1992, section 148.181, subdivision 1.

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

The report was adopted.

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

H. F. No. 1179, A bill for an act relating to health; implementing recommendations of the Minnesota health care commission; defining and regulating integrated service networks; requiring regulation of all health care services not provided through integrated service networks; establishing data reporting and collection requirements; establishing other cost containment measures; providing for voluntary commitments by health plans and providers to limit the rate of growth in total revenues; permitting expedited rulemaking; requiring certain studies; providing penalties; appropriating money; amending Minnesota Statutes 1992, sections 3.732, subdivision 1; 60A.02, subdivision 1a; 62A.021, subdivision 1; 62A.65; 62E.02, subdivision 23; 62E.10, subdivisions 1 and 3; 62E.11, subdivision 12; 62J.03, subdivisions 6, 8, and by adding a subdivision; 62J.04, subdivisions 1, 2, 3, 4, 5, 7, and by adding a subdivision; 62J.09, subdivisions 2, 5, and 8; 62J.15, subdivisions 1 and 2; 62J.17, subdivision 2, and by adding subdivisions; 62J.23, by adding a subdivision; 62J.30, subdivisions 1, 6, and 7; 62J.33; 62L.02, subdivisions 16, 26, and 27; 62L.03, subdivisions 3 and 4; 62L.04, subdivision 1; 62L.05, subdivisions 4 and 6; 62L.09, subdivision 1; 136A.1355, subdivisions 1, 3, 4, and by adding a subdivision; 136A.1356, subdivisions 2 and 5; 136A.1357, subdivisions 1 and 4; 137.38, subdivisions 2, 3, and 4; 137.39, subdivisions 2 and 3; 137.40, subdivision 3; 144.1484, subdivisions 1 and 2; 214.16, subdivision 3; 256.9351, subdivision 3; 256.9353, subdivisions 2, 3, 5, and 6; 256.9657, subdivision 3; 295.50, subdivisions 3, 4, 7, and by adding subdivisions; 295.51, subdivision 1; 295.52, by adding subdivisions; 295.53, subdivision 1; 295.55, subdivision 4; 295.58; and 295.59; proposing coding for new law in Minnesota Statutes, chapters 16B; 62J; 62N; 62O; 256; and 295; repealing Minnesota Statutes 1992, sections 62J.17, subdivisions 4, 5, and 6; 62J.29; 62L.09, subdivision 2; 295.50, subdivision 10; and 295.51, subdivision 2; and Laws 1992, chapter 549, article 9, section 19, subdivision 2.

Reported the same back with the following amendments:

Page 2, line 5, delete "allows" and insert "allow"

Page 3, line 5, delete "8" and insert "7"

Page 4, line 14, delete "may" and insert "shall"

Page 4, line 15, delete everything after the first comma

Page 4, line 16, delete "(1)"

Page 4, line 20, delete the semicolon, and insert ". The commissioner may include in the rules the following:"

Page 4, delete lines 26 to 30

Renumber the remaining clauses

Page 6, delete lines 12 to 14

Pages 8 and 9, delete section 6, and insert:

"Sec. 6. [62N.06] [PERMITTED NETWORK STRUCTURE.]

Subdivision 1. [NONPROFIT CORPORATION.] A corporation organized under chapter 317A may operate one or more integrated service networks. A corporation that operates one or more integrated service networks is governed by chapter 317A, except in the case of a conflict with this chapter, in which case this chapter governs. The corporation shall not engage in activities unrelated to integrated service networks, without the prior written approval of the commissioner. An entity that is not a corporation organized under chapter 317A shall not operate a network but may establish and own a corporation organized under chapter 317A to operate one or more networks.

Subd. 2. [SEPARATE ACCOUNTING REQUIRED.] A corporation operating more than one integrated service network must maintain separate accounting and record keeping procedures, acceptable to the commissioner, for each integrated service network."

Page 9, delete section 7, and insert:

"Sec. 7. [62N.065] [UNREASONABLE EXPENSES.]

Integrated service networks are subject to section 62D.19, on the same basis as health maintenance organizations.

Sec. 8. [62N.07] [PURPOSE.]

The legislature finds that previous cost containment efforts have focused on reducing benefits and services, eliminating access to certain provider groups, and otherwise reducing the level of care available. Under a system of overall spending controls, these cost containment approaches will, in the absence of controls on cost shifting, shift costs from the payor to the consumer, to government programs, and to providers in the form of uncompensated care. The legislature further finds that the integrated service network benefit package should be designed to promote coordinated, cost-effective delivery of all health services an enrollee needs without cost shifting. The legislature further finds that affordability of health coverage is a high priority and that lower cost coverage options should be made available through the use of copayments, coinsurance, and deductibles to reduce premium costs rather than through the exclusion of services or providers.

Sec. 9. [62N.075) [COVERED SERVICES.]

(a) An integrated service network must provide to each person enrolled a comprehensive set of appropriate and necessary health services. For purposes of this chapter, "appropriate and necessary" means services needed to maintain the enrollee in good health including as a minimum, but not limited to, emergency care, inpatient hospital and physician care, outpatient health services, and preventative health services. The commissioner may modify this definition to reflect changes in community standards, development of practice parameters, new technology assessments, and other medical innovations. These services must be delivered by authorized practitioners acting within their scope of practice. An integrated service network is not responsible for health services that are not appropriate and necessary.

(b) A network may define benefit levels through the use of consumer cost sharing but remains financially accountable for costs of the full set of comprehensive health services required.

(c) A network may offer any Medicare supplement, Medicare select, or other Medicare-related product otherwise permitted for any type of health plan in this state. Each Medicare-related product may be offered only in full compliance with the requirements in chapters 62A, 62D, and 62E that apply to that category of product.

(d) Networks must comply with all continuation and conversion of coverage requirements applicable to health maintenance organizations under state or federal law.

(e) Networks must comply with sections 62A.047, 62A.27, and any other coverage of newborn infants, dependent children who do not reside with a covered person, handicapped children and dependents, and adopted children. A network providing dependent coverage must comply with section 62A.302."

Page 10, line 3, delete "needed" and insert "comprehensive health"

Page 10, line 4, delete "by rules adopted by the"

Page 10, line 5, delete "commissioner,"

Page 10, line 6, delete everything after the period

Page 10, delete lines 7 to 11

Page 10, line 13, delete "needed" and insert "appropriate and necessary health"

Page 10, after line 15, insert:

"Sec. 11. [62N.085] [ESTABLISHMENT OF STANDARDIZED BENEFIT PLANS.]

The commissioner of health shall adopt emergency and permanent rules to establish not more than five standardized benefit plans which must be offered by integrated service networks. The plans must comply with the requirements of sections 62N.07 to 62N.08 and the other requirements of this chapter. The plans must encompass a range of cost sharing options from (1) lower premium costs combined with higher enrollee cost sharing, to (2) higher premium costs combined with lower enrollee cost sharing. A network may offer additional benefits in its discretion.

Sec. 12. [62N.087] [COST SHARING.]

(a) A network may define benefit levels through the use of consumer cost sharing. For the purposes of this chapter, "consumer cost sharing" means copayments, deductibles, coinsurance, and other out-of-pocket expenses paid by the individual consumer of health care services.

(b) The following principles apply to cost sharing in an integrated service network:

(1) consumers must have a voice in decisions regarding cost sharing, and the process for establishing consumer cost sharing should have consumer representation and input;

(2) consumer cost sharing must be administratively feasible and consistent with efforts to reduce the overall administrative burden of the health care system;

(3) cost sharing must be based on income and an enrollee's ability to pay for services and should not create a barrier to access to appropriate and effective services;

(4) cost sharing must be capped at a predetermined annual limit to protect individuals and families from financial catastrophe and to protect individuals with substantial health care needs;

(5) child health supervision services, immunizations, prenatal care, and other prevention services must not be subjected to cost sharing; and

(6) additional requirements for networks should be established to assist enrollees for whom an inducement in addition to the elimination of cost sharing is necessary in order to encourage them to use cost-effective preventive services. These requirements may include the provision of educational information, assistance or guidance, and opportunities for responsible decision making by enrollees that minimize potential out-of-pocket costs."

Page 10, delete section 9

Page 11, line 23, after the period insert "The rules must be consistent with Minnesota Rules, parts 9505.5200 to 9505.5260 governing participation by health maintenance organizations in public health care programs."

Page 11, line 28, after "commissioner" insert a comma

Page 11, line 33, after "entity" insert a comma

Page 15, line 11, delete "days'" and insert "days"

Page 20, delete lines 28 to 36

Page 21, delete lines 1 to 13

Page 21, line 16, delete "An entity" and insert "A corporation" and delete "under"

Page 21, line 17, delete everything before "is"

Pages 21 and 22, delete section 18 and insert:

"Sec. 21. [62N.18] [INSOLVENCY.]

Subdivision 1. [EFFECTS ON ENROLLEES.] Corporations that operate an integrated service network are not members of the life and health insurance guaranty association under chapter 61B. When a corporation operating a network becomes insolvent, its enrollees have the right to receive the same alternative coverage provided by the comprehensive health association under section 62D.181 to enrollees in insolvent health maintenance organizations.

Subd. 2. [NOTICE TO ENROLLEES.] Prospective enrollees in an integrated service network must be given, prior to their commitment to enroll, a written notice, on a form approved by the commissioner, describing the effects of, and their rights in the event of, an insolvency of the corporation operating the network."

Page 22, line 23, delete "services" and insert "service"

Page 23, line 11, delete "greater" and insert "lesser"

Page 23, line 13, delete "and" and insert "or"

Page 23, delete lines 14 to 18, and insert:

"(2) an amount equal to at least 16-2/3 percent of the sum of all expenditures expected to be incurred in the network's first 12 months of operation or, for an existing network, at least 16-2/3 percent of the sum of all expenditures incurred in the most recent calendar year."

Page 23, lines 22, 24, 28 and 31, delete "1" and insert "2"

Page 23, delete lines 34 to 36

Page 24, delete lines 1 to 8

Renumber the subdivisions in sequence

Page 24, line 26, delete "pledge real" and insert "assume all or any part of a network's net worth requirement by issuing to the network a promissory note fully"

Page 24, delete line 27

Page 24, line 30, after the period insert "A promissory note fully secured as described in this subdivision counts toward the net worth requirement in the amount of the note."

Page 24, line 31, after "appraisal" insert "of the real estate securing the promissory note"

Page 26, line 9, delete everything after "must" and insert "include the hold harmless provision stated in section 62D.123, subdivision 1"

Page 26, delete line 10

Page 26, line 11, delete everything before the period

Page 28, line 31, delete "RULES" and insert "IMPLEMENTATION"

Page 28, line 32, after "(a)" insert "By January 1, 1994,"

Page 28, line 33, delete everything after "shall"

Page 28, delete lines 34 and 35

Page 28, line 36, delete everything before the period and insert "report to the legislature recommendations for the design and implementation of the all-payer system. The commissioner may use a consultant or other technical assistance to develop a design for the all-payer system" and delete "commissioner" and insert "commissioner's recommendations" and delete "in"

Page 29, line 1, delete "the rules"

Page 29, line 23, delete "eliminating" and insert "eliminate"

Page 29, delete lines 31 to 35, and insert:

"(b) On July 1, 1994, the regulated all-payer system shall begin to be phased in with full implementation by July 1, 1996. During the transition period, all premium rates and provider fees shall be set in accordance with sections 3 and 4."

Pages 29 and 30, delete section 3, and insert:

"Sec. 3. [62O.04] [PROVIDER PRICE RESTRAINTS.]

Subdivision 1. [RESTRAINT.] No health care provider, as defined in section 62J.02, subdivision 8, shall on or after March 3, 1993, increase the price or other charge that it charges for any health care service provided to a Minnesota resident except as permitted under this section. This section does not apply to a price change agreed to by written contract prior to March 3, 1993. This section does not apply to health care services provided through integrated service networks. The commissioner of health shall enforce this section and has, for purposes of this section, all enforcement and rulemaking powers otherwise available to the commissioner.

Subd. 2. [CERTAIN INCREASES PERMITTED.] (a) On and after January 1, 1994, a health care provider as defined in section 62J.03, subdivision 8, may increase any price or other charge by no more than a percentage determined by adding five percentage points to the percentage change in the regional consumer price index for urban consumers for the most recent twelve month period for which that index is available as of November 1, 1993. The commissioner of health shall determine, announce, and publish in the state register, no later than December 1, 1993, the percentage increase permitted under this paragraph. To determine the amount of the maximum permitted increase in a price or charge, the percentage determined under this paragraph is applied to the price or charge used as of January 1, 1993.

(b) On or after January 1, 1995, an increase in a price or charge is permitted in addition to the increase permitted under paragraph (a). The permitted maximum increase is determined as under paragraph (a), except that the percentage is multiplied by .9 and is applied to the price or charge used as of January 1, 1994.

Sec. 4. [62O.05] [HEALTH CARRIER PRICE RESTRAINTS.]

Subdivision 1. [RESTRAINT.] No health carrier, as defined in section 62A.011, shall increase the premiums, subscriber charges, enrollee fees or similar charges for its health plans on or after March 3, 1993, so as to increase its total revenues per Minnesota resident covered by its health plans, except as permitted under this section. This subdivision does not prohibit an increase in the charge for a particular health plan, so long as the health carrier's aggregate revenues per covered Minnesota resident for all of its health plans do not increase. This section does not apply to integrated service networks or to filings for rate increases or adjustments submitted to the commissioners of commerce or health prior to March 3, 1993.

Subd. 2. [CERTAIN INCREASES PERMITTED.] A health carrier may increase its charges on and after January 1, 1994, and on and after January 1, 1995, so as to increase its revenues per covered Minnesota resident, to the extent permitted under subdivision 4.

Subd. 3. [ENFORCEMENT.] The commissioners of health and commerce shall enforce this section with respect to the health carriers that each commissioner respectively regulates. Each commissioner has under this section all enforcement and rulemaking authority that the commissioner otherwise has with respect to the health carrier.

Subd. 4. [CERTAIN INCREASES PERMITTED.] Any increased charges under subdivision 2 must be approved in advance by the relevant commissioner under subdivision 3. The relevant commissioner shall disapprove any requested increase in revenues per covered person, unless the health carrier provides actuarial analysis establishing, to the satisfaction of the commissioner, that the health carrier is fully passing on to its customers the health care provider price restraints provided under section 3. An increase in revenues permitted under subdivision 2 and this subdivision must not exceed the percentages provided under section 3 for health care providers. The commissioner may consider and take into account substantial changes in a health carrier's types of health plans and types of persons covered if necessary to prevent evasion of this section.

Subd. 5. [NEW PRODUCTS.] No health carrier may offer or issue a new health plan form or certificate form unless the health carrier has provided the relevant commissioner with actuarial analysis establishing, to the satisfaction of the commissioner, that the proposed charges or method of determining charges takes account of the price restraints on health care providers under section 3. This subdivision applies, without limitation, to products sold in the small employer market under chapter 62L. If a form covered by this subdivision has not, as of January 1, 1994 or January 1, 1995, been in existence during the entire previous calendar year, any revenue increase otherwise permitted by this section must be prorated, based upon the fraction of the prior calendar year in which the form was available for purchase."

Page 30, line 15, delete "4" and insert "5"

Page 84, line 9, after the period insert "A health carrier shall, at the time of first issuance or renewal of a health benefit plan or or after July 1, 1993, credit against any preexisting condition limitation or exclusion permitted under this section, the time period prior to July 1, 1993, during which an eligible employee or dependent was covered by qualifying existing coverage or qualifying prior coverage, if the person has maintained continuous coverage."

Page 87, after line 11, insert:

"Sec. 9. [REPEALER.]

Minnesota Statutes 1992, section 62L.09, subdivision 2, is repealed."

Page 87, line 12, delete "9" and insert "10"

Page 92, line 12, after the period insert "A health carrier shall, at the time of first issuance or renewal of a health plan on or after July 1, 1993, credit against any preexisting condition limitation or exclusion permitted under this section, the time period prior to July 1, 1993, during which the person was covered by qualifying existing coverage or qualifying prior coverage, as defined in section 62L.02, if the person has maintained continuous coverage."

Renumber the sections in sequence

Correct internal references

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

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 1191, A bill for an act relating to trusts; prohibiting trustees from exercising certain powers; proposing coding for new law in Minnesota Statutes, chapter 501B.

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

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 1199, A bill for an act relating to state government; the legislative commission on employee relations; modifying provisions relating to certain plans; ratifying certain salaries; amending Minnesota Statutes 1992, section 43A.18, subdivision 4; repealing Minnesota Statutes 1992, section 43A.24, subdivision 3.

Reported the same back with the following amendments:

Page 1, after line 8, insert:

"Section 1. Minnesota Statutes 1992, section 15A.083, subdivision 4, is amended to read:

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

	Salary or Range Effective July 1, ~~1992~~ 1994
Board on judicial standards executive director	$44,000 - ~~$60,000~~ $70,000"

Page 2, delete lines 18 to 26

Page 2, line 27, delete "Subd. 3." and insert "Subdivision 1."

Page 2, after line 30, insert:

"Subd. 2. [UNIT 1.] The collective bargaining agreement between the state of Minnesota and state bargaining unit 1, represented by the Minnesota law enforcement association, approved by the legislative commission on employee relations on March 26, 1993, is ratified.

Sec. 4. [SETTLEMENT DOCUMENTS.]

The department of employee relations must complete the uniform collective bargaining agreement settlement documents prescribed under Minnesota Statutes, section 179A.04, subdivision 3, clause (n), for collective bargaining agreements effective after June 30, 1993.

Sec. 5. [STUDY; RECOMMENDATIONS.]

The legislative commission on employee relations must study and make recommendations to the legislature regarding the criteria by which the community college system assigns positions in the professional employees unit, unit 214, to the classified or unclassified service. The report must be completed by February 1, 1994."

Page 2, line 35, before "Sections" insert "Section 1 is effective July 1, 1994." and delete "1 to 3" and insert "2 to 4"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after "salaries" insert "and a bargaining agreement; requiring certain reports and documents"

Page 1, line 5, delete "section" and insert "sections 15A.083, subdivision 4; and"

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

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 1220, A bill for an act relating to crimes; prohibiting persons from interfering with access to medical facilities; prescribing penalties; proposing coding for new law in Minnesota Statutes, chapter 609.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 488A.101, is amended to read:

488A.101 [COUNTY ATTORNEY AS PROSECUTOR, NOTICE TO COUNTY.]

A municipality or other subdivision of government seeking to use the county attorney for violations enumerated in section 488A.10, subdivision 11 shall notify the county board of its intention to use the services of the county attorney at least 60 days prior to the adoption of board's annual budget each year. A municipality may enter into an agreement with the county board and the county attorney to provide prosecution services for any criminal offense on a case-by-case basis.

Sec. 2. [609.749] [INTERFERENCE WITH ACCESS TO MEDICAL FACILITIES; PENALTY.]

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

(a) "Medical facility" means a hospital or other health institution licensed under sections 144.50 to 144.56 or defined under section 144.561, or an agency, clinic, or office operated under the direction of the commissioner of health or a community health board, as defined in section 145A.02.

(b) "Person" does not include:

(1) the chief executive officer of the medical facility;

(2) a designee of the chief executive officer of the medical facility;

(3) an agent of the medical facility; or

(4) a law enforcement officer.

Subd. 2. [OBSTRUCTING ACCESS PROHIBITED.] A person is guilty of a gross misdemeanor who, with the intent to inhibit or block access to a medical facility, physically obstructs or impedes, or attempts to obstruct or impede any individual's passage.

Subd. 3. [NOT APPLICABLE.] Nothing in this section shall be construed to impair the right of any individual or group to engage in speech protected by the United States Constitution or the Minnesota Constitution, including but not limited to peaceful and lawful picketing.

Subd. 4. [CIVIL REMEDIES.] (a) A party who is aggrieved by an act prohibited by this section may bring an action for damages, injunctive or declaratory relief, as appropriate, in district court against any person or entity who has violated or has conspired to violate this section.

(b) A party who prevails in a civil action under this subdivision is entitled to recover from the violator damages, costs, attorney's fees, and other relief as determined by the court. In addition to all other damages, the court may award to the aggrieved party a civil penalty of up to $1,000 for each violation.

(c) The remedies provided by this subdivision are in addition to any other legal or equitable remedies the aggrieved party may have and are not intended to diminish or substitute for those remedies or to be exclusive.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment and apply to acts committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; prohibiting persons from interfering with access to medical facilities; prescribing penalties; authorizing civil and equitable remedies; amending Minnesota Statutes 1992, section 488A.101; proposing coding for new law in Minnesota Statutes, chapter 609."

With the recommendation that when so amended the bill pass.

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 1280, A bill for an act relating to criminal and juvenile justice information; providing for implementation and oversight of integrated criminal justice information systems; appropriating money; amending Minnesota Statutes 1992, section 241.012, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 299C.

Reported the same back with the following amendments:

Page 1, after line 8, insert:

"Section 1. Minnesota Statutes 1992, section 168.345, is amended by adding a subdivision to read:

Subd. 3. [REQUESTS FOR INFORMATION; SURCHARGE ON FEE.] The commissioner shall impose a surcharge of 25 cents on each fee charged by the commissioner under section 13.03, subdivision 3, for copies or electronic transmittal of public information concerning motor vehicle registrations. The commissioner shall forward the surcharges collected under this subdivision to the commissioner of finance on a monthly basis. Upon receipt, the commissioner of finance shall credit the surcharges to the general fund.

Sec. 2. Minnesota Statutes 1992, section 171.12, is amended by adding a subdivision to read:

Subd. 8. [REQUESTS FOR INFORMATION; SURCHARGE ON FEE.] The commissioner shall impose a surcharge of 25 cents on each fee charged by the commissioner under section 13.03, subdivision 3, for copies or electronic transmittal of public information concerning driver's license and Minnesota identification card applicants. The commissioner shall forward the surcharges collected under this subdivision to the commissioner of finance on a monthly basis. Upon receipt, the commissioner of finance shall credit the surcharges to the general fund."

Page 3, after line 27, insert:

"Sec. 4. Minnesota Statutes 1992, section 299C.10, is amended to read:

299C.10 [IDENTIFICATION DATA.]

Subdivision 1. [LAW ENFORCEMENT DUTY.] It is hereby made the duty of the sheriffs of the respective counties and of the police officers in cities of the first, second, and third classes, under the direction of the chiefs of police in such cities, to take or cause to be taken immediately finger and thumb prints, photographs, and such other identification data as may be requested or required by the superintendent of the bureau; of all persons arrested for a felony, gross misdemeanor, of all juveniles committing felonies as distinguished from those committed by adult offenders, of all persons reasonably believed by the arresting officer to be fugitives from justice, of all persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes, and within 24 hours thereafter to forward such fingerprint records and other identification data on such forms and in such manner as may be prescribed by the superintendent of the bureau of criminal apprehension.

Subd. 2. [LAW ENFORCEMENT EDUCATION.] The sheriffs and police officers who take finger and thumb prints must obtain training in the proper methods of taking and transmitting finger prints under this section consistent with bureau requirements.

Subd. 3. [BUREAU DUTY.] The bureau must enter in the criminal records system finger and thumb prints within five working days after they are received under this section."

Page 5, line 2, delete "a biennial" and insert "an annual"

Page 5, after line 22, insert:

"(6) two public defenders appointed by the board of public defense;"

Renumber the clauses in sequence

Page 5, line 30, delete "citizens" and insert "public members"

Page 5, lines 32 and 34, delete "a member" and insert "two members"

Page 6, lines 17 and 18, delete "$....." and insert "$25,000"

Page 6, lines 20 and 21, delete "for the purposes of" and insert "to reimburse local correctional agencies for costs incurred to comply with"

Page 6, line 21, delete "1" and insert "3"

Page 6, line 22, delete "$....." and insert "$110,000"

Page 6, line 23, delete "$....." and insert "$100,500"

Page 6, line 29, delete "$....." and insert "$174,600"

Page 6, line 30, delete "$....." and insert "$152,100"

Page 6, line 38, delete "$....." and insert "$129,200"

Page 6, line 39, delete "$....." and insert "$99,120"

Page 6, line 46, delete "$....." and insert "$125,000"

Page 7, after line 6, insert:

"Sec. 6. [REPEALER.]

Section 5 is repealed effective December 31, 1996."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, delete "section 241.012" and insert "sections 168.345, by adding a subdivision; 171.12, by adding a subdivision; 241.021" and after "1;" insert "and 299C.10;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Economic Development, Infrastructure and Regulation Finance.

The report was adopted.

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

H. F. No. 1296, A bill for an act relating to Pine county; permitting the county board to extend certain temporary land use controls.

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. 1353, A bill for an act relating to Aitkin county; permitting a local liquor and restaurant tax.

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

The report was adopted.

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

H. F. No. 1419, A bill for an act relating to Cook county; providing for the imposition of a sales tax and motor vehicle excise tax on sales transactions in Cook county; providing for the use of the sales tax revenues; authorizing the issuance of bonds to finance the expansion of and improvements to the North Shore hospital.

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

The report was adopted.

Sarna from the Committee on Commerce and Economic Development to which was referred:

H. F. No. 1446, A bill for an act relating to economic development; creating an urban challenge grant program; requiring rulemaking; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116M.

Reported the same back with the following amendments:

Page 4, line 35, delete "$100,000" and insert "$150,000"

Page 5, delete lines 9 to 11

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

The report was adopted.

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

H. F. No. 1454, A bill for an act relating to the city of Hutchinson; permitting the city to erect certain signs.

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

The report was adopted.

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

S. F. No. 247, A bill for an act relating to medical records; clarifying a patient's right of access to medical records; amending Minnesota Statutes 1992, section 144.335, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 144.335, is amended by adding a subdivision to read:

Subd. 3b. [INDEPENDENT MEDICAL EXAMINATION.] The provisions of this section which apply to a patient and a patient's health records also apply to a subject of an independent medical examination and the subject's health records. Notwithstanding subdivision 3a, a provider may release health records created as part of an independent medical examination to the third party who requested or paid for the examination.

Sec. 2. [EFFECTIVE DATE; APPLICATION.]

Section 1 is effective the day following final enactment and applies to health records created before, on, or after that date. Nothing in section 1 creates a physician-patient relationship."

Delete the title and insert:

"A bill for an act relating to medical records; clarifying a patient's right of access to medical records; amending Minnesota Statutes 1992, section 144.335, by adding a subdivision."

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

The report was adopted.

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

S. F. No. 419, A bill for an act relating to health care; modifying and making corrections to the health right act; amending Minnesota Statutes 1992, sections 43A.317, subdivisions 2, 7, and 10; 62A.011, subdivision 3; 62A.021, subdivision 1; 62A.65, subdivision 5; 62J.04, subdivisions 2, 3, 4, 5, 6, and 7; 62J.09, subdivisions 1, 2, and 6; 62J.15, subdivision 2; 62J.17, subdivisions 2, 4, 5, and 6; 62J.19; 62J.23; 62J.29, subdivisions 1 and 4; 62J.30, subdivisions 4, 7, 8, and 10; 62J.31, subdivisions 2 and 3; 62J.32, subdivisions 1 and 4; 62J.34, subdivisions 2 and 3; 62L.02, subdivisions 8, 11, 15, and 16, and by adding a subdivision; 62L.03, subdivisions 2 and 5; 62L.05, subdivisions 1, 4, and 10; 62L.09, subdivision 2; 62L.13, subdivisions 1, 3, and 4; 62L.14, subdivisions 1, 2, 3, 4, 5, 6, 7, and 9; 62L.15, subdivision 2; 62L.16, subdivision 5, and by adding a subdivision; 62L.17, subdivisions 1 and 4; 62L.19; 62L.20, subdivisions 1 and 2; 144.147, subdivision 4; 144.1481, subdivision 1; 256.045, subdivision 10; 256.9353, subdivisions 2, 6, and by adding a subdivision; 256.9354; 256.9355, subdivision 3; 256.9356, subdivision 2; 256.9357; 256B.0644; Laws 1992, chapter 549, articles 1, section 15; 2, sections 24 and 25; 3, section 24; and 4, section 18; proposing coding for new law in Minnesota Statutes, chapter 62J; repealing Minnesota Statutes 1992, sections 62J.05, subdivision 5; 62J.09, subdivision 3; and 62J.21.

Reported the same back with the following amendments:

Page 40, line 30, delete "SUBROGATION" and insert "LIEN" and delete "commissioner" and insert "state agency"

Page 40, line 32, delete "commissioner" and insert "agency" and delete "care" and insert "the covered health services"

Page 40, lines 34 and 35, delete "injuries necessitating" and insert "the occurrence that necessitated the payment for the"

Page 40, line 35, after the period insert "All liens under this section shall be subject to the provisions of section 256.015."

Page 42, after line 5, insert:

"Subd. 1a. [COOPERATION.] To be eligible for MinnesotaCare, individuals must cooperate with the state agency to identify potentially liable third party payers and assist the state in obtaining third party payments. "Cooperation" includes, but is not limited to, identifying any third party who may be liable for care and services provided under MinnesotaCare to the enrollee, providing relevant information to assist the state in pursuing a potentially liable third party, and completing forms necessary to recover third party payments."

Page 55, after line 35, insert:

"Sec. 13. Minnesota Statutes 1992, section 144.1486, is amended to read:

144.1486 [RURAL COMMUNITY HEALTH CENTERS.]

The commissioner of health shall develop and implement a program to establish community health centers in rural areas of Minnesota that are underserved by health care providers. The program shall provide rural communities and community organizations with technical assistance, capital grants for start-up costs, and short-term assistance with operating costs. The technical assistance component of the program must provide assistance in review of practice management, market analysis, practice feasibility analysis, medical records system analysis, and scheduling and patient flow analysis. The program must: (1) include a local match requirement for state dollars received; (2) require local communities, through instrumentalities of the state of Minnesota or nonprofit boards comprised of local residents, to operate and own their community's health care program; (3) encourage the use of midlevel practitioners; and (4) incorporate a quality assurance strategy that provides regular evaluation of clinical performance and allows peer review comparisons for rural practices. The commissioner shall report to the legislature on implementation of the program by February 15, 1994."

Page 55, line 36, delete "13" and insert "14"

Page 56, line 1, delete "12" and insert "13"

Amend the title as follows:

Page 1, line 21, after "1;" insert "144.1486;"

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

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 37, 199, 431, 444, 511, 580, 588, 655, 665, 670, 732, 747, 846, 879, 893, 902, 976, 994, 1018, 1058, 1095, 1153, 1174, 1191, 1220, 1296 and 1454 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Lourey, Greiling, McGuire, Goodno and Perlt introduced:

H. F. No. 1612, A bill for an act relating to ethics in government; establishing standards of conduct; changing duties of the ethical practices board; imposing penalties; amending Minnesota Statutes 1992, sections 10A.02, subdivision 12; 10A.09, subdivision 5; 13.99, subdivisions 4 and 5; and 43A.38; proposing coding for new law in Minnesota Statutes, chapter 10A; repealing Minnesota Statutes 1992, section 10A.02, subdivisions 11 and 11a.

The bill was read for the first time and referred to the Committee on Governmental Operations and Gambling.

Dempsey and Lindner introduced:

H. F. No. 1613, A bill for an act relating to the criminal code; amending Minnesota Statutes 1992, sections 609.1352, by adding a subdivision; and 609.346, subdivision 5.

The bill was read for the first time and referred to the Committee on Judiciary.

Lasley; Bauerly; Johnson, V.; Kelso and Olson, E., introduced:

H. F. No. 1614, A bill for an act relating to transportation and transit; providing for transit system throughout Minnesota; amending Minnesota Statutes 1992, section 123.39, subdivision 8b.

The bill was read for the first time and referred to the Committee on Transportation and Transit.

Van Dellen; Commers; Olson, M., and Bergson introduced:

H. F. No. 1615, A bill for an act proposing an amendment to the Minnesota Constitution; adding a section to article IV; providing for initiative and referendum.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Van Dellen, Abrams, Erhardt, Bergson and Rhodes introduced:

H. F. No. 1616, A bill for an act proposing an amendment to the Minnesota Constitution, article XI, section 1; providing limits on appropriations.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Leppik introduced:

H. F. No. 1617, A bill for an act relating to the institute for child and adolescent sexual health; requiring continuation of planning for the institute; appropriating money.

The bill was read for the first time and referred to the Committee on Health and Human Services.

Sarna and Milbert introduced:

H. F. No. 1618, A bill for an act relating to commerce; regulating late fees charged by wire communication companies; proposing coding for new law in Minnesota Statutes, chapter 238.

The bill was read for the first time and referred to the Committee on Commerce and Economic Development.

McCollum, Mariani, Garcia and Lieder introduced:

H. F. No. 1619, A bill for an act relating to transportation; authorizing cities to impose and collect transportation utility fees; providing for the determination of average trip generation ranges; providing for notice and appeal of fees; proposing coding for new law in Minnesota Statutes, chapter 465.

The bill was read for the first time and referred to the Committee on Transportation and Transit.

Waltman introduced:

H. F. No. 1620, A bill for an act relating to taxation; motor vehicle excise; exempting unmarked vehicles used by county sheriffs; exempting vehicles used by fire departments for initial response to medical emergencies; amending Minnesota Statutes 1992, section 297B.03.

The bill was read for the first time and referred to the Committee on Taxes.

Waltman introduced:

H. F. No. 1621, A bill for an act relating to shoreland management; authorizing municipalities to allow redevelopment of certain shoreland property on Lake Pepin; amending Minnesota Statutes 1992, section 103F.221, subdivision 1.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Bergson, Trimble, Mahon, Rodosovich and Rhodes introduced:

H. F. No. 1622, A bill for an act relating to state government; revising procedures governing state contracts for professional, technical, and consultant services; limiting uses of funds saved from leaving positions vacant; limiting funds spent on certain contracts; amending Minnesota Statutes 1992, section 16B.17, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Governmental Operations and Gambling.

Haukoos, Simoneau, Stanius, Gruenes and Jennings introduced:

H. F. No. 1623, A bill for an act relating to shelters for battered women; transferring the funding and authority for administration of shelter programs to the commissioner of corrections; amending Minnesota Statutes 1992, sections 256.01, subdivision 2; 256D.04; 256D.05, subdivision 1; and 256D.06, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 611A; repealing Minnesota Statutes 1992, section 256D.05, subdivisions 3 and 3a.

The bill was read for the first time and referred to the Committee on Health and Human Services.

Bertram introduced:

H. F. No. 1624, A bill for an act relating to taxation; fermented malt beverages; changing the brewers credit; extending the credit to importers; amending Minnesota Statutes 1992, section 297C.02, subdivision 3.

The bill was read for the first time and referred to the Committee on Taxes.

Bertram and Krueger introduced:

H. F. No. 1625, A bill for an act relating to crime; expanding scope of registration provision for sex offenders to include other predatory offenders; amending Minnesota Statutes 1992, section 243.166, subdivisions 1, 2, 3, and 6.

The bill was read for the first time and referred to the Committee on Judiciary.

Ozment, Lynch, Greiling, McCollum and Tomassoni introduced:

H. F. No. 1626, A bill for an act relating to education; providing equalized program revenue for adults with disabilities; amending Minnesota Statutes 1992, sections 121.88, subdivision 7; and 124.2715, subdivisions 1, 2, and 3.

The bill was read for the first time and referred to the Committee on Education.

Asch, Opatz, Evans, Kalis and Rhodes introduced:

H. F. No. 1627, A bill for an act relating to agriculture; clarifying procedures for the use of certain organisms; amending Minnesota Statutes 1992, sections 116C.91, subdivisions 3, 6, 7, and by adding a subdivision; and 116C.94.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Kahn, Knickerbocker, Osthoff, Hausman and Jennings introduced:

H. F. No. 1628, A bill for an act relating to taxation; imposing a tax on the value of sports bookmaking bets; proposing coding for new law in Minnesota Statutes, chapter 349.

The bill was read for the first time and referred to the Committee on Taxes.

Delmont, Skoglund, Luther, Jacobs and Osthoff introduced:

H. F. No. 1629, A bill for an act relating to traffic regulations; increasing fine for speeding violation; appropriating money for highway work zone safety enforcement and public education efforts; amending Minnesota Statutes 1992, section 169.14, subdivision 5d.

The bill was read for the first time and referred to the Committee on Transportation and Transit.

Johnson, V., and Haukoos introduced:

H. F. No. 1630, A bill for an act relating to economic development; limiting certain daily payments; amending Minnesota Statutes 1992, section 469.011, subdivision 4.

The bill was read for the first time and referred to the Committee on Economic Development, Infrastructure and Regulation Finance.

Dorn introduced:

H. F. No. 1631, A bill for an act relating to the city of Mankato; extending the duration of a tax increment financing district.

The bill was read for the first time and referred to the Committee on Taxes.

Tompkins and Pawlenty introduced:

H. F. No. 1632, A bill for an act relating to health; providing an exception to the nursing home moratorium for subacute care; allowing medical assistance coverage of subacute care; amending Minnesota Statutes 1992, sections 144A.071, subdivision 3; and 256B.431, subdivision 2e.

The bill was read for the first time and referred to the Committee on Health and Human Services.

Blatz, Carruthers, Pugh and Smith introduced:

H. F. No. 1633, A bill for an act relating to motor vehicles; authorizing issuance of special arts license plates; creating special account for the arts; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 168.

The bill was read for the first time and referred to the Committee on Transportation and Transit.

Mosel, Vellenga, Bauerly and Onnen introduced:

H. F. No. 1634, A bill for an act relating to education; authorizing a fund transfer for the Glencoe school district.

The bill was read for the first time and referred to the Committee on Education.

Evans, Kahn, Jefferson, Krueger and Knickerbocker introduced:

H. F. No. 1635, A bill for an act relating to commerce; regulating registered combined charitable organizations; amending Minnesota Statutes 1992, section 309.501.

The bill was read for the first time and referred to the Committee on Governmental Operations and Gambling.

Pugh introduced:

H. F. No. 1636, A bill for an act relating to commerce; franchises; regulating actions; amending Minnesota Statutes 1992, section 80C.17, subdivisions 1 and 5.

The bill was read for the first time and referred to the Committee on Commerce and Economic Development.

Greiling, Carlson, Bergson and Ozment introduced:

H. F. No. 1637, A bill for an act relating to education; providing for the assignment of nonlicensed employees affected by school district consolidation to the newly created district; amending Minnesota Statutes 1992, section 122.23, subdivision 18, and by adding a subdivision.

The bill was read for the first time and referred to the Committee on Education.

Winter introduced:

H. F. No. 1638, A bill for an act relating to education; modifying the child care grant program administered by the higher education coordinating board; amending Minnesota Statutes 1992, section 136A.125, subdivisions 2, 4, and by adding a subdivision.

The bill was read for the first time and referred to the Committee on Education.

Wenzel introduced:

H. F. No. 1639, A bill for an act relating to agriculture; changing the bases for certain milk payments; amending Minnesota Statutes 1992, section 32.25, subdivision 1.

The bill was read for the first time and referred to the Committee on Agriculture.

Frerichs, Munger and Ozment introduced:

H. F. No. 1640, A bill for an act relating to solid waste; placing waste composting higher on the state's waste management hierarchy; setting recycling and waste composting goals; amending Minnesota Statutes 1992, section 115A.02; proposing coding for new law in Minnesota Statutes, chapter 115A.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Brown, C., introduced:

H. F. No. 1641, A bill for an act relating to education; validating a referendum levy.

The bill was read for the first time and referred to the Committee on Education.

Greiling, Vellenga, Leppik, Seagren and Kelley introduced:

H. F. No. 1642, A bill for an act relating to education; changing educational effectiveness; creating school improvement grants; creating requirements for financial training for school boards; changing training and experience revenue; creating cost-of-living revenue; creating school restructuring pilots and teacher compensation task forces; appropriating money; amending Minnesota Statutes 1992, sections 120.105; 121.918; 123.33, by adding a subdivision; 123.951; 124A.22, subdivisions 1, 4a, 4b, and by adding a subdivision; 124A.28, subdivision 1; 124A.29, subdivision 1; and 126.70, subdivision 2a; proposing coding for new law in Minnesota Statutes, chapter 121.

The bill was read for the first time and referred to the Committee on Education.

Bauerly, Lasley, Vellenga, Bertram and Koppendrayer introduced:

H. F. No. 1643, A bill for an act relating to education; placing limits on financial arrangements for PSEO courses provided according to agreement; counting each PSEO student as a portion of a pupil unit; amending Minnesota Statutes 1992, sections 123.3514, subdivisions 6 and 6c; and 124.17, subdivision 1, and by adding a subdivision.

The bill was read for the first time and referred to the Committee on Education.

Mosel introduced:

H. F. No. 1644, A bill for an act relating to education; clarifying which cooperating districts are eligible to levy for severance and allowing certain districts to levy for severance; amending Minnesota Statutes 1992, section 124.2725, subdivision 15.

The bill was read for the first time and referred to the Committee on Education.

Krueger and Long introduced:

H. F. No. 1645, A bill for an act relating to state government; establishing an innovative program initiative to encourage innovation in state agencies; permitting waivers from certain statutes, rules, policies, and procedures; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 16B.

The bill was read for the first time and referred to the Committee on Governmental Operations and Gambling.

Kahn, Osthoff and Knickerbocker introduced:

H. F. No. 1646, A bill for an act relating to gaming; authorizing the state lottery to operate video lottery terminals; prohibiting the sale of pull-tabs to the public; amending Minnesota Statutes 1992, sections 297A.259; 349.12, subdivisions 18, 21, 22, 23, 24, and 31; 349.163, subdivision 5; 349.168, subdivision 3; 349.212, subdivisions 1, 4, and 7; 349.2121, subdivisions 1, 2, and 2a; 349.2125, subdivision 1; 349A.01, subdivisions 7, 8, 11, 12, and by adding subdivisions; 349A.04; 349A.05; 349A.06, subdivisions 1, 5, 6, 8, 10, and by adding subdivisions; 349A.08, subdivisions 1, 5, and 8; 349A.09, subdivision 1; 349A.10, subdivisions 2, 3, and 4; 349A.11; 349A.12, subdivisions 1 and 2; 349A.13; 609.651, subdivision 1; and 609.75, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 349A; repealing Minnesota Statutes 1992, sections 349.163, subdivision 7; 349.172; 349.174; 349.19, subdivision 10; and 349.211, subdivision 2a.

The bill was read for the first time and referred to the Committee on Governmental Operations and Gambling.

Kahn, Bertram, Osthoff and Knickerbocker introduced:

H. F. No. 1647, A bill for an act relating to lawful gambling; authorizing the use of pull-tab dispensing devices; amending Minnesota Statutes 1992, sections 349.12, subdivision 18; 349.13; and 349.151, subdivision 4.

The bill was read for the first time and referred to the Committee on Governmental Operations and Gambling.

Kahn, Solberg, Osthoff, Knickerbocker and Pugh introduced:

H. F. No. 1648, A bill for an act relating to lawful gambling; authorizing and regulating the use of electronic pull-tab dispensing devices; imposing taxes; requiring the board to adopt rules; appropriating money to the commissioner of human services for compulsive gambling programs; amending Minnesota Statutes 1992, sections 349.12, subdivisions 18 and 32; 349.18, subdivision 1; and 349.212, subdivision 7, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 349.

The bill was read for the first time and referred to the Committee on Governmental Operations and Gambling.

Kelley, Pawlenty, Neary and Pugh introduced:

H. F. No. 1649, A bill for an act relating to state and local government; establishing the Minnesota information network; establishing the metropolitan public information network pilot program; authorizing rulemaking; proposing coding for new law as Minnesota Statutes, chapter 116S.

The bill was read for the first time and referred to the Committee on Governmental Operations and Gambling.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 203, A bill for an act relating to occupations and professions; board of medical practice; modifying requirements for licensing United States, Canadian, and foreign medical school graduates; providing for temporary permits; providing for residency permits; adding a requirement for students exempt from penalties for practicing without a license; adding to licensed professionals subject to reporting obligations; indemnifying board members, consultants, and persons employed by the board; adding registration requirements for physical therapists from other states and foreign-trained physical therapists; amending Minnesota Statutes 1992, sections 62A.46, subdivision 7; 147.02, subdivision 1, and by adding a subdivision; 147.03; 147.037, subdivision 1, and by adding a subdivision; 147.09; 147.111, subdivision 4; 147.121, subdivision 2; and 148.71, subdivision 2, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 147.

PATRICK E. FLAHAVEN, Secretary of the Senate

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 585, A bill for an act relating to human rights; prohibiting unfair discriminatory practices on the basis of sexual or affectional orientation; amending Minnesota Statutes 1992, sections 363.01, subdivision 23, and by adding a subdivision; 363.02, subdivisions 1, 2, 4, and by adding a subdivision; 363.03, subdivisions 1, 2, 3, 4, 5, 7; 8, and 8a; 363.05, subdivision 1; 363.11; 363.115; and 363.12, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 363.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONSENT CALENDAR

S. F. No. 99, A bill for an act relating to towns; clarifying certain provisions for the terms of town supervisor; providing for the compensation of certain town officers and employees; amending Minnesota Statutes 1992, sections 367.03, subdivision 1; and 367.05, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Davids	Hausman	Krinkie	Murphy	Reding	Tompkins
Anderson, I.	Dawkins	Holsten	Krueger	Neary	Rest	Trimble
Anderson, R.	Dehler	Hugoson	Lasley	Nelson	Rhodes	Tunheim
Asch	Delmont	Huntley	Leppik	Ness	Rice	Van Dellen
Battaglia	Dempsey	Jacobs	Lieder	Olson, E.	Rodosovich	Vellenga
Bauerly	Dorn	Jaros	Limmer	Olson, K.	Rukavina	Vickerman
Beard	Erhardt	Jefferson	Lindner	Olson, M.	Sarna	Wagenius
Bergson	Evans	Jennings	Lourey	Onnen	Seagren	Waltman
Bertram	Farrell	Johnson, A.	Luther	Opatz	Sekhon	Weaver
Bettermann	Frerichs	Johnson, R.	Lynch	Orenstein	Simoneau	Wejcman
Bishop	Garcia	Johnson, V.	Macklin	Osthoff	Skoglund	Welle
Blatz	Girard	Kahn	Mahon	Ostrom	Smith	Wenzel
Brown, C.	Goodno	Kalis	Mariani	Ozment	Solberg	Winter
Brown, K.	Greenfield	Kelley	McCollum	Pauly	Sparby	Wolf
Carlson	Greiling	Kelso	Milbert	Pawlenty	Stanius	Worke
Carruthers	Gruenes	Kinkel	Molnau	Pelowski	Steensma	Workman
Commers	Gutknecht	Klinzing	Morrison	Perlt	Sviggum	Spk. Long
Cooper	Hasskamp	Knickerbocker	Mosel	Peterson	Swenson	
Dauner	Haukoos	Koppendrayer	Munger	Pugh	Tomassoni	

The bill was passed and its title agreed to.

S. F. No. 98, A bill for an act relating to towns; eliminating distribution of certain reports relating to town roads and bridges; amending Minnesota Statutes 1992, section 164.03, subdivision 4.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Davids	Hausman	Krueger	Neary	Reding	Tompkins
Anderson, I.	Dawkins	Holsten	Lasley	Nelson	Rest	Trimble
Anderson, R.	Dehler	Hugoson	Leppik	Ness	Rhodes	Tunheim
Asch	Delmont	Huntley	Lieder	Olson, E.	Rice	Van Dellen
Battaglia	Dempsey	Jacobs	Limmer	Olson, K.	Rodosovich	Vellenga
Bauerly	Dorn	Jaros	Lindner	Olson, M.	Rukavina	Vickerman
Beard	Erhardt	Jefferson	Lourey	Onnen	Sarna	Wagenius
Bergson	Evans	Johnson, A.	Luther	Opatz	Seagren	Waltman
Bertram	Farrell	Johnson, R.	Lynch	Orenstein	Sekhon	Weaver
Bettermann	Frerichs	Johnson, V.	Macklin	Orfield	Simoneau	Wejcman
Bishop	Garcia	Kahn	Mahon	Osthoff	Skoglund	Welle
Blatz	Girard	Kalis	Mariani	Ostrom	Smith	Wenzel
Brown, C.	Goodno	Kelley	McCollum	Ozment	Solberg	Winter
Brown, K.	Greenfield	Kelso	Milbert	Pauly	Sparby	Wolf
Carlson	Greiling	Kinkel	Molnau	Pawlenty	Stanius	Worke
Carruthers	Gruenes	Klinzing	Morrison	Pelowski	Steensma	Workman
Commers	Gutknecht	Knickerbocker	Mosel	Perlt	Sviggum	Spk. Long
Cooper	Hasskamp	Koppendrayer	Munger	Peterson	Swenson	
Dauner	Haukoos	Krinkie	Murphy	Pugh	Tomassoni	

The bill was passed and its title agreed to.

S. F. No. 313, A bill for an act relating to Dakota county; providing for the composition and powers of the county housing and redevelopment authority and the county extension committee; amending Minnesota Statutes 1992, section 383D.41, subdivisions 1, 3, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 383D.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Davids	Hausman	Krinkie	Murphy	Reding	Tompkins
Anderson, I.	Dawkins	Holsten	Krueger	Neary	Rest	Trimble
Anderson, R.	Dehler	Hugoson	Lasley	Nelson	Rhodes	Tunheim
Asch	Delmont	Huntley	Leppik	Ness	Rice	Van Dellen
Battaglia	Dempsey	Jacobs	Lieder	Olson, E.	Rodosovich	Vellenga
Bauerly	Dorn	Jaros	Limmer	Olson, K.	Rukavina	Vickerman
Beard	Erhardt	Jefferson	Lindner	Olson, M.	Sarna	Wagenius
Bergson	Evans	Jennings	Lourey	Onnen	Seagren	Waltman
Bertram	Farrell	Johnson, A.	Luther	Opatz	Sekhon	Weaver
Bettermann	Frerichs	Johnson, R.	Lynch	Orenstein	Simoneau	Wejcman
Bishop	Garcia	Johnson, V.	Macklin	Orfield	Skoglund	Welle
Blatz	Girard	Kahn	Mahon	Ostrom	Smith	Wenzel
Brown, C.	Goodno	Kalis	Mariani	Ozment	Solberg	Winter
Brown, K.	Greenfield	Kelley	McCollum	Pauly	Sparby	Wolf
Carlson	Greiling	Kelso	Milbert	Pawlenty	Stanius	Worke
Carruthers	Gruenes	Kinkel	Molnau	Pelowski	Steensma	Workman
Commers	Gutknecht	Klinzing	Morrison	Perlt	Sviggum	Spk. Long
Cooper	Hasskamp	Knickerbocker	Mosel	Peterson	Swenson	
Dauner	Haukoos	Koppendrayer	Munger	Pugh	Tomassoni	

The bill was passed and its title agreed to.

H. F. No. 113, A bill for an act relating to traffic regulations; specifying that a pedestrian lawfully in a crosswalk with pedestrian control signals must be given the right-of-way by all vehicles; amending Minnesota Statutes 1992, section 169.06, subdivision 6.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Davids	Hausman	Krinkie	Murphy	Reding	Tompkins
Anderson, I.	Dawkins	Holsten	Krueger	Neary	Rest	Trimble
Anderson, R.	Dehler	Hugoson	Lasley	Nelson	Rhodes	Tunheim
Asch	Delmont	Huntley	Leppik	Ness	Rice	Van Dellen
Battaglia	Dempsey	Jacobs	Lieder	Olson, E.	Rodosovich	Vellenga
Bauerly	Dorn	Jaros	Limmer	Olson, K.	Rukavina	Vickerman
Beard	Erhardt	Jefferson	Lindner	Olson, M.	Sarna	Wagenius
Bergson	Evans	Jennings	Lourey	Onnen	Seagren	Waltman
Bertram	Farrell	Johnson, A.	Luther	Opatz	Sekhon	Weaver
Bettermann	Frerichs	Johnson, R.	Lynch	Orenstein	Simoneau	Wejcman
Bishop	Garcia	Johnson, V.	Macklin	Orfield	Skoglund	Welle
Blatz	Girard	Kahn	Mahon	Osthoff	Smith	Wenzel
Brown, C.	Goodno	Kalis	Mariani	Ostrom	Solberg	Winter
Brown, K.	Greenfield	Kelley	McCollum	Ozment	Sparby	Wolf
Carlson	Greiling	Kelso	Milbert	Pauly	Stanius	Worke
Carruthers	Gruenes	Kinkel	Molnau	Pawlenty	Steensma	Workman
Commers	Gutknecht	Klinzing	Morrison	Pelowski	Sviggum	Spk. Long
Cooper	Hasskamp	Knickerbocker	Mosel	Perlt	Swenson	
Dauner	Haukoos	Koppendrayer	Munger	Pugh	Tomassoni	

The bill was passed and its title agreed to.

S. F. No. 434, A bill for an act relating to traffic regulations; making technical changes and clarifications; prohibiting buses from following too closely; providing exceptions to restrictions on installing television screens in motor vehicles; providing for auxiliary lights when headlights are obstructed by snowplow blade; requiring use of shoulder belt when motor vehicle is so equipped; providing exception for law enforcement vehicles to restriction on objects hanging between driver and windshield; abolishing authority for designating official stations for adjusting vehicle lights and brakes; amending Minnesota Statutes 1992, sections 169.14, subdivision 10; 169.18, subdivisions 5 and 8; 169.471, subdivision 1; 169.56, subdivisions 3, 4, and by adding a subdivision; 169.60; 169.686, subdivision 1; and 169.71, subdivision 1; repealing Minnesota Statutes 1992, section 169.77.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Bishop	Dehler	Goodno	Huntley	Kelley	Lieder
Anderson, I.	Blatz	Delmont	Greenfield	Jacobs	Kelso	Limmer
Anderson, R.	Brown, K.	Dempsey	Greiling	Jaros	Kinkel	Lindner
Asch	Carlson	Dorn	Gruenes	Jefferson	Klinzing	Lourey
Battaglia	Carruthers	Erhardt	Gutknecht	Jennings	Knickerbocker	Luther
Bauerly	Commers	Evans	Hasskamp	Johnson, A.	Koppendrayer	Lynch
Beard	Cooper	Farrell	Haukoos	Johnson, R.	Krinkie	Macklin
Bergson	Dauner	Frerichs	Hausman	Johnson, V.	Krueger	Mahon
Bertram	Davids	Garcia	Holsten	Kahn	Lasley	Mariani
Bettermann	Dawkins	Girard	Hugoson	Kalis	Leppik	McCollum

Milbert	Olson, E.	Ozment	Rice	Solberg	Tunheim	Wenzel
Molnau	Olson, K.	Pauly	Rodosovich	Sparby	Van Dellen	Winter
Morrison	Olson, M.	Pawlenty	Rukavina	Stanius	Vellenga	Wolf
Mosel	Onnen	Pelowski	Sarna	Steensma	Vickerman	Worke
Munger	Opatz	Perlt	Seagren	Sviggum	Wagenius	Workman
Murphy	Orenstein	Pugh	Sekhon	Swenson	Waltman	Spk. Long
Neary	Orfield	Reding	Simoneau	Tomassoni	Weaver	
Nelson	Osthoff	Rest	Skoglund	Tompkins	Wejcman	
Ness	Ostrom	Rhodes	Smith	Trimble	Welle	

The bill was passed and its title agreed to.

H. F. No. 648, A bill for an act relating to counties; permitting Itasca and Polk counties to consolidate the offices of auditor and treasurer.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 130 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abrams	Davids	Hausman	Krueger	Neary	Rest	Trimble
Anderson, I.	Dawkins	Holsten	Lasley	Nelson	Rhodes	Tunheim
Anderson, R.	Dehler	Hugoson	Leppik	Ness	Rice	Van Dellen
Asch	Delmont	Huntley	Lieder	Olson, E.	Rodosovich	Vellenga
Battaglia	Dempsey	Jacobs	Limmer	Olson, K.	Rukavina	Vickerman
Bauerly	Dorn	Jaros	Lindner	Olson, M.	Sarna	Wagenius
Beard	Erhardt	Jefferson	Lourey	Onnen	Seagren	Waltman
Bergson	Evans	Jennings	Luther	Opatz	Sekhon	Weaver
Bertram	Farrell	Johnson, A.	Lynch	Orenstein	Simoneau	Wejcman
Bettermann	Frerichs	Johnson, R.	Macklin	Orfield	Skoglund	Welle
Bishop	Garcia	Johnson, V.	Mahon	Osthoff	Smith	Wenzel
Blatz	Girard	Kahn	Mariani	Ostrom	Solberg	Winter
Brown, C.	Goodno	Kalis	McCollum	Ozment	Sparby	Wolf
Brown, K.	Greenfield	Kelley	Milbert	Pauly	Stanius	Worke
Carlson	Greiling	Kelso	Molnau	Pawlenty	Steensma	Workman
Carruthers	Gruenes	Klinzing	Morrison	Pelowski	Sviggum	Spk. Long
Commers	Gutknecht	Knickerbocker	Mosel	Perlt	Swenson	
Cooper	Hasskamp	Koppendrayer	Munger	Pugh	Tomassoni	
Dauner	Haukoos	Krinkie	Murphy	Reding	Tompkins	

Those who voted in the negative were:

Kinkel

The bill was passed and its title agreed to.

CONSIDERATION UNDER RULE 1.10

Pursuant to rule 1.10, Solberg requested immediate consideration of H. F. No. 661.

H. F. No. 661 was reported to the House.

The Speaker called Bauerly to the Chair.

Steensma; Bauerly; Wenzel; Koppendrayer; Cooper; Bertram; Mosel; Dauner; Olson, K.; Nelson; Reding; Winter; Molnau; Rukavina and Bettermann moved to amend H. F. No. 661, the second engrossment, as follows:

Page 17, after line 14, insert:

"Sec. 13. [32A.067] [SALES BELOW RETAIL COST PROHIBITED; EXCEPTION.]

(a) It is the intent of the legislature that small volume retailers of milk products in Minnesota receive protection from unfair competition and predatory pricing by large volume retailers. While the legislature views deregulation of the retail milk industry as desirable, it is the intent of the legislature to accomplish this goal with a minimum of negative impact upon small volume retailers.

(b) A retailer may not sell or offer for sale a selected dairy product at a retail price lower than the retailer's basic cost. A retailer may not use any method or device in the sale or offer for sale of a selected dairy product that results in a violation of this section. This prohibition does not apply to:

(i) a sale complying with section 325D.06, clauses (1) to (4); or

(ii) giving away selected dairy products free if the customer is not required to make a purchase."

Renumber the sections in sequence

Correct internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The Speaker resumed the Chair.

The question was taken on the Steensma et al amendment and the roll was called. There were 92 yeas and 38 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Dawkins	Haukoos	Koppendrayer	Nelson	Rodosovich	Wagenius
Anderson, R.	Dehler	Holsten	Krinkie	Ness	Rukavina	Waltman
Battaglia	Dempsey	Hugoson	Krueger	Olson, E.	Sarna	Wejcman
Bauerly	Dorn	Huntley	Lieder	Olson, K.	Sekhon	Welle
Beard	Evans	Jacobs	Lindner	Opatz	Simoneau	Wenzel
Bergson	Farrell	Jaros	Lourey	Orenstein	Skoglund	Winter
Bertram	Frerichs	Jefferson	Luther	Orfield	Solberg	Worke
Bettermann	Garcia	Johnson, A.	Mahon	Osthoff	Sparby	Spk. Long
Brown, C.	Girard	Johnson, R.	Mariani	Ostrom	Steensma	
Brown, K.	Goodno	Kalis	Molnau	Ozment	Swenson	
Carruthers	Greenfield	Kelley	Mosel	Pelowski	Tomassoni	
Cooper	Greiling	Kelso	Munger	Perlt	Tompkins	
Dauner	Gruenes	Kinkel	Murphy	Peterson	Vellenga	
Davids	Hasskamp	Klinzing	Neary	Rice	Vickerman	

Those who voted in the negative were:

Abrams	Delmont	Knickerbocker	McCollum	Pawlenty	Smith	Wolf
Asch	Erhardt	Lasley	Milbert	Pugh	Stanius	Workman
Bishop	Gutknecht	Leppik	Morrison	Reding	Trimble	
Blatz	Hausman	Limmer	Olson, M.	Rest	Tunheim	
Carlson	Jennings	Lynch	Onnen	Rhodes	Van Dellen	
Commers	Johnson, V.	Macklin	Pauly	Seagren	Weaver	

The motion prevailed and the amendment was adopted.

H. F. No. 661, A bill for an act relating to agriculture; regulating dairy trade practices; providing for fees; changing enforcement procedures; amending Minnesota Statutes 1992, sections 32A.01; 32A.02; 32A.04; 32A.05, subdivisions 1, 4, and by adding subdivisions; 32A.07; 32A.071; 32A.08; and 32A.09, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 32A; repealing Minnesota Statutes 1992, sections 32A.03; 32A.05, subdivision 3; and 32A.09, subdivisions 5 and 6.

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 118 yeas and 12 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Davids	Hausman	Krinkie	Nelson	Reding	Tompkins
Anderson, R.	Dawkins	Holsten	Krueger	Ness	Rest	Trimble
Battaglia	Dehler	Hugoson	Lasley	Olson, E.	Rhodes	Tunheim
Bauerly	Delmont	Huntley	Lieder	Olson, K.	Rice	Van Dellen
Beard	Dempsey	Jacobs	Limmer	Olson, M.	Rodosovich	Vellenga
Bergson	Dorn	Jaros	Lindner	Onnen	Rukavina	Vickerman
Bertram	Evans	Jefferson	Lourey	Opatz	Sarna	Wagenius
Bettermann	Farrell	Jennings	Luther	Orenstein	Seagren	Waltman
Bishop	Frerichs	Johnson, A.	Lynch	Orfield	Sekhon	Weaver
Blatz	Garcia	Johnson, R.	Mahon	Ostrom	Simoneau	Wejcman
Brown, C.	Girard	Johnson, V.	Mariani	Ozment	Skoglund	Welle
Brown, K.	Greenfield	Kalis	Milbert	Pauly	Smith	Wenzel
Carlson	Greiling	Kelley	Molnau	Pawlenty	Solberg	Winter
Carruthers	Gruenes	Kelso	Mosel	Pelowski	Sparby	Worke
Commers	Gutknecht	Kinkel	Munger	Perlt	Steensma	Workman
Cooper	Hasskamp	Klinzing	Murphy	Peterson	Sviggum	Spk. Long
Dauner	Haukoos	Koppendrayer	Neary	Pugh	Swenson	

Those who voted in the negative were:

Abrams	Erhardt	Knickerbocker	Macklin	Morrison	Tomassoni
Asch	Goodno	Leppik	McCollum	Stanius	Wolf

The bill was passed, as amended, and its title agreed to.

SPECIAL ORDERS

Anderson, I., moved that the bills on Special Orders for today be continued. The motion prevailed.

GENERAL ORDERS

Anderson, I., moved that the bills on General Orders for today be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Farrell moved that the names of Ness and Blatz be added as authors on H. F. No. 1185. The motion prevailed.

Rest moved that the name of Milbert be added as an author on H. F. No. 1189. The motion prevailed.

Trimble moved that the name of Steensma be added as chief author and the names of Mosel and Wenzel be added as authors on H. F. No. 1225. The motion prevailed.

McGuire moved that the name of Macklin be added as an author on H. F. No. 1420. The motion prevailed.

Neary moved that the name of Morrison be added as an author on H. F. No. 1559. The motion prevailed.

Hausman moved that the name of Van Dellen be added as an author on H. F. No. 1581. The motion prevailed.

Hausman moved that the name of Van Dellen be added as an author on H. F. No. 1582. The motion prevailed.

Orfield moved that the name of Greiling be added as an author on H. F. No. 1588. The motion prevailed.

Sviggum moved that the name of Bauerly be added as an author on H. F. No. 1611. The motion prevailed.

Van Dellen moved that the following statement be printed in the Journal of the House: "It was my intention to vote in the affirmative on Monday, March 29, 1993, when the vote was taken on the final passage of S. F. No. 282." The motion prevailed.

Bertram moved that H. F. No. 893, now on Technical General Orders, be re-referred to the Committee on Judiciary. The motion prevailed.

Farrell moved that H. F. No. 1042 be recalled from the Committee on Health and Human Services and be re-referred to the Committee on Judiciary. The motion prevailed.

Mariani moved that H. F. No. 1159 be recalled from the Committee on Local Government and Metropolitan Affairs and be re-referred to the Committee on Taxes. The motion prevailed.

Rest moved that H. F. No. 1570 be recalled from the Committee on Health and Human Services and be re-referred to the Committee on Taxes. The motion prevailed.

Rest moved that H. F. No. 1579 be recalled from the Committee on Housing and be re-referred to the Committee on Taxes. The motion prevailed.

ADJOURNMENT

Anderson, I., moved that when the House adjourns today it adjourn until 2:30 p.m., Monday, April 5, 1993. The motion prevailed.

Anderson, I., moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:30 p.m., Monday, April 5, 1993.

EDWARD A. BURDICK, Chief Clerk, House of Representatives