

STATE OF MINNESOTA  
SEVENTY-EIGHTH SESSION — 1994

SEVENTY-NINTH DAY

SAINT PAUL, MINNESOTA, TUESDAY, MARCH 29, 1994

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

Prayer was offered by Monsignor James D. Habiger, House Chaplain.

The roll was called and the following members were present:

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

A quorum was present.

Jaros was excused.

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

REPORTS OF CHIEF CLERK

S. F. No. 1752 and H. F. No. 1976, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Winter moved that S. F. No. 1752 be substituted for H. F. No. 1976 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1967 and H. F. No. 2418, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Frerichs moved that S. F. No. 1967 be substituted for H. F. No. 2418 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1968 and H. F. No. 2105, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Trimble moved that S. F. No. 1968 be substituted for H. F. No. 2105 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1983 and H. F. No. 2415, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

#### SUSPENSION OF RULES

Rhodes moved that the rules be so far suspended that S. F. No. 1983 be substituted for H. F. No. 2415 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 2260 and H. F. No. 2359, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

#### SUSPENSION OF RULES

McCollum moved that the rules be so far suspended that S. F. No. 2260 be substituted for H. F. No. 2359 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 2415 and H. F. No. 2630, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Carlson moved that S. F. No. 2415 be substituted for H. F. No. 2630 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 2425 and H. F. No. 2836, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

#### SUSPENSION OF RULES

Bauerly moved that the rules be so far suspended that S. F. No. 2425 be substituted for H. F. No. 2836 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 2522 and H. F. No. 2705, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Nelson moved that S. F. No. 2522 be substituted for H. F. No. 2705 and that the House File be indefinitely postponed. The motion prevailed.

### PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA  
OFFICE OF THE GOVERNOR  
SAINT PAUL 55155

March 28, 1994

The Honorable Irv Anderson  
Speaker of the House of Representatives  
The State of Minnesota

Dear Speaker Anderson:

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

H. F. No. 1956, relating to local government; authorizing the public library systems of the county of Anoka and the city of Anoka to merge and the county to provide library services for the city.

H. F. No. 1955, relating to Wright county; permitting the transfer of a sheltered workshop facility to its operator without bids or consideration.

H. F. No. 1885, relating to financial institutions; regulating administrative hearings on bank applications, certain bank mergers, certain emergency notices, certain credit union accounts, and motor vehicle sales finance contracts; regulating maximum interest rates; making technical and clarifying changes.

Warmest regards,

ARNE H. CARLSON  
Governor

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

The Honorable Irv Anderson  
Speaker of the House of Representatives

The Honorable Allan H. Spear  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1994 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1994	Date Filed 1994
	1956	378	11:27 a.m. March 28	March 28
	1955	379	11:25 a.m. March 28	March 28
1820		380	11:20 a.m. March 28	March 28
	1885	382	11:22 a.m. March 28	March 28

Sincerely,

JOAN ANDERSON GROWE  
Secretary of State

## REPORTS OF STANDING COMMITTEES

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 392, A bill for an act relating to public safety; requiring installation of automatic sprinkler systems in certain existing high-rise buildings; excluding the market value of these systems for purposes of property taxation; amending Minnesota Statutes 1992, section 273.11, subdivision 6a; proposing coding for new law in Minnesota Statutes, chapter 299F.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [299F.365] [FIRE SAFETY SPRINKLERS IN EXISTING HIGH-RISE BUILDINGS.]

Subdivision 1. [REQUIREMENTS.] This section applies to an existing building in which at least one story used for human occupancy is at least 75 feet or more above the lowest level of fire department vehicle access. An automatic fire safety sprinkler system must be installed in those portions of the entire existing building in which an automatic fire safety sprinkler system would be required if the building were constructed after the effective date of this section. The automatic fire safety sprinkler system must comply with standards in the Minnesota uniform fire code and state building code.

Subd. 2. [EXEMPTIONS.] (a) Subdivision 1 does not apply to an area used exclusively for telecommunications equipment and associated generator and power equipment and under exclusive control of a telecommunications provider if:

(1) the area is separated from the remainder of the building by construction equivalent to a one-hour fire resistant wall and two-hour floor/ceiling assemblies; and

(2) the area has an automatic fire detection and alarm system to respond to visible and invisible particles of combustion and transmit an alarm and comply with standards in the Minnesota uniform fire code and state building code;

(b) Subdivision 1 does not apply to:

(1) a monument or war memorial that is included in the national register of historic places or the Minnesota state register of historic sites and structures;

(2) an airport control tower or control room;

(3) an open parking structure;

(4) a building used for agricultural purposes;

(5) a manufacturing facility that is required to meet the fire safety standards adopted by the occupational safety and health administration in Code of Federal Regulations, title 29, part 1910, subpart L; or

(6) elevator equipment rooms and elevator shafts.

(c) The commissioner, or the state fire marshal as the commissioner's designee, may grant extensions for the times prescribed in subdivision 3 or 4 for the submission of plans or completion of work, or both, if the applicant for extension demonstrates an appropriate effort and a genuine inability to comply with the time prescribed.

Subd. 3. [REPORTING.] Within one year of the effective date of this section, the owner of each building subject to subdivision 1 shall submit for approval a detailed written plan of action describing the methods for installation and schedule for completion by floor or portion of a floor to be used for compliance with subdivision 1. The written plan must be in the form and manner approved by the state fire marshal and must be submitted to the state fire marshal or to the local fire department that the state fire marshal has delegated to review plans.

Subd. 4. [TRANSITION.] (a) Within three years of the effective date of this section there must be water supplies for the fire safety sprinkler system to all floors of the buildings subject to subdivision 1. Installation of operational automatic fire safety sprinkler systems or an accepted equivalent alternative method must comply with the following schedule:

Years after effective date

Percent of nonexempt portions of  
building with operational automatic  
sprinkler system or protected by an  
accepted alternative method

6 years  
9 years  
12 years  
15 years

25 percent  
50 percent  
75 percent  
100 percent

(b) For office buildings and individual spaces within office buildings having documented leases that presently extend beyond six years after the effective date, an extension of an additional one year shall be added to each phase of the time table in paragraph (a) for completion.

(c) The following requirements are the responsibility of the authorized licensed sprinkler contractor and apply where existing class I, class II, or class III standpipes are used to provide a combined standpipe system:

(1) during the installation of sprinkler systems, no standpipe or fire pump may be made inoperative unless the local fire department is given 24-hour prior notice;

(2) if the building contains two or more standpipes, at least one standpipe must be maintained so that water can be discharged through piping, valves, hose outlets, and allied equipment to extinguish a fire. If a building contains only one standpipe riser, modifications to the system must be conducted after normal working hours; and

(3) appropriate temporary signage must be provided at all fire department connections on the building, indicating the operational status of the sprinkler system.

Subd. 5. [RULES.] The commissioner of public safety may adopt rules for: the application of fire safety sprinkler systems in existing high-rise buildings under this section; exemptions permitted by this section; reporting of compliance by owners; and scheduling of installation of fire safety sprinkler systems or alternate methods. The commissioner of public safety shall explore alternative sources of funding for those buildings in need of retrofit. The commissioner shall coordinate with the housing finance agency director for such alternative sources of funding.

Subd. 6. [EFFECT ON OTHER LAWS.] This section does not supersede the Minnesota state building code or Minnesota uniform fire code.

## Sec. 2. [WORKING GROUP.]

The commissioner of public safety shall appoint a working group to advise the commissioner on implementation of section 1, including specifically the adoption of rules, and to advise the commissioner on appeals. The group shall include a representative from: the state fire marshal's office, the department of administration, the Minnesota state fire chiefs association, a chapter of the Minnesota building owners and managers association, the Minnesota multi-housing association, the Minnesota hotel and motel association, the fire marshals association of Minnesota, professional engineers or licensed architects, and the general public.

## Sec. 3. [HOUSING BUDGET PRIORITIES.]

Section 1 shall not affect the existing budget priorities of public housing facilities in Minnesota."

Delete the title and insert:

"A bill for an act relating to public safety; requiring installation of automatic sprinkler systems in certain existing high-rise buildings; proposing coding for new law in Minnesota Statutes, chapter 299F."

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. 553, A bill for an act relating to children; expanding the crime of child neglect and the child abuse reporting act to include children who are neglected due to reliance by a parent, guardian, or other caretaker on spiritual health care; amending Minnesota Statutes 1992, sections 609.378, subdivision 1; and 626.556, subdivisions 2 and 10e.

Reported the same back with the following amendments:

Pages 1 to 4, delete sections 1 and 2, and insert:

"Section 1. Minnesota Statutes 1993 Supplement, section 609.378, subdivision 1, is amended to read:

Subdivision 1. [PERSONS GUILTY OF NEGLECT OR ENDANGERMENT.] (a) [NEGLECT.] (1) A parent, legal guardian, or caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent, guardian, or caretaker is reasonably able to make the necessary provisions and the deprivation harms or is likely to substantially harm the child's physical, mental, or emotional health is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both. If the deprivation results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both. ~~If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment or care is "health care," for purposes of this clause.~~

(2) A parent, legal guardian, or caretaker who knowingly permits the continuing physical or sexual abuse of a child is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(b) [ENDANGERMENT.] A parent, legal guardian, or caretaker who endangers the child's person or health by:

(1) intentionally or recklessly causing or permitting a child to be placed in a situation likely to substantially harm the child's physical, mental, or emotional health or cause the child's death; or

(2) knowingly causing or permitting the child to be present where any person is selling or possessing a controlled substance, as defined in section 152.01, subdivision 4, in violation of section 152.021, 152.022, 152.023, or 152.024; is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

If the endangerment results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

This paragraph does not prevent a parent, legal guardian, or caretaker from causing or permitting a child to engage in activities that are appropriate to the child's age, stage of development, and experience, ~~or from selecting health care as defined in subdivision 1, paragraph (a).~~

(c) [ENDANGERMENT BY FIREARM ACCESS.] A person who intentionally or recklessly causes a child under 14 years of age to be placed in a situation likely to substantially harm the child's physical health or cause the child's death as a result of the child's access to a loaded firearm is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

If the endangerment results in substantial harm to the child's physical health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Sec. 2. Minnesota Statutes 1993 Supplement, section 626.556, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so, failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so, or failure to take steps to ensure that a child is educated in accordance with state law. ~~Nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care, except that there is a duty to report if a lack of medical care may cause imminent and serious danger to the child's health.~~ This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care. Neglect includes prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance. Neglect also means "medical neglect" as defined in section 260.015, subdivision 2a, clause (5).

(d) "Physical abuse" means any physical or mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem services.

(k) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury."

Amend the title as follows:

Page 1, delete lines 7 and 8, and insert "section 626.556, subdivision 10e; Minnesota Statutes 1993 Supplement, sections 609.378, subdivision 1; and 626.556, subdivision 2."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 1457, A bill for an act relating to education; increasing the number of higher education representatives on the state board of teaching; amending Minnesota Statutes 1992, sections 125.183, subdivisions 1 and 3; and 125.184, subdivision 1.

Reported the same back with the following amendments:

Page 1, line 15, after the period, insert "No more than seven members of the board may be of one gender."

Page 2, after line 15, insert:

"Sec. 4. [TRANSITION.]

The gender balance requirement of section 1 applies only to appointments made after the effective date of this section. Section 1 does not require displacement of current board members before completion of their terms."

With the recommendation that when so amended the bill pass.

The report was adopted.

Lieder from the Committee on General Legislation, Veterans Affairs and Elections to which was referred:

H. F. No. 1830, A bill for an act relating to elections; providing for a voluntary code of fair campaign practices; prohibiting false, misleading, or deceptive campaigning; expanding the jurisdiction of the conciliation court; imposing penalties; amending Minnesota Statutes 1992, section 211B.06, subdivision 1; Minnesota Statutes 1993 Supplement, section 491A.01, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 211B.

Reported the same back with the following amendments:

Page 3, delete lines 28 to 36 and insert:

"(b) A candidate who believes that an opposing candidate who has signed the code of fair campaign practices has violated that code may file a complaint with the ethical practices board and have the question of whether or not a violation has occurred determined pursuant to this paragraph. The ethical practices board shall establish a procedure for conducting hearings in an expeditious and impartial manner to resolve these complaints. The system must include:

(1) a procedure for selecting three-member panels, each containing a former elective officeholder or office seeker from each of the major political parties and a retired judge to act as chair of the panel;

(2) a requirement that the hearing must be held within three business days of the filing of the complaint;

(3) a limit on the amount of time each party has to present its argument so that each hearing can be concluded and a decision rendered within one day;



(4) provision for electronic hearings when appropriate; and

(5) a requirement that the losing party must pay the costs of the hearing including per diem and travel expenses of the hearing panel and any administrative expenses of the board.

If there is no clear winning or losing party, each party must pay half of the costs of the hearing."

Page 4, delete lines 1 to 6

Pages 4 and 5, delete sections 2 and 3

Amend the title as follows:

Page 1, line 4, delete "expanding the"

Page 1, delete lines 5 to 8

With the recommendation that when so amended the bill pass.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 1847, A bill for an act relating to alternative energy; providing a consumer rebate for the purchase of residential low-emission wood or biomass combustion devices; providing for rulemaking by the Minnesota pollution control agency and the department of public service; prohibiting the sale of contaminated pellets; providing penalties; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 216C.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Economic Development, Infrastructure and Regulation Finance.

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 1861, A bill for an act relating to manufactured homes; restricting the venue for repossession actions to the county in which the manufactured home is located; making technical changes; amending Minnesota Statutes 1992, sections 327.63, subdivision 1; 327.64, subdivision 2; and 327.65.

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

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2013, A bill for an act relating to public employment; correcting unintended omissions from previous early retirement legislation; ratifying certain prior payments.

Reported the same back with the following amendments:

Page 1, line 24, delete "May 15" and insert "April 30"

With the recommendation that when so amended the bill pass.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2029, A bill for an act relating to veterans; establishing a veterans' cemetery; providing for funding; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 197; repealing Minnesota Statutes 1992, section 197.235.

Reported the same back with the following amendments:

Delete page 1, line 11, to page 2, line 21, and insert "managing the fundraising for the veterans cemetery trust account established in subdivision 7. The council consists of seven members appointed by and serving at the pleasure of the governor. Members serve without per diem and without reimbursement for expenses. The council and the terms of members expire December 31, 1996.

Subd. 2. [MEMBERSHIP.] Members must be persons experienced in policy development, civic and community affairs, forms of public service, or legal work. At least two members must be veterans. At least three, but no more than four of the members must be residents of the metropolitan area, as defined in section 473.121, subdivision 2. No more than four of the members may be of the same gender."

Page 2, line 27, delete everything after "cemetery"

Page 2, line 28, delete everything before the comma

Page 3, line 15, delete everything after "cemetery"

Page 3, line 16, delete "council"

Page 5, line 2, delete everything after "1"

Page 5, line 3, delete "council"

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

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2148, A bill for an act relating to human services; providing monitoring and evaluation of emergency health services on a pilot project basis; authorizing an advisory committee.

Reported the same back with the following amendments:

Page 1, line 22, before the period, insert "under Minnesota Statutes, section 15.059"

Page 2, line 1, after the period, insert "The advisory committee shall expire on July 1, 1995."

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

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2191, A bill for an act relating to agriculture; establishing the agriculture best management practices loan program; establishing a feedlot and manure management advisory committee; appropriating money; amending Minnesota Statutes 1992, section 13.99, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 17.

Reported the same back with the following amendments:

Page 1, line 22, delete "may" and insert "shall" and delete the comma

Page 1, line 23, delete "adopt rules for, and implement"

Page 2, line 2, delete "may" and insert "shall"

Page 2, line 3, delete "to develop procedures" and insert "effective until January 1, 1996,"

Page 2, line 4, delete "develop administrative" and insert "adopt emergency and permanent rules"

Page 2, line 5, delete "guidelines" and delete "specifying criteria," and insert "and the program."

Page 2, delete line 6, and insert "The rules shall contain, but not be limited to, application procedures, eligibility criteria, conditions of the loan, and repayment procedures."

Page 7, line 13, after "organizations" insert "not associated with production agriculture"

Page 7, line 15, after the period, insert "No more than eight members may be of one gender."

Page 7, line 22, delete "one" and insert "a member"

Page 7, line 23, delete "livestock producers on the" and delete "livestock"

Page 7, line 24, delete "producers on the"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Environment and Natural Resources Finance.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2226, A bill for an act relating to state government; permitting employees of Minnesota Project Innovation, Inc. to participate in certain state employee benefit programs; amending Minnesota Statutes 1992, section 116O.04, subdivision 2.

Reported the same back with the following amendments:

Page 1, delete lines 17 to 22 and insert:

"(b) The board of Minnesota Project Innovation, Inc., may extend the benefits and coverage referenced in paragraph (a) to all of its employees."

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

The report was adopted.

Jacobs from the Committee on Regulated Industries and Energy to which was referred:

H. F. No. 2227, A bill for an act relating to utilities; mandating studies of effects of earth as conductor of electricity, stray voltage, and electromagnetic fields; providing complaint procedure and remedies; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 216B.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [SCIENTIFIC ADVISORY TASK FORCE.]

Subdivision 1. [CREATION.] The public utilities commission shall appoint a scientific advisory task force consisting of at least five members, including members with education and scientific specialties in physics, electrical engineering, animal physiology, veterinary medicine, dairy science, soil science specializing in the electrical nature of soil, or epidemiology. The task force may not include representatives from utilities or other parties with a financial interest in the outcome of the research recommended or performed by the task force.

The commission shall appoint a representative from the scientific community to serve as liaison between the commission and the task force.

Subd. 2. [PRELIMINARY RESEARCH ASSESSMENT.] The task force shall conduct a preliminary assessment and report to the commission by January 1, 1995, on the need for research projects to identify and examine the potential for and actual effects on dairy cow production and animal health of current in the earth, originating from the utility distribution systems and other sources.

If the task force finds a need for research, it shall frame and recommend to the commission a specific research question on questions and the design, scope, and estimated cost of further research.

The commission shall order research based on the task force report and is granted the authority to access utilities for activities and research consistent with sections 1 to 5.

Subd. 3. [SPECIFIC DUTIES.] The task force shall:

(1) review existing information from other sources, including other states and dairy producers or farm organizations, on the use of the earth for carrying current and its effects on animal health and production and on human health and report to the commission on its findings and recommendations;

(2) determine the qualifications of researchers and make recommendations to the commission on their selection;

(3) explore the availability of nonstate and nonutility funds for research under subdivision 2;

(4) monitor the research into the use of the earth for carrying current and its effects on animal health and production;

(5) submit study results for proper scientific peer review; and

(6) make on-site visits to farms with formal and informal complaints concerning stray voltage and earth as the conductor.

Subd. 4. [FINDINGS AND RECOMMENDATIONS.] The task force shall make findings or recommendations to the commission regarding potential actions to mitigate or eliminate any effects found from current in the earth on dairy cow production or animal health.

Subd. 5. [INDEPENDENT RESEARCHERS REQUIRED.] The commission may only contract with researchers to conduct research under this section who are not employed or contracted by, or receive funding from, either public or municipal utilities, or cooperative electric associations for research or investigation of stray voltage.

Subd. 6. [RESEARCH DEADLINE.] The research conducted under this section and any recommendations by the task force to the commission must be completed or made by June 30, 1996.

Subd. 7. [EXPIRATION.] The task force expires June 30, 1996.

Sec. 2. [SURVEY OF FACILITIES.]

The public utilities commission shall determine the age and condition of electric distribution facilities in the state. The task force shall determine the extent to which these facilities use the earth as a conductor of electric current, whether intentionally or unintentionally, and shall study the risks to dairy animal health and welfare associated with

the practice of bonding distribution system conductors to the earth using research conducted under section 1. At the recommendation of the task force, the commission may order the production of any records, maps, plans, or any other documents, testimony, or recollections, relating to stray voltage, ground current, or similar phenomenon, of any owner or operator of any distribution facility or any employee of any owner or operator or any other person with knowledge related to the issue of using the earth to conduct electric current. Data collected by the commission under this section is subject to Minnesota Statutes, chapter 13.

Sec. 3. [DAIRY PRODUCER DATA.]

The department of public service may make grants to a dairy producer or a group of producers organized to address stray voltage issues for data preparation and presentation to the task force. Grantees must complete the preparation of its data for review by the task force and submit their data and recommendations to the task force, within 90 days of receiving a grant. Grantees must provide to the department a specific accounting of grant expenditures. Grantees must also provide a proposed budget to the department that includes performance objectives and deadlines for meeting those objectives.

Data presented for review is public data under Minnesota Statutes, chapter 13.

Sec. 4. [ASSESSMENT.]

(a) To provide funding for activities required under this act, the public utilities commission and the department of public service shall assess a total of up to \$..... under Minnesota Statutes, section 216B.62, against public and municipal utilities providing electrical service and cooperative electric associations. The assessment must be deposited in the general fund. The assessment is not subject to the limits prescribed under Minnesota Statutes, section 216B.62, subdivision 3.

(b) Each utility or association shall be assessed in proportion that its gross operating revenues for the sale of electric service within the state for the last calendar year bears to the total of those revenues for all public and municipal utilities and cooperative associations.

Sec. 5. [APPROPRIATIONS.]

(a) \$..... is appropriated from the general fund to the public utilities commission for the purposes of sections 1 and 2, including expense of the task force and is available until June 30, 1995.

(b) \$..... is appropriated from the general fund to the department of public service for assistance to producers or producer organizations to assist in the preparation and analysis of data for review by the scientific advisory task force. This appropriation is available until June 30, 1995.

(c) \$25,000 is appropriated from the general fund to the department of public service for fiscal year 1995 for the purpose of making grants to producers or producer organizations to allow participation in the proceedings of the scientific advisory task force. This appropriation is available until June 30, 1995.

Sec. 6. [EFFECTIVE DATE.]

This act is effective the day following final enactment.

Amend the title as follows:

Page 1, line 5, delete "; proposing coding" and insert a period

Page 1, delete line 6

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

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 2251, A bill for an act relating to drivers' licenses; allowing social security number to be entered at the option of an applicant for a Class C driver's license; amending Minnesota Statutes 1992, section 171.06, subdivision 3.

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

The report was adopted.

Rest from the Committee on Taxes to which was referred:

H. F. No. 2275, A bill for an act relating to taxes; making tax policy, collections, and administrative changes; amending Minnesota Statutes 1992, sections 168.011, subdivision 8; 168.012, subdivision 9; 169.86, subdivision 1; 239.05, subdivision 10a; 239.761, subdivision 3; 270.052; 270.0605; 270.10; by adding a subdivision; 270.60, subdivisions 1 and 2; 270.69, subdivision 4, and by adding a subdivision; 270.70, subdivision 2; 270.71; 270.72, subdivision 1; 270B.02, subdivisions 3 and 5; 270B.03, subdivision 1; 270B.12, subdivision 3, and by adding a subdivision; 270B.14, by adding a subdivision; 273.12; 289A.37, subdivision 1; 289A.60, by adding subdivisions; 290.01, subdivision 3a; 290A.08; 290A.18, subdivision 2; 296.01, subdivisions 14, 18, 19, 20, 32, 34, and by adding subdivisions; 296.02, subdivision 1; 296.025, subdivision 1, and by adding a subdivision; 296.06, subdivision 2; 296.12, subdivisions 1, 2, 3, 4, 5, 8, 10, and 11; 296.15, subdivisions 2, 4, 5, and 6; 296.16, subdivision 2; 296.165, subdivision 1; 296.25, subdivision 1, and by adding a subdivision; 297.03, subdivision 7; 297A.01, by adding a subdivision; 297A.02, subdivision 2, and by adding a subdivision; 297A.021, by adding a subdivision; 297A.15, subdivision 5; 297A.25, subdivision 9, and by adding a subdivision; 297A.44, subdivision 4; 297B.01, subdivision 8; 297C.03, subdivision 6; 297C.13, subdivision 1; and 473.446, subdivision 1; Minnesota Statutes 1993 Supplement, sections 116.07, subdivision 10; 270.06; 270.41, subdivision 5; 270B.01, subdivision 8; 272.115, subdivision 1; 273.11, subdivision 16; 273.124, subdivision 13; 275.065, subdivision 6; 289A.11, subdivision 1; 289A.18, subdivision 4; 289A.20, subdivision 4; 290.01, subdivision 19; 290A.04, subdivision 2h; 297A.01, subdivisions 3, 15, and 16; 297A.07, subdivision 1; and 297A.25, subdivision 11; proposing coding for new law in Minnesota Statutes, chapters 270; 296; and 297; repealing Minnesota Statutes 1992, sections 270.0604, subdivision 6; 296.03; 296.15, subdivision 3; and 297A.07, subdivision 2.

Reported the same back with the following amendments:

Page 2, line 8, after "width" insert "in travel mode".

Page 3, delete section 3

Pages 5 to 7, delete section 7

Page 12, after line 6, insert:

"Sec. 8. Minnesota Statutes 1993 Supplement, section 273.1398, subdivision 3, is amended to read:

Subd. 3. [DISPARITY REDUCTION AID.] (a) For taxes payable in 1990 1995, and subsequent years, the amount of disparity aid certified for each taxing district within each unique taxing jurisdiction for taxes payable in the prior year shall be multiplied by the ratio of (1) the jurisdiction's tax capacity using the class rates for taxes payable in the year for which aid is being computed, to (2) its tax capacity using the class rates for taxes payable in the year prior to that for which aid is being computed, both based upon market values for taxes payable in the year prior to that for which aid is being computed. For the purposes of this aid determination, disparity reduction aid certified for taxes payable in the prior year for a taxing entity other than a town or school district is deemed to be county government disparity reduction aid. For taxes payable in 1992 and subsequent years, the amount of disparity aid certified to each taxing jurisdiction shall be reduced by any reductions required in the current year or permanent reductions required in previous years under section 477A.0132.

(b) ~~The disparity reduction aid is allocated to each local government levying taxes in the unique taxing jurisdiction in the proportion that the local government's payable gross taxes bears to the total payable gross taxes levied within the unique taxing jurisdiction.~~

Page 13, line 3, delete "The".

Page 13, delete line 4

Page 13, line 5, delete everything before "The"

Page 13, after line 10, insert:

"The time and place of the subsequent hearing must be announced at the initial public hearing or at the continuation hearing."

Pages 15 to 17, delete section 11

Page 17, after line 34, insert:

"Sec. 12. [384.19] [STATEMENT OF UNPAID DELINQUENT TAXES.]

Upon request of any person the county auditor shall search the official records of the office to determine if unpaid property taxes exist for any tax parcels of land listed in the request. The county auditor shall certify the results of the search for each parcel by showing the amount of tax unpaid for each tax year payable. For purposes of this section, "tax" includes penalty, interest, fees, and costs related to the unpaid tax.

At the option of the county auditor, magnetic tape or other electronic media may be employed to transmit the data request or the search results. For this service a fee may be charged in an amount established by the county board up to a maximum of \$5 per parcel, to recover the reasonable costs incurred to furnish the service. The provisions of section 276.041 are not affected by this section.

Sec. 13. [385.42] [STATEMENT OF UNPAID CURRENT TAXES.]

Upon request of any person the county treasurer shall search the official records of the office to determine if unpaid property taxes exist for the current tax year for any tax parcels of land listed in the request. The county treasurer shall certify the results of the search for each parcel by showing the amount of tax unpaid. For purposes of this section, "tax" includes penalty, interest, fees, and costs related to the unpaid tax.

At the option of the county treasurer, magnetic tape or other electronic media may be employed to transmit the data request or the search results. For this service a fee may be charged in an amount established by the county board up to a maximum of \$5 per parcel, to recover the reasonable costs incurred to furnish the service. The provisions of section 276.041 are not affected by this section.

This section shall not authorize the treasurer or county auditor to charge a fee for certifying to taxes on a deed to be recorded."

Page 19, lines 11 and 13, strike "assessment" and insert "taxes payable"

Page 20, after line 21, insert:

"Sec. 15. Minnesota Statutes 1992, section 477A.0121, subdivision 4, is amended to read:

Subd. 4. [PUBLIC DEFENDER COSTS.] Each calendar year, four percent of the total appropriation for this section shall be retained by the commissioner of revenue to make reimbursements to the commissioner of finance for payments made under section 611.27. The reimbursements shall be to defray the additional costs associated with court-ordered counsel under section 611.27. Any retained amounts not used for reimbursement in a year shall be ~~carried over and distributed as additional~~ included in the next distribution of county criminal justice aid in the following that is certified to the county auditors for the purpose of property tax reduction for the next taxes payable year."

Page 20, line 23, delete "section" and insert "sections"

Page 20, line 23, delete the third comma, and insert "; 272.09; 272.46, subdivision 1; and 272.47 are"

Page 20, line 24, delete "is"

Page 20, line 26, delete "to 3, and 6" and insert ", 2, and 5"

Page 20, line 27, delete "4, 9, and 15" and insert "3, 7, 12, 13, and 16"

Page 20, line 28, delete "5, 13, and 14" and insert "4, 11, 14, and 15"

Page 20, line 29, before the period, insert "except that the change in section 14, clause (3), is effective for taxes payable in 1995 and thereafter"

Page 20, line 30, delete "7, 8, and 10" and insert "6 and 9"

Page 20, delete lines 32 and 33, and insert:

"Section 8 is effective for aids paid in 1994 and thereafter."

Page 20, line 34, delete "12" and insert "10"

Renumber the sections in article 1 in sequence

Pages 28 and 29, delete section 7

Pages 31 to 36, delete section 10

Pages 38 to 43, delete sections 12 to 16

Pages 44 and 45, delete section 18

Pages 48 to 50, delete sections 21 to 24

Page 50, delete line 35, and insert:

"Section 8 is"

Page 51, line 1, delete everything after "Section" and insert "7 is"

Page 51, line 2, delete everything before "effective"

Page 51, line 4, delete "10, 11, 19, and 20" and insert "9, 11, and 12"

Page 51, delete lines 6 to 11

Page 51, line 12, delete "17 and 25" and insert "10 and 13"

Page 51, delete lines 14 to 17

Page 51, line 31, after "appeal" insert "if the appeal is based upon a constitutional challenge to the tax, and if not, when the decision is made"

Page 53, line 20, delete "due" and insert "as stated in the commissioner's notice"

Page 55, delete lines 21 to 34, and insert:

"Subd. 15. [ASSIGNMENT OF LIENS.] The commissioner may sell and assign to a third party the right of redemption in specific real property for liens filed under this section. The redemption in the hands of the assignee shall not be enforceable by any of the collection remedies provided to the commissioner by law. The assignee is limited to the same rights of redemption the commissioner would have in any mortgage foreclosure proceeding, but in any bankruptcy proceeding does not obtain the priority of the commissioner as a tax claimant. Should the taxpayer or its assigns exercise the right of redemption the assignment by the commissioner is extinguished."

Pages 56 and 57, delete section 6

Page 58, line 16, delete "\$....." and insert "\$50,000,000"

Page 58, line 20, delete "\$....." and insert "\$50,000,000"



Page 58, line 23, delete "with" and insert "after July 1 of"

Page 59, line 1, delete "\$....." and insert "\$150,000,000."

Page 60, line 4, after "appeal" insert "if the appeal is based upon a constitutional challenge to the tax, and if not, when the decision of the tax court is made"

Page 60, line 6, delete "7, 9, and 10" and insert "6, 8, and 9"

Page 60, line 10, delete "8" and insert "7"

Page 60, line 11, delete "..." and insert "the day following final enactment"

Page 60, line 12, delete "....." and insert "that date"

Page 60, line 13, delete "....." and insert "that date."

Page 77, line 6, after "In" insert "the"

Page 81, line 12, after the semicolon, insert "296.14."

Page 88, line 36, delete the new language

Page 89, delete lines 1 and 2

Page 89, line 3, delete everything before the semicolon

Page 89, line 15, strike "that inform" and insert "who informs"

Page 89, delete line 17

Page 89, line 18, delete "compliance with"

Pages 91 and 92, delete section 7

Page 92, lines 15 and 16, reinstate the stricken language and delete the new language

Page 93, line 5, delete "8" and insert "7"

Renumber the sections in sequence and correct internal references

Delete the title and insert:

"A bill for an act relating to taxes; making tax policy, collections, and administrative changes; amending Minnesota Statutes 1992, sections 168.011, subdivision 8; 168.012, subdivision 9; 239.05, subdivision 10a; 239.761, subdivision 3; 270.052; 270.0605; 270.10, by adding a subdivision; 270.60, subdivisions 1 and 2; 270.69, subdivision 4, and by adding a subdivision; 270.70, subdivision 2; 270.72, subdivision 1; 270B.02, subdivisions 3 and 5; 270B.03, subdivision 1; 270B.12, subdivision 3, and by adding a subdivision; 270B.14, by adding a subdivision; 273.12; 289A.37, subdivision 1; 289A.60, by adding subdivisions; 290.01, subdivision 3a; 290A.08; 290A.18, subdivision 2; 296.01, subdivisions 14, 18, 19, 20, 32, 34, and by adding subdivisions; 296.02, subdivision 1; 296.025, subdivision 1, and by adding a subdivision; 296.06, subdivision 2; 296.12, subdivisions 1, 2, 3, 4, 5, 8, 10, and 11; 296.15, subdivisions 2, 4, 5, and 6; 296.16, subdivision 2; 296.165, subdivision 1; 296.25, subdivision 1, and by adding a subdivision; 297.03, subdivision 7; 297A.25, subdivision 9; 297C.13, subdivision 1; 473.446, subdivision 1; and 477A.0121, subdivision 4; Minnesota Statutes 1993 Supplement, sections 116.07, subdivision 10; 270.06; 270.41, subdivision 5; 270B.01, subdivision 8; 272.115, subdivision 1; 273.124, subdivision 13; 273.1398, subdivision 3; 275.065, subdivision 6; 289A.18, subdivision 4; 289A.20, subdivision 4; 290.01, subdivision 19; 297A.01, subdivision 15; 297A.07, subdivision 1; and 297A.25, subdivision 11; proposing coding for new law in Minnesota Statutes, chapters 270; 296; 297; 384; and 385; repealing Minnesota Statutes 1992, sections 270.0604, subdivision 6; 272.09; 272.46, subdivision 1; 272.47; 296.03; 296.14; 296.15, subdivision 3; and 297A.07, subdivision 2."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2299, A bill for an act relating to the city of Duluth; clarifying certain language relating to calculation of pension benefits contained in the bylaws of the Duluth firefighters relief association.

Reported the same back with the following amendments:

Page 1, after line 6, insert:

"ARTICLE 1

PENSION PLAN PROVISION CLARIFICATION"

Page 1, line 7, delete "RELIEF ASSOCIATION" and insert "CONSOLIDATION ACCOUNT"

Page 1, line 8, delete "LANGUAGE IN BYLAWS" and insert "SALARY FOR BENEFIT CALCULATION PURPOSES"

Page 1, line 9, after "contrary," insert "for the Duluth joint firefighters and police consolidation account administered by the public employees retirement association,"

Page 1, line 12, after "payments" insert "for a regular workweek of a firefighter"

Page 1, line 16, after "payments" insert "to pensioners and other benefit recipients of the former Duluth fire department relief association"

Page 1, line 17, delete "made" and insert "taken from active Duluth firefighters, where applicable," and after the period, insert "If applicable, any postretirement adjustments paid or payable to pensioners and other benefit recipients of the former Duluth fire department relief association under Minnesota Statutes, section 11A.18, must be appropriately recomputed on account of section 1."

Page 1, line 19, delete "This act takes effect when approved" and insert "Sections 1 and 2 are effective upon approval"

Page 1, after line 21, insert:

"ARTICLE 2

CONFORMING CHANGES

Section 1. Minnesota Statutes 1993 Supplement, section 353B.02, subdivision 10, is amended to read:

Subd. 10. [SALARY.] (a) "Salary" for benefit computation and contribution purposes means the salary of a first class or first grade firefighter or patrol officer, whichever applies, for the former members of the following consolidating relief associations:

- (1) Anoka police relief association;
- (2) Austin firefighters relief association;
- (3) Austin police relief association;
- (4) Columbia Heights fire department relief association, paid division;
- (5) Fairmont police benefit association;
- (6) Faribault fire department relief association;
- (7) Mankato fire department relief association;
- (8) Minneapolis fire department relief association;

- (9) Minneapolis police relief association;
- (10) Richfield fire department relief association;
- (11) Rochester fire department relief association;
- (12) Rochester police relief association;
- (13) St. Cloud fire department relief association;
- (14) St. Cloud police relief association;
- (15) St. Paul fire department relief association;
- (16) South St. Paul firefighters relief association;
- (17) West St. Paul firefighters relief association;
- (18) West St. Paul police relief association; and
- (19) Winona fire department relief association.

(b) "Salary" for benefit computation purposes means the salary of a first grade patrol officer for the second month of the previous fiscal year and for contribution purposes means the current salary of a first grade patrol officer, for the former members of the following consolidating relief associations:

- (1) Bloomington police relief association;
- (2) Crystal police relief association;
- (3) Fridley police pension association;
- (4) Richfield police relief association;
- (5) St. Louis Park police relief association; and
- (6) Winona police relief association.

(c) "Salary" for benefit computation purposes means the final salary and for contribution purposes means the current salary for the former members of the following consolidating relief associations:

- (1) Albert Lea firefighters relief association;
- (2) Albert Lea police relief association;
- (3) Buhl police relief association;
- (4) Chisholm firefighters relief association;
- (5) Crookston fire department relief association;
- (6) Crookston police relief association;
- (7) Faribault police benefit association;
- (8) Red Wing police relief association; and
- (9) Virginia fire department relief association.

(d) "Salary" for benefit computation purposes means the average earnings or salary for the final six months of employment before retirement and for contribution purposes means the current salary for the former members of the following consolidating relief associations:

- (1) Chisholm police relief association;
- (2) Hibbing firefighters relief association; and
- (3) Hibbing police relief association.

(e) "Salary" for benefit computation purposes means the greater of the final salary at retirement or the highest salary of a patrol officer and for contribution purposes means the greater of the current salary or the current highest salary of a patrol officer for the former members of the following consolidating relief associations:

- (1) Brainerd police benefit association; and
- (2) New Ulm police relief association.

(f) "Salary" for benefit computation and contribution purposes means the following for the former members of the consolidating relief associations as indicated:

(1) salary of a top grade patrol officer, including longevity pay and education incentive pay in an amount not to exceed \$235 per month, Columbia Heights police relief association;

(2) maximum pay of a firefighter, including overtime payments for a regular workweek of a firefighter mandated by the federal Fair Labor Standards Act of 1938, as amended, Duluth firefighters relief association;

(3) salary of a first class patrol officer with 16 years of service, Duluth police pension association;

(4) base salary for the rank currently held, plus longevity pay, pay for eligibility for next higher rank and pay for first aid care, Mankato police benefit association;

(5) average annual salary for highest three paid years for benefit computation purposes and current salary for contribution purposes, Red Wing fire department relief association;

(6) pay of the highest grade full-time firefighter, St. Louis Park fire department relief association;

(7) maximum monthly pay of a patrol officer, St. Paul police relief association;

(8) prevailing base pay of rank held at retirement for benefit computation purposes and current salary for contribution purposes, South St. Paul police relief association; and

(9) prevailing pay for rank held for at least six months before retirement for benefit computation purposes and current salary for contribution purposes, Virginia police relief association.

## Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective upon the effective date of article 1, section 1."

Amend the title as follows:

Page 1, line 2, after "to" insert "retirement;" and delete "city of" and after "Duluth" insert "joint police and firefighters consolidation account"

Page 1, line 5, before the period, insert "; amending Minnesota Statutes 1993 Supplement, section 353B.02, subdivision 10"

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

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2327, A bill for an act relating to human services; permitting certain providers to request a state agency hearing; modifying the conduct of state agency hearings; modifying certain requirements for prior authorization of services under medical assistance; amending Minnesota Statutes 1992, sections 256.045, subdivisions 3, 4, 5 and by adding a subdivision; and 256B.0625, subdivisions 8, 8a, 25, 31, and by adding a subdivision.

Reported the same back with the following amendments:

Page 7, line 25, after the period, insert "No more than three members may be of one gender."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services/Human Services Finance Division.

The report was adopted.

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

H. F. No. 2349, A bill for an act relating to environmental justice; establishing a task force on environmental justice.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 116D.04, subdivision 2a, is amended to read:

Subd. 2a. Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit. The environmental impact statement shall be an analytical rather than an encyclopedic document which describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The environmental impact statement shall also analyze those economic, employment and sociological effects, including those related to environmental justice as defined in section 116D.12, that cannot be avoided should the action be implemented. To ensure its use in the decision making process, the environmental impact statement shall be prepared as early as practical in the formulation of an action.

(a) The board shall by rule establish categories of actions for which environmental impact statements and for which environmental assessment worksheets shall be prepared as well as categories of actions for which no environmental review is required under this section.

(b) The responsible governmental unit shall promptly publish notice of the completion of an environmental assessment worksheet in a manner to be determined by the board and shall provide copies of the environmental assessment worksheet to the board and its member agencies. Comments on the need for an environmental impact statement may be submitted to the responsible governmental unit during a 30 day period following publication of the notice that an environmental assessment worksheet has been completed. The responsible governmental unit's decision on the need for an environmental impact statement shall be based on the environmental assessment worksheet and the comments received during the comment period, and shall be made within 15 days after the close of the comment period. The board's chair may extend the 15 day period by not more than 15 additional days upon the request of the responsible governmental unit.

(c) An environmental assessment worksheet shall also be prepared for a proposed action whenever material evidence accompanying a petition by not less than 25 individuals, submitted before the proposed project has received final approval by the appropriate governmental units, demonstrates that, because of the nature or location of a proposed action, there may be potential for significant environmental effects. Petitions requesting the preparation of an environmental assessment worksheet shall be submitted to the board. The chair of the board shall determine the appropriate responsible governmental unit and forward the petition to it. A decision on the need for an

environmental assessment worksheet shall be made by the responsible governmental unit within 15 days after the petition is received by the responsible governmental unit. The board's chair may extend the 15 day period by not more than 15 additional days upon request of the responsible governmental unit.

(d) The board may, prior to final approval of a proposed project, require preparation of an environmental assessment worksheet by a responsible governmental unit selected by the board for any action where environmental review under this section has not been specifically provided for by rule or otherwise initiated.

(e) An early and open process shall be utilized to limit the scope of the environmental impact statement to a discussion of those impacts, which, because of the nature or location of the project, have the potential for significant environmental effects. The same process shall be utilized to determine the form, content and level of detail of the statement as well as the alternatives which are appropriate for consideration in the statement. In addition, the permits which will be required for the proposed action shall be identified during the scoping process. Further, the process shall identify those permits for which information will be developed concurrently with the environmental impact statement. The board shall provide in its rules for the expeditious completion of the scoping process. The determinations reached in the process shall be incorporated into the order requiring the preparation of an environmental impact statement.

(f) Whenever practical, information needed by a governmental unit for making final decisions on permits or other actions required for a proposed project shall be developed in conjunction with the preparation of an environmental impact statement.

(g) An environmental impact statement shall be prepared and its adequacy determined within 280 days after notice of its preparation unless the time is extended by consent of the parties or by the governor for good cause. The responsible governmental unit shall determine the adequacy of an environmental impact statement, unless within 60 days after notice is published that an environmental impact statement will be prepared, the board chooses to determine the adequacy of an environmental impact statement. If an environmental impact statement is found to be inadequate, the responsible governmental unit shall have 60 days to prepare an adequate environmental impact statement.

## Sec. 2. [116D.12] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of sections 116D.12 to 116D.15, the definitions in this section have the meanings given them.

Subd. 2. [ENVIRONMENTAL JUSTICE.] "Environmental justice" is the fair treatment of people of all races, cultures, income, and educational levels with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no person or population of people should be forced to shoulder a disproportionate share of the negative environmental impact, or risks thereof, of pollution or environmental hazards, due to a lack of political or economic strength. Fair treatment also means ensuring adequate protection of public health and the environment and that the benefits of risk reduction are conferred in fair measure to all Minnesota citizens.

Subd. 3. [TASK FORCE.] "Task force" means the task force on environmental justice established in section 116D.13.

## Sec. 3. [116D.13] [TASK FORCE CREATED.]

(a) A task force of 15 members is established to assist the environmental quality board on environmental justice issues.

(b) Members shall consist of the designated representatives of the Asian-Pacific Minnesotans council, the council on Black Minnesotans, the Indian affairs council, the Spanish-speaking affairs council, the legislative commission on the economic status of women, the attorney general, the department of human rights, and eight private citizens appointed by the chair of the environmental quality board. At least one private citizen must represent the migrant farm worker population in Minnesota, to be designated by Migrant Legal Services. Nine of the task force members must be people of color and low-income communities. Additional ex officio members shall be the chairs of the house and senate environment and natural resources committees and the house health and human services and senate health care committees, or their designees.

(c) The chair of the environmental quality board shall appoint the chair of the task force.

(d) The members of the task force may receive no compensation for their services, but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties. Citizen members of the task force may receive per diem compensation as provided in section 15.059, subdivision 3.

(e) Every state and metropolitan agency and public corporation having jurisdiction over environmental and human service programs must cooperate with the task force upon request.

(f) The chair of the environmental quality board must provide staff services to the task force.

Sec. 4. [116D.14] [POWERS AND DUTIES OF THE TASK FORCE.]

The task force shall have the following powers and duties:

(1) to advise and help the environmental quality board to develop and implement a comprehensive program and plan at the state, county, and local levels for the promotion of environmental justice, including draft legislation where appropriate; and

(2) to review existing studies, and to recommend future studies, relating to environmental justice.

Sec. 5. [116D.15] [POWERS AND DUTIES OF THE ENVIRONMENTAL QUALITY BOARD.]

The environmental quality board shall carry out the following powers and duties in consultation with the task force:

(1) to encourage individuals, corporations, associations, organizations, and public agencies to consider the environmental interests of people of color and low-income communities in their decision-making processes;

(2) to study issues relating to the proportional impact and risk of exposure to environmental hazards received by people of color and low-income communities;

(3) to intervene at its discretion in proceedings before state agencies on environmental matters affecting people of color and low-income communities;

(4) to provide local governments and the private sector with improved liaison, interpretation, and focus relating to state and federal programs which bear on environmental justice;

(5) to create materials and forums to educate the public on issues of environmental justice;

(6) to apply for and accept technical and financial assistance on environmental justice from state, metropolitan, and federal agencies, and public and private corporations, and to provide grants for environmental justice assistance; and

(7) to report periodically to the governor and the legislature on the conduct of its activities, but not less than once a year, and to provide a copy of each report to appropriate public and private entities.

Sec. 6. [116D.16] [TERMINATION.]

Sections 116D.12 to 116D.16 expire on June 30, 2000."

Delete the title and insert:

"A bill for an act relating to environmental justice; establishing a task force on environmental justice; requiring the environmental quality board to carry out certain duties; amending Minnesota Statutes 1992, section 116D.04, subdivision 2a; proposing coding for new law in Minnesota Statutes, chapter 116D."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Environment and Natural Resources Finance.

The report was adopted.

Skoglund from the Committee on Judiciary to which was referred:

H. F. No. 2370, A bill for an act relating to children; modifying liability provisions for child abuse investigations; providing for attorney fees in certain actions; providing for the establishment of protocols for investigations; prohibiting certain conflicts of interest; providing for access to data regarding determinations of maltreatment; amending Minnesota Statutes 1992, section 626.556, subdivisions 4, 10e, and by adding subdivisions; Minnesota Statutes 1993 Supplement, section 626.556, subdivision 11.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 626.556, subdivision 4, is amended to read:

Subd. 4. [IMMUNITY FROM LIABILITY.] (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:

(1) any person making a voluntary or mandated report under subdivision 3 or under section 626.5561 or assisting in an assessment under this section or under section 626.5561;

(2) any ~~social worker~~ appropriately qualified person with responsibility for performing duties under this section or supervisor employed by a local welfare agency complying with subdivision 10d ~~or the provisions of section 626.5561~~; and

(3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency or local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10 or under section 626.5561.

(b) A person who is a supervisor or ~~social worker~~ person with responsibility for performing duties under this section employed by a local welfare agency complying with subdivisions 10 and 11 ~~or section 626.5561~~ or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is acting in good faith and exercising due care in accordance with any established protocols and rules and reasonable professional practice.

(c) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs.

Sec. 2. Minnesota Statutes 1992, section 626.556, is amended by adding a subdivision to read:

Subd. 4b. [LIABILITY; COSTS AND ATTORNEY FEES.] If a person who is an alleged perpetrator prevails in a civil action arising out of an assessment, determination, or bad faith report made under this section, the court may award the person costs and reasonable attorney fees in the action. This subdivision does not apply to criminal or juvenile court proceedings. This subdivision does not affect the immunity provisions of this section.

Sec. 3. Minnesota Statutes 1992, section 626.556, is amended by adding a subdivision to read:

Subd. 9a. [PROTOCOL GOVERNING ABUSE AND NEGLECT ASSESSMENTS.] The commissioner of human services shall adopt rules establishing a specific protocol to be followed by social workers, child protection workers, and supervisors employed by local welfare agencies and the commissioner in conducting assessments and making determinations under this section. In developing the rules the commissioner shall consult with individuals involved in assessing child abuse and neglect, including physicians and other health professionals, child psychologists, social workers, child protection workers, and supervisors, county attorneys, educators, and law enforcement. Individuals must also include representatives of parent and foster parent groups, facilities, attorneys and other advocates who represent the interests of persons who may be accused of child abuse and neglect, and representatives of communities of color.



Sec. 4. Minnesota Statutes 1992, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. [DETERMINATIONS.] Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed. Determinations under this subdivision must be made based on a preponderance of the evidence.

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions committed by a person responsible for the child's care:

- (1) physical abuse as defined in subdivision 2, paragraph (d);
- (2) neglect as defined in subdivision 2, paragraph (c);
- (3) sexual abuse as defined in subdivision 2, paragraph (a); or
- (4) mental injury as defined in subdivision 2, paragraph (k).

(b) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(c) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in imminent and serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

Sec. 5. Minnesota Statutes 1993 Supplement, section 626.556, subdivision 11, is amended to read:

Subd. 11. [RECORDS.] Except as provided in subdivisions 10b, 10d, 10g, ~~and 11b, and 11d~~, all records concerning individuals maintained by a local welfare agency under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. Section 13.82, subdivisions 5, 5a, and 5b, apply to law enforcement data other than the reports. The welfare board shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure.

Sec. 6. Minnesota Statutes 1992, section 626.556, is amended by adding a subdivision to read:

Subd. 11d. [DISCLOSURE OF INFORMATION TO SUBJECT OF REPORT.] If a determination is made that maltreatment has occurred or that child protective services are needed, the person determined to be maltreating the child and the director of the facility, if applicable, may request a summary of the specific reasons for the determination and the person has access to data documenting the basis for the determination, excluding data that would identify the reporter or other confidential sources.

Sec. 7. Minnesota Statutes 1992, section 626.556, is amended by adding a subdivision to read:

Subd. 14. [CONFLICT OF INTEREST.] A person who conducts an assessment or assists in making an assessment under this section or section 626.5561 may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a child abuse and neglect treatment provider. If an independent assessor is not available, the person responsible for making the determination under this section may use the services of an assessor with a financial interest or referral relationship, as authorized under rules adopted by the commissioner of human services."

Delete the title and insert:

"A bill for an act relating to children; modifying liability provisions for child abuse investigations; providing for attorney fees in certain actions; providing for the establishment of protocols for investigations; prohibiting certain conflicts of interest; providing for access to data regarding determinations of maltreatment; amending Minnesota Statutes 1992, section 626.556, subdivisions 4, 10e, and by adding subdivisions; Minnesota Statutes 1993 Supplement, section 626.556, subdivision 11."

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

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2402, A bill for an act relating to fire and police state aid; including Indian tribal governments in definition of municipality; amending Minnesota Statutes 1992, section 69.011, subdivision 1.

Reported the same back with the following amendments:

Page 1, line 17, after the comma, insert "and, for purposes of the fire state aid program only, an"

Page 3, line 21, delete everything after "effective" and insert "the day following final enactment and applies to fire state aid paid in fiscal year 1995 and thereafter."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2411, A bill for an act relating to retirement; providing for coverage of employees of lessee of Itasca Medical Center facilities by the public employees retirement association.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [DEFINITIONS.]

Subdivision 1. [CONVERSION.] "Conversion" means the lease of Itasca medical center facilities to a nonprofit or public corporation under Minnesota Statutes, section 447.47, with the resulting employment transfer of Itasca medical center employees to that nonprofit or public corporation.

Subd. 2. [LESSEE.] "Lessee" means the nonprofit or public corporation which leases the Itasca medical center facilities under the conversion.

Sec. 2. [EMPLOYEES OF ITASCA MEDICAL CENTER LESSEE.]

Under an Itasca medical center conversion, employees who were members of the public employees retirement association due to employment at the Itasca medical center as of the day before the conversion, retain PERA membership under the conversion. Individuals hired by the lessee as medical center employees on or after the conversion are public employees under Minnesota Statutes, section 353.01, subdivision 2, and are eligible for public employee retirement association coverage subject to Minnesota Statutes, chapter 353.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

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

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2420, A bill for an act relating to retirement; providing for terms on which surviving spouse benefits are granted to members of the Minneapolis fire department relief association; amending Laws 1965, chapter 519, section 1, as amended.

Reported the same back with the following amendments:

Page 1, after line 6, insert:

"ARTICLE 1

MINNEAPOLIS FIRE RELIEF ASSOCIATION  
SURVIVING SPOUSE BENEFIT CHANGE"

Page 1, lines 19 and 20, reinstate the stricken language

Page 1, line 21, before "and" insert "department in the case of a deceased active member,"

Page 1, line 23, strike "one year" and insert "five years"

Page 3, after line 27, insert:

"ARTICLE 2

CONFORMING CHANGES

Section 1. Minnesota Statutes 1992, section 353B.11, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBILITY; SURVIVING SPOUSE BENEFIT.] (a) Except as specified in paragraph (b), (c), (d), (e), or (f), the person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, who was legally married to the member for at least one year before the separation from active service if the deceased member was a deceased, deferred, or retired member and who was residing with the member at the time of the death of the deceased member shall be entitled to receive a surviving spouse benefit.

(b) The person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, who was legally married to the member at the time of separation from active service if the deceased member was a deceased deferred or retired member and who was residing with the member at the time of the death of the member shall be entitled to receive a surviving spouse benefit in the case of former members of the following consolidating relief associations:

- (1) Albert Lea police relief association;
- (2) Anoka police relief association;
- (3) Austin firefighters relief association;
- (4) Austin police relief association;
- (5) Brainerd police benefit association;
- (6) Columbia Heights police relief association;
- (7) Crookston fire department relief association;
- (8) Crookston police relief association;
- (9) Fairmont police benefit association;
- (10) Faribault police benefit association;
- (11) Mankato fire department relief association;
- (12) Red Wing police relief association;
- (13) South St. Paul police relief association;
- (14) Virginia fire department relief association;
- (15) Virginia police relief association; and
- (16) West St. Paul police relief association.

(c) The person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, and who was legally married to the member at the time of separation from active service if the deceased member was a deceased deferred or retired member shall be entitled to receive a surviving spouse benefit in the case of former members of the following consolidating relief associations:

- (1) Chisholm police relief association;
- (2) Hibbing police relief association;
- (3) Mankato police benefit association; and
- (4) New Ulm police relief association.

(d) The person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, who was legally married to the member for at least ~~one~~ five years before the separation from active service if the deceased member was the recipient of a service pension or was entitled to a deferred service pension, and who was residing with the member at the time of the death of the deceased member in the case of former members of the Minneapolis fire department relief association.

(e) The person who survives a deceased active, deferred, or retired member, who was legally married to the member at the time of the death of the deceased member, who was legally married to the member for at least three years before the separation from active service if the deceased member was a deceased, retired, or deferred member and who was residing with the member at the time of the death of the member shall be entitled to receive a surviving spouse benefit in the case of former members of the South St. Paul firefighters relief association.

(f) The person who survives a deceased active, deferred, or retired member who was legally married to the member at the time of the death of the deceased member, who was legally married to the member for at least one year before the separation from active service if the deceased member was a deceased, deferred, or retired member and who had not deserted the member at the time of the death of the deceased member shall be entitled to receive a surviving spouse benefit in the case of former members of the St. Paul police relief association.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on the effective date of article 1, section 1."

Amend the title as follows:

Page 1, line 5, after "amending" insert "Minnesota Statutes 1992, section 353B.11, subdivision 1; and"

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. 2493, A bill for an act relating to agriculture; changing the law on nuisance liability of agricultural operations; amending Minnesota Statutes 1992, section 561.19, subdivisions 1, 2, and by adding a subdivision.

Reported the same back with the following amendments:

Page 3, delete section 3

Amend the title as follows:

Page 1, line 5, delete ", 2, and by adding a subdivision" and insert "and 2"

With the recommendation that when so amended the bill pass.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2551, A bill for an act relating to retirement; enabling certain retired members of the public employees retirement association to rescind a selection of a joint and survivor annuity and to receive a normal retirement annuity.

Reported the same back with the following amendments:

Page 1, line 8, after "a" insert "person:"

(1) who is a"

Page 1, line 9, before "who" insert ";

(2)"

Page 1, line 11, delete ", and" and insert ";

(3)"

Page 1, line 12, after "1989" insert ";

(4) whose marriage with the joint annuitant has been dissolved;

(5) whose marriage dissolution decree provided for a waiver of the optional annuity election; and

(6) who has submitted, with the joint annuitant, a waiver of the joint and survivor optional annuity form"

Page 1, line 14, delete "section" and insert "sections" and after "7" insert "; and 353.30, subdivisions 3, 3a, and 3c"

Page 1, line 16, delete "normal" and insert "revised"

Page 1, line 20, after "spouse." insert "The revised retirement annuity may not exceed the actuarial present value of the joint and survivor optional annuity form payable immediately prior to the retirement annuity revision." and delete "change" and insert "revision"

Page 1, after line 23, insert:

"Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on the day following final enactment."

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

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2587, A bill for an act relating to state departments and agencies; department of employee relations; providing for implementation of management training programs; authorizing the use of facsimile machines; abolishing the career executive service; amending Minnesota Statutes 1992, sections 13.67; 43A.21, subdivision 3; and 43A.32, subdivision 2; repealing Minnesota Statutes 1992, section 43A.21, subdivision 5.

Reported the same back with the following amendments:

Page 2, after line 14, insert:

"Sec. 2. [16B.482] [REIMBURSEMENT FOR MATERIALS AND SERVICES.]

The commissioner of administration may provide materials and services under this chapter to state legislative and judicial branch agencies, political subdivisions, the University of Minnesota, and federal government agencies. Legislative and judicial branch agencies, political subdivisions, the University of Minnesota, and federal government agencies purchasing materials and services from the commissioner of administration shall reimburse the general services, intertechnologies, and cooperative purchasing revolving funds for costs."

Page 3, line 10, strike "certified"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, after "2;" insert "proposing coding for new law in Minnesota Statutes, chapter 16B;"

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. 2590, A bill for an act relating to energy; classifying and requiring information on applications for the municipal energy conservation investment loan program; amending Minnesota Statutes 1992, sections 13.99, by adding a subdivision; 216C.37, subdivision 3, and by adding subdivisions; Minnesota Statutes 1993 Supplement, section 216C.37, subdivision 1; repealing Minnesota Statutes 1992, section 216C.37, subdivision 8.

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. 2609, A bill for an act relating to education; defining higher education board authority for bargaining with certain employees; designating certain higher education board employees as unclassified; clarifying transfer provisions for the merger of community colleges, state universities, and technical colleges; transferring bonding authority for the state universities to the higher education board; clarifying the calculation of instructional appropriations; establishing the higher education board as the sole state agency for federal funding for vocational education; providing for appointments of additional student members on the higher education board; authorizing the higher education board to supervise and control construction, improvement, and repair of its facilities; amending Minnesota Statutes 1992, sections 43A.06, subdivision 1; 43A.08, subdivision 1; 43A.18, by adding a subdivision; 135A.03, subdivision 1; 136.31; 136.32; 136.33; 136.34; 136.35; 136.36; 136.37; 136.38; 136.41, by adding a subdivision; 136C.06; 136E.01, subdivisions 1 and 2; and 179A.10, subdivision 1; Minnesota Statutes 1993 Supplement, sections 43A.18, subdivision 4; and 136.41, subdivision 8; Laws 1991, chapter 356, article 9, sections 8, subdivision 1; 9; 12; and 13; proposing coding for new law in Minnesota Statutes, chapter 136E; repealing Minnesota Statutes 1992, sections 136.31, subdivision 6; 136.40; 136.41, subdivisions 1, 2, 3, 4, 5, 6, and 7; and 136.42.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

#### "ARTICLE 1

#### EMPLOYER DESIGNATION AND BARGAINING

Section 1. Minnesota Statutes 1992, section 43A.06, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] (a) The commissioner, through the labor relations bureau, shall perform the duties assigned to the commissioner by sections 3.855, 179A.01 to 179A.25 and this section.

(b) The deputy commissioner for the labor relations bureau shall be the state labor negotiator for purposes of negotiating and administering agreements with exclusive representatives of employees and shall perform any other duties delegated by the commissioner subject to the limitations in paragraph (c).

(c) In consultation with the commissioner of employee relations and except as specified below, the higher education board may exercise the powers under this section. The power and authority to engage in collective bargaining or to enter into interest arbitration remains with the commissioner of employee relations, who shall exercise those powers in consultation with the higher education board.

Sec. 2. Minnesota Statutes 1992, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. [UNCLASSIFIED POSITIONS.] Unclassified positions are held by employees who are:

(1) chosen by election or appointed to fill an elective office;

(2) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;

- (3) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a and in the office of strategic and long-range planning;
- (4) the confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;
- (5) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;
- (6) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the office of the adjutant general;
- (7) employees of the Washington, D.C., office of the state of Minnesota;
- (8) employees of the legislature and of legislative committees or commissions; provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;
- (9) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal economic opportunity act work study program in the school and resource center for the arts, state universities and community colleges, and the higher education board, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;
- (10) officers and enlisted persons in the national guard;
- (11) attorneys, legal assistants, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;
- (12) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;
- (13) members of the state patrol; provided that selection and appointment of state patrol troopers must be made in accordance with applicable laws governing the classified service;
- (14) chaplains employed by the state;
- (15) examination monitors and intermittent training instructors employed by the departments of employee relations and commerce and by professional examining boards;
- (16) student workers;
- (17) executive directors or executive secretaries appointed by and reporting to any policy-making board or commission established by statute;
- (18) employees unclassified pursuant to other statutory authority;
- (19) intermittent help employed by the commissioner of agriculture to perform duties relating to pesticides, fertilizer, and seed regulation; and
- (20) the administrators and the deputy administrators at the state academies for the deaf and the blind.

Sec. 3. Minnesota Statutes 1993 Supplement, section 43A.18, subdivision 4, is amended to read:

Subd. 4. [PLANS NOT ESTABLISHED BUT APPROVED BY COMMISSIONER.] Notwithstanding any other law to the contrary, total compensation for employees listed in this subdivision must be set by appointing authorities within the limits of compensation plans that have been approved by the commissioner before becoming effective. Compensation plans established under paragraphs (b), and (c), (d), and (e) must be approved by the legislature and the legislative commission on employee relations under subdivision 2 before becoming effective.



(a) Total compensation for employees who are not covered by a collective bargaining agreement in the offices of the governor, lieutenant governor, attorney general, secretary of state, state auditor, and state treasurer must be determined by the governor, lieutenant governor, attorney general, secretary of state, state auditor, and state treasurer, respectively.

~~(b) Total compensation for unclassified positions under section 43A.08, subdivision 1, clause (9), in the state universities and the community colleges not covered by a collective bargaining agreement must be determined by the state university board and the state board for community colleges, respectively.~~

~~(c) Total compensation for classified administrative law judges in the office of administrative hearings must be determined by the chief administrative law judge.~~

~~(d) Total compensation for unclassified positions not covered by a collective bargaining agreement in the higher education coordinating board and in the state board of technical colleges must be determined by the higher education coordinating board and the state board of technical colleges, respectively.~~

~~(e) Total compensation for unclassified positions not covered by a collective bargaining agreement in the higher education board must be determined by the higher education board.~~

Sec. 4. Minnesota Statutes 1992, section 43A.18, is amended by adding a subdivision to read:

Subd. 3a. [HIGHER EDUCATION BOARD PLAN.] Total compensation for unclassified managerial positions under section 43A.08, subdivision 1, clause (9), in the higher education board not covered by a collective bargaining agreement must be determined by the higher education board. Before submitting a compensation plan to the legislature and the legislative commission on employee relations, the higher education board must submit the plan to the department of employee relations for review and comment. The department must complete its review within 14 days of its receipt. Compensation plans established under this subdivision must be approved by the legislature and the legislative commission on employee relations under section 3.855 before becoming effective.

Sec. 5. Minnesota Statutes 1992, section 179A.10, subdivision 1, is amended to read:

Subdivision 1. [EXCLUSIONS.] The commissioner of employee relations shall meet and negotiate with the exclusive representative of each of the units specified in this section, except as provided in section 43A.06, subdivision 1, paragraph (c). The units provided in this section are the only appropriate units for executive branch state employees. The following employees shall be excluded from any appropriate unit:

(1) the positions and classes of positions in the classified and unclassified services defined as managerial by the commissioner of employee relations in accordance with section 43A.18, subdivision 3, and so designated in the official state compensation schedules;

(2) unclassified positions in the state university system and the community college system defined as managerial by their respective boards;

(3) positions of physician employees compensated under section 43A.17, subdivision 4;

(4) positions of all unclassified employees appointed by a constitutional officer;

(5) positions in the bureau;

(6) positions of employees whose classification is pilot or chief pilot;

(7) administrative law judge and compensation judge positions in the office of administrative hearings; and

(8) positions of all confidential employees.

The governor may upon the unanimous written request of exclusive representatives of units and the commissioner direct that negotiations be conducted for one or more units in a common proceeding or that supplemental negotiations be conducted for portions of a unit or units defined on the basis of appointing authority or geography.

Sec. 6. [EFFECTIVE DATE.]

Section 2 is effective the day following final enactment. Sections 1 and 3 to 5 are effective July 1, 1995.

## ARTICLE 2

## TRANSITION PROVISIONS

Section 1. Laws 1991, chapter 356, article 9, section 9, is amended to read:

Sec. 9. [TRANSFER OF POWERS PROVISIONS.]

Subdivision 1. [TRANSFER OF POWERS; GENERALLY.] The state board of technical colleges, the state board for community colleges, and the state university board and their respective chancellors retain responsibility for operating and managing their systems until July 1, 1995. On July 1, 1995, the authority, duties, responsibilities, related property of the state board of technical colleges, school boards, intermediate school boards, and joint vocational technical boards with respect to technical colleges, the state board for community colleges, and the state university board are transferred to the higher education board under Minnesota Statutes, section 15.039.

Obligations incurred on behalf of a technical college by a school board, a joint vocational district under Minnesota Statutes, section 136C.60, or an intermediate school district under Minnesota Statutes, chapter 136D, which will not be satisfied on or before June 30, 1995, transfer to the higher education board subject to limits identified in state law or in plans or policies of the higher education board subject to legislative approval.

The state board of technical colleges, state board for community colleges, and state university board are abolished, effective July 1, 1995.

Subd. 1a. [MEMORANDUM OF UNDERSTANDING APPROVED.] The memorandum of understanding dated ..... between the chancellor of the higher education board, the state negotiator, and the bargaining representatives of state employees concerning employee security during the merger of the state universities, the community colleges, and the state technical colleges is ratified.

Subd. 2. [PERSONNEL TRANSFER.] The commissioner of employee relations shall allocate positions and incumbent employees who are primarily employed in post-secondary or extension vocational education positions in an intermediate, joint, or school district on June 30, 1995, to appropriate classes in the state classification plan under Minnesota Statutes, section 43A.07, without loss of pay, or place the positions and incumbent employees in the unclassified service under Minnesota Statutes, section 43A.08, subdivision 9. The commissioner shall also assign positions and incumbent employees to an appropriate state unit under Minnesota Statutes, section 179A.10, subject to challenge or petition of such unit assignment to the bureau of mediation services. Positions transferred with their incumbents do not create vacancies in state service.

Employees serving in unlimited appointments on June 30, 1995, and transferred to unlimited classified positions on July 1, 1995, are transferred to state service without examination.

Employees serving in limited appointments on June 30, 1995, and transferred to limited classified positions or to temporary unclassified positions shall receive emergency, temporary, or temporary unclassified appointments under provisions of Minnesota Statutes, section 43A.15, subdivisions 2 and 3, or 43A.08, subdivision 2a, as appropriate.

Subd. 3. [RETURN FROM LEAVE.] All employees on an approved leave of absence from a post-secondary education position in an intermediate, joint, or school district on June 30, 1995, retain the reinstatement rights specified under the original terms of the leave.

Subd. 4. [REASSIGNMENT; UNEMPLOYMENT COMPENSATION; SEVERANCE PAY.] The reassignment of rights under this section is not a leaving of employment for eligibility for unemployment compensation payments under Minnesota Statutes, chapter 268, or early retirement or severance compensation under Minnesota Statutes, section 465.72, or under a policy or contract based on Minnesota Statutes, section 465.72.

Sec. 2. Laws 1991, chapter 356, article 9, section 12, is amended to read:

Sec. 12. [EFFECT OF CURRENT COLLECTIVE BARGAINING AGREEMENTS; STATUTORY EMPLOYMENT RIGHTS.]

Subdivision 1. [GENERALLY.] (a) The terms and conditions of a collective bargaining agreement, compensation plans, personnel policies, or other salary and benefit provisions covering an employee transferred to the higher education board remains remain in effect until a successor agreement becomes effective. This section paragraph applies to all employees transferred to the board except as modified by paragraph (b) and section 3.

(b) For employees whose employment was covered by Minnesota Statutes, section 125.12, before their transfer to the higher education board, the provisions of Minnesota Statutes, section 125.12, remain in effect until a successor agreement becomes effective according to Minnesota Statutes, chapter 179A. For employees whose employment was covered by Minnesota Statutes, section 125.17, before their transfer to the higher education board, the provisions of Minnesota Statutes, section 125.17, remain in effect until a successor agreement becomes effective according to Minnesota Statutes, chapter 179A.

Subd. 2. [EXCLUSIVE REPRESENTATIVE OF TECHNICAL COLLEGE EMPLOYEES.] The exclusive representatives of units of technical college employees transferred to the higher education board certified before the effective date of this section shall remain responsible for administration of their contracts and for all other contractual duties and shall enjoy the right to dues and fair share fee deduction and all other contractual privileges and rights until June 30, 1995. The incoming exclusive representatives of employees transferred to the higher education board and certified after the effective date of this subdivision shall immediately upon certification have the responsibility of bargaining on behalf of employees within the unit. The incoming exclusive representative and the new employer have the responsibility of administering grievances arising under previous contracts covering employees included within the unit which remain unresolved on June 30, 1995. Where the employer does not object, these responsibilities may be varied by agreement between the outgoing and incoming exclusive representatives. All other rights and duties of representation begin on July 1, 1995, except that exclusive representatives certified after the effective date of this subdivision shall immediately upon certification have the right to all employer information and all forms of access to employees within the bargaining unit which would be permitted to the current contract holder, including the rights in Minnesota Statutes, section 179A.07, subdivision 6. This subdivision does not affect any existing collective bargaining contract. Incoming exclusive representatives of employees transferred to the higher education board shall immediately upon certification have the responsibility of bargaining on behalf of all previously unrepresented employees assigned to their units. All other rights and duties of exclusive representatives begin on July 1, 1995.

Sec. 3. Laws 1991, chapter 356, article 9, section 13, is amended to read:

Sec. 13. [TRANSITIONAL PERIOD COLLECTIVE BARGAINING.]

Subdivision 1. [GENERALLY.] Contracts for the period commencing July 1, 1995, for employees who are in the technical college, state university, and community college instructional units and the state university administrative unit and who are transferred to the higher education board shall be negotiated with the higher education board under section 43A.06. Negotiations for those contracts can begin anytime after July 1, 1994, and may be initiated by either party notifying the other of the desire to begin the negotiating process. Negotiations shall be subject to this section and Minnesota Statutes, chapter 179A.

Subd. 2. [DATE OF EMPLOYMENT.] The date of first employment by the higher education board is the date on which services were first performed by the employee for the employer from which the employee is being transferred. For employees whose transfer is from a joint technical college district under Minnesota Statutes, sections 136C.60 to 136C.69, the date on which services were first performed by the employee is the date on which services were first performed by the employee in the member school district from which the employee was assigned to the joint technical college district.

Subd. 3. [BENEFITS.] All accumulations of leaves, years of service, and benefits must be credited to each employee subject to terms negotiated in the successor contract. Effective July 1, 1995, all transferred employees will be enrolled in the state employees group insurance program as provided in Minnesota Statutes, sections 43A.22 to 43A.31. The commissioner of employee relations shall provide, to transferred employees, open enrollment in all state employee health and dental insurance plans with no limitation on preexisting conditions except as specified in existing state employee certificates of coverage. The commissioner of employee relations shall provide, to transferred employees, the opportunity to purchase optional life and disability insurance in amounts equivalent to amounts previously purchased by a transferred employee or provided by the employer without limitation on preexisting conditions.

Subd. 4. [PROBATIONARY PERIODS.] Except as otherwise provided in a successor contract, probationary periods are not affected by the transfer of employees to the higher education board.

Subd. 5. [RECALL.] (a) Recall rights described in this subdivision apply until a successor agreement becomes effective.

(b) Members of the technical college instructional bargaining unit who are placed on unrequested leave of absence before July 1, 1995, are transferred to and become employees of the higher education board on July 1, 1995, and have recall rights to the technical college instructional unit for five years from the date originally placed on unrequested leave. For five years after the close of the school year in which the employees were placed on unrequested leave of absence they retain recall rights to vacancies for which they are licensed in the intermediate or school district that placed them on unrequested leave of absence.

(c) Members of the technical college instructional bargaining unit who are laid off by the higher education board after June 30, 1995, have recall rights to the technical college instructional unit for five years, unless modified by a successor contract. They shall also have recall rights for two years to vacancies for which they are licensed in the intermediate or school district from which they were transferred to the higher education board, but only if a transfer or assignment from a technical college position to an elementary or secondary position would have been authorized in that intermediate or school district under the contract in effect immediately before the instructor's transfer to the higher education board.

(d) Nonlicensed technical college employees of an intermediate, joint, or school district who are placed on an involuntary layoff before July 1, 1995, are transferred to and become employees of the state on July 1, 1995. Until June 30, 1997, they may exercise job seniority, promotion, layoff, and lateral transfer rights that were established by contract between an exclusive representative and the district and were in effect on June 30, 1995.

(e) For two years, unless modified by a successor contract, nonlicensed employees who are laid off by the state after June 30, 1995, may exercise job seniority, promotion, layoff, and lateral transfer rights that were established by contract between an exclusive representative and the district and were in effect on June 30, 1995.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective the day after final enactment.

ARTICLE 3

REVENUE BONDING AUTHORITY

Section 1. Minnesota Statutes 1992, section 136.31, is amended to read:

136.31 [STATE UNIVERSITY HIGHER EDUCATION BOARD, DUTIES.]

~~Subdivision 1. [DUTIES.] All references in sections 136.31 to 136.38 to the state university board shall be deemed and construed to include any successor thereof created or established by law. For the state universities, the state university higher education board is hereby authorized to do the following may:~~

~~(a) (1) acquire by purchase or otherwise, construct, complete, remodel, equip, operate, control, and manage residence halls, dormitories, dining halls, student union buildings, parking facilities, and any other similar revenue-producing buildings of such type and character as said the board shall from time to time find finds necessary for the good and benefit of any of the state universities under the jurisdiction of said board, and for that purpose may acquire property of any and every kind and description, whether real, personal, or mixed, by gift, purchase, or otherwise; provided that no contract for the construction of any building shall be entered into until financing therefor has been approved by the legislature;~~

~~(b) (2) maintain and operate any such buildings or structures and charge for the their use thereof, and carry on such conduct any activities, as that are commonly conducted in connection with any such the buildings or structures;~~

~~(c) (3) enter into contracts touching in any manner or any matter within the objects and for the purposes of sections 136.31 136E.80 to 136.38 136E.88;~~

~~(d) (4) acquire building sites and buildings or structures by gift, purchase, or otherwise and pledge the revenues thereof from them for the payment of any bonds issued for such that purpose as provided in sections 136.31 136E.80 to 136.38 136E.88;~~

(e) (5) borrow money and issue and sell bonds in such an amount or amounts as the legislature ~~shall authorize~~ authorizes for the purpose of acquiring, constructing, completing, remodeling, or equipping any such buildings or structures, and acquiring sites ~~therefor~~, and refund and refinance ~~the same from time to time~~ the bonds by the issuance and sale of refunding bonds ~~as often as it shall in when~~ the board's judgment be advantageous to board finds that it is in the public interest so to do. All such The bonds shall be sold and issued by ~~said the~~ the board in the manner and upon the terms and conditions provided by chapter 475, except as otherwise provided in this section. Such The bonds ~~shall be~~ are payable ~~solely only~~ from and secured by an irrevocable pledge of the revenues to be derived from the operation of any such buildings or structures acquired, constructed, completed, remodeled, or equipped in whole or in part with the proceeds of such the bonds and ~~in addition thereto~~ from such other income and revenues described in section ~~136.33~~ 136E.82, clause (a) (1), as ~~said the~~ the board by resolution ~~shall specify~~ specifies, and notwithstanding this limitation all bonds issued ~~hereunder~~ under sections 136E.80 to 136E.88 shall have the qualities of negotiable instruments under the laws of this state. The legislature ~~intends shall~~ shall not to appropriate money from the general fund to pay for these bonds.

Subd. 2. [FORM.] Such The bonds may:

- (1) bear such the date or dates ~~and may~~;
- (2) mature serially at such a time or times not exceeding 40 years from their date or dates, ~~may~~;
- (3) be in such the form;;
- (4) carry such the registration privileges, ~~may~~;
- (5) be payable at such a place or places, ~~may~~;
- (6) be subject to such terms of redemption prior to maturity with or without premium, ~~may~~;
- (7) be delivered to the purchasers at such times and places ~~and may~~;
- (8) contain such terms and covenants, ~~not inconsistent~~ consistent with sections ~~136.41 and 136.42~~ section 136E.88, all as may be provided by resolution of ~~said the~~ the board authorizing the issuance of such the bonds.

Subd. 3. [EXECUTION.] The bonds must be executed by the officers of the board designated by the board to execute them ~~and countersigned by the treasurer elected by the board, in the manner authorized by section 475.55.~~

Subd. 4. [BOND STATEMENT; REGISTRATION.] Each such bond shall state upon its face that it is payable solely from and secured by an irrevocable pledge of the revenues derived from the operation of any such buildings or structures acquired, constructed, completed, remodeled, or equipped in whole or in part with the proceeds of the sale of ~~said the~~ the bonds and from such other income and revenues described in section ~~136.33~~ 136E.82, clause (a) (1), as specified in the resolution providing for its issue, and that it does not constitute a debt or obligation of the state of Minnesota within the meaning or application of any constitutional or statutory limitation or provision. Such bonds will be registered by A copy of the proceedings taken by the board in the issuance of the bonds shall be filed with the commissioner of finance in a bond register to be kept for that purpose wherein shall be entered the amount and purpose of issue, the maturity and rate of interest, and the name of the original purchaser.

Subd. 5. [BOND SECURITIES.] If the board by resolution determines that its treasurer possesses money not currently needed, or that is set aside in a reserve, the board in the resolution may direct the treasurer to invest a specified amount of the money in securities of the types described in section 475.66. The securities must be deposited with and held for the board by the treasurer. If the invested money is needed by the board it shall direct the treasurer to sell all or a designated amount of the securities. Money collected from the investment by the treasurer, as principal, interest, or proceeds of sales, must be credited to and made a part of the fund and account for which the investment is made.

Subd. 6. ~~In any case where the board determines to issue and sell refunding revenue bonds six months or more before the earliest date on which all bonds of the series to be refunded thereby will have matured or will have been redeemed upon call as hereinafter provided, the proceeds of the refunding revenue bonds shall be deposited, together with any revenues available and designated by the board for the purpose, in escrow with a suitable banking institution within or without the state, whose deposits are insured by the Federal Deposit Insurance Corporation and whose combined capital and surplus is not less than one million dollars, and shall be invested, simultaneously with~~

~~the delivery of the bonds, in securities maturing or callable at the option of the holder on such dates and bearing interest at such rates as shall be required to provide funds sufficient, with any cash retained in the escrow account, to pay when due the interest to accrue on each bond of the series refunded to its maturity or, if prepayable, to an earlier designated date on which it may be called for redemption, and to pay the principal amount of each such bond at maturity or, if prepayable, at its designated earlier redemption date, and to pay any premium required for redemption on such date; and before the refunding revenue bonds are delivered, the board shall by resolution irrevocably appropriate for these purposes, and for the payment of the reasonable charges of banks designated as escrow and paying agents, the escrow account and all payments of principal and interest on the securities held therein, and shall provide for the call of all prepayable bonds of such series, in accordance with their terms, on the redemption date or dates designated. The board may place in escrow pursuant to this subdivision any funds previously pledged and appropriated for the payment of principal and interest on bonds to be refunded; and it may, when deemed necessary in the public interest, issue refunding revenue bonds in the amount necessary to place in escrow the funds required to pay any premium for redemption of refunded bonds before their stated maturities. Investments of the escrow account shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following agencies of the United States: Banks for Cooperatives, Federal Home Loan Banks, Federal Intermediate Credit Banks, Federal Land Banks, and the Federal National Mortgage Association. No refunding revenue bonds shall be issued more than ten years before the last date on which all revenue bonds of the series to be refunded thereby will mature or are directed to be prepaid in accordance with their terms.~~

Subd. 7. [PAYMENT OF INTEREST; OUTSTANDING REVENUE BONDS.] Except as provided in this subdivision, the board may irrevocably appropriate and use any money, other than direct state appropriations and tuition receipts appropriated by section 136.11, subdivision 1, held by it to discharge or otherwise provide for the payment of the interest coming due on its revenue bonds outstanding on July 1, 1988, until paid and for the payment of the principal and any premium coming due on the bonds at maturity or upon any earlier date upon which the bonds are called for redemption. For this purpose, the board may exercise all powers conferred upon it under ~~subdivision 6 with respect to escrow agents and escrow accounts, and may provide for the funding of the escrow accounts with securities of the type referred to in subdivision 6 and certificates of deposit, time deposits, and investment agreements issued by the escrow agent or any other financial institution~~ section 475.67, subdivisions 5 to 10. This subdivision does not authorize the appropriation or use of board money to secure outstanding revenue bonds contrary to a board resolution authorizing the issuance and providing for the security of the bonds, or the use of other board money contrary to the terms of a contract, specific legislative appropriation, or law.

Sec. 2. Minnesota Statutes 1992, section 136.32, is amended to read:

#### 136.32 [BONDS, INVESTMENTS.]

The state, including the state board of investment, and all counties, cities, ~~incorporated~~ towns and other municipal corporations, political subdivisions and political bodies, and public officers of any ~~thereof of the public entities listed in this section~~, all banks, bankers, trust companies, savings banks, and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued pursuant to sections ~~136.31 136E.80 to 136.38, it being 136E.88.~~ The purpose of this section is to authorize the investment in ~~such~~ bonds of all sinking, insurance, retirement, compensation, pension and trust funds, whether owned or controlled by private or public persons or officers; ~~provided, however, that.~~ Nothing contained in this section may be construed as relieving any person, firm or corporation from any duty of exercising due care in selecting securities for purchase or investment. ~~Such~~ The bonds are hereby constituted "authorized securities" within the meaning and for the purposes of section 50.14, notwithstanding the restrictions in ~~part (e) of subdivision 4 thereof~~ section 50.14, subdivision 4, clause (c).

Sec. 3. Minnesota Statutes 1992, section 136.33, is amended to read:

#### 136.33 [RESOLUTION OF BOARD.]

Upon the determination by ~~said university~~ the higher education board or its successor to acquire, construct, complete, remodel, or equip any student residence halls, dormitories, dining halls, student union buildings, parking facilities, or other similar revenue-producing building or buildings, ~~said~~ the board or its successor shall adopt a resolution describing generally the contemplated project, the estimated cost ~~thereof~~, including legal, engineering and financial expenses and interest on the bonds during the period of constructing the project and for six months

thereafter, fixing the amount of the bonds, the maturity or maturities, the interest rate, and all details in respect thereof of the bonds. Such The resolution shall contain such covenants as may be determined by said the board or its successor as to:

(a) (1) the pledging of all or any portion of the proceeds of any fees imposed upon students for student activities, student facilities, or for other purposes, and the net revenues from other buildings or facilities heretofore or hereafter constructed or acquired at any state university ~~under the jurisdiction of said board~~ as additional security for the payment of said the bonds;

(b) (2) the regulation as to the use of such the buildings or structures to assure the maximum use or occupancy thereof;

(c) (3) the amount and kind of insurance to be carried, including use and occupancy insurance, the cost of which shall be payable only from the revenues to be derived from such the buildings or structures;

(d) (4) the operation, maintenance, management, accounting and auditing, and the keeping of records, reports and audits of such the buildings or structures;

(e) (5) the obligation of said the board or its successor to maintain such the buildings or structures in good condition and to operate ~~the same~~ them in an economical and efficient manner;

(f) (6) the amendment or modification of the resolution authorizing the issuance of any bonds ~~hereunder~~, and the manner, terms and conditions, and the amount or percentage of assenting bonds necessary to effectuate such the amendment or modification; and

(g) ~~such~~ (7) other covenants as may be deemed necessary or desirable to assure the prompt and punctual payment of all bonds issued under sections ~~136.31 136E.80 to 136.38 136E.88~~.

Sec. 4. Minnesota Statutes 1992, section 136.34, is amended to read:

136.34 [STUDENT ACTIVITIES, FEES CHARGED.]

Whenever bonds are issued as provided in sections ~~136.31 136E.80 to 136.38 136E.88~~, it shall be the duty of said the higher education board to establish charges or fees, including without limitation fees for student activities and fees for student facilities, for the use of any buildings or structures sufficient at all times to pay the principal of and interest on such the bonds and to create and maintain suitable reserves ~~therefor for them~~ and the necessary expenses of the their operation and maintenance ~~thereof and~~. All revenues derived from the their operation ~~thereof~~ shall be set aside in a separate fund and accounts ~~as hereinafter provided~~ and shall be irrevocably pledged for and used only ~~in paying to pay~~ the principal of and interest upon the bonds issued for the purpose or purposes set forth and described in the resolution authorizing the issuance of said the bonds, and the necessary expenses of the operation and maintenance ~~thereof of the buildings and structures~~; and such the charges and fees shall be sufficient at all times for such these purposes.

Sec. 5. Minnesota Statutes 1992, section 136.35, is amended to read:

136.35 [SPECIAL REVENUE FUND.]

(a) The gross total income derived from the sale of bonds, and receipts and income derived from charges or fees, rentals, and all other revenue established for the use and service of any such buildings or structures shall, within three days after their receipt thereof, be paid to and held by the treasurer of the higher education board as a special fund known as, "The University Higher Education Board of the State of Minnesota Universities Revenue Fund". The treasurer shall be custodian of such the special fund, which fund shall be held and disbursed for the purposes provided in sections ~~136.31 136E.80 to 136.38 136E.88~~. The said special fund shall be protected by a corporate surety bond executed by the treasurer of the board with a surety authorized to do business under the laws of the state of Minnesota. The amount of such the bond shall be fixed by resolution of ~~said university the~~ board or its successor and may be increased or diminished at any time. The premiums of such the bonds shall be payable from "The University Higher Education Board of the State of Minnesota Universities Revenue Fund" and charged as an item of maintenance expense.

(b) A certified copy of each resolution providing for the issuance of bonds under sections ~~136.31~~ 136E.80 to ~~136.38~~ 136E.88 shall be filed with the treasurer of the board, and it shall be the duty of ~~said the~~ said the treasurer to keep and maintain separate accounts in ~~said the~~ said the special fund for each bond issue in accordance with the covenants and the directions set out in the resolution providing for the issuance of ~~said the~~ said the bonds and to disburse funds from the proper account for the payment of the principal of and interest on the bonds in accordance with the directions and covenants of ~~said the~~ said the resolution authorizing the issue thereof. All disbursements for maintenance and operation costs shall be made from the proper maintenance and operation account ~~upon~~ by order of ~~said the~~ said the board or its successor in accordance with the covenants set out in the resolution authorizing the issuance of bonds. All disbursements for construction costs shall be made from a separate account in ~~said the~~ said the special fund ~~upon~~ by order of ~~said the~~ said the board or its successor in accordance with the covenants set out in the resolution authorizing ~~said the~~ said the bonds.

Sec. 6. Minnesota Statutes 1992, section 136.36, is amended to read:

**136.36 [ALLOCATION OF RECEIPTS.]**

All moneys ~~now or hereafter~~ in the ~~University~~ Higher Education Board of The State of Minnesota ~~Universities~~ Revenue Fund and all income from the operation of ~~such dormitories, cafeterias and student facilities~~ residence halls, dormitories, dining halls, student union buildings, parking facilities and other revenue producing buildings and structures are hereby appropriated first to the payment of expenses of the operation of ~~dormitories, cafeterias and other student~~ the facilities from which the revenues so appropriated are derived and second to the payment of the obligations ~~herein~~ authorized by sections 136E.80 to 136E.88.

Sec. 7. Minnesota Statutes 1992, section 136.37, is amended to read:

**136.37 [ADMINISTRATION.]**

The administration of sections ~~136.31~~ 136E.80 to ~~136.38~~ 136E.88 shall be under the ~~state university~~ higher education board independent of other authority and notwithstanding chapters 16A and 16B.

Sec. 8. Minnesota Statutes 1992, section 136.38, is amended to read:

**136.38 [CONTRACTS OF BOARD, PERFORMANCE COMPELLED.]**

(a) The provisions of sections ~~136.31~~ 136E.80 to ~~136.38~~ 136E.88 and of any resolution or other proceedings authorizing the issuance of bonds shall constitute a contract with the holders of ~~such the~~ said the bonds and the provisions thereof shall be enforceable either in law or in equity, by suit, action, mandamus or other proceeding in any court of competent jurisdiction to enforce or compel the performance of any duties required by sections ~~136.31~~ 136E.80 to ~~136.38~~ 136E.88 and any resolution authorizing the issuance of bonds ~~adopted responsive hereto~~, including the establishment of sufficient charges or fees for use of any ~~such~~ said buildings or structures and the application of the income and revenue ~~thereof from them~~ thereof; and it shall be the duty of ~~said university~~ said the higher education board or its successor upon the issuance of any bonds under the provisions of sections ~~136.31~~ 136E.80 to ~~136.38~~ 136E.88 to establish by resolution from time to time the fees or charges to be made for the use of any ~~such~~ said buildings or structures, which fees or charges shall be adjusted from time to time in order to always provide sufficient income for payment of the principal of and interest on ~~such the~~ said the bonds issued as provided for in sections ~~136.31~~ 136E.80 to ~~136.38~~ 136E.88, and for the necessary expenses of operation and maintenance.

(b) If the ~~existing university~~ higher education board of the state of Minnesota is abolished, all contracts made by ~~said the~~ said the board and all things done or actions taken by ~~said the~~ said the board under sections ~~136.31~~ 136E.80 to ~~136.38~~ 136E.88 shall be deemed to be contracts of, actions taken and things done by its successor and ~~such the~~ said the successor shall be bound by all ~~such~~ said the contracts, actions taken and things done by ~~said the~~ said the board and ~~such successor~~ said the successor shall be subject to all the obligations and duties of ~~said the~~ said the board under sections ~~136.31~~ 136E.80 to ~~136.38~~ 136E.88.

Sec. 9. Minnesota Statutes 1993 Supplement, section 136.41, subdivision 8, is amended to read:

Subd. 8. [ISSUANCE OF BONDS.] The ~~state university~~ higher education board or a successor may issue additional revenue bonds under sections 136.31 to 136.38 in an aggregate principal amount not exceeding \$40,000,000, subject to the resolutions authorizing its outstanding revenue bonds, and payable from the revenue appropriated to the fund established by section 136.35, and use the proceeds together with other public or private money that may otherwise become available to acquire land, and to acquire, construct, complete, remodel, and equip structures to be used for dormitory, residence hall, student union, food service, and related parking purposes at the state universities. Before



issuing the bonds or any part of them, the board shall consult with and obtain the advisory recommendations of the chairs of the house ways and means committee and the senate finance committee about the facilities to be financed by the bonds.

Sec. 10. Minnesota Statutes 1992, section 136.41, is amended by adding a subdivision to read:

Subd. 10. [SUCCESSOR.] For the purposes of this section, the higher education board is the successor to the state university board.

Sec. 11. [REPEALER.]

Minnesota Statutes 1992, sections 136.31, subdivision 6; 136.40; 136.41, subdivisions 1, 2, 3, 4, 5, 6, and 7; and 136.42, are repealed.

Sec. 12. [REVISOR INSTRUCTION.]

(a) In the 1996 edition of Minnesota Statutes, the revisor shall renumber sections 136.31 as 136E.80; 136.31, subdivision 7, as 136E.80, subdivision 6; 136.32 as 136E.81; 136.33 as 136E.82; 136.34 as 136E.83; 136.35 as 136E.84; 136.36 as 136E.85; 136.37 as 136E.86; 136.38 as 136E.87; 136.41, subdivision 8, as 136E.88, subdivision 1; 136.41, subdivision 9, as 136E.88, subdivision 2; 136.41, subdivision 10, as 136E.88, subdivision 3.

(b) The revisor shall add "Federal Tax on Interest" as a headnote to section 136.41, subdivision 9.

Sec. 13. [EFFECTIVE DATE.]

Sections 1 to 12 are effective July 1, 1995.

#### ARTICLE 4

#### ADMINISTRATION AND FINANCE

Section 1. Minnesota Statutes 1992, section 135A.03, subdivision 1, is amended to read:

Subdivision 1. [DETERMINATION OF APPROPRIATION.] The direct appropriation to each board for instructional services shall equal 67 percent of the estimated total cost of instruction for the University of Minnesota, the state ~~university system~~ universities, and the community college ~~system~~ colleges, and, for technical colleges, at least 67 percent of the estimated total cost of instruction.

Sec. 2. Minnesota Statutes 1992, section 136C.06, is amended to read:

136C.06 [SOLE STATE AGENCY.]

The ~~state board of technical colleges~~ higher education board is the sole state agency to receive and disburse federal funds authorized by the Vocational Education Act of 1963, as amended in the education amendments of 1976, Public Law Number 94-482, and Code of Federal Regulations, title 34, part 400. The ~~state board~~ shall develop and submit the state plan for vocational technical education. The ~~state board~~ shall develop the state plan according to terms of agreement with the state board of education.

Sec. 3. Minnesota Statutes 1992, section 136E.01, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The higher education board, referred to in sections 136E.01 to 136E.05 as "the board," consists of ~~13~~ 15 members appointed by the governor with the advice and consent of the senate. At least one member of the board must be a resident of each congressional district. ~~One member~~ Three members must be a ~~student~~ students or have graduated from an institution governed by the board within one year of the date of appointment. The student members shall include: one member from a community college, one member from a state university, and one member from a technical college. The remaining members must be appointed to represent the state at large.

Sec. 4. Minnesota Statutes 1992, section 136E.01, subdivision 2, is amended to read:

Subd. 2. [TERM; COMPENSATION; REMOVAL; VACANCIES.] The compensation, removal of members, and filling of vacancies on the board are as provided in section 15.0575. Members are appointed for a term of six years, except that the term of each of the student ~~member~~ members is two years. Terms end on June 30.

Sec. 5. [136E.65] [CONSTRUCTION, IMPROVEMENT, AND REPAIR OF FACILITIES.]

Subdivision 1. [CONSTRUCTION; IMPROVEMENTS.] The higher education board shall supervise and control the preparation of plans and specifications for the construction, alteration, or enlargement of community college, state university, and technical college buildings, structures, and improvements for which appropriations are made to the board. The board shall advertise for bids and award contracts in connection with the improvements, supervise and inspect the work, approve necessary changes in the plans and specifications, approve estimates for payment, and accept the improvements when completed according to the plans and specifications.

Subd. 2. [PLANS.] Plans and specifications must be accompanied by a detailed statement of the cost, quality, and description of all material and labor required for the completion of the work. No plan may be adopted, and no improvement made or building constructed, that contemplates the expenditure for its completion of more money than the appropriation for it, unless otherwise provided by law.

Subd. 3. [DISPUTE RESOLUTION.] In contracting for projects, the higher education board must not restrict its access to litigation or limit its methods of redress to arbitration or other nonjudicial procedures.

Subd. 4. [REPAIRS.] The higher education board shall supervise and control the making of necessary repairs to all community college, state university, and technical college buildings and structures.

Sec. 6. Laws 1991, chapter 356, article 9, section 8, subdivision 1, is amended to read:

Subdivision 1. [APPOINTMENTS TO BOARD.] Appointments to the higher education board must be made by July 1, 1991. Notwithstanding section 2, the initial higher education board consists of two members each from the state board of technical colleges, state board for community colleges, and the state university board, appointed by their respective boards and six members appointed by the governor. The governor's appointees may also be members of the current governing boards. The members appointed by boards must have been confirmed by the senate to the board from which they are appointed and served for at least one year on the board from which they were appointed. Initial higher education board members appointed by boards are not subject to further senate confirmation. Initial appointees of the governor are not subject to section 3. The governor shall appoint the student member members July 1, 1995. Notwithstanding section 2, subdivision 2, the initial members of the higher education board must be appointed so that an equal number will have terms expiring in three, five, and seven years. To the extent possible, the initial board must have the geographic balance required by section 2.

Sec. 7. [REVISOR INSTRUCTION.]

In the 1996 edition of Minnesota Statutes, the revisor shall renumber section 136C.06 as 136E.60.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 5 are effective July 1, 1995."

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

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2626, A bill for an act relating to retirement; authorizing purchase of prior service credit from the teachers retirement association by a certain member.

Reported the same back with the following amendments:

Page 1, line 7, delete "any law" and insert "Minnesota Statutes, sections 192.262 and 354.53"

Page 1, line 10, after "credit" insert "in the teachers retirement association"

Page 1, delete lines 11 to 21 and insert "the portion of this period recognized as active military service, other than a voluntary extension of active military service. The eligible person must provide any documentation related to this prior service credit purchase as required by the executive director of the teachers retirement association."

Subd. 2. [MANNER AND TERMS OF PURCHASE.] To receive service credit under subdivision 1, a person must pay to the executive director of the teachers retirement association an amount equal to the present value on the date of payment of the amount of additional retirement annuity obtained by the purchase of additional service credit. Calculation of this amount must be made by the executive director using the applicable post-retirement interest rate specified in Minnesota Statutes, section 355.215, subdivision 4d, and the mortality table adopted for the fund. Payment must be made in a lump sum within 180 days of the effective date of this section."

Page 2, line 2, delete "the employee payment" and insert "payment under subdivision 2"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 2657, A bill for an act relating to state parks; allowing handicapped persons to receive a special permit; amending Minnesota Statutes 1992, section 85.053, subdivision 7.

Reported the same back with the following amendments:

Page 1, line 21, after "who" insert "does not own or operate a motor vehicle and"

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

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2670, A bill for an act relating to retirement; adding Hennepin county paramedics and emergency medical technicians to membership in the public employees police and fire fund; amending Minnesota Statutes 1992, section 353.64, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 13, delete "(a)" and insert "(1)"

Page 2, line 15, delete "(b)" and insert "(2)" and after "time" insert "as a paramedic or emergency medical technician" and delete "July" and insert "the effective date specified in section 2"

Page 1, line 16, delete "1, 1994"

Page 1, line 17, delete "(c) is" and insert "(3)" and delete "that" and insert "the effective" and after "date" insert "under section 2"

Page 2, line 10, after "effective" insert "on" and delete "payroll period on or after" and insert "of the month next following:"

(1) receipt of an affirmative written determination from the secretary of the federal Department of Health and Human Services of ineligibility for coverage under the federal old age, survivors and disability insurance; and

(2)"

Page 2, line 11, delete "July 1, 1994, upon"

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. 2673, A bill for an act relating to government; providing that a public body may close one or more meetings for preliminary consideration of charges against an individual subject to its authority; amending Minnesota Statutes 1992, section 471.705, subdivision 1d.

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. 2677, A bill for an act relating to burial grounds; modifying provisions for enforcement of certain civil actions; amending Minnesota Statutes 1993 Supplement, section 307.082.

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

The report was adopted.

Beard from the Committee on Labor-Management Relations to which was referred:

H. F. No. 2700, A bill for an act relating to workers' compensation; modifying provisions relating to independent contractors; proposing coding for new law in Minnesota Statutes, chapter 176.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [79.086] [BUNDLING PROHIBITED.]

No insurer, data service organization, association, or the assigned risk plan may accept more than one application for a workers' compensation insurance minimum premium policy presented in a single package. Any multiple application shall be reported to the special compensation fund.

Sec. 2. Minnesota Statutes 1992, section 176.041, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYMENTS EXCLUDED.] This chapter does not apply to any of the following:

(a) a person employed by a common carrier by railroad engaged in interstate or foreign commerce and who is covered by the Federal Employers' Liability Act, United States Code, title 45, sections 51 to 60, or other comparable federal law;

(b) a person employed by a family farm as defined by section 176.011, subdivision 11a;

(c) the spouse, parent, and child, regardless of age, of a farmer-employer working for the farmer-employer;

(d) a sole proprietor, or the spouse, parent, and child, regardless of age, of a sole proprietor;

(e) a partner engaged in a farm operation or a partner engaged in a business and the spouse, parent, and child, regardless of age, of a partner in the farm operation or business;

(f) an executive officer of a family farm corporation;

(g) an executive officer of a closely held corporation having less than 22,880 hours of payroll in the preceding calendar year, if that executive officer owns at least 25 percent of the stock of the corporation;

(h) a spouse, parent, or child, regardless of age, of an executive officer of a family farm corporation as defined in section 500.24, subdivision 2, and employed by that family farm corporation;

(i) a spouse, parent, or child, regardless of age, of an executive officer of a closely held corporation who is referred to in paragraph (g);

(j) another farmer or a member of the other farmer's family exchanging work with the farmer-employer or family farm corporation operator in the same community;

(k) a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer;

(l) persons who are independent contractors as defined by rules adopted by the commissioner pursuant to section 176.83 except that this exclusion does not apply to an employee of an independent contractor nor to an independent contractor subject to section 176.042;

(m) an officer or a member of a veterans' organization whose employment relationship arises solely by virtue of attending meetings or conventions of the veterans' organization, unless the veterans' organization elects by resolution to provide coverage under this chapter for the officer or member;

(n) a person employed as a household worker in, for, or about a private home or household who earns less than \$1,000 in cash in a three-month period from a single private home or household provided that a household worker who has earned \$1,000 or more from the household worker's present employer in a three-month period within the previous year is covered by this chapter regardless of whether or not the household worker has earned \$1,000 in the present quarter;

(o) persons employed by a closely held corporation who are related by blood or marriage, within the third degree of kindred according to the rules of civil law, to an officer of the corporation, who is referred to in paragraph (g), if the corporation files a written election with the commissioner to exclude such individuals. A written election is not required for a person who is otherwise excluded from this chapter by this section;

(p) a nonprofit association which does not pay more than \$1,000 in salary or wages in a year;

(q) persons covered under the Domestic Volunteer Service Act of 1973, as amended, United States Code, title 42, sections 5011, et. seq.

Sec. 3. Minnesota Statutes 1993 Supplement, section 176.041, subdivision 1a, is amended to read:

Subd. 1a. [ELECTION OF COVERAGE.] The persons, partnerships, limited liability companies, and corporations described in this subdivision may elect to provide the insurance coverage required by this chapter.

(a) An owner or owners of a business or farm may elect coverage for themselves.

(b) A partnership owning a business or farm may elect coverage for any partner.

(c) A family farm corporation as defined in section 500.24, subdivision 2, clause (c), may elect coverage for any executive officer.

(d) A closely held corporation which had less than 22,880 hours of payroll in the previous calendar year may elect coverage for any executive officer if that executive officer is also an owner of at least 25 percent of the stock of the corporation.

(e) A person, partnership, limited liability company, or corporation hiring an independent contractor, as defined by rules adopted by the commissioner, not considered an employee pursuant to section 176.042, subdivision 2, may elect to provide coverage for that independent contractor.

A person, partnership, limited liability company, or corporation may charge the independent contractor a fee for providing the coverage only if the independent contractor (1) elects in writing to be covered, (2) is issued an endorsement setting forth the terms of the coverage, the name of the independent contractors, and the fee and how it is calculated.

The persons, partnerships, and corporations described in this subdivision may also elect coverage for an employee who is a spouse, parent, or child, regardless of age, of an owner, partner, or executive officer, who is eligible for coverage under this subdivision. Coverage may be elected for a spouse, parent, or child whether or not coverage is elected for the related owner, partner, or executive director and whether or not the person, partnership, or corporation employs any other person to perform a service for hire. Any person for whom coverage is elected pursuant to this subdivision shall be included within the meaning of the term employee for the purposes of this chapter.

Notice of election of coverage or of termination of election under this subdivision shall be provided in writing to the insurer. Coverage or termination of coverage is effective the day following receipt of notice by the insurer or at a subsequent date if so indicated in the notice. The insurance policy shall be endorsed to indicate the names of those persons for whom coverage has been elected or terminated under this subdivision. An election of coverage under this subdivision shall continue in effect as long as a policy or renewal policy of the same insurer is in effect.

Nothing in this subdivision shall be construed to limit the responsibilities of owners, partnerships, limited liability companies, or corporations to provide coverage for their employees, if any, as required under this chapter.

Sec. 4. [176.042] [INDEPENDENT CONTRACTORS.]

Subdivision 1. [GENERAL RULE; ARE EMPLOYEES.] Except as provided in subdivision 2, every independent contractor doing commercial or residential building construction or improvements in the public or private sector is, for the purpose of this chapter, an employee of any employer under this chapter for whom the independent contractor is performing service in the course of the trade, business, profession, or occupation of that employer at the time of the injury.

Subd. 2. [EXCEPTION.] An independent contractor is not an employee of an employer for whom the independent contractor performs work or services if the independent contractor meets all of the following conditions:

(1) maintains a separate business with the independent contractor's own office, equipment, materials, and other facilities;

(2) holds or has applied for a federal employer identification number;

(3) operates under contracts to perform specific services or work for specific amounts of money and under which the independent contractor controls the means of performing the services or work;

(4) incurs the main expenses related to the service or work that the independent contractor performs under contract;

(5) is responsible for the satisfactory completion of work or services that the independent contractor contracts to perform and is liable for a failure to complete the work or service;

(6) receives compensation for work or service performed under a contract on a commission or per-job or competitive bid basis and not on any other basis;

(7) may realize a profit or suffer a loss under contracts to perform work or service;

(8) has continuing or recurring business liabilities or obligations; and

(9) the success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures."

Delete the title and insert:

"A bill for an act relating to workers' compensation; modifying provisions relating to insurance and independent contractors; amending Minnesota Statutes 1992, section 176.041, subdivision 1; Minnesota Statutes 1993 Supplement, section 176.041, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapters 79; and 176."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2717, A bill for an act relating to water; providing financial assistance for the clean water partnership program; establishing the drinking water revolving fund administered by the public facilities authority and the department of health; changing the membership of the public facilities authority; increasing the authority's bonding authority; amending Minnesota Statutes 1992, sections 103F.725, by adding a subdivision; 103F.745; 103F.761, subdivision 2; 116.182, subdivisions 2, 3, 4, and 5; 446A.02, subdivision 1, and by adding a subdivision; 446A.03, subdivision 3; 446A.07, subdivisions 4, 6, 8, 9, and 11; 446A.071, subdivision 1; 446A.11, subdivision 1; 446A.12, subdivision 1; and 446A.15, subdivision 6; Minnesota Statutes 1993 Supplement, section 446A.03, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 446A; repealing Minnesota Statutes 1992, section 446A.08.

Reported the same back with the following amendments:

Page 6, line 29, after "sections" insert "17.117,"

Page 7, line 9, after "sections" insert "17.117,"

Page 7, lines 28 to 30, delete the new language

Page 7, line 31, after the period, insert "Eligible activities are those required under the federal Water Pollution Control Act of 1987, as amended."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Environment and Natural Resources Finance.

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2737, A bill for an act relating to retirement; authorizing the purchase of prior service credit in the public employees retirement association by an employee of the city of Minneapolis.

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

The report was adopted.

Kahn from the Committee on Governmental Operations and Gambling to which was referred:

H. F. No. 2839, A bill for an act relating to retirement; South St. Paul police relief association; clarifying probationary employment for purposes of relief association service credit for certain members.

Reported the same back with the following amendments:

Page 1, line 12, after "hired" insert "as a police officer by the city of South St. Paul"

Page 1, line 14, delete "in excess of six months"

Page 1, line 15, after "employee" insert "that exceeded six months"

Page 1, line 16, delete "that" and insert "the probationary employment" and after "period" insert "in excess of six months"

Page 1, line 20, delete the first "that" and insert "the eligible"

Page 1, line 23, after "(a)" insert "that was not paid under paragraph (b)"

Page 2, line 1, after "and" insert "the resulting amortization requirement must be included in"

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

The report was adopted.

Lieder from the Committee on General Legislation, Veterans Affairs and Elections to which was referred:

H. F. No. 3017, A bill for an act relating to dangerous dogs; changing the definition of a dangerous dog; restricting the ability to license a dangerous dog; requiring the production of a dog under certain circumstances; imposing penalties; providing a civil fine for dangerous dog offenses; amending Minnesota Statutes 1992, sections 347.50, subdivisions 2, 3, and 6; 347.51, subdivision 2; and 347.54, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 347.

Reported the same back with the following amendments:

Pages 1 and 2, delete sections 1 to 3

Page 3, lines 10, 11, 13, and 14, delete the new language

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, line 3, delete everything before "restricting"

Page 1, lines 7 and 8, delete "347.50, subdivisions 2, 3, and 6;"

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. 3091, A bill for an act relating to Minnesota Statutes; correcting erroneous, ambiguous, and omitted text and obsolete references; eliminating certain redundant, conflicting, and superseded provisions; making miscellaneous technical corrections to statutes and other laws; amending Minnesota Statutes 1992, sections 17.47, subdivision 3; 41A.05, subdivision 2; 60B.04, subdivision 1; 60B.09, subdivisions 1 and 3; 115.41, subdivisions 1 and 2; 115.42; 115.43, subdivision 2; 115.44, subdivision 2; 115.45, subdivision 1; 115.50; 115.52; 115.53; 120.101, subdivisions 2 and 6; 121.88, subdivision 8; 125.611, subdivision 1; 136.24, subdivision 1; 136.622, subdivision 1; 152.02, subdivisions 9, 12, and 13; 160.265; 169.443, subdivision 8; 214.01, subdivision 3; 214.13, subdivision 1; 237.60, subdivision 2; 256D.06, subdivision 1b; 260.151, subdivision 1; 299C.61, subdivision 4; 309.53, subdivision 2; 326.212; 326.224; 326.461, subdivision 1; 327.32, subdivision 8; 327.33; 327.34, subdivision 1; 331A.06, subdivision 4; 348.13; 352.119, subdivision 1; 386.61, by adding a subdivision; 423B.12; 446A.07, subdivision 6; 449.06; 469.174, subdivision 10; 469.181, subdivision 1; and 471A.11; Minnesota Statutes 1993 Supplement, sections 16B.06, subdivision 2a; 16B.122, subdivision 3; 62A.31, subdivision 1n;



62N.075; 82.195, subdivision 2; 115A.542; 115C.082, subdivision 1; 124.195, subdivision 8; 138.96, subdivision 2; 144.991, subdivisions 3 and 4; 152.11, subdivision 1; 169.121, subdivision 1c; 214.103, subdivision 6; 245A.04, subdivision 3b; 256D.44, subdivision 3; 257.67, subdivision 3; 268.92, subdivision 1; 296.035; 325F.755, subdivision 5; 326.111, subdivision 4; 326.975, subdivision 2; 349.217, subdivision 1; 386.66; 491A.01, subdivision 3; 549.09, subdivision 1; 609.5312, subdivision 3; 609.605, subdivision 1; and 609.749, subdivision 5; repealing Minnesota Statutes 1992, sections 216B.164, subdivision 7; 385.08; and 473.872; Laws 1977, chapter 11, section 8; Laws 1982, chapter 514, sections 18 and 19; Laws 1983, chapter 247, section 130; Laws 1984, chapter 628, article 2, section 4; Laws 1985, First Special Session chapters 9, article 2, sections 81 and 82; 13, section 191; and 14, article 9, section 16; Laws 1987, chapters 197, section 1; 315, section 4, subdivision 2; and 336, section 35; Laws 1988, chapters 441, section 2; 486, sections 15 and 68; 496, section 8; 514, section 5; and 636, section 3; Laws 1989, chapters 89, sections 1 (in part) and 13; 133, section 1; 144, article 2, section 8; 209, article 2, sections 8 and 34; 222, sections 10, 21, 22, and 36; 271, section 32; 282, article 2, sections 144 and 186; 293, section 74; 319, article 13, sections 22 and 55; 329, article 5, section 10; 334, article 2, section 17; 335, article 1, sections 200 and 255; 353, section 10; and 356, section 18; Laws 1990, chapters 426, article 1, sections 5 and 32; 480, articles 5, sections 6 and 9; and 9, section 3; 512, section 12; 562, article 10, section 1; 571, section 39; 574, section 5; and 594, article 3, sections 6 and 7; Laws 1991, chapters 58, sections 1, 2, 3, 4, 5, 6, 7, and 8; 130, section 24; 174, section 8; 199, article 1, section 71; 238, article 1, section 7; 265, article 4, section 19; 292, article 4, section 45; 336, article 2, section 2; 340, sections 1 and 32; and 345, article 2, section 46; Laws 1992, chapters 432, article 2, section 41; 437, section 1; and 499, article 6, section 15; Laws 1993, chapters 4, section 9; 47, sections 1, 4, 6, and 9; 78, section 3; 101, section 1; 224, article 13, sections 3 and 43; 247, articles 1, section 11; and 2, section 9; 269, section 17; 286, sections 2 and 21; 303, sections 15, 17, and 18; 339, section 12; and 369, sections 38 and 128; Laws 1993, First Special Session chapter 1, article 2, section 6.

Reported the same back with the following amendments:

Page 49, after line 10, insert:

"Sec. 63. Laws 1991, chapter 306, section 26, is repealed.

Sec. 64. Laws 1992, chapter 513, article 4, section 60, is amended to read:

Sec. 60. [REPEALER.]

Minnesota Statutes 1990, section 41A.051, is repealed. Minnesota Statutes 1990, section 270.185, is repealed effective January 1, 1993. On that date, any balance in the reassessment account of the special revenue fund is transferred to the general fund. ~~The repeal of Minnesota Statutes 1991 Supplement, section 326.991, provided for in Laws 1991, chapter 306, section 26, is postponed until July 31, 1994.~~

Page 7, after line 2, the memorandum of explanation (5222MEM), insert:

"Secs. 63 and 64. Explanation. Minnesota Statutes, section 326.991, was repealed effective March 31, 1993, by Laws 1991, chapter 306, section 26. Laws 1992, chapter 513, article 4, section 60 postponed the repeal until July 31, 1994. Laws 1993, chapter 245, section 38, amended section 326.991 and added language providing that subdivision 1 of that section expires March 31, 2000, and subdivision 2 is permanent. The repeal and amendment are necessary to accomplish the department's intent to keep section 326.991, subdivision 2 in effect."

Amend the title as follows:

Page 1, line 37, delete "and"

Page 1, line 38, after the semicolon, insert "and Laws 1992, chapter 513, article 4, section 60;"

Page 2, line 19, after the first semicolon, insert "306, section 26;"

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

The report was adopted.

Beard from the Committee on Labor-Management Relations to which was referred:

H. F. No. 3108, A bill for an act relating to insurance; workers' compensation self-insurance; creating a mutual self-insurers' security fund; providing for its oversight and operation; amending Minnesota Statutes 1992, section 79A.02, subdivisions 1 and 4; proposing coding for new law in Minnesota Statutes, chapter 79A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

## "ARTICLE 1

### MUTUAL SELF-INSURANCE

Section 1. Minnesota Statutes 1992, section 79A.01, subdivision 4, is amended to read:

Subd. 4. [INSOLVENT SELF-INSURER.] "Insolvent self-insurer" means either: (1) a member private self-insurer who has failed to pay compensation as a result of a declaration of bankruptcy or insolvency by a court of competent jurisdiction and whose security deposit has been called by the commissioner pursuant to chapter 176; or (2) a member self-insurer who has failed to pay compensation and who has been issued a certificate of default by the commissioner and whose security deposit has been called by the commissioner pursuant to chapter 176; or (3) a member or former member private self-insurer who has failed to pay an assessment required by section 79A.12, subdivision 2, and who has been issued a certificate of default by the commissioner and whose security deposit has been called by the commissioner.

Sec. 2. Minnesota Statutes 1992, section 79A.02, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] For the purposes of assisting the commissioner, there is established a workers' compensation self-insurers' advisory committee of five seven members that are employers authorized to self-insure in Minnesota. Three of the members shall be elected by the members of the self-insurers' security fund and, two shall be members of the mutual self-insurers' security fund, and two shall be appointed by the commissioner.

Sec. 3. Minnesota Statutes 1992, section 79A.02, subdivision 2, is amended to read:

Subd. 2. [ADVICE TO COMMISSIONER.] At the request of the commissioner, the committee shall meet and shall advise the commissioner with respect to whether or not an applicant to become a private self-insurer in the state of Minnesota has met the statutory requirements to self-insure. The department of commerce may furnish the committee with any financial data which it has, but a member of the advisory committee who may have a conflict of interest in reviewing the financial data shall not have access to the data nor participate in the discussions concerning the applicant. All members of the advisory committee shall treat financial data received from the commissioner as nonpublic data. The committee shall advise the commissioner if it has any information that any private self-insurer may become insolvent. Disclosure of this data other than for the purposes of this subdivision is a misdemeanor.

Sec. 4. Minnesota Statutes 1992, section 79A.02, subdivision 4, is amended to read:

Subd. 4. [RECOMMENDATIONS TO COMMISSIONER REGARDING REVOCATION.] After each fifth anniversary from the date each individual ~~and~~ group self-insurer, and mutual self-insurance pool becomes certified to self-insure, the committee shall review all relevant financial data filed with the department of commerce that is otherwise available to the public and make a recommendation to the commissioner about whether each self-insurer's certificate should be revoked.

Sec. 5. Minnesota Statutes 1993 Supplement, section 79A.04, subdivision 2, is amended to read:

Subd. 2. [MINIMUM DEPOSIT.] The minimum deposit is 110 percent of the private self-insurer's estimated future liability. Up to ten percent of that deposit may be used to secure payment of all administrative and legal costs, and unpaid assessments required by section 79A.12, subdivision 2, relating to or arising from the employer's self-insuring.

As used in this section, "private self-insurer" includes both current and former members of the self-insurers' security fund; and "private self-insurers' estimated future liability" means the private self-insurers' total of estimated future liability as determined by an Associate or Fellow of the Casualty Actuarial Society every year for group member private self-insurers and, for a nongroup member private self-insurer's authority to self-insure, every year for the first five years. After the first five years, the nongroup member's total shall be as determined by an Associate or Fellow of the Casualty Actuarial Society every two years, and each such actuarial study shall include a projection of future losses during the two-year period until the next scheduled actuarial study, less payments anticipated to be made during that time.

All data and information furnished by a private self-insurer to an Associate or Fellow of the Casualty Actuarial Society for purposes of determining private self-insurers' estimated future liability must be certified by an officer of the private self-insurer to be true and correct with respect to payroll and paid losses, and must be certified, upon information and belief, to be true and correct with respect to reserves. The certification must be made by sworn affidavit. In addition to any other remedies provided by law, the certification of false data or information pursuant to this subdivision may result in a fine imposed by the commissioner of commerce on the private self-insurer up to the amount of \$5,000, and termination of the private self-insurers' authority to self-insure. The determination of private self-insurers' estimated future liability by an Associate or Fellow of the Casualty Actuarial Society shall be conducted in accordance with standards and principles for establishing loss and loss adjustment expense reserves by the Actuarial Standards Board, an affiliate of the American Academy of Actuaries. The commissioner may reject an actuarial report that does not meet the standards and principles of the Actuarial Standards Board, and may further disqualify the actuary who prepared the report from submitting any future actuarial reports pursuant to this chapter. Within 30 days after the actuary has been served by the commissioner with a notice of disqualification, an actuary who is aggrieved by the disqualification may request a hearing to be conducted in accordance with chapter 14. Based on a review of the actuarial report, the commissioner of commerce may require an increase in the minimum security deposit in an amount the commissioner considers sufficient.

Estimated future liability is determined by first taking the total amount of the self-insured's future liability of workers' compensation claims and then deducting the total amount which is estimated to be returned to the self-insurer from any specific excess insurance coverage, aggregate excess insurance coverage, and any supplementary benefits or second injury benefits which are estimated to be reimbursed by the special compensation fund. Supplementary benefits or second injury benefits will not be reimbursed by the special compensation fund unless the special compensation fund assessment pursuant to section 176.129 is paid and the reports required thereunder are filed with the special compensation fund. In the case of surety bonds, bonds shall secure administrative and legal costs in addition to the liability for payment of compensation reflected on the face of the bond. In no event shall the security be less than the last retention limit selected by the self-insurer with the workers' compensation reinsurance association. The posting or depositing of security pursuant to this section shall release all previously posted or deposited security from any obligations under the posting or depositing and any surety bond so released shall be returned to the surety. Any other security shall be returned to the depositor or the person posting the bond.

As a condition for the granting of a certificate to self-insure, the commissioner may require a private self-insurer to furnish any additional security the commissioner considers sufficient to insure payment of all claims under chapter 176.

Sec. 6. Minnesota Statutes 1992, section 79A.04, subdivision 9, is amended to read:

Subd. 9. [INSOLVENCY, BANKRUPTCY, OR DEFAULT; UTILIZATION OF SECURITY DEPOSIT.] The commissioner of labor and industry shall notify the commissioner and the security fund if the commissioner of labor and industry has knowledge that any private self-insurer has failed to pay workers' compensation benefits as required by chapter 176. If the commissioner determines that a court of competent jurisdiction has declared the private self-insurer to be bankrupt or insolvent, and the private self-insurer has failed to pay workers' compensation as required by chapter 176 or, if the commissioner issues a certificate of default against a private self-insurer for failure to pay workers' compensation as required by chapter 176, or failure to pay an assessment to the self-insurers' security fund when due, then the security deposit shall be utilized to administer and pay the private self-insurers' workers' compensation or assessment obligations.

Sec. 7. Minnesota Statutes 1992, section 79A.15, is amended to read:

#### 79A.15 [SURETY BOND FORM.]

The form for the surety bond under this chapter shall be:

STATE OF MINNESOTA  
DEPARTMENT OF COMMERCE  
SURETY BOND OF SELF-INSURER OF WORKERS' COMPENSATION

IN THE MATTER OF THE CERTIFICATE OF

)  
)  
) SURETY BOND  
) NO. ....  
) PREMIUM: .....

Employer, Certificate No: ..... )

KNOW ALL PERSONS BY THESE PRESENTS:

That .....  
(Employer)

whose address is .....

as Principal, and .....  
(Surety)

a corporation organized under the laws of ..... and authorized to transact a general surety business in the State of Minnesota, as Surety, are held and firmly bound to the State of Minnesota in the penal sum of ..... dollars (\$.....) for which payment we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS in accordance with Minnesota Statutes, chapter 176, the principal elected to self-insure, and made application for, or received from the commissioner of commerce of the state of Minnesota, a certificate to self-insure, upon furnishing of proof satisfactory to the commissioner of commerce of ability to self-insure and to compensate any or all employees of said principal for injury or disability, and their dependents for death incurred or sustained by said employees pursuant to the terms, provisions, and limitations of said statute;

NOW THEREFORE, the conditions of this bond or obligation are such that if principal shall pay and furnish compensation, pursuant to the terms, provisions, and limitations of said statute to its employees for injury or disability, and to the dependents of its employees, then this bond or obligation shall be null and void; otherwise to remain in full force and effect.

FURTHERMORE, it is understood and agreed that:

1. This bond may be amended, by agreement between the parties hereto and the commissioner of commerce as to the identity of the principal herein named; and, by agreement of the parties hereto, as to the premium or rate of premium. Such amendment must be by endorsement upon, or rider to, this bond, executed by the surety and delivered to or filed with the commissioner.

2. The surety does, by these presents, undertake and agree that the obligation of this bond shall cover and extend to all past, present, existing, and potential liability of said principal, as a self-insurer, to the extent of the penal sum herein named without regard to specific injuries, date or dates of injuries, happenings or events.

3. The penal sum of this bond may be increased or decreased, by agreement between the parties hereto and the commissioner of commerce, without impairing the obligation incurred under this bond for the overall coverage of the said principal, for all past, present, existing, and potential liability, as a self-insurer, without regard to specific injuries, date or dates of injuries, happenings or events, to the extent, in the aggregate, of the penal sum as increased or decreased. Such amendment must be by endorsement.

4. The aggregate liability of the surety hereunder on all claims whatsoever shall not exceed the penal sum of this bond in any event.

5. This bond shall be continuous in form and shall remain in full force and effect unless terminated as follows:

(a) The obligation of this bond shall terminate upon written notice of cancellation from the surety, given by registered or certified mail to the commissioner of commerce, state of Minnesota, save and except as to all past, present, existing, and potential liability of the principal incurred, including obligations resulting from claims which are incurred but not yet reported, as a self-insurer prior to effective date of termination. This termination is effective 60 days after receipt of notice of cancellation by the commissioner of commerce, state of Minnesota.

(b) This bond shall also terminate upon the revocation of the certificate to self-insure, save and except as to all past, present, existing, and potential liability of the principal incurred, including obligations resulting from claims which are incurred but not yet reported, as a self-insurer prior to effective date of termination. The principal and the surety, herein named, shall be immediately notified in writing by said commissioner, in the event of such revocation.

6. Where the principal posts with the commissioner of commerce, state of Minnesota, or the state treasurer, state of Minnesota, a replacement security deposit, in the form of a surety bond, irrevocable letter of credit, cash, securities, or any combination thereof, in the full amount as may be required by the commissioner of commerce, state of Minnesota, to secure all incurred liabilities for the payment of compensation of said principal under Minnesota Statutes, chapter 176, the surety is released from obligations under the surety bond upon the date of acceptance by the commissioner of commerce, state of Minnesota, of said replacement security deposit.

7. If the said principal shall suspend payment of workers' compensation benefits or shall become insolvent or a receiver shall be appointed for its business, or the commissioner of commerce, state of Minnesota, issues a certificate of default, the undersigned surety will become liable for the workers' compensation obligations of the principal on the date benefits are suspended. The surety shall begin payments within 14 days under paragraph 8, or 30 days under paragraph 10, after receipt of written notification by certified mail from the commissioner of commerce, state of Minnesota, to begin payments under the terms of this bond.

8. If the surety exercises its option to administer claims, it shall pay benefits due to the principal's injured workers within 14 days of the receipt of the notification by the commissioner of commerce, state of Minnesota, pursuant to paragraph 7, without a formal award of a compensation judge, the commissioner of labor and industry, any intermediate appellate court, or the Minnesota supreme court and such payment will be a charge against the penal sum of the bond. Administrative and legal costs and payment of assessments incurred by the surety in discharging its obligations and payment of the principal's obligations for administration and legal expenses and payment of assessments under Minnesota Statutes, chapter 176, and sections 79A.01 to 79A.17 and Laws 1988, chapter 674, section 23, shall also be a charge against the penal sum of the bond; however, the total amount of this surety bond set aside for the payment of said administrative and legal expenses and payment of assessments shall be limited to a maximum ten percent of the total penal sum of the bond unless otherwise authorized by the security fund.

9. If any part or provision of this bond shall be declared unenforceable or held to be invalid by a court of proper jurisdiction, such determination shall not affect the validity or enforceability of the other provisions or parts of this bond.

10. If the surety does not give notice to the security fund and the commissioner of commerce, state of Minnesota, within two business days of receipt of written notification from the commissioner of commerce, state of Minnesota, pursuant to paragraph 7, to exercise its option to administer claims pursuant to paragraph 8, then the self-insurer's security fund will assume the payments of the workers' compensation obligations of the principal pursuant to Minnesota Statutes, chapter 176. The surety shall pay, within 30 days of the receipt of the notification by the commissioner of commerce, state of Minnesota, pursuant to paragraph 7, to the self-insurer's security fund as an initial deposit an amount equal to ten percent of the penal sum of the bond, and shall thereafter, upon notification from the security fund that the balance of the initial deposit had fallen to one percent of the penal sum of the bond, remit to the security fund an amount equal to the payments made by the security fund in the three calendar months immediately preceding said notification. All such payments will be a charge against the penal sum of the bond.

11. Disputes concerning the posting, renewal, termination, exoneration, or return of all or any portion of the principal's security deposit or any liability arising out of the posting or failure to post security, or the adequacy of the security or the reasonableness of administrative costs, including legal costs, arising between or among a surety, the issuer of an agreement of assumption and guarantee of workers' compensation liabilities, the issuer of a letter of credit, any custodian of the security deposit, the principal, or the self-insurers' security fund shall be resolved by the commissioner of commerce pursuant to Minnesota Statutes, chapter 176 and sections 79A.01 to 79A.17 and Laws 1988, chapter 674, section 23.

12. Written notification to the surety required by this bond shall be sent to:

.....  
Name of Surety

.....  
To the attention of Person or Position

.....  
Address

.....  
City, State, Zip

Written notification to the principal required by this bond shall be sent to:

.....  
Name of Principal

.....  
To the attention of Person or Position

.....  
Address

.....  
City, State, Zip

13. This bond is executed by the surety to comply with Minnesota Statutes, chapter 176, and said bond shall be subject to all terms and provisions thereof.

.....  
Name of Surety

.....  
Address

.....  
City, State, Zip

THIS bond is executed under an unrevoked appointment or power of attorney.

I certify (or declare) under penalty of perjury under the laws of the state of Minnesota that the foregoing is true and correct.

.....  
Date

.....  
Signature of Attorney-In-Fact

.....  
Printed or Typed Name of Attorney-In-Fact

A copy of the transcript or record of the unrevoked appointment, power of attorney, bylaws, or other instrument, duly certified by the proper authority and attested by the seal of the insurer entitling or authorizing the person who executed the bond to do so for and in behalf of the insurer, must be filed in the office of the commissioner of commerce or must be included with this bond for such filing.

## Sec. 8. [79A.165] [MUTUAL SELF-INSURERS' SECURITY FUND.]

Subdivision 1. [CREATION.] The mutual self-insurers' security fund is established as a nonprofit corporation under chapter 317. If any provision of this chapter conflicts with chapter 317, this chapter applies. Each group insurer and each mutual self-insurance pool that is established after July 1, 1994, shall participate as a member of this security fund. This participation is a condition of maintaining its certificate to self-insure.

Mutual self-insurance pools shall not be required to participate in the self-insurers' security fund.

Subd. 2. [BOARD OF TRUSTEES.] The security fund shall be governed by a nine-member board of trustees. Five of the trustees shall be representatives of private self-insurers who shall be elected by the members of the security fund, other than group self-insurers, each member having one vote. One of the trustees shall be a representative of the private group self-insurers who shall be elected by the members of the security fund who are group self-insurers, each group having one vote. Three of the trustees, including the group self-insurer trustee, initially elected by the members shall serve two-year terms, and three shall serve four-year terms. Thereafter, trustees shall be elected to four-year terms, and shall serve until their successors are elected and assume office pursuant to the bylaws of the security fund. Three additional trustees shall be appointed by the commissioner. Two of these trustees shall serve four-year terms. One of these trustees shall serve a two-year term. Thereafter, the trustees shall be appointed to four-year terms, and shall serve until their successors are appointed and assume office pursuant to the bylaws of the security fund. In addition to the nine trustees elected by the members or appointed by the commissioner, the commissioner of labor and industry or the commissioner's designee shall be an ex officio, nonvoting member of the board of trustees. A member of the board of trustees may designate another person to act in the member's place as though the member were acting and the designee's actions shall be deemed those of the member.

Subd. 3. [BYLAWS.] The security fund shall establish bylaws and a plan of operation, subject to the prior approval of the commissioner, necessary to the purposes of this chapter and to carry out the responsibilities of the security fund. The security fund may carry out its responsibilities directly or by contract, and may purchase services and insurance and borrow funds as it deems necessary for the protection of the members and their employees.

Subd. 4. [CONFIDENTIAL INFORMATION.] The security fund may receive private data concerning the financial condition of private self-insurers whose liabilities to pay compensation have become its responsibility and shall adopt bylaws to prevent dissemination of that information.

Subd. 5. [EMPLOYEES.] Security fund employees are not state employees and are not subject to any state civil service regulations.

Subd. 6. [MUTUAL SELF-INSURANCE POOL REQUIREMENTS.] A mutual self-insurance pool is subject to all the requirements of a group self-insurer, except that a mutual self-insurance pool may:

- (1) consist of two or more employers in the same industry, or located in the same geographical area or having any other reasonable basis for affiliating to self-insure;
- (2) demonstrate the initial financial condition of its members by means of compilation level financial standards;
- (3) select a retention level with the workers' compensation reinsurance association of no more than \$100,000; or
- (4) use personal guarantees of individual owners or shareholders of members, clean letters of credit, reinsurance, or similar means to allow pools and pool members to satisfy financial requirements.

A mutual self-insurance pool must provide in its bylaws or plan of operation for the active involvement and oversight by the board of directors or committees composed of members appointed by the board of directors, in the operation, risk management, member selection, and financial condition of the pool.

The commissioner shall also provide that in at least the first three years of the pool's operation, the oversight and review of the department of commerce must be increased.

Subd. 7. [APPLICATION OF LAW.] The provisions of this chapter and the rules adopted under it that apply to the security fund created in section 79A.09 apply to the mutual self-insurers' security fund and shall be construed in a manner consistent with this subdivision.

Sec. 9. [COMMISSIONER OF COMMERCE; REVIEW OF GROUP INSURANCE POOLS.]

The commissioner shall review all other requirements for group insurance and determine which provide barriers to formation of pools. The commissioner shall consider which of these requirements may be waived or reduced and replaced by simple alternative tests that protect members, including but not limited to, increased audits and review by the department of commerce. The commissioner shall propose legislative amendments and rule amendments as are necessary to effect these changes. The commissioner shall have the authority until July 1, 1995, to waive any financial or other requirement for the formation of mutual self-insurance pools which the commission considers to be a hindrance to their formation and for which adequate alternative safeguards are available. The commission may impose other alternative requirements the commissioner considers appropriate.

Sec. 10. [INFORMATIONAL MEETINGS.]

The commissioners of commerce and trade and economic development shall between June 1, 1994 and October 1, 1994, hold at least eight informational meetings throughout the state of Minnesota to inform employers of the availability of mutual self-insurance pools and to assist them in forming pools. Both agencies shall continue to provide this assistance after these initial meetings in the normal course of their operations.

The Minnesota workers' compensation insurance association, department of labor and industry, and workers' compensation reinsurance association assigned risk plan shall assist the departments by providing them with the names and addresses of all employers known to them. The commissioners shall mail notice of the meetings to all employers so identified.

Sec. 11. [MUTUAL SELF-INSURERS' SECURITY FUND MEMBERSHIP; WITHDRAWAL FROM SELF-INSURERS' SECURITY FUND.]

Any group self-insurer that is a member of the self-insurers' security fund on January 1, 1995, may elect to withdraw from that fund and become a member of the mutual self-insurers' security fund. This does not relieve them of any obligation to that fund that they would be responsible for during the period of their membership in the self-insurers' security fund. In applying the assessment limitation of section 79A.12, pools withdrawing from the self-insurers' security fund shall combine the assessments from both funds. If the combined assessments exceed the limitation of section 79A.12, the group self-insurers shall pay each fund their pro rata portion of the combined assessment.

All group self-insurers established after January 1, 1995, shall be members of the mutual self-insurers' security fund. Notwithstanding Minnesota Statutes, section 79.34, subdivision 2, the workers' compensation reinsurance association shall establish a retention limit for mutual self-insurance pools of no greater than \$100,000. This does not preclude the use of higher retention limits if the members of a self-insurance pool agree to those higher limits.

Sec. 12. [EFFECTIVE DATE.]

Sections 2, 4, and 8 to 11 are effective the day following final enactment.

## ARTICLE 2

### INSURANCE RATE REGULATION

Section 1. Minnesota Statutes 1992, section 79.01, subdivision 1, is amended to read:

Subdivision 1. [TERMS.] Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of ~~sections 79.01 to 79.211~~ this chapter, shall have the meanings ascribed to given them.

Sec. 2. Minnesota Statutes 1992, section 79.074, is amended by adding a subdivision to read:

Subd. 3. [UNFAIRLY DISCRIMINATORY.] A rate, rating plan, or schedule of rates is unfairly discriminatory in relation to another if it clearly fails to reflect equitably the differences in expected losses, expenses, and the degree of risk. Rates, rating plans, or schedules of rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates, rating plan, or schedule of rates reflect the differences with reasonable accuracy.



Sec. 3. Minnesota Statutes 1992, section 79.074, is amended by adding a subdivision to read:

Subd. 4. [EXCESSIVENESS.] Rates, rating plans, or schedules of rates are excessive if the expected underwriting profit, together with expected income from invested reserves for the market in question, that would accrue to an insurer would be unreasonable in relation to the risk undertaken by the insurer in transacting the business.

Sec. 4. Minnesota Statutes 1992, section 79.074, is amended by adding a subdivision to read:

Subd. 5. [INADEQUACY.] Rates, rating plans, or schedules of rates are inadequate if, together with the investment income associated with an insurer's Minnesota workers' compensation insurance business, they are insufficient to sustain projected losses and expenses of the insurer and if their continued use could lead to an insolvent situation for the insurer.

Sec. 5. Minnesota Statutes 1992, section 79.074, is amended by adding a subdivision to read:

Subd. 6. [FLEXIBLE RANGE OF RATES.] An insurer may write insurance at rates that are lower than the rates approved by the commissioner if the rates are not unfairly discriminatory.

Sec. 6. [79.254] [PRIOR RATES.]

Subdivision 1. [PRESUMPTION.] Rates, schedules of rates, and rating plans that have been filed with the commissioner before January 1, 1994, are conclusively presumed to satisfy the requirements of this article until the initial schedule of rates has been approved by order of the commissioner.

Subd. 2. [FILING.] If a rate was not filed by an insurer before the effective date of this section, an insurer may file a rate for any classification for which a rate was not previously filed. The rate shall not be used until it is approved by the commissioner. The commissioner may approve a rate up to the rate level approved for use by the assigned risk plan for that rate class. The rates may remain in force until the commissioner has approved a schedule of rates under section 9. If the commissioner disapproves of any rate or rating plan pursuant to authority granted in this subdivision, the disapproval shall not be subject to chapter 14 and the decision shall be final.

Subd. 3. [APPROVAL.] Until the commissioner issues an order approving a schedule of rates under section 9, an insurer may not, through the use of any rating plan, charge a rate higher than the rates applicable to the insurer under subdivision 1 or 2. This subdivision does not prohibit the use of approved experience rate plans or retrospective rating plans that have been adopted in the filed rates by insurers, the assigned risk plan, or a data service organization. This section does not prohibit the adjustment of a schedule of rates to reflect adjustments in the assessment rate for the special compensation fund, any adjustment in the assessment for the assigned risk plan pursuant to section 79.251, subdivision 5, any adjustment in the assessment for the Minnesota insurance guarantee association pursuant to section 60C.05, or any other assessment required by law.

Subd. 4. [INTERIM RATES.] Rates, schedules of rates, and rating plans filed after December 31, 1993, may not be used after the effective date of this article and the rates, schedules of rates, and rating plans in effect prior to January 1, 1994, are reinstated.

Subd. 5. [EFFECTIVE DATE.] This section shall apply only to policies issued or renewed to be effective after the effective date of this section.

Sec. 7. Minnesota Statutes 1992, section 79.50, is amended to read:

79.50 [PURPOSES.]

The purposes of chapter 79 are to:

- (a) Promote public welfare by regulating insurance rates so that premiums are not excessive, inadequate, or unfairly discriminatory;
- (b) Promote quality and integrity in the data bases used in workers' compensation insurance ratemaking;
- (c) Prohibit price fixing agreements and anticompetitive behavior by insurers; and

- ~~(d) Promote price competition and provide rates that are responsive to competitive market conditions;~~
- ~~(e) Provide a means of establishment of proper rates if competition is not effective;~~
- ~~(f) Define the function and scope of activities of data service organizations;~~
- ~~(g) Provide for an orderly transition from regulated rates to competitive market conditions; and~~
- (h) Encourage insurers to provide alternative innovative methods whereby employers can meet the requirements imposed by section 176.181.

Sec. 8. Minnesota Statutes 1992, section 79.59, is amended to read:

**79.59 [INSURERS AND, DATA SERVICE ORGANIZATIONS, AND RATING ASSOCIATIONS; PROHIBITED ACTIVITIES.]**

Subdivision 1. [MONOPOLIZATION.] No insurer or data service organization or rating association shall attempt to monopolize or combine or conspire with any other person to monopolize the business of insurance.

Subd. 2. [AGREEMENT PROHIBITED.] No insurer shall agree with any other insurer, rating association, or with a data service organization to adhere to or to use any rate, rating plan, rating schedule, rating rule, or underwriting rule except as specifically authorized by this chapter or for the purpose of creating experience modifications for employers with employees in more than one state.

Subd. 3. [TRADE RESTRAINT.] No insurer, rating association, or data service organization shall make an agreement with any other insurer, data service organization, or other person which has the purpose or the effect of restraining trade or of substantially lessening competition.

Subd. 4. [EXCEPTIONS.] ~~The fact that insurers writing not more than 25 percent of the workers' compensation premiums in Minnesota use the same rates, rating plans, rating schedules, rating rules, underwriting rules, or similar materials shall not alone constitute a violation of subdivision 1 or 2.~~

Two or more insurers under common ownership or operating under common management or control may act in concert between or among themselves with respect to matters authorized under this chapter as if they constituted a single insurer, provided that the rating plan of such insurers shall be considered to be a single plan for the purposes of determining unfair discrimination.

Subd. 5. [ADDITIONAL PROHIBITION.] In addition to other prohibitions contained in this chapter, no data service organization or rating association shall:

- (a) Refuse to supply any service for which it is licensed or any data, except for data identifiable to an individual insurer, to any insurer authorized to do business in this state which offers to pay the usual compensation for the service or data;
- (b) Require the purchase of any specific service as a condition to obtaining any other services sought;
- (c) Participate in the development or distribution of rates, rating plans, or rating rules except as specifically authorized by this chapter or by rules adopted pursuant to this chapter; or
- (d) Refuse membership to any licensed insurer.

**Sec. 9. [79.71] [RATES; HEARINGS.]**

Subdivision 1. [PETITION FOR ADOPTION OF RATE SCHEDULE.] (a) The commissioner shall adopt a schedule of workers' compensation insurance rates for use in this state for each classification under which business is written. The schedule of rates shall not be excessive, inadequate, or unfairly discriminatory.

(b) In adopting a schedule of rates, the commissioner may act on the written petition of the association, the department of labor and industry, or any other interested party who requests that a hearing be held to adopt a schedule of rates. Upon receipt of a petition requesting a hearing for adoption of a schedule of rates, the commissioner

shall determine whether the petition sufficiently sets forth facts that show that the existing schedule of rates is excessive, inadequate, unfairly discriminatory, or otherwise in need of modification so as to indicate the need to hold a hearing. If the association is a petitioner, the commissioner may decline to grant a hearing if the association has failed to provide information requested by previous orders that modify the schedule of rates, if the request was reasonable. The commissioner may accept or reject the petition for a hearing and shall give notice of a determination to the petitioning party. If the commissioner rejects the petition, the commissioner shall notify the petitioning party of the reasons for the rejection.

Subd. 2. [HEARING.] (a) The commissioner shall determine, within 90 days of receipt of the petition whether to accept or reject the petition. If the commissioner accepts the petition for hearing, the commissioner shall order a hearing on matters set forth in the petition. The hearing shall be held pursuant to the contested case procedures in chapter 14. The burden of proof is on the petitioning party.

(b) The commissioner shall forward a copy of the order for hearing to the chief administrative law judge. The chief administrative law judge must, within 30 days of the receipt of the order, set a hearing date, assign an administrative law judge to hear the matter, and notify the commissioner of the hearing date and the administrative law judge assigned to hear the matter. The commissioner shall publish notice of the hearing in the State Register at least 20 days before the hearing date. Approval of the notice before publication by the administrative law judge is not required.

(c) The administrative law judge may admit without the traditional evidentiary foundation documentary and statistical evidence accepted and relied on by an expert whose expertise is related to workers' compensation rate matters. An employer, person representing a group of employers, or other person that will be directly affected by a change in an insurer's existing rate level or rating plan, and the commissioner of labor and industry, must be allowed to intervene and participate in any hearing to challenge the rate level or rating plan as being excessive, inadequate, or unfairly discriminatory.

(d) The report of the administrative law judge must be issued within 180 days from the date of receipt of the order by the chief administrative law judge. Within 60 days of the completion of the hearing, the administrative law judge must submit a report to the commissioner. The parties, or the administrative law judge if the parties cannot agree, shall adjust all time requirements under the contested case procedures to conform with the time requirements set forth in this subdivision. After the close of the hearing record, the administrative law judge shall transmit to the commissioner the entire record of the hearing, including the transcript, exhibits, and all other material properly accepted into evidence, together with the finding of facts, conclusions, and recommended order made by the administrative law judge. The time for submitting the report may be extended by the chief administrative law judge for good cause.

Subd. 3. [HEARING DETERMINATION.] The commissioner may accept, reject, or modify, in whole or in part, matters raised in the petition for adoption of the schedule of rates or matters raised in the findings and recommendations of the administrative law judge. The commissioner's determination shall be based upon substantial evidence. The commissioner of commerce is an interested party if the commissioner's decision is appealed.

Subd. 4. [DEADLINE FOR DETERMINATION.] The commissioner shall make a final determination with respect to adoption of a schedule of rates within 90 days after receipt of the administrative law judge's report. If the commissioner fails to act within the 90-day period, the findings, conclusions, and recommended order of the administrative law judge become the final order of the commissioner on the 91st day after receipt.

Subd. 5. [CONSULTANTS; COMMISSIONER OF COMMERCE.] The commissioner of commerce may hire consultants, including a consulting actuary and other experts, deemed necessary to assist in the establishment or modification of the schedule of rates.

Subd. 6. [CONSULTANTS; ADMINISTRATIVE JUDGES.] The office of administrative hearings, upon approval of the chief administrative law judge, may hire consultants necessary to assist the administrative law judge assigned to a workers' compensation rate proceeding.

Subd. 7. [APPOINTMENT OF ACTUARY.] The commissioner of commerce shall employ the services of a casualty actuary experienced in workers' compensation whose duties shall include but not be limited to investigation of complaints by insured parties about rates, rate classifications, or the discriminatory practices of an insurer. The salary of the actuary employed pursuant to this section is not subject to the provisions of section 43A.17, subdivision 1.

Sec. 10. [79.72] [PETITION FOR REHEARING.]

Subdivision 1. [PETITION CONTENTS.] Any party may petition the commissioner for rehearing and reconsideration of a determination made under section 9. The petition for rehearing and reconsideration shall be served on the commissioner and all parties to the rate hearing within 30 days after service of the commissioner's final order. The petition shall set forth factual grounds in support of the petition. Any party adversely affected by a petition for review and reconsideration has 15 days to respond to factual matters alleged in the petition.

Subd. 2. [GRANT OF REHEARING.] The commissioner may grant a rehearing upon the filing of a petition under subdivision 1. On rehearing, the commissioner may limit the scope of factual matters that are subject to rehearing and reconsideration. The rehearing is subject to the provisions of this section.

Subd. 3. [MODIFICATION OF ORDER.] Following rehearing, the commissioner may modify the terms of the initial order adopting a change in the schedule of rates upon a determination that adequate factual grounds exist to support modification. Adequate factual grounds include, but are not limited to, erroneous testimony by any witness or party to the hearing, a material change in Minnesota loss or expense data that occurs after a petition for adoption of the schedule of rates has been filed, or any other mistake of fact that has a substantial effect upon the schedule of rates adopted in prior orders of the commissioner.

Sec. 11. [79.73] [JUDICIAL REVIEW.]

Final orders of the commissioner pursuant to sections 9 and 11 are subject to judicial review pursuant to sections 14.63 to 14.69 but shall remain in effect during the pendency of any appeal.

Sec. 12. [79.74] [INTERIM SCHEDULE OF RATES.]

(a) The rating association, the commissioner of labor and industry, or any interested party may file a petition for an adjustment in the schedule of rates when there has been a law change in the benefit payable under chapter 176. "Law change" means only statutory changes or supreme court decisions. When a petition for a change in the schedule of rates due to a law change is received by the commissioner, the commissioner shall review the petition for up to 30 days to determine if it presents facts that warrant a hearing. If the commissioner accepts a petition for hearing, it shall be conducted pursuant to the contested case procedures in chapter 14.

(b) The chief administrative law judge shall assign an administrative law judge to hear a petition for a change in the schedule of rates within 30 days. The administrative law judge shall conclude the hearing within 60 days of assignment by the chief administrative law judge and file findings of fact, conclusions of law, and a proposed order with the commissioner within 30 days of concluding the hearing. The administrative law judge shall, after the close of the record, file a report with recommendations in the same manner as in section 9. The time for holding the hearing and filing the report with the commissioner may be extended by the chief administrative law judge upon a showing of good cause for an additional 30 days.

(c) The commissioner's order may affirm, reverse, or modify the findings and order of the administrative law judge. The petitioning party shall have the burden of proof in any hearing held pursuant to this subdivision. Interim rate hearings are available only for changes in the schedule of workers' compensation rates that result from law changes. All evidentiary, procedural, and review standards in section 9 shall apply to interim rate hearings, except the time requirements in this subdivision.

(d) Interim rate hearings are subject to judicial review pursuant to chapter 14, except that the commissioner's interim rate order shall remain in effect during the pendency of any appeal by any party. The commissioner is an interested party if the commissioner's decision is appealed pursuant to chapter 14.

(e) Interim rate hearings may only be held after an initial schedule of rates has been approved by the commissioner unless requested by the commissioner of labor and industry.

Sec. 13. [79.75] [AUTOMATIC ADJUSTMENT OF RATES.]

(a) The commissioner shall adopt a rule to establish a mechanism to automatically adjust a schedule of rates to reflect benefit changes mandated by operation of law after the most recent change in the schedule of rates, an adjustment in the assessment rate for the special compensation fund, any adjustment in the assessment for the assigned risk plan pursuant to section 79.251, subdivision 5, any adjustment in the assessment for the Minnesota insurance guaranty association pursuant to section 60C.05, or any other assessment required by law.

(b) At each rate hearing held pursuant to section 9 or rehearing pursuant to section 10, following an automatic adjustment, the commissioner shall review the rate adjustment to assure that the schedule of rates adopted after the adjustment are not excessive, inadequate, or unfairly discriminatory. If the commissioner finds that the schedule of rates adopted after the adjustment are excessive, inadequate, or unfairly discriminatory, the commissioner shall order appropriate remedial action.

Sec. 14. [79.76] [INSURERS SHALL BE MEMBERS OF ASSOCIATION.]

Every insurer that issues workers' compensation insurance in this state shall be a member of the association, known as the Minnesota Insurers Rating Association, organized under section 15, to be maintained in this state for the following purposes:

(1) to separate the industries of this state that are subject to workers' compensation insurance into proper classes for compensation insurance purposes;

(2) to inspect compensation risks and establish the merit and experience rating system approved for use in this state;

(3) to establish charges and credits under the system;

(4) to report all facts affecting compensation insurance risks and those necessary for approving policies of compensation insurance as conforming with classifications, rates, and rating plans previously promulgated by the association and approved by the commissioner; and

(5) to assist the commissioner and insurers in determining rates, hazards, and other material facts in connection with compensation risks, and to assist in promoting safety in the industries.

Sec. 15. [79.77] [ORGANIZATION OF ASSOCIATION.]

The association shall adopt articles of incorporation, bylaws, and a plan of operation. The articles, bylaws, and plan of operation and all amendments shall be filed with, and approved by, the commissioner and shall not be effective until filed and approved. The association shall admit to membership any insurer authorized to transact workers' compensation insurance in this state. The charges and service of the association shall be fixed in the articles or bylaws and shall be equitable and nondiscriminatory as between members. The initial articles, bylaws, and plan of operation shall be filed with the commissioner no later than January 1, 1995. If the initial articles, bylaws, and plan of operation are not filed by January 1, 1995, the commissioner shall adopt the initial articles, bylaws, and plan of operation.

Sec. 16. [79.78] [EXPENSE; HOW PAID.]

Each member of the association shall pay an equitable and nondiscriminatory share of the cost of operating the association. If the members of the association cannot agree upon an apportionment of cost, any member may in writing petition the commissioner to establish a basis for apportioning the cost. If any member is aggrieved by an apportionment made by the association, it may in writing petition the commissioner for a review of the apportionment. The commissioner shall, upon not less than five days' notice to each member of the association, hold a hearing on any petition. All members are entitled to be present and to be heard. The commissioner shall determine the matter and mail a copy of the determination to each member of the association. The decision of the commissioner shall be final and binding upon all members of the association.

Sec. 17. [79.79] [BOARD OF DIRECTORS.]

(a) A board of directors of the rating association is created and is responsible for the operation of the rating association consistent with the plan of operation and this chapter. The board consists of 13 directors. Five directors shall represent insurers; two directors shall represent employers; three directors shall represent employees; one director shall represent small employers as defined in section 177.24; and two directors shall represent the public. Insurer members of the rating association shall elect the directors who represent insurers; employer members shall be selected one each by the Minnesota Business Partnership and the Minnesota Chamber of Commerce and Industry; employee members shall be selected one each by the Minnesota AFL-CIO and the Minnesota Teamsters; the small business director shall be selected by the commissioner of labor and industry; and the public directors shall be selected by the governor.

Each director is entitled to one vote. Terms of the directors shall be two years. The board shall select a chair and other officers it deems appropriate.

(b) A majority of the directors currently holding office constitutes a quorum. Action may be taken by a majority vote of the directors present.

The board shall take reasonable and prudent action regarding the management of the rating association including but not limited to the management of the daily affairs of the rating association.

(c) The initial board of directors shall consist of the current board of directors of the data service organization authorized by section 79.62 who shall serve until their current data service organization terms expire.

Sec. 18. [79.80] [PLAN OF OPERATION.]

Subdivision 1. [PROVISIONS.] The plan of operation shall provide for all of the following:

(a) the establishment of necessary facilities;

(b) the management and operation of the rating association;

(c) a preliminary assessment, payable by each member in proportion to its total premium in the year preceding the inauguration of the rating association, for initial expenses necessary to commence operation of the rating association;

(d) procedures governing the actual payment of assessments to the rating association;

(e) reimbursement of each member of the board by the rating association for actual and necessary expenses incurred on rating association business; and

(f) any other matters required by or necessary to effectively implement this chapter.

Subd. 2. [AMENDMENTS.] (a) The plan of operation shall be subject to approval by the commissioner after consultation with the members of the association, representatives of the public, and other affected individuals and organizations. If the commissioner disapproves all or part of the proposed plan of operation, the directors shall within 15 days submit for review all or part of an appropriate revised plan of operation. If a revised plan is not submitted within 15 days, the commissioner shall promulgate all or part of a plan of operation. The plan of operation approved or promulgated by the commissioner shall become effective and operational upon order of the commissioner.

(b) Amendments to the plan of operation may be made by the commissioner or by the directors of the association, subject to the approval of the commissioner.

Sec. 19. [79.81] [APPLICABILITY OF CHAPTER 79.]

Subdivision 1. [EXAMINATION BY COMMISSIONER.] The rating association is subject to all the provisions of this chapter. The commissioner or an authorized representative of the commissioner may visit the rating association at any time and examine, audit, or evaluate the rating association's operations, records, and practices. For purposes of this section, "authorized representative of the commissioner" includes employees of the department of commerce or labor and industry and other parties retained by the commissioner.

Subd. 2. [COSTS AND EXPENSES.] The commissioner shall order and the rating association shall pay the costs and expenses of any examination, audit, or evaluation conducted pursuant to subdivision 1.

Sec. 20. [79.82] [MANUALS.]

Subdivision 1. [INITIAL FILING REQUIRED.] (a) On or before October 1, 1995, the association must file with the commissioner all underwriting and rating manuals that are used in the classification of risks and the calculation of rating plans, rates, and fees. The association must provide the commissioner with at least six copies of each manual. A copy of each manual filed shall also be provided to the commissioner of labor and industry.

(b) The commissioner shall review the manuals and on or before January 1, 1996, approve or disapprove all or part of the manuals. The evidentiary, procedural, and review standards of section 9 shall apply to the review of the manuals. Until the commissioner has approved or disapproved the manuals, they shall remain in force. The association may contest the disapproval of a manual or part of a manual pursuant to the contested case procedures of chapter 14. Until the conclusion of the contested case proceeding, the portions of the manuals that were not approved shall remain in force.

Subd. 2. [NEW MANUALS AND AMENDMENTS.] If the association adopts or amends a manual, the manual or the amendment to the manual shall not be effective until approved by the commissioner. The association must provide the commissioner with at least six copies of each manual or amendment. A copy of each manual or amendment filed shall also be provided to the commissioner of labor and industry. The commissioner shall approve or disapprove any manual or amendment within 90 days of filing. The evidentiary, procedural, and review standards of section 9 shall apply to the review of the manuals. Any manual or amendment not approved within 90 days shall be deemed to be disapproved. As to a disapproved manual or amendment, the association may contest the disapproval pursuant to the contested case procedures of chapter 14.

Subd. 3. [BURDEN OF PROOF.] The burden of proof in a proceeding under this section shall be upon the party requesting the adoption of a manual or an amendment of a manual.

Subd. 4. [COSTS.] The costs of the commissioner and the commissioner of labor and industry in regard to a contested case proceeding under this section, including the costs of consultants, staff, related costs, and costs billed by the attorney general's office shall be paid from the special compensation fund.

Subd. 5. [PUBLIC ACCESS.] Copies of all approved manuals must be made available to the public for inspection during regular business hours at the office of the association. Proposed manuals and amendments to manuals must be made available in the same manner.

Sec. 21. [79.83] [EXEMPTION.]

The rating association is not subject to sections 15.0597 and 471.705, chapter 13, or any other law or rule that pertains to a public body. For purposes of Minnesota laws and rules, the association is not a public body.

Sec. 22. [79.84] [ANNUAL STATEMENT.]

The association on or before March 1 each year shall file with the commissioner a statement describing its activities for the year ending on the preceding December 31. This report shall describe its financial transactions and other matters connected with its operation, including employee compensation and the specific expenditures as required by the commissioner. The commissioner shall prescribe the form of the report. The association and its members are subject to supervision and examination by the commissioner or any examiner authorized by the commissioner on such matters as the commissioner deems appropriate. Examination may be made as often as the commissioner deems necessary.

Sec. 23. [79.85] [ASSOCIATION SHALL MAKE CLASSIFICATION.]

(a) The association shall, on behalf of its members, assign each compensation risk in this state to its proper classification. The determination as to the proper classification by the association shall be subject to the approval of the commissioner.

(b) The association shall inspect and make a written survey of each risk to which the system of merit rating approved for use in this state is applicable. It shall file with the commissioner its classification of risks and keep on file at the office of the association the written surveys of all risks inspected by it. The survey shall show the location and description of all items producing charges and credits, if any, and other facts as are material in the writing of insurance. It shall file any subsequent proposed classification or later survey and all rules and regulations which do or may affect the writing of these risks. The association classification shall be binding upon all insurers.

(c) The association and its representatives shall give all information as to classifications, rates, surveys, and other facts collected and intended for the common use of insurers subject to this chapter to all these insurers at the same time. A copy of the complete survey by the association, with the approved classification and rates and the effective date, shall be furnished to the insurer of record as soon as approved. The approved classification and rates upon a specific risk shall be furnished upon request to any other insurer upon the payment of a reasonable charge for the service.

(d) Every insurer shall promptly file with the association a copy of each payroll audit, which shall be checked by the association for correctness of classification and rate. The commissioner may require the association to file the copy and may verify any payroll audit by a reaudit of the books of the employer or in such other manner as may appear most expedient. Upon written complaint stating facts sufficient to warrant action by it, the association shall verify any payroll audit reported to the commissioner.

Sec. 24. [79.86] [INFORMATION.]

(a) In addition to other information that the commissioner requests pursuant to section 9, the rating association shall file with the commissioner, the following information on its Minnesota experience:

- (1) reserves for incurred but not reported losses of its members;
- (2) paid claims;
- (3) reserves for open claims;
- (4) a schedule of claims in which its members have established a reserve in excess of \$50,000;
- (5) the income on invested reserves of its members;
- (6) an itemized list of policies written at other than the filed rates;
- (7) loss adjustment expenses;
- (8) subrogation recoveries;
- (9) administrative expenses; and
- (10) commission and lobbying expenses.

The filing of the information of Minnesota experience must be based on separate records containing only Minnesota information separately maintained by the association. The commissioner may request and the association must provide the separate records to the commissioner.

(b) Losses and reserves shall be reported separately as to medical and indemnity expenses. The rating association shall file an itemized breakdown of its lobbying expenses.

(c) The commissioner shall consider this information in an appropriate manner in adopting a schedule of rates and shall decline to grant a hearing pursuant to section 9 for purposes of considering a rate increase if the association fails to provide the information.

(d) The rating association shall be domiciled, chartered, and principally located in the state of Minnesota. Except with the approval of the commissioner, the rating association may not contract for its data collection responsibilities with data service organizations domiciled, chartered, or principally located outside the state of Minnesota.

Sec. 25. [79.87] [RECORD; ASSOCIATION SHALL FURNISH INFORMATION.]

The association shall keep a record of its proceedings. It shall furnish, upon demand, to any employer whose workers' compensation risk has been surveyed, full information about the survey, including the method of the computation and a detailed description and location of all items producing charges or credits. The association shall provide a means, approved by the commissioner, for hearing any member or employer whose risk has been inspected, either in person or by a representative, before the governing or rating committee or other proper representatives with reference to any matter affecting the risk. Any insurer or employer may appeal from a decision of the association to the commissioner. The association shall make rules governing appeals to be filed with and approved by the commissioner. The commissioner may require the association to file any information connected with its activities.

Sec. 26. [79.88] [RATES FILED.]

Every insurer writing workers' compensation insurance in this state, except as ordered by the commissioner, must file with the commissioner its rates for compensation insurance and all additions or changes. All rates so filed must comply with the requirements of law and are not effective until approved by the commissioner.



## Sec. 27. [79.89] [RATES UNIFORM; EXCEPTIONS.]

No insurer may write insurance at a rate above that established by the association and approved by the commissioner. The insurer may reduce or increase a rate by the application to individual risks of the system of merit or experience rating which has been approved by the commissioner. This reduction or increase shall be set forth in the policy or by endorsement. Upon written request, an insurer shall furnish a written explanation to the insured of how and why the individual rate was adjusted by application of a system of merit or experience rating. This explanation shall be mailed to the insured within 30 days of the request.

## Sec. 28. [79.90] [DUTIES OF COMMISSIONER.]

The commissioner of commerce shall require compensation insurers, or their agents, to file the necessary reports for the purposes of this chapter for use by the commissioner.

## Sec. 29. [79.91] [VIOLATIONS; PENALTIES.]

Any insurer, rating association, agent, or other representative or employee of any insurer or rating association that fails to comply with or violates any of the provisions of this chapter, or any order or ruling of the commissioner, shall be punished by a fine of not less than \$50 nor more than \$5,000. In addition, the license of any insurer, agent, or broker guilty of such violation may be revoked or suspended by the commissioner.

## Sec. 30. [79.92] [RULEMAKING.]

The commissioner may adopt rules to carry out the commissioner's duties assigned by this chapter.

## Sec. 31. [79.93] [LIABILITY UNDER OTHER LAW.]

The regulatory scheme established by this chapter does not relieve any person from liability under sections 325D.49 to 325D.66, or United States Code, title 15, sections 1 to 38.

## Sec. 32. [TRANSITION PROVISIONS; EMPLOYEES.]

Until January 1, 1998, initial appointment to the professional positions authorized by section 9 shall be deemed to be provisional or exceptional appointments as defined by Minnesota Statutes, section 43A.15, subdivisions 4 and 8, and the commissioner of employee relations must authorize those appointments as requested by the commissioner of commerce or labor and industry. Upon request of the commissioner of commerce or labor and industry, the appointments under this section shall be considered an unusual employment condition as defined by Minnesota Statutes, section 43A.17, subdivision 3, and salaries may be set accordingly.

## Sec. 33. [LEGISLATIVE INTENT.]

It is the intent of the legislature in enacting this article to reinstate the prior state workers' compensation insurance rate regulatory system that was repealed effective January 1, 1984. Judicial and administrative decisions regarding the prior law shall be deemed to be applicable to this article in the same manner as to the prior law.

## Sec. 34. [DATA SERVICE ORGANIZATION CONTINUED EXISTENCE.]

A licensed data service organization shall continue to operate pursuant to Minnesota Statutes, sections 79.61 and 79.62, until December 31, 1997, or until the plan of operation of the rating association has been approved by the commissioner, whichever occurs first.

## Sec. 35. [RATE, CLASSIFICATION, AND CREDIT FREEZE.]

Until January 1, 1995, no insurer, data service organization, association, or the assigned risk plan may increase the workers' compensation rates of an employer, reclassify the operation of an employer or reduce a premium credit previously offered an employer. This section does not prohibit adjustment of an employer's experience rating in accordance with the rating plan of an insurer, data service organization, association or the assigned risk plan filed with the commissioner of commerce on or before December 31, 1993.

## Sec. 36. [PREMIUM REDUCTION; REINSURANCE REFUND.]

Any amount received by an insurer or the assigned risk plan from the reinsurance association as surplus must be applied to proportionately reduce the premiums of the insured employers of the insurer or the assigned risk plan.

## Sec. 37. [APPROPRIATION.]

\$1,300,000 is appropriated from the special compensation fund to the department of commerce for the purpose of this article. The appropriation is available immediately and is available until expended. The complement of the department of commerce is increased by a maximum of ten positions.

## Sec. 38. [EFFECTIVE DATE.]

Sections 1 to 37 are effective the day following final enactment.

## ARTICLE 3

## WORKERS' COMPENSATION

Section 1. Minnesota Statutes 1992, section 175.007, subdivision 1, is amended to read:

Subdivision 1. [CREATION; COMPOSITION.] (a) There is created a permanent council on workers' compensation consisting of 12 voting members as follows: the presidents of the largest statewide Minnesota business and organized labor organizations as measured by the number of employees of its business members and in its affiliated labor organizations in Minnesota on July 1, 1992, and every five years thereafter, who shall serve as co-chairs of the council; five additional members representing business, and five additional members representing organized labor. ~~The commissioner of labor and industry shall serve as chair of the council and shall be a nonvoting member.~~

(b) The governor, the majority leader of the senate, the speaker of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives shall each select a business and a labor representative. At least four of the labor representatives shall be chosen from the affiliated membership of the Minnesota AFL-CIO. At least two of the business representatives shall be representatives of small employers as defined in section 177.24, subdivision 1, paragraph (a), clause (2). None of the council members shall represent attorneys, health care providers, qualified rehabilitation consultants, or insurance companies. If the appointing officials cannot agree on a method of appointing the required number of Minnesota AFL-CIO and small business representatives by the second Monday in June of the year in which appointments are made, they shall notify the secretary of state. The distribution of appointments shall then be determined publicly by lot by the secretary of state or a designee in the presence of the appointing officials or their designees on the third Monday in June.

(c) Each council member shall appoint an alternate. Alternates shall serve in the absence of the member they replace.

(d) The ten appointed voting members shall serve for terms of five years and may be reappointed.

(e) The council shall designate liaisons to the council representing workers' compensation insurers; medical, hospital, and rehabilitation providers; and the legal profession. The speaker and minority leader of the house of representatives shall each appoint a caucus member as a liaison to the council. The majority and minority leaders of the senate shall each appoint a caucus member to serve as a liaison to the council.

(f) The compensation and removal of members shall be as provided in section 15.059.

Sec. 2. Minnesota Statutes 1992, section 176.011, subdivision 9, is amended to read:

Subd. 9. [EMPLOYEE.] "Employee" means any person who performs services for another for hire including the following:

(1) an alien;

(2) a minor;

(3) a sheriff, deputy sheriff, constable, marshal, police officer, firefighter, county highway engineer, and peace officer while engaged in the enforcement of peace or in the pursuit or capture of a person charged with or suspected of crime;

(4) a person requested or commanded to aid an officer in arresting or retaking a person who has escaped from lawful custody, or in executing legal process, in which cases, for purposes of calculating compensation under this chapter, the daily wage of the person shall be the prevailing wage for similar services performed by paid employees;

(5) a county assessor;

(6) an elected or appointed official of the state, or of a county, city, town, school district, or governmental subdivision in the state. An officer of a political subdivision elected or appointed for a regular term of office, or to complete the unexpired portion of a regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

(7) an executive officer of a corporation, except those executive officers excluded by section 176.041;

(8) a voluntary uncompensated worker, other than an inmate, rendering services in state institutions under the commissioners of human services and corrections similar to those of officers and employees of the institutions, and whose services have been accepted or contracted for by the commissioner of human services or corrections as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(9) a voluntary uncompensated worker engaged in peace time in the civil defense program when ordered to training or other duty by the state or any political subdivision of it. The daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed by paid employees;

(10) a voluntary uncompensated worker participating in a program established by a county welfare board. In the event of injury or death of the worker, the wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid in the county at the time of the injury or death for similar services performed by paid employees working a normal day and week;

(11) a voluntary uncompensated worker accepted by the commissioner of natural resources who is rendering services as a volunteer pursuant to section 84.089. The daily wage of the worker for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(12) a voluntary uncompensated worker in the building and construction industry who renders services for joint labor-management nonprofit community service projects. The daily wage of the worker for the purpose of calculating compensation under this chapter shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(13) a member of the military forces, as defined in section 190.05, while in state active service, as defined in section 190.05, subdivision 5a. The daily wage of the member for the purpose of calculating compensation under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous occupation or earning, the trier of fact shall consider the member's earnings as a member of the military forces;

(14) a voluntary uncompensated worker, accepted by the director of the Minnesota historical society, rendering services as a volunteer, pursuant to chapter 138. The daily wage of the worker, for the purposes of calculating compensation under this chapter, shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(15) a voluntary uncompensated worker, other than a student, who renders services at the Minnesota state academy for the deaf or the Minnesota state academy for the blind, and whose services have been accepted or contracted for by the state board of education, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(16) a voluntary uncompensated worker, other than a resident of the veterans home, who renders services at a Minnesota veterans home, and whose services have been accepted or contracted for by the commissioner of veterans affairs, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(17) a worker who renders in-home attendant care services to a physically handicapped person, and who is paid directly by the commissioner of human services for these services, shall be an employee of the state within the meaning of this subdivision, but for no other purpose;

(18) students enrolled in and regularly attending the medical school of the University of Minnesota in the graduate school program or the postgraduate program. The students shall not be considered employees for any other purpose. In the event of the student's injury or death, the weekly wage of the student for the purpose of calculating compensation under this chapter, shall be the annualized educational stipend awarded to the student, divided by 52 weeks. The institution in which the student is enrolled shall be considered the "employer" for the limited purpose of determining responsibility for paying benefits under this chapter;

(19) a faculty member of the University of Minnesota employed for an academic year is also an employee for the period between that academic year and the succeeding academic year if:

(a) the member has a contract or reasonable assurance of a contract from the University of Minnesota for the succeeding academic year; and

(b) the personal injury for which compensation is sought arises out of and in the course of activities related to the faculty member's employment by the University of Minnesota;

(20) a worker who performs volunteer ambulance driver or attendant services is an employee of the political subdivision, nonprofit hospital, nonprofit corporation, or other entity for which the worker performs the services. The daily wage of the worker for the purpose of calculating compensation under this chapter shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(21) a voluntary uncompensated worker, accepted by the commissioner of administration, rendering services as a volunteer at the department of administration. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(22) a voluntary uncompensated worker rendering service directly to the pollution control agency. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees; and

(23) a voluntary uncompensated worker while volunteering services as a first responder or as a member of a law enforcement assistance organization while acting under the supervision and authority of a political subdivision. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees; and

(24) a voluntary uncompensated member of the civil air patrol rendering service on the request and under the authority of the state or any of its political subdivisions. The daily wage of the member for the purposes of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees.

If it is difficult to determine the daily wage as provided in this subdivision, the trier of fact may determine the wage upon which the compensation is payable.

Sec. 3. Minnesota Statutes 1992, section 176.011, subdivision 15, is amended to read:

Subd. 15. [OCCUPATIONAL DISEASE.] (a) "Occupational disease" means a disease arising out of and in the course of employment peculiar to the occupation in which the employee is engaged and due to causes in excess of the hazards ordinary of employment and shall include undulant fever. Ordinary diseases of life to which the general public is equally exposed outside of employment are not compensable, except where the diseases follow as an incident of an occupational disease, or where the exposure peculiar to the occupation makes the disease an occupational disease hazard. A disease arises out of the employment only if there be a direct causal connection between the conditions under which the work is performed and if the occupational disease follows as a natural incident of the work as a result of the exposure occasioned by the nature of the employment. An employer is not liable for compensation for any occupational disease which cannot be traced to the employment as a direct and proximate cause and is not recognized as a hazard characteristic of and peculiar to the trade, occupation, process, or employment or which results from a hazard to which the worker would have been equally exposed outside of the employment.

(b) If immediately preceding the date of disablement or death, an employee was employed on active duty with an organized fire or police department of any municipality, as a member of the Minnesota state patrol, conservation officer service, state crime bureau, as a forest officer by the department of natural resources, or sheriff or full-time deputy sheriff of any county, or emergency medical services personnel as defined in section 144.761, subdivision 5, clauses (1) and (3), and the disease is that of myocarditis, coronary sclerosis, pneumonia or its sequel, and at the time of employment such employee was given a thorough physical examination by a licensed doctor of medicine, and a written report thereof has been made and filed with such organized fire or police department, with the Minnesota state patrol, conservation officer service, state crime bureau, department of natural resources, or sheriff's department of any county, or the employer of the emergency medical services personnel as defined in section 144.761, subdivision 5, clauses (1) and (3), which examination and report negated any evidence of myocarditis, coronary sclerosis, pneumonia or its sequel, the disease is presumptively an occupational disease and shall be presumed to have been due to the nature of employment. If immediately preceding the date of disablement or death, any individual who by nature of their position provides emergency medical care, or an employee who was employed as a licensed police officer under section 626.84, subdivision 1; firefighter; paramedic; emergency medical technician; or licensed nurse providing emergency medical care; and who contracts an infectious or communicable disease to which the employee was exposed in the course of employment outside of a hospital, then the disease is presumptively an occupational disease and shall be presumed to have been due to the nature of employment and the presumption may be rebutted by substantial factors brought by the employer or insurer.

(c) A firefighter on active duty with an organized fire department who is unable to perform duties in the department by reason of a disabling cancer of a type caused by exposure to heat, radiation, or a known or suspected carcinogen, as defined by the International Agency for Research on Cancer, and the carcinogen is reasonably linked to the disabling cancer, is presumed to have an occupational disease under paragraph (a). If a firefighter who enters the service after August 1, 1988, is examined by a physician prior to being hired and the examination discloses the existence of a cancer of a type described in this paragraph, the firefighter is not entitled to the presumption unless a subsequent medical determination is made that the firefighter no longer has the cancer.

Sec. 4. Minnesota Statutes 1992, section 176.011, subdivision 18, is amended to read:

Subd. 18. [WEEKLY WAGE.] "Weekly wage" is arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved. If the employee normally works less than five days per week or works an irregular number of days per week, the number of days normally worked shall be computed by dividing the total number of days in which the employee actually performed any of the duties of employment in the last 26 weeks by the number of weeks in which the employee actually performed such duties, provided that the weekly wage for part time employment during a period of seasonal or temporary layoff shall be computed on the number of days and fractional days normally worked in the business of the employer for the employment involved. If, at the time of the injury, the employee was regularly employed by two or more employers, the employee's days of work for all such employments shall be included in the computation of weekly wage. Occasional overtime is not to be considered in computing the weekly wage, but if overtime is regular or frequent throughout the year it shall be taken into consideration. The maximum weekly compensation payable to an employee, or to the employee's dependents in the event of death, shall not exceed 66-2/3 percent of the product of the daily wage times the number of days normally worked, provided that the compensation payable for permanent partial disability under section 176.101, subdivision 3 3v, and for permanent total disability under section 176.101, subdivision 4, or death under section 176.111, shall not be computed on less than the number of hours normally worked in the employment or industry in which the injury was sustained, subject also to such maximums as are specifically otherwise provided.

Sec. 5. Minnesota Statutes 1992, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of compensation at the time and in the manner prescribed by this chapter without the necessity of any agreement or any order of the division. Except for medical, burial, and other nonperiodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by section 176.101. If doubt exists as to the eventual permanent partial disability, payment for the economic recovery compensation or impairment compensation, whichever is due, pursuant to section 176.101, shall be then made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. Prior to or at the time of commencement of the payment of economic recovery compensation or lump sum or periodic payment of impairment compensation, permanent partial disability the employee and employer shall be furnished with a copy of the medical report upon which the payment is based and all other medical reports which the insurer has that

indicate a permanent partial disability rating, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. ~~Economic recovery compensation or impairment compensation~~ Permanent partial disability compensation pursuant to section 176.101, subdivision 3v, is payable in addition to but not concurrently with compensation for temporary total disability ~~but is payable pursuant to section 176.101.~~ Impairment compensation Permanent partial disability is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101. ~~Economic recovery compensation or impairment compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total disability, and~~ No credit shall be taken for payment of ~~economic recovery compensation or impairment compensation~~ permanent partial disability compensation against liability for temporary total or future permanent total disability. Liability on the part of an employer or the insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and compensation is payable accordingly, subject to section 176.101. ~~Economic recovery compensation or impairment compensation~~ Permanent partial disability compensation is payable for functional loss of use or impairment of function, permanent in nature, and payment therefore shall be separate, distinct, and in addition to payment for any other compensation, subject to section 176.101. The right to receive temporary total, temporary partial, or permanent total disability payments vests in the injured employee or the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained and the right is not abrogated by the employee's death prior to the making of the payment.

The right to receive ~~economic recovery compensation or impairment compensation~~ permanent partial disability compensation vests in an injured employee at the time the disability can be ascertained provided that the employee lives for at least 30 days beyond the date of the injury. Upon the death of an employee who is receiving ~~economic recovery compensation or impairment compensation~~ permanent partial disability, further compensation is payable pursuant to section 176.101. ~~Impairment compensation is payable under this paragraph if vesting has occurred, the employee dies prior to reaching maximum medical improvement, and the requirements and conditions under section 176.101, subdivision 3e, are not met.~~

Disability ratings for permanent partial disability shall be based on objective medical evidence.

Sec. 6. Minnesota Statutes 1992, section 176.021, subdivision 3a, is amended to read:

Subd. 3a. [PERMANENT PARTIAL BENEFITS, PAYMENT.] Payments for permanent partial disability as provided in section 176.101, subdivision 3 3v, shall be made ~~in the following manner:~~

- (a) ~~If the employee returns to work, payment shall be made by lump sum;~~
- (b) ~~If temporary total payments have ceased, but the employee has not returned to work, payment shall be made at the same intervals as temporary total payments were made;~~
- (c) ~~If temporary total disability payments cease because the employee is receiving payments for permanent total disability or because the employee is retiring or has retired from the work force, then payment shall be made by lump sum;~~
- (d) ~~If the employee completes a rehabilitation plan pursuant to section 176.102, but the employer does not furnish the employee with work the employee can do in a permanently partially disabled condition, and the employee is unable to procure such work with another employer, then payment shall be made by lump sum.~~

Sec. 7. Minnesota Statutes 1992, section 176.061, subdivision 10, is amended to read:

Subd. 10. [INDEMNITY.] Notwithstanding the provisions of chapter 65B or any other law to the contrary, an employer has a right of indemnity for any compensation paid or payable pursuant to this chapter, including temporary total compensation, temporary partial compensation, permanent partial disability, ~~economic recovery compensation, impairment compensation~~ permanent partial disability compensation, medical compensation, rehabilitation, death, and permanent total compensation.

Sec. 8. Minnesota Statutes 1992, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] (a) For injury producing temporary total disability, the compensation is 66-2/3 percent of the weekly wage at the time of injury.

(b) During the year commencing on October 1, 1992, and each year thereafter, the maximum weekly compensation payable is 105 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(c) The minimum weekly compensation payable is 20 percent of the statewide average weekly wage for the period ending December 31 of the preceding year or the injured employee's actual weekly wage, whichever is less.

(d) ~~Subject to subdivisions 3a to 3u~~ This compensation shall be paid during the period of disability, except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be.

(e) Except as provided in section 176.102, subdivision 11, paragraph (b), temporary total disability compensation may not be paid for more than 100 weeks of actual payment, regardless of when payment is made.

Sec. 9. Minnesota Statutes 1992, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] (a) In all cases of temporary partial disability the compensation shall be 66-2/3 percent of the difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition. This compensation shall be paid during the period of disability except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to the maximum rate for temporary total compensation.

(b) ~~Except as provided under subdivision 3k in paragraph (e)~~, temporary partial compensation may be paid only while the employee is employed, earning less than the employee's weekly wage at the time of the injury, and the reduced wage the employee is able to earn in the employee's partially disabled condition is due to the injury.

(c) Except as provided in section 176.102, subdivision 11, paragraph (b), temporary partial compensation may not be paid for more than 225 350 weeks, or after 450 weeks after the date of injury, whichever occurs first of actual payment, regardless of when payment is made.

~~(e)~~ (d) Temporary partial compensation must be reduced to the extent that the wage the employee is able to earn in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 500 percent of the statewide average weekly wage.

(e) An employee who is not employed may receive temporary partial disability only if the employee is not eligible for temporary total disability and the employee is medically disabled from working because of the injury.

Sec. 10. Minnesota Statutes 1992, section 176.101 is amended by adding a subdivision to read:

Subd. 3v. [PERMANENT PARTIAL DISABILITY.] An employee who suffers a permanent partial disability due to a personal injury shall receive compensation in an amount as provided by this subdivision. The amount shall be equal to the proportion that the loss of function of the disabled part bears to the whole body multiplied by \$110,000. Payments for permanent disability of more than one body part due to a personal injury in a single occurrence may not exceed 100 percent of the whole body.

Sec. 11. Minnesota Statutes 1992, section 176.101, subdivision 4, is amended to read:

Subd. 4. [PERMANENT TOTAL DISABILITY.] For permanent total disability, as defined in subdivision 5, the compensation shall be 66-2/3 percent of the daily wage at the time of the injury, subject to a maximum weekly compensation equal to the maximum weekly compensation for a temporary total disability and a minimum weekly compensation equal to the minimum weekly compensation for a temporary total disability. This compensation shall be paid during the permanent total disability of the injured employee but after a total of \$25,000 of weekly compensation has been paid, the amount of the weekly compensation benefits being paid by the employer shall be reduced by the amount of any disability benefits being paid by any government disability benefit program if the disability benefits are occasioned by the same injury or injuries which give rise to payments under this subdivision. This reduction shall also apply to any old age and survivor insurance benefits. Payments shall be made at the intervals when the wage was payable, as nearly as may be. In case an employee who is permanently and totally

disabled becomes an inmate of a public institution, no compensation shall be payable during the period of confinement in the institution, unless there is wholly dependent on the employee for support some person named in section 176.111, subdivision 1, 2 or 3, in which case the compensation provided for in section 176.111, during the period of confinement, shall be paid for the benefit of the dependent person during dependency. The dependency of this person shall be determined as though the employee were deceased. Permanent total disability ends at retirement. There is a presumption that an employee is retired at age 72.

Sec. 12. Minnesota Statutes 1992, section 176.101, subdivision 6, is amended to read:

Subd. 6. [MINORS; APPRENTICES.] (a) If any employee entitled to the benefits of this chapter is an apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total or a compensable permanent partial disability, for the purpose of computing the compensation to which the employee is entitled for the injury, the compensation rate for temporary total, temporary partial, or a permanent total disability or economic recovery compensation shall be the maximum rate for temporary total disability under subdivision 1.

(b) If any employee entitled to the benefits of this chapter is a minor and sustains a personal injury arising out of and in the course of employment resulting in permanent total disability, for the purpose of computing the compensation to which the employee is entitled for the injury, the compensation rate for a permanent total disability shall be the maximum rate for temporary total disability under subdivision 1.

Sec. 13. Minnesota Statutes 1992, section 176.102, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] (a) This section applies only to vocational rehabilitation of injured employees and their spouses as provided under subdivision 1a. Physical rehabilitation of injured employees is considered treatment subject to section 176.135.

(b) Rehabilitation is intended to restore the injured employee so the employee may return to a job related to the employee's former employment or to a job in another work area which produces an economic status as close as possible to that the employee would have enjoyed without disability. Rehabilitation to a job with a higher economic status than would have occurred without disability is permitted if it can be demonstrated that this rehabilitation is necessary to increase the likelihood of reemployment. Economic status is to be measured not only by opportunity for immediate income but also by opportunity for future income.

(c) Rehabilitation consultations and services provided under this section or section 176.1351 must be provided or supervised by a qualified rehabilitation consultant.

Sec. 14. Minnesota Statutes 1992, section 176.102, is amended by adding a subdivision to read:

Subd. 1b. [DEFINITIONS.] For the purposes of this section, the terms defined in this subdivision have the meanings provided in this subdivision.

(a) [QUALIFIED EMPLOYEE.] "Qualified employee" means an employee who, because of the effects of a work-related injury or disease, whether or not combined with the effects of a prior injury or disability:

(1) is precluded or is likely to be precluded from engaging in the employee's usual and customary occupation or from engaging in the job the employee held at the time of injury;

(2) requires rehabilitation services in order to return to suitable gainful employment with the date of injury employer; and

(3) can reasonably be expected to return to suitable gainful employment only through the provision of rehabilitation services, considering the treating physician's opinion of the employee's work ability.

(b) [QUALIFIED REHABILITATION CONSULTANT.] "Qualified rehabilitation consultant" means a person who is professionally trained and experienced and who is registered by the commissioner to provide a rehabilitation consultation and to develop and implement an appropriate plan of rehabilitation services for an employee entitled to rehabilitation benefits under this section. A qualified rehabilitation consultant shall possess at least one of the following credentials:

(1) a baccalaureate degree and certification by the board of rehabilitation certification as a certified rehabilitation counselor or a certified insurance rehabilitation specialist;



(2) a baccalaureate degree and certification by the association of rehabilitation nurses as a certified rehabilitation registered nurse; or

(3) a baccalaureate degree and certification by the American Occupational Therapy Certification Board as a registered occupational therapist. Certification by the American Occupational Therapy Board must have been held for five years before registration by the commissioner.

Beginning January 1, 1995, a qualified rehabilitation consultant must be a current member of a professional rehabilitation organization that provides in its constitution or bylaws for a process of review by peers of its members' professional conduct and services.

(c) [REHABILITATION CONSULTATION.] "Rehabilitation consultation" means a meeting of the employee and assigned qualified rehabilitation consultant to determine whether the employee is a qualified employee, as defined in paragraph (a) to receive rehabilitation services, as defined in paragraph (d), considering the treating physician's opinion of the employee's work ability.

(d) [REHABILITATION SERVICES.] "Rehabilitation services" means a program of vocational rehabilitation, including medical management, designed to return an individual to work consistent with subdivision 1, paragraph (b). The program begins with the first in-person visit of the employee by the assigned qualified rehabilitation consultant, including a visit for purposes of a rehabilitation consultation. The program consists of the sequential delivery and coordination of services by rehabilitation providers under an individualized rehabilitation plan. Specific services under this program may include, but are not limited to, vocational evaluation, counseling, job analysis, job modification, job development, job placement, labor market survey, vocational testing, transferable skills analysis, work adjustment, job seeking skills training, on-the-job training, and retraining.

(e) [SUITABLE GAINFUL EMPLOYMENT.] "Suitable gainful employment" means employment that is reasonably attainable and offers an opportunity to restore the injured employee as soon as possible and as nearly as possible to employment that produces an economic status as close as possible to that which the employee would have enjoyed without the disability. Consideration must be given to the employee's former employment and the employee's qualifications, including, but not limited to, the employee's age, education, previous work history, interests, and skills.

Sec. 15. Minnesota Statutes 1992, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner shall hire a director of rehabilitation services in the classified service. The commissioner shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services and shall by rule establish a fee schedule or otherwise limit fees charged by qualified rehabilitation consultants and vendors. The commissioner shall annually review the fees and give notice of any adjustment in the State Register. ~~An annual adjustment is not subject to chapter 14.~~ By March 1, 1993, the commissioner shall report to the legislature on the status of the commission's monitoring of rehabilitation services. The commissioner may hire qualified personnel to assist in the commissioner's duties under this section and may delegate the duties and performance.

Sec. 16. Minnesota Statutes 1992, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] (a) A rehabilitation consultation must be provided by the employer to an injured employee upon request of the employee, the employer, or the commissioner. When the commissioner has received notice or information that an employee has sustained an injury that may be compensable under this chapter, the commissioner must notify the injured employee of the right to request a rehabilitation consultation to assist in return to work. The notice may be included in other information the commissioner gives to the employee under section 176.235, and must be highlighted in a way to draw the employee's attention to it. If a rehabilitation consultation is requested, the employer shall provide a qualified rehabilitation consultant. If the injured employee objects to the employer's selection, the employee may select a qualified rehabilitation consultant of the employee's own choosing ~~within up until~~ 60 days following the filing of a copy of the employee's rehabilitation plan with the commissioner. If the consultation indicates that rehabilitation services are appropriate under subdivision 1, the employer shall provide the services. If the consultation indicates that rehabilitation services are not appropriate under subdivision 1, the employer shall notify the employee of this determination within 14 days after the consultation. The employer or insurer shall provide written notice to the injured employee within five days after the employee has 30 days of lost work time due to the injury that the employee has a right to request a rehabilitation consultation paid for by the employer.

(b) In order to assist the commissioner in determining whether or not to request rehabilitation consultation for an injured employee, an employer shall notify the commissioner whenever the employee's temporary total disability will likely exceed 13 weeks. The notification must be made within 90 days from the date of the injury or when the likelihood of at least a 13-week disability can be determined, whichever is earlier, and must include a current physician's report.

(c) The qualified rehabilitation consultant shall disclose in writing at the first meeting or written communication with the employee the employee's right under paragraphs (a) and (d) to select or request a qualified rehabilitation consultant and any ownership interest or affiliation between the firm which employs the qualified rehabilitation consultant and the employer, insurer, adjusting or servicing company, including the nature and extent of the affiliation or interest.

The consultant shall also disclose to all parties any affiliation, business referral or other arrangement between the consultant or the firm employing the consultant and any other party, attorney, or health care provider involved in the case.

(d) After the initial provision or selection of a qualified rehabilitation consultant as provided under paragraph (a), the employee may request a different qualified rehabilitation consultant which shall be granted or denied by the commissioner or compensation judge according to the best interests of the parties.

(e) The employee and employer shall enter into a program if one is prescribed in a rehabilitation plan within 30 days of the rehabilitation consultation if the qualified rehabilitation consultant determines that rehabilitation is appropriate. A copy of the plan, including a target date for return to work, shall be submitted to the commissioner within 15 days after the plan has been developed.

(f) If the employer does not provide rehabilitation consultation requested under paragraph (a), the commissioner or compensation judge shall notify the employer that if the employer fails to provide a qualified rehabilitation consultant within 15 days to conduct a rehabilitation consultation, the commissioner or compensation judge shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer ~~unless the commissioner or compensation judge determines the consultation is not required.~~

(g) In developing a rehabilitation plan consideration shall be given to the employee's qualifications, including but not limited to age, education, previous work history, interest, transferable skills, and present and future labor market conditions.

(h) The commissioner or compensation judge may waive rehabilitation consultations and services under this section ~~if the commissioner or compensation judge is satisfied that the employee will return to work in the near future or that rehabilitation services will not be useful in returning an employee to work.~~ for a period of 180 days following the injury if:

- (1) the injured employee is offered a job by the date of injury employer within 60 days of the injury;
- (2) the job will begin within the 180-day period following the injury;
- (3) the job offered is the date of injury job or other suitable gainful employment with the same employer; and
- (4) the treating physician has approved the proposed job as being within the physical restrictions of the employee.

If a rehabilitation consultation is waived and the employer withdraws its job offer, the injured employee shall be entitled to a rehabilitation consultation and services provided by a qualified rehabilitation consultant of the injured employee's choice. The commissioner shall report annually to the workers' compensation advisory council the number of waivers granted and denied and the number of employers who obtain waivers and fail to take the injured employee back to work.

Sec. 17. Minnesota Statutes 1992, section 176.105, subdivision 2, is amended to read:

Subd. 2. [RULES; INTERNAL ORGANS.] The commissioner shall by rule establish a schedule of internal organs that are compensable and indicate in the schedule to what extent the organs are compensable under section 176.101, subdivision 3 3v.

Sec. 18. Minnesota Statutes 1992, section 176.105, subdivision 4, is amended to read:

Subd. 4. [LEGISLATIVE INTENT; RULES; LOSS OF MORE THAN ONE BODY PART.] (a) For the purpose of establishing a disability schedule pursuant to clause (b), the legislature declares its intent that the commissioner establish a disability schedule which, assuming the same number and distribution of severity of injuries, the aggregate total of impairment compensation and economic recovery compensation benefits under section 176.101, subdivisions 3a to 3u be approximately equal to the total aggregate amount payable for permanent partial disabilities under section 176.101, subdivision 3, provided, however, that awards for specific injuries under the proposed schedule need not be the same as they were for the same injuries under the schedule pursuant to section 176.101, subdivision 3. The schedule shall be determined by sound actuarial evaluation and shall be based on the benefit level which exists on January 1, 1983.

(b) The commissioner shall by rulemaking adopt procedures setting forth rules for the evaluation and rating of functional disability and the schedule for permanent partial disability and to determine the percentage of loss of function of a part of the body based on the body as a whole, including internal organs, described in section 176.101, subdivision 3, and any other body part not listed in section 176.101, subdivision 3, which the commissioner deems appropriate.

The rules shall promote objectivity and consistency in the evaluation of permanent functional impairment due to personal injury and in the assignment of a numerical rating to the functional impairment.

Prior to adoption of rules the commissioner shall conduct an analysis of the current permanent partial disability schedule for the purpose of determining the number and distribution of permanent partial disabilities and the average compensation for various permanent partial disabilities. The commissioner shall consider setting the compensation under the proposed schedule for the most serious conditions higher in comparison to the current schedule and shall consider decreasing awards for minor conditions in comparison to the current schedule.

The commissioner may consider, among other factors, and shall not be limited to the following factors in developing rules for the evaluation and rating of functional disability and the schedule for permanent partial disability benefits:

- (1) the workability and simplicity of the procedures with respect to the evaluation of functional disability;
- (2) the consistency of the procedures with accepted medical standards;
- (3) rules, guidelines, and schedules that exist in other states that are related to the evaluation of permanent partial disability or to a schedule of benefits for functional disability provided that the commissioner is not bound by the degree of disability in these sources but shall adjust the relative degree of disability to conform to the expressed intent of clause (a);
- (4) rules, guidelines, and schedules that have been developed by associations of health care providers or organizations provided that the commissioner is not bound by the degree of disability in these sources but shall adjust the relative degree of disability to conform to the expressed intent of clause (a);
- (5) the effect the rules may have on reducing litigation;
- (6) the treatment of preexisting disabilities with respect to the evaluation of permanent functional disability provided that any preexisting disabilities must be objectively determined by medical evidence; and
- (7) symptomatology and loss of function and use of the injured member.

The factors in paragraphs (1) to (7) shall not be used in any individual or specific workers' compensation claim under this chapter but shall be used only in the adoption of rules pursuant to this section.

Nothing listed in paragraphs (1) to (7) shall be used to dispute or challenge a disability rating given to a part of the body so long as the whole schedule conforms with the expressed intent of clause (a).

~~(c) If an employee suffers a permanent functional disability of more than one body part due to a personal injury incurred in a single occurrence, the percent of the whole body which is permanently partially disabled shall be determined by the following formula so as to ensure that the percentage for all functional disability combined does not exceed the total for the whole body:~~

$$A + B(1 - A)$$

~~where: A is the greater percentage whole body loss of the first body part; and B is the lesser percentage whole body loss otherwise payable for the second body part. A + B(1 - A) is equivalent to A + B - AB.~~

~~For permanent partial disabilities to three body parts due to a single occurrence or as the result of an occupational disease, the above formula shall be applied, providing that A equals the result obtained from application of the formula to the first two body parts and B equals the percentage for the third body part. For permanent partial disability to four or more body parts incurred as described above, A equals the result obtained from the prior application of the formula, and B equals the percentage for the fourth body part or more in arithmetic progressions.~~

Sec. 19. Minnesota Statutes 1992, section 176.132, subdivision 2, is amended to read:

Subd. 2. [AMOUNT.] (a) The supplementary benefit payable under this section shall be the difference between the amount the employee receives on or after January 1, 1976, under section 176.101, subdivision 1 or 4, and 65 percent of the statewide average weekly wage as computed annually. For injuries that occur on or after October 1, 1994, the supplementary benefit payable under this section to an employee age 68 or older shall be the difference between the sum of the amount payable under section 176.101, subdivision 1 or 4, plus any governmental old age, survivor, or disability benefit; and 65 percent of the statewide average weekly wage as computed annually.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or 65 percent of the statewide average weekly wage as computed annually, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section. Attorney's fees shall be allowed in settlements of claims for supplementary benefits in accordance with this chapter.

(d) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and 65 percent of the statewide average weekly wage as computed annually.

(e) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent. If the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provisions of United States Code, title 42, section 424a(d), this reduction shall not apply.

(f) Notwithstanding any other provision in this subdivision to the contrary, if the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provision of United States Code, title 42, section 424a(d), the calculation of supplementary benefits payable to the individual shall be as provided under this section in Minnesota Statutes 1988.

Sec. 20. Minnesota Statutes 1992, section 176.132, subdivision 3, is amended to read:

Subd. 3. [PAYMENT.] The payment of supplementary benefits shall be the responsibility of the employer or insurer currently paying total disability benefits, or any other payer of such benefits. When the eligible individual is not currently receiving benefits because the total paid has reached the maximum prescribed by law the employer and insurer shall, nevertheless, pay the supplementary benefits that are prescribed by law. The employer or insurer paying the supplementary benefit shall have the right of full reimbursement from the special compensation fund for the amount of such benefits paid for injuries prior to October 1, 1994.

Sec. 21. Minnesota Statutes 1992, section 176.178, is amended to read:

176.178 [FRAUD.]

Subdivision 1. [INTENT.] Any person who, with intent to defraud, receives workers' compensation benefits to which the person is not entitled by knowingly misrepresenting, misstating, or failing to disclose any material fact is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3.

Subd. 2. [FORMS.] The text of subdivision 1 shall be placed on all forms prescribed by the commissioner for claims or responses to claims for workers' compensation benefits under this chapter. The absence of the text does not constitute a defense against prosecution under subdivision 1.

Sec. 22. Minnesota Statutes 1992, section 176.179, is amended to read:

176.179 [RECOVERY OF OVERPAYMENTS.]

Notwithstanding section 176.521, subdivision 3, or any other provision of this chapter to the contrary, except as provided in this section, no lump sum or weekly payment, or settlement, which is voluntarily paid to an injured employee or the survivors of a deceased employee in apparent or seeming accordance with the provisions of this chapter by an employer or insurer, or is paid pursuant to an order of the workers' compensation division, a compensation judge, or court of appeals relative to a claim by an injured employee or the employee's survivors, and received in good faith by the employee or the employee's survivors shall be refunded to the paying employer or insurer in the event that it is subsequently determined that the payment was made under a mistake in fact or law by the employer or insurer. When the payments have been made to a person who is entitled to receive further payments of compensation for the same injury, the mistaken compensation may be taken as a full credit against future lump sum benefit entitlement and as a partial credit against future weekly benefits. The credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits, or death benefits, ~~or weekly payments of economic recovery or impairment compensation~~ shall not exceed 20 percent of the amount that would otherwise be payable.

A credit may not be applied against medical expenses due or payable.

Where the commissioner or compensation judge determines that the mistaken compensation was not received in good faith, the commissioner or compensation judge may order reimbursement of the compensation. For purposes of this section, a payment is not received in good faith if it is obtained through fraud, or if the employee knew that the compensation was paid under mistake of fact or law, and the employee has not refunded the mistaken compensation.

Sec. 23. Minnesota Statutes 1992, section 176.221, subdivision 6a, is amended to read:

Subd. 6a. [MEDICAL, REHABILITATION, ECONOMIC RECOVERY, AND IMPAIRMENT PERMANENT PARTIAL DISABILITY COMPENSATION.] The penalties provided by this section apply in cases where payment for treatment under section 176.135, rehabilitation expenses under section 176.102, subdivisions 9 and 11, ~~economic recovery compensation or impairment or permanent partial disability~~ compensation are not made in a timely manner as required by law or by rule adopted by the commissioner.

Sec. 24. Minnesota Statutes 1992, section 176.225, is amended by adding a subdivision to read:

Subd. 6. [VIOLATIONS OF SAFETY PROVISIONS; PENALTY.] If injury is caused by the failure of the employer to comply with any statute or any lawful order of the department, compensation and death benefits provided in this chapter shall be increased 15 percent but the total increase may not exceed \$15,000. Failure of an employer reasonably to enforce compliance by employees with that statute or order of the department constitutes failure by the employer to comply with that statute or order.

Sec. 25. Minnesota Statutes 1992, section 176.225, is amended by adding a subdivision to read:

Subd. 7. [DECREASED COMPENSATION.] If injury is caused by the failure of the employee to use safety devices which are provided in accordance with any statute or lawful order of the department and are adequately maintained, and the use of which is reasonably enforced by the employer, or if injury results from the employee's failure to obey any reasonable rule adopted and reasonably enforced by the employer for the safety of the employee and of which the employee has notice, the compensation and death benefit provided in this chapter shall be reduced 15 percent but the total reduction may not exceed \$15,000.

Sec. 26. Minnesota Statutes 1992, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2 and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, of the year previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on or after October 1, 1977, ~~but prior to October 1, 1992~~, under this section shall exceed six percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be six percent. For injuries occurring on or after October 1, 1992, no adjustment increase made on or after October 1, 1992, under this section shall exceed four percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be four percent.

Sec. 27. Minnesota Statutes 1992, section 176.83, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] In addition to any other section under this chapter giving the commissioner the authority to adopt rules, the commissioner may adopt, amend, or repeal rules to implement the provisions of this chapter. The rules include but are not limited to the rules listed in this section. The commissioner has no authority to adopt or amend rules to have the substance or effect of the 1993 rehabilitation rules, treatment standards rules, rules of practice, and medical rules of practice.

Sec. 28. Minnesota Statutes 1992, section 176.83, subdivision 2, is amended to read:

Subd. 2. [REHABILITATION.] Rules necessary to implement and administer section 176.102, including the establishment of qualifications necessary to be a qualified rehabilitation consultant and the requirements to be an approved registered vendor of rehabilitation services.

The rules may also provide for penalties to be imposed by the commissioner against insurers or self-insured employers who fail to provide rehabilitation consultation to employees pursuant to section 176.102.

These rules may also establish criteria for determining "reasonable moving expenses" under section 176.102.

~~The rules shall also establish criteria, guidelines, methods, or procedures to be met by an employer or insurer in providing the initial rehabilitation consultation required under this chapter which would permit the initial consultation to be provided by an individual other than a qualified rehabilitation consultant. In the absence of rules regarding an initial consultation this consultation shall be conducted pursuant to section 176.102.~~

Sec. 29. Minnesota Statutes 1992, section 176.83, subdivision 5, is amended to read:

Subd. 5. [TREATMENT STANDARDS FOR EXCESSIVE MEDICAL SERVICES.] In consultation with the medical services review board or the rehabilitation review panel, ~~the commissioner shall adopt emergency and permanent rules establishing standards and procedures for health care provider treatment. The rules shall apply uniformly to all providers including those providing managed care under section 176.1351. The rules shall be used to determine~~ determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, ~~unnecessary, or inappropriate~~ based upon accepted medical standards for quality health care and accepted rehabilitation standards.

~~The rules shall include, but are not limited to, the following:~~

~~(1) criteria for diagnosis and treatment of the most common work-related injuries including, but not limited to, low back injuries and upper extremity repetitive trauma injuries;~~

~~(2) criteria for surgical procedures including, but not limited to, diagnosis, prior conservative treatment, supporting diagnostic imaging and testing, and anticipated outcome criteria;~~

- ~~(3) criteria for use of appliances, adaptive equipment, and use of health clubs or other exercise facilities;~~
- ~~(4) criteria for diagnostic imaging procedures;~~
- ~~(5) criteria for inpatient hospitalization; and~~
- ~~(6) criteria for treatment of chronic pain.~~

If it is determined by the payer that the level, frequency or cost of a procedure or service of a provider is excessive, ~~unnecessary, or inappropriate~~ according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer, and the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program unless the commissioner or compensation judge determines at a hearing or administrative conference that the level, frequency, or cost was not excessive in which case the insurer, self-insurer, or group self-insurer shall make the payment deemed reasonable.

A rehabilitation provider who is determined by the rehabilitation review panel board, after hearing, to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under this chapter. A prohibition imposed on a provider under this subdivision may be grounds for revocation or suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing or certifying body. The medical services review board shall review excessive, ~~inappropriate, or unnecessary~~ health care provider treatment under section 176.103, subdivision 2.

Sec. 30. [SUNSET.]

The workers' compensation court of appeals expires December 31, 1997. All appeals to the workers' compensation court of appeals are transferred to district court, which shall sit as an appellate court.

Sec. 31. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall change the words "workers' compensation court of appeals" and "court of appeals" wherever they appear in Minnesota Statutes, chapter 176, to "district court."

Sec. 32. [REPEALER; COURT OF APPEALS.]

Minnesota Statutes 1992, sections 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; 175A.10; and 176.011, subdivision 7, are repealed.

Sec. 33. [MINNESOTA RULES REPEALED.]

Minnesota Rules, parts 5220.0100 to 5220.1900; 5221.0100 to 5221.0700; and 5221.6010 to 5221.8900, are repealed.

Sec. 34. [REPEALER; TWO TIER SYSTEM; PROPOSED RULES.]

Minnesota Statutes 1992, sections 176.011, subdivisions 25 and 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u, are repealed.

The rules of practice proposed June 21, 1993, in the State Register to be codified as Minnesota Rules, parts 5220.2500 to 5220.2940, shall not take effect. If the rules are in effect before the effective date of this section, Minnesota Rules, parts 5220.2500 to 5220.2940, are repealed and the rules in effect before them are reinstated.

Sec. 35. [EFFECTIVE DATE.]

Sections 1 to 25, 27, 28, 33, and 34 are effective October 1, 1994, and apply to injuries on or after that date. Section 26 is effective the day following final enactment and applies retroactively to October 1, 1992. Sections 30 to 32 are effective December 31, 1997. Sections 30 to 32 do not take effect if the workers' compensation advisory council unanimously recommends to the legislature that sections 30 to 32 not take effect, and if sections 30 to 32 are repealed before December 31, 1997.

## ARTICLE 4

## COLLECTIVE BARGAINING

## Section 1. [176.1812] [COLLECTIVE BARGAINING AGREEMENTS.]

Subdivision 1. [REQUIREMENTS.] Upon appropriate filing, the commissioner, compensation judge, workers' compensation court of appeals, and courts shall recognize as valid and binding a provision in a collective bargaining agreement between an employer and the recognized or certified and exclusive representative of its employees to establish certain obligations and procedures relating to workers' compensation. This agreement must be limited to, but need not include, all of the following:

(a) an alternative dispute resolution system to supplement, modify, or replace the provisions of this chapter. The system may include mediation, arbitration, or other dispute resolution proceedings, the results of which may be binding upon the parties. A system of arbitration may provide that the decision of the arbiter is subject to review either by the workers' compensation court of appeals in the same manner as an award or order of a compensation judge or, in lieu of review by the workers' compensation court of appeals, by the district court, by the Minnesota court of appeals, or by the supreme court in the same manner as the workers' compensation court of appeals;

(b) an agreed list of providers of medical treatment that may be the exclusive source of all medical and related treatment provided under this chapter, if an employer has not opted to participate in a managed care plan as provided in section 176.1351;

(c) the use of a limited list of impartial physicians to conduct independent medical examinations;

(d) the creation of a light duty, modified job, or return to work program;

(e) the establishment of vocational rehabilitation or retraining programs;

(f) the establishment of safety committees and safety procedures; and

(g) the adoption of a 24-hour health care coverage plan.

Subd. 2. [FILING AND REVIEW.] A copy of the agreement and the approximate number of employees who will be covered under it must be filed with the commissioner. Within 21 days of receipt of an agreement, the commissioner shall review the agreement for compliance with this chapter and notify the parties of any additional information required or any modification that must be made to bring the agreement into compliance. Upon receipt of any requested information or modification, the commissioner must notify the parties within 21 days that the agreement has or has not been approved. The agreement must be approved if the commissioner finds that the agreement:

(1) proposes to provide quality services required by this chapter in a manner that is timely, effective, and convenient for the worker;

(2) provides these services in an area geographically convenient to the employees it serves;

(3) provides appropriate incentives to reduce service costs and utilization without sacrificing the quality of service;

(4) as appropriate, provides aggressive case management for injured workers and implements a program to encourage an early return to work and cooperative efforts by the workers and the employer to promote workplace health and safety consultative and other services; and

(5) provides a timely and accurate method of reporting to the commissioner necessary information regarding service cost and utilization to enable the commissioner to annually report to the legislature. The information provided to the commissioner must include aggregate data on the:

(i) person hours covered by agreements filed;

(ii) number of claims filed;

(iii) average cost per claim;



(iv) number of litigated claims, including the number of claims submitted to arbitration, the workers' compensation court of appeals, the district court, the Minnesota court of appeals, or the supreme court;

(v) number of contested claims resolved prior to arbitration;

(vi) projected incurred costs and actual costs of claims;

(vii) employer's safety history;

(viii) number of workers participating in vocational rehabilitation; and

(ix) number of workers participating in light-duty programs.

Subd. 3. [REFUSAL TO APPROVE.] A person aggrieved by the commissioner's decision concerning an agreement may request in writing, within 30 days of the date the notice is issued, the initiation of a contested case proceeding under chapter 14. The request to initiate a contested case must be received by the department by the 30th day after the commissioner's decision. An appeal from the commissioner's final decision and order may be taken to the workers' compensation court of appeals pursuant to sections 176.421 and 176.442.

Subd. 4. [VOID AGREEMENTS.] Nothing in this section shall allow any agreement that diminishes an employee's entitlement to benefits as otherwise set forth in this chapter. Any agreement in violation of this chapter is null and void.

Subd. 5. [APPROVAL OF INSURANCE CARRIER.] If the employer is insured under this chapter, the provision shall not be recognized by the commissioner, compensation judge, workers' compensation court of appeals, and other courts unless agreed to by the employer's insurance carrier, which may withhold its approval.

Subd. 6. [RULES.] The commissioner may adopt emergency or permanent rules necessary to implement this section."

Delete the title and insert:

"A bill for an act relating to workers' compensation; modifying provisions relating to insurance, procedures and benefits; providing penalties; appropriating money; amending Minnesota Statutes 1992, sections 79.01, subdivision 1; 79.074, by adding subdivisions; 79.50; 79.59; 79A.01, subdivision 4; 79A.02, subdivisions 1, 2, and 4; 79A.04, subdivision 9; 79A.15; 175.007, subdivision 1; 176.011, subdivisions 9, 15, and 18; 176.021, subdivisions 3 and 3a; 176.061, subdivision 10; 176.101, subdivisions 1, 2, 4, 6, and by adding a subdivision; 176.102, subdivisions 1, 2, 4, and by adding a subdivision; 176.105, subdivisions 2 and 4; 176.132, subdivisions 2 and 3; 176.178; 176.179; 176.221, subdivision 6a; 176.225, by adding subdivisions; 176.645, subdivision 1; and 176.83, subdivisions 1, 2, and 5; Minnesota Statutes 1993 Supplement, section 79A.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 79; 79A; and 176; repealing Minnesota Statutes 1992, sections 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07; 175A.08; 175A.09; 175A.10; 176.011, subdivisions 7, 25, and 26; and 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u; Minnesota Rules, parts 5220.0100 to 5220.1900; 5220.2500 to 5220.2940; 5221.0100 to 5221.0700; and 5221.6010 to 5221.8900."

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.

Jacobs from the Committee on Regulated Industries and Energy to which was referred:

S. F. No. 819, A bill for an act relating to telephone services; prohibiting collection of charges for information services as if they were charges for telephone services; providing for notice of certain call blocking options; amending Minnesota Statutes 1992, section 237.66, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 325F.

Reported the same back with the following amendments:

Page 1, line 22, after "transmitted" insert "exclusively orally"

Page 2, line 1, delete "1-976,"

Page 3, line 36, delete "common carrier" and insert "telephone company or independent telephone company"

Page 4, line 19, after the period, insert: "This subdivision does not apply to the issuance of identification codes or personal identification numbers to consumers by a financial institution as defined in United States Code, title 18, section 20, or an affiliate or subsidiary of a financial institution."

With the recommendation that when so amended the bill pass.

The report was adopted.

## SECOND READING OF HOUSE BILLS

H. F. Nos. 392, 553, 1457, 1830, 2013, 2148, 2226, 2251, 2275, 2299, 2402, 2411, 2420, 2493, 2551, 2587, 2590, 2626, 2657, 2670, 2673, 2677, 2700, 2737, 2839, 3017 and 3091 were read for the second time.

## SECOND READING OF SENATE BILLS

S. F. Nos. 1752, 1967, 1968, 1983, 2260, 2415, 2425, 2522 and 819 were read for the second time.

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Nelson introduced:

H. F. No. 3174, A bill for an act relating to capital improvements; appropriating money to the commissioner of transportation to construct addition to Detroit Lakes welding shop; authorizing the sale of state bonds.

The bill was read for the first time and referred to the Committee on Capital Investment.

Cooper and Greenfield introduced:

H. F. No. 3175, A bill for an act relating to occupations and professions; establishing the professional counseling licensing board; requiring professional counselors to be licensed; requiring rulemaking; providing penalties; appropriating money; amending Minnesota Statutes 1992, sections 148A.01, subdivision 5; 148B.60, subdivision 3; and 214.04, subdivision 3; Minnesota Statutes 1993 Supplement, sections 116J.70, subdivision 2a; 214.01, subdivision 2; and 609.341, subdivision 17; proposing coding for new law in Minnesota Statutes, chapter 148B.

The bill was read for the first time and referred to the Committee on Health and Human Services.

Kahn introduced:

H. F. No. 3176, A bill for an act relating to the metropolitan waste control commission; applying the uniform municipal contracting law to purchases for the metropolitan disposal system; amending Minnesota Statutes 1992, section 473.523, subdivisions 1 and 2.

The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs.

Clark introduced:

H. F. No. 3177, A bill for an act relating to consumer protection; video cassette tapes; requiring captioning for deaf or hearing-impaired persons; proposing coding for new law in Minnesota Statutes, chapter 325F.

The bill was read for the first time and referred to the Committee on Commerce and Economic Development.

The Speaker called Kahn to the Chair.

## MESSAGES FROM THE SENATE

The following message was received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 1823, 2237, 2242, 1870, 1835, 2149, 1951 and 2450.

PATRICK E. FLAHAVEN, Secretary of the Senate

## FIRST READING OF SENATE BILLS

S. F. No. 1823, A bill for an act relating to government data practices; listing provisions codified outside the government data practices act that limit access to data; amending Minnesota Statutes 1992, section 13.99, subdivisions 7, 39, 45, 53, 60, 71, and by adding subdivisions.

The bill was read for the first time and referred to the Committee on Judiciary.

S. F. No. 2237, A bill for an act relating to game and fish; changing certain dates relating to the taking of fish; changing requirements relating to when fish houses and dark houses may be on the ice; amending Minnesota Statutes 1992, sections 97C.345, subdivisions 1, 2, and 3; 97C.355, subdivision 7; and 97C.371, subdivision 4.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

S. F. No. 2242, A bill for an act relating to crimes; defining escaping while held in lawful custody to include absconding from electronic monitoring devices; amending Minnesota Statutes 1992, section 609.485, subdivision 2.

The bill was read for the first time and referred to the Committee on Judiciary.

S. F. No. 1870, A bill for an act relating to crime victims; requiring the court at sentencing to inform victims how to implement their right to notice of offender release from correctional facilities; proposing coding for new law in Minnesota Statutes, chapter 611A.

The bill was read for the first time and referred to the Committee on Judiciary.

S. F. No. 1835, A bill for an act relating to corrections; prohibiting payment of costs of elective or cosmetic procedures for prison and jail inmates; amending Minnesota Statutes 1992, sections 241.021, subdivision 4; and 641.15, subdivision 2.

The bill was read for the first time and referred to the Committee on Judiciary.

S. F. No. 2149, A bill for an act relating to the environment; making the field citation pilot project permanent law; authorizing penalties for unauthorized waste disposal; proposing coding for new law in Minnesota Statutes, chapter 116.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

S. F. No. 1951, A bill for an act relating to insurance; health; restricting termination or reductions of coverage for fibrocystic conditions; proposing coding for new law in Minnesota Statutes, chapter 62A.

The bill was read for the first time and referred to the Committee on Financial Institutions and Insurance.

S. F. No. 2450, A bill for an act relating to the Minnesota historical society; clarifying law relating to its status; amending Minnesota Statutes 1992, section 138.01, subdivision 1.

The bill was read for the first time and referred to the Committee on General Legislation, Veterans Affairs and Elections.

### CONSENT CALENDAR

H. F. No. 2622, A bill for an act relating to state lands; authorizing the department of natural resources to sell certain state land in the counties of Itasca and St. Louis.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

The Speaker resumed the Chair.

H. F. No. 2770 was reported to the House.

Wejcman moved that H. F. No. 2770 be stricken from the Consent Calendar and be placed on General Orders. The motion prevailed.

# REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Carruthers, from the Committee on Rules and Legislative Administration, pursuant to rule 1.09, designated the following bills as Special Orders to be acted upon immediately preceding General Orders for today:

H. F. Nos. 2665, 2248, 2710, 2373, 1778, 1915 and 2064.

## SPECIAL ORDERS

H. F. No. 2665, A bill for an act relating to parks and recreation; adding lands to certain state parks; converting certain recreation areas to state parks; deleting land from a recreation area; combining a trail and certain waysides into a recreation area; abolishing a state park; amending Minnesota Statutes 1992, section 85.054, by adding a subdivision; repealing Minnesota Statutes 1992, section 85.013, subdivisions 16, 18a, 24, 26, and 28.

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

The bill was passed and its title agreed to.

H. F. No. 2248, A bill for an act relating to agriculture; changing certain pesticide posting requirements; amending Minnesota Statutes 1992, section 18B.07, subdivision 3.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abrams	Beard	Brown, K.	Cooper	Delmont	Farrell	Goodno
Anderson, R.	Bergson	Carlson	Dauner	Dempsey	Finseth	Greenfield
Asch	Bertram	Carruthers	Davids	Dorn	Frerichs	Greiling
Battaglia	Bettermann	Clark	Dawkins	Erhardt	Garcia	Gruenes
Bauerly	Bishop	Commers	Dehler	Evans	Girard	Gutknecht

Hasskamp	Kelley	Long	Murphy	Pauly	Sekhon	Van Engen
Haukoos	Kelso	Lourey	Neary	Pawlenty	Simoneau	Vellenga
Hausman	Kinkel	Luther	Nelson	Pelowski	Skoglund	Vickerman
Holsten	Klinzing	Lynch	Ness	Perlt	Smith	Wagenius
Hugoson	Knickerbocker	Macklin	Olson, E.	Peterson	Solberg	Waltman
Huntley	Knight	Mahon	Olson, K.	Pugh	Stanisus	Weaver
Jacobs	Koppendrayner	Mariani	Olson, M.	Reding	Steensma	Wejcmán
Jefferson	Krinkie	McCollum	Onnen	Rest	Sviggum	Wenzel
Jennings	Krueger	McGuire	Opatz	Rhodes	Swenson	Winter
Johnson, A.	Lasley	Milbert	Orenstein	Rice	Tomassoni	Wolf
Johnson, R.	Leppik	Molnau	Orfield	Rodosovich	Tompkins	Worke
Johnson, V.	Lieder	Morrison	Osthoff	Rukavina	Trimble	Workman
Kahn	Limmer	Mosel	Ostrom	Sarna	Tunheim	Spk. Anderson, I.
Kalis	Lindner	Munger	Ozment	Seagren	Van Dellen	

The bill was passed and its title agreed to.

H. F. No. 2710, A bill for an act relating to state government; requiring the commissioner of administration to study and report on the best way to increase electronic services to citizens; proposing coding for new law in Minnesota Statutes, chapter 16B.

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 2 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Koppendrayner Lindner

The bill was passed and its title agreed to.

H. F. No. 2373, A bill for an act relating to agriculture; modifying certain provisions relating to wheat and barley promotion orders and the payment and refund of checkoff fees; amending Minnesota Statutes 1992, sections 17.53, subdivisions 2, 8, and 13; 17.59, subdivision 2; and 17.63.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 1 nay as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Huntley

The bill was passed and its title agreed to.

H. F. No. 1778, A bill for an act relating to retirement; establishing minimum qualifications for audits of police and fire relief associations; establishing reporting requirements for certain public pension funds; requiring notice of meetings of relief associations and requiring meetings to be open to the public; changing employer contributions rates for the Bloomington fire relief association; amending Minnesota Statutes 1992, sections 69.051, subdivision 1; 69.773, subdivision 4; and 424A.04, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 356.

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 75 yeas and 57 nays as follows:

Those who voted in the affirmative were:

Abrams	Delmont	Jacobs	Lieder	Neary	Rest	Tomassoni
Asch	Dempsey	Jefferson	Long	Olson, E.	Rhodes	Tompkins
Bauerly	Erhardt	Jennings	Lourey	Olson, K.	Rice	Trimble
Bergson	Evans	Johnson, A.	Luther	Orenstein	Rodosovich	Tunheim
Bishop	Farrell	Johnson, V.	Mahon	Orfield	Seagren	Van Dellen
Carlson	Garcia	Kahn	Mariani	Osthoff	Sekhon	Vellenga
Carruthers	Greenfield	Kelley	McCollum	Pauly	Simoneau	Wagenius
Clark	Greiling	Kinkel	McGuire	Pawlenty	Skoglund	Wejcman
Commers	Hasskamp	Knickerbocker	Milbert	Pelowski	Solberg	Spk. Anderson, I.
Dawkins	Hausman	Knight	Morrison	Perlt	Stanius	
Dehler	Huntley	Lasley	Munger	Pugh	Swenson	

Those who voted in the negative were:

Anderson, R.	Bettermann	Dauner	Frerichs	Gutknecht	Johnson, R.	Koppendraye
Battaglia	Brown, C.	Dauids	Girard	Haukoos	Kalis	Krinkie
Beard	Brown, K.	Dorn	Goodno	Holsten	Kelso	Krueger
Bertram	Cooper	Finseth	Gruenes	Hugoson	Klinzing	Limmer

Lindner	Murphy	Opatz	Rukavina	Van Engen	Winter
Lynch	Nelson	Ostrom	Sarna	Vickerman	Wolf
Macklin	Ness	Ozment	Smith	Waltman	Worke
Molnau	Olson, M.	Peterson	Steensma	Weaver	Workman
Mosel	Ornen	Reding	Sviggum	Wenzel	

The bill was passed and its title agreed to.

H. F. No. 1915, A bill for an act relating to employment; establishing a disaster volunteer leave program in the state civil service; proposing coding for new law in Minnesota Statutes, chapter 43A.

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 124 yeas and 9 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Dehler	Gutknecht	Koppendrayner	Limmer	Tompkins
Gruenes	Haukoos	Krinkie	Sviggum	

The bill was passed and its title agreed to.

H. F. No. 2064, A bill for an act relating to housing; modifying programs of the housing finance agency for low-income and tribal housing and for accessibility loans; amending Minnesota Statutes 1992, sections 462A.05, subdivision 14d, and by adding subdivisions; 462A.10, by adding a subdivision; 462A.201, by adding a subdivision; 462A.21, by adding a subdivision; 462A.30, subdivision 9; and 462A.31, subdivision 4; Minnesota Statutes 1993 Supplement, sections 462A.07, subdivision 14; 462A.202, subdivision 7; and 462A.222, subdivision 3.

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 103 yeas and 28 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Beard	Brown, C.	Clark	Dawkins	Erhardt	Garcia
Asch	Bergson	Brown, K.	Cooper	Dehler	Evans	Goodno
Battaglia	Bertram	Carlson	Dauner	Delmont	Farrell	Greenfield
Bauerly	Bishop	Carruthers	Davids	Dorn	Finseth	Greiling



Gruenes	Kalis	Lourey	Neary	Pawlenty	Sarna	Tunheim
Hasskamp	Kelley	Luther	Nelson	Pelowski	Seagren	Van Engen
Hausman	Kelso	Macklin	Olson, E.	Perlt	Sekhon	Vellenga
Huntley	Kinkel	Mahon	Olson, K.	Peterson	Simoneau	Wagenius
Jacobs	Klinzing	Mariani	Olson, M.	Pugh	Skoglund	Weaver
Jefferson	Knickerbocker	McCollum	Opatz	Reding	Smith	Wejzman
Jennings	Knight	McGuire	Orenstein	Rest	Solberg	Wenzel
Johnson, A.	Krueger	Molnau	Orfield	Rhodes	Steensma	Winter
Johnson, R.	Lasley	Mosel	Ostrom	Rice	Swenson	Spk. Anderson, I.
Johnson, V.	Lieder	Munger	Ozment	Rodosovich	Tomassoni	
Kahn	Long	Murphy	Pauly	Rukavina	Trimble	

Those who voted in the negative were:

Abrams	Frerichs	Holsten	Leppik	Milbert	Stanis	Vickerman
Bettermann	Girard	Hugoson	Limmer	Morrison	Sviggum	Waltman
Commers	Gutknecht	Koppendrayner	Lindner	Ness	Tompkins	Wolf
Dempsey	Haukoos	Krinkie	Lynch	Onnen	Van Dellen	Worke

The bill was passed and its title agreed to.

## GENERAL ORDERS

Carruthers moved that the bills on General Orders for today be continued. The motion prevailed.

## MOTIONS AND RESOLUTIONS

Pugh moved that the name of Lourey be added as an author on H. F. No. 262. The motion prevailed.

Trimble moved that the name of Steensma be added as an author on H. F. No. 2132. The motion prevailed.

Hasskamp moved that the name of Garcia be stricken and the name of Kalis be added as an author on H. F. No. 2322. The motion prevailed.

Brown, K., moved that the name of Dauner be added as an author on H. F. No. 2370. The motion prevailed.

Ness moved that his name be stricken as an author on H. F. No. 2885. The motion prevailed.

Smith moved that his name be stricken as an author on H. F. No. 3124. The motion prevailed.

Osthoff moved that his name be stricken as an author on H. F. No. 3172. The motion prevailed.

Greenfield moved that H. F. No. 2008 be recalled from the Committee on Health and Human Services and be re-referred to the Committee on Judiciary. The motion prevailed.

Murphy moved that H. F. No. 2962 be recalled from the Committee on Ways and Means and be re-referred to the Committee on Health and Human Services. The motion prevailed.

Swenson moved that H. F. No. 3119 be recalled from the Committee on Taxes and be re-referred to the Committee on Economic Development, Infrastructure and Regulation Finance. The motion prevailed.

Bergson moved that H. F. No. 3160 be recalled from the Committee on Capital Investment and be re-referred to the Committee on Environment and Natural Resources Finance. The motion prevailed.

Rice moved that H. F. No. 2700, now on Technical General Orders, be re-referred to the Committee on Economic Development, Infrastructure and Regulation Finance. The motion prevailed.

Finseth moved that H. F. No. 2477 be returned to its author. The motion prevailed.

Kinkel moved that H. F. No. 2720 be returned to its author. The motion prevailed.

Johnson, A., moved that H. F. No. 2879 be returned to its author. The motion prevailed.

#### ADJOURNMENT

Carruthers moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:30 p.m., Wednesday, March 30, 1994.

EDWARD A. BURDICK, Chief Clerk, House of Representatives