

SEVENTY-NINTH DAY

St. Paul, Minnesota, Wednesday, March 18, 1992

The Senate met at 1:00 p.m. and was called to order by the President.

CALL OF THE SENATE

Mr. Moe, R.D. imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Thomas R. Hendrickson.

The roll was called, and the following Senators answered to their names:

Adkins	DeCramer	Johnston	Metzen	Renneke
Beckman	Finn	Kelly	Moe, R. D.	Riveness
Benson, D.D.	Flynn	Knaak	Mondale	Sams
Benson, J.E.	Frank	Kroening	Morse	Samuelson
Berg	Frederickson, D.J.	Laidig	Neuville	Solon
Bernhagen	Frederickson, D.R.	Langseth	Novak	Spear
Bertram	Gustafson	Larson	Olson	Stumpf
Brataas	Halberg	Lessard	Pappas	Terwilliger
Chmielewski	Hottinger	Luther	Pariseau	Traub
Cohen	Hughes	Marty	Pogemiller	Vickerman
Dahl	Johnson, D.E.	McGowan	Price	Waldorf
Davis	Johnson, D.J.	Mehrkens	Ranum	
Day	Johnson, J.B.	Merriam	Reichgott	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

MEMBERS EXCUSED

Mses. Berglin, Piper and Mr. Johnson, D.J. were excused from the Session of today.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received and referred to the committees indicated.

May 17, 1991

The Honorable Jerome Hughes
President of the Senate

Dear Sir:

The following appointment is hereby respectfully submitted to the Senate for confirmation as requested by law:

COMMISSIONER OF HUMAN RIGHTS

A. Frank Gallegos, 1200 Portland Avenue, St. Paul, Ramsey County, Minnesota, has been appointed by me, effective May 17, 1991, for a term expiring on the first Monday in January, 1995.

(Referred to the Committee on Judiciary.)

Warmest regards,
Arne H. Carlson, Governor

June 13, 1991

The Honorable Jerome Hughes
President of the Senate

Dear Sir:

The following appointments are hereby respectfully submitted to the Senate for confirmation as requested by law:

MEMBERS, REGIONAL TRANSIT BOARD

Sharon Feess, 5301 Hamilton Lane, Brooklyn Park, Hennepin County, Minnesota, has been appointed by the Metropolitan Council, effective June 19, 1991, for a term expiring on the first Monday in January, 1995.

Ruth Franklin, 430 Rice Street, Anoka, Anoka County, Minnesota, has been appointed by the Metropolitan Council, effective June 19, 1991, for a term expiring on the first Monday in January, 1995.

Thomas Workman, 7233 Pontiac Circle, Chanhassen, Carver County, Minnesota, has been appointed by the Metropolitan Council, effective June 19, 1991, for a term expiring on the first Monday in January, 1995.

Don Scheel, 13404 South Fifth Street, Afton, Washington County, Minnesota, has been appointed by the Metropolitan Council, effective June 19, 1991, for a term expiring on the first Monday in January, 1995.

Maryann Campo, 512 West 53rd Street, Minneapolis, Hennepin County, Minnesota, has been appointed by the Metropolitan Council, effective June 19, 1991, for a term expiring on the first Monday in January, 1993.

(Referred to the Committee on Metropolitan Affairs.)

Sincerely,
Mary E. Anderson
Chair

February 18, 1992

The Honorable Jerome Hughes
President of the Senate

Dear Senator Hughes:

The following appointment was made by the Metropolitan Council on February 13, 1992 and is hereby respectfully submitted to the Senate for confirmation as requested by law:

REGIONAL TRANSIT BOARD

Thomas Sather, 3740 Brighton Way South, Arden Hills, Ramsey County, Minnesota, for a term expiring on the first Monday in January, 1993.

(Referred to the Committee on Metropolitan Affairs.)

Sincerely,
Mary E. Anderson
Chair

March 13, 1992

The Honorable Dee Long
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1992 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 1992	Date Filed 1992
1623		365	8:47 a.m. March 12	March 12

Sincerely,
Joan Anderson Growe
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

Pursuant to Joint Rule 3.02 (a), the Conference Committee on House File No. 155 was discharged after adjournment May 20, 1991 and the bill was laid on the table.

H.F. No. 155: A bill for an act relating to traffic regulations; authorizing immediate towing of certain unlawfully parked vehicles; amending Minnesota Statutes 1990, section 169.041, subdivision 4.

I have the honor to announce that on March 16, 1992, House File No. 155 was taken from the table and new conferees were appointed.

Bishop, Kalis and Wagenius have been appointed as such committee on the part of the House.

House File No. 155 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 16, 1992

Mrs. Brataas moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 155, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 1416, 1744, 1761, 1818, 2377, 2397, 2465, 2551 and 2572.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 16, 1992

FIRST READING OF HOUSE BILLS

The following bills were read the first time and referred to the committees indicated.

H.F. No. 1416: A bill for an act relating to commerce; modifying the regulation of interest rate advertising; amending Minnesota Statutes 1990, section 45.025, subdivisions 1 and 2; repealing Minnesota Statutes 1990, section 45.025, subdivision 7.

Referred to the Committee on Commerce.

H.F. No. 1744: A bill for an act relating to retirement; public employees retirement association; providing entitlement for optional annuities to certain surviving spouses of certain deceased disabled persons; mandating a study of coordinated program survivorship benefit gaps.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1710, now on the Consent Calendar.

H.F. No. 1761: A bill for an act relating to alcoholic beverages; municipal liquor stores; specifying the conditions under which a municipality is required to hold a public hearing on the question of continued operation of a municipal liquor store; amending Minnesota Statutes 1990, section 340A.602.

Referred to the Committee on Commerce.

H.F. No. 1818: A bill for an act relating to local government; authorizing mail balloting for certain municipalities; amending Minnesota Statutes 1990, sections 204B.45, subdivisions 1 and 2; and 365.51, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1668, now on the Consent Calendar.

H.F. No. 2377: A bill for an act relating to education; allowing a temporary school board structure for districts operating a cooperative secondary facility; amending Minnesota Statutes 1990, section 124.494, by adding a subdivision; Minnesota Statutes 1991 Supplement, section 122.23, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1968.

H.F. No. 2397: A bill for an act relating to pipelines; regulating liquefied natural gas facilities; amending Minnesota Statutes 1990, sections 299J.02, subdivisions 12, 13, and by adding subdivisions; 299J.04; 299J.07, subdivision 1; 299J.10; 299J.12, subdivisions 2 and 3; and 299J.15.

Referred to the Committee on Transportation.

H.F. No. 2465: A bill for an act relating to veterans; clarifying procedures for searches of veterans' home residents' rooms or property; amending Minnesota Statutes 1990, sections 198.33, subdivision 1; and 365A.06, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2029, now on General Orders.

H.F. No. 2551: A bill for an act relating to corporations; regulating registrations of domestic corporations with the secretary of state; amending Minnesota Statutes 1990, section 302A.821, as amended.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2413.

H.F. No. 2572: A bill for an act relating to probate; altering the definition of successors; amending Minnesota Statutes 1990, sections 353A.02, subdivision 21; 524.1-201; 524.3-303; and 524.3-308.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2309.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 1878, 2107, 2430 and 2694. The motion prevailed.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2511: A bill for an act relating to state lands; authorizing public sale of certain tax-forfeited land in Mille Lacs county.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 8, after the comma, insert "*subdivision 1,*"

Page 1, after line 19, insert:

"Sec. 2. [EXCHANGE OF REAL PROPERTY.]

Subdivision 1. [AUTHORIZATION.] Notwithstanding Minnesota Statutes, sections 94.341 to 94.348, except as they relate to approval by the land exchange board, and Minnesota Statutes, chapter 282, the state of Minnesota shall exchange without delay the real property described in subdivision 3 for the property of Thomas Godward of Aitkin, Minnesota, described in subdivision 4.

Subd. 2. [FORM OF EXCHANGE.] The exchange must be in a form approved by the attorney general. The conveyances must be for the mutual consideration of the lands received in the exchange.

Subd. 3. [STATE PROPERTY.] The state shall exchange the property

described in this subdivision for the property owned by Thomas Godward, which is described in subdivision 4.

W1/2 of the NE 1/4 of section 18-48-26; E1/2 of the SW 1/4 of the SE 1/4 of section 7-48-26; and the W1/2 of the SE 1/4 of section 13-48-27 less the South 66 feet, all in Aitkin county, containing 176 acres, more or less.

Subd. 4. [GODWARD PROPERTY.] Thomas Godward may exchange the real property described in this subdivision for the real property owned by the state and described in subdivision 3.

S1/2 of the NE 1/4, and the SE 1/4 of the NW 1/4 of section 33-48-24, less the railroad right of way and less 1 acre; and the N1/2 of the NW 1/4 of section 22-46-23, all in Aitkin county, containing 175 acres, more or less."

Page 1, line 20, delete "2" and insert "3"

Page 1, line 21, delete "Section 1 is" and insert "Sections 1 and 2 are"

Amend the title as follows:

Page 1, line 3, before the period, insert "; authorizing an exchange of real property"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2001: A bill for an act relating to the environment; expanding the eligibility of cities and towns for reimbursement from the petroleum tank release cleanup account; amending Minnesota Statutes 1990, section 115C.09, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 115C.02, subdivision 8, is amended to read:

Subd. 8. [OWNER.] "Owner" means a person who holds title to, controls, or possesses an interest in a tank. "Owner" does not include a person who holds an interest in a tank solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the tank *and fails to take all necessary corrective action as a volunteer under section 115C.09*. The state or an agency of the state is not an owner solely because it holds title to a tank or to real property where the tank is located in trust for taxing districts as a result of forfeiture of title for nonpayment of taxes.

Sec. 2. Minnesota Statutes 1990, section 115C.021, is amended by adding a subdivision to read:

Subd. 4. [MORTGAGEES.] (a) *A mortgagee is not responsible for a release from a tank solely because the mortgagee becomes an owner of real property on which the tank is located through foreclosure of the mortgage or by receipt of the deed to the mortgaged property in lieu of foreclosure.*

(b) A mortgagee of real property where a tank is located or a holder of a security interest in a tank is not an operator of the tank for the purpose of this section solely because the mortgagee or holder has a capacity to influence the operation of the tank to protect its security interest.

Sec. 3. Minnesota Statutes 1991 Supplement, section 115C.09, subdivision 3b, is amended to read:

Subd. 3b. [VOLUNTEER ELIGIBILITY.] (a) Notwithstanding subdivisions 1 to 3, a person may apply to the board for partial reimbursement under subdivision 3 who:

- (1) is not a responsible person under section 115C.02;
- (2) holds legal or equitable title to the property where a release occurred; and
- (3) incurs reimbursable costs on or after May 23, 1989.

(b) A person eligible for reimbursement under this subdivision must, to the maximum extent possible, comply with the same conditions and requirements of reimbursement as those imposed by this section on a responsible person.

(c) The board may reduce the reimbursement to a person eligible under this subdivision if the person acquired legal or equitable title to the property from a responsible person who failed to comply with the provisions of subdivision 3, paragraph (f), *except that the board may not reduce the reimbursement to a mortgagee who acquires title to the property through foreclosure or receipt of a deed in lieu of foreclosure.*

Sec. 4. Minnesota Statutes 1990, section 115C.09, is amended by adding a subdivision to read:

Subd. 3d. [POLITICAL SUBDIVISION ELIGIBILITY.] *(a) Notwithstanding the provisions of subdivisions 1 to 3, a political subdivision may apply to the board for partial reimbursement under subdivision 3 where the political subdivision:*

- (1) is not a responsible person under section 115C.02; and*
- (2) incurs reimbursable costs on or after the effective date of this section.*

(b) A political subdivision eligible for reimbursement under this subdivision may only apply for reimbursement if the identified responsible person has failed to take a corrective action ordered by the commissioner.

(c) A political subdivision eligible for reimbursement under this subdivision must, to the maximum extent possible, comply with the same conditions and requirements of reimbursement as those imposed by this section on a responsible person.

Sec. 5. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to the environment; changing and adding provisions relating to the liability of and reimbursement to mortgagees and holders of other security interests for petroleum tank releases; expanding the eligibility of political subdivisions for reimbursement from the petroleum tank release cleanup account; amending Minnesota Statutes 1990, sections

115C.02, subdivision 8; 115C.021, by adding a subdivision; and 115C.09, by adding a subdivision; Minnesota Statutes 1991 Supplement, section 115C.09, subdivision 3b."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2499: A bill for an act relating to economic development; authorizing the establishment of the Mille Lacs preservation and development board; providing for the designation of enterprise zones; proposing coding for new law in Minnesota Statutes, chapter 103F.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, lines 9, 11, and 16, delete "7" and insert "6"

Page 3, line 23, delete everything after "[PROCEDURE.]"

Page 3, delete lines 24 to 26

Page 3, line 27, delete "exceptions."

Page 4, lines 4 and 18, delete ", clauses (1) to (3)."

Page 4, line 10, delete everything after the comma

Page 4, line 11, delete "{3}."

Page 4, line 15, delete "CERTIFICATION" and insert "NOTIFICATION"

Pages 4 and 5, delete section 7

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

Page 5, line 8, delete "7" and insert "6"

Amend the title as follows:

Page 1, line 2, delete "economic development" and insert "natural resources"

Page 1, line 4, delete everything after the semicolon

Page 1, line 5, delete everything before "proposing"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Commerce, to which was referred

S.F. No. 304: A bill for an act relating to commerce; requiring local units of government to license the retail sale of cigarettes; providing for mandatory suspension of licenses for sales to minors; amending Minnesota Statutes 1990, section 461.12.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [461.110] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] The definitions in this section apply to sections 461.110 to 461.15.

Subd. 2. [LOCAL GOVERNMENT UNIT.] "Local government unit" means the town board, the governing body of a home rule charter or statutory city, or the county board.

Subd. 3. [TOBACCO.] "Tobacco" has the meaning given in section 609.685, subdivision 1.

Sec. 2. Minnesota Statutes 1990, section 461.12, is amended to read:

461.12 [MUNICIPAL CIGARETTE TOBACCO LICENSE.]

Subdivision 1. [AUTHORIZATION.] ~~The town board or governing body of each town and home rule charter and statutory city may~~ A town board or governing body of a home rule charter or statutory city may license and regulate the retail sale at retail of cigarettes, cigarette paper, or cigarette ~~wrappers~~ tobacco and fix the establish a license fee for sales. The county board shall license and regulate the sale of tobacco in unorganized territory and in unincorporated areas of a town or a home rule charter or statutory city if the town or city is not licensing or regulating retail tobacco sales. Each sales location, including each vending machine dispensing tobacco, must be licensed separately.

Subd. 2. [AUTHORIZED REGULATIONS.] ~~The town or city local government unit may charge a uniform annual fee for all sellers or different annual fees for different classes of sellers. The fee must be sufficient to recover the cost of enforcement of this section. It may provide for the punishment of any violation of the regulations, and make other provisions for the regulation of the sale of cigarettes tobacco within its jurisdiction as are permitted by law. The county board may make like provisions for licensing and regulating the sale of cigarettes in unorganized territory. The provisions of~~ A licensee's authority to sell tobacco at a specific location must be suspended for seven days if the licensee is found to have sold tobacco to a person under the age of 18 years at that location. A 30-day suspension must be imposed for a second violation occurring within a 12-month period at the sale location. A one-year suspension must be imposed for a third violation occurring within a 12-month period at the sale location. No suspension may take effect until the license holder has been given reasonable notice of an alleged violation and has been afforded an opportunity for a hearing before a person authorized by the governing body of the local government unit to conduct the hearing. A decision that a violation has occurred must be in writing and based on the record compiled at the hearing. A decision may be appealed to the district court of the county in which the sale occurred. This section ~~shall~~ does not apply to the licensing of ~~sale of cigarettes tobacco~~ sales in cars of common carriers.

Subd. 3. [ADMINISTRATIVE PENALTY.] The local government unit shall impose, on an individual who sells tobacco to a person under the age of 18 years, an administrative penalty of \$50. The individual must be given reasonable notice of an alleged violation and afforded an opportunity for a hearing before a person authorized by the governing body of the local government unit to conduct the hearing. A decision that a violation has occurred must be in writing and based on the record compiled at the hearing. A decision may be appealed to the district court of the county in which the sale occurred.

Subd. 4. [DEFENSE.] It is a defense to a violation under subdivision 2

or 3 of selling tobacco to a person under the age of 18 years, if the licensee or individual making the sale proves by a preponderance of the evidence that the licensee or individual reasonably and in good faith relied upon representation of proof of age described in section 340A.503, subdivision 6, in making the sale.

Subd. 5. [EFFECT ON LOCAL ORDINANCE.] This section does not preempt a local ordinance which provides for more restrictive regulation of retail tobacco sales.

Sec. 3. Minnesota Statutes 1990, section 461.13, is amended to read:

461.13 [~~CIGARETTE~~ TOBACCO LICENSE FEES, APPORTIONMENT.]

The fees for licenses granted by the governing body of any municipality local government unit shall be for the benefit of the municipality local government unit. When a license is issued by the county board the fee shall be deposited in the county treasury and be credited to the county revenue fund.

Sec. 4. Minnesota Statutes 1990, section 461.15, is amended to read:

461.15 [BLIND PERSONS NOT TO PAY ~~CIGARETTE~~ TOBACCO LICENSES.]

No applicant for any license required of persons for the sale or manufacture of ~~cigarettes~~ tobacco shall be required to pay any fee to the state or any political subdivision thereof upon furnishing a doctor's certificate showing that the applicant is blind, as defined by Laws 1937, Chapter 324."

Delete the title and insert:

"A bill for an act relating to commerce; authorizing local units of government to license the retail sale of tobacco; requiring a county to license the retail sale of tobacco under certain conditions; providing for mandatory suspension of licenses for sales to minors; amending Minnesota Statutes 1990, sections 461.12; 461.13; and 461.15; proposing coding for new law in Minnesota Statutes, chapter 461."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Frank from the Committee on Metropolitan Affairs, to which was referred

S.F. No. 2271: A bill for an act relating to metropolitan government; requiring the metropolitan airports commission to budget for noise mitigation; setting property acquisition conditions; amending Minnesota Statutes 1990, section 473.661, subdivision 1, and by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 473.661, subdivision 1, is amended to read:

Subdivision 1. The ~~commissioner~~ commissioners shall, on or before the first day of July of each year, prepare a detailed budget of the needs of the corporation for the next fiscal year, specifying separately in said budget the amounts to be expended for acquisition of property, construction, payments

on bonded indebtedness, if any, operation, *noise mitigation*, and maintenance, respectively, subject only to such changes as the commissioners may from time to time approve.

Sec. 2. Minnesota Statutes 1990, section 473.661, is amended by adding a subdivision to read:

Subd. 4. [NOISE MITIGATION.] (a) According to the schedule in paragraph (b) of this subdivision, commission funds must be dedicated (1) to supplement the implementation of corrective land use management measures approved by the Federal Aviation Administration as part of the commission's Federal Aviation Regulations, part 150 noise compatibility program, (2) for acquisition of properties which lie within the boundary created by highway 62 on the north, Cedar Avenue on the west, highway 494 on the south, and existing commission properties on the east, (3) for soundproofing and accompanying air conditioning of residences, schools, and other public buildings when there is a demonstrated need because of aircraft noise, regardless of the location of the building to be soundproofed, or any combination of the three.

(b) The noise mitigation program described in paragraph (a) of this subdivision shall be funded by the commission from whatever source of funds according to the following schedule:

In 1993, an amount equal to 25 percent of the passenger facilities charges revenue amount budgeted by the commission for 1993;

In 1994, an amount equal to 30 percent of the passenger facilities charges revenue amount budgeted by the commission for 1994;

In 1995, an amount equal to 35 percent of the passenger facilities charges revenue amount budgeted by the commission for 1995; and

In 1996, an amount equal to 40 percent of the passenger facilities charges revenue amount budgeted by the commission for 1996.

(c) The commission's capital improvement projects, program, and plan must reflect the requirements of this section. As part of the commission's report to the legislature under section 473.621, subdivision 1a, the commission must provide a description and the status of each noise mitigation project implemented under this section.

(d) Within 60 days of submitting the commission's and the metropolitan council's report and recommendations on major airport planning to the legislature as required by section 473.618, the commission, with the assistance of its sound abatement advisory committee, shall make a recommendation to the legislature regarding appropriate funding levels for noise mitigation at Minneapolis-St. Paul International Airport and in the neighboring communities.

Sec. 3. [APPLICATION.]

This act applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington."

Amend the title as follows:

Page 1, line 4, delete "setting property acquisition conditions" and insert "requiring a recommendation to the legislature"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Chmielewski from the Committee on Employment, to which was referred

S.F. No. 1877: A bill for an act relating to workers' compensation; regulating medical and rehabilitation benefits; providing penalties; amending Minnesota Statutes 1990, sections 176.011, subdivision 15; 176.102, subdivisions 1, 2, 3, 3a, 4, 6, 7, and 9; 176.103, subdivisions 2, 3, and by adding a subdivision; 176.135, subdivisions 1, 1a, 5, 6, and 7; 176.136, subdivisions 1, 2, and by adding subdivisions; 176.155, subdivision 1; and 176.83, subdivisions 5, 6, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 176; repealing Minnesota Statutes 1990, sections 176.135, subdivision 3; and 176.136, subdivision 5.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, 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, through physical and vocational rehabilitation, so the employee may return to a job related to the employee's former employment or to a job in another work area which produces an economic status as close as possible to that the employee would have enjoyed without disability. Rehabilitation to a job with a higher economic status than would have occurred without disability is permitted if it can be demonstrated that this rehabilitation is necessary to increase the likelihood of reemployment. Economic status is to be measured not only by opportunity for immediate income but also by opportunity for future income.

Sec. 2. Minnesota Statutes 1990, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner shall hire a director of rehabilitation services in the classified service. The commissioner shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services and shall by rule 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. 3. Minnesota Statutes 1990, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] (a) An

employer or insurer shall provide rehabilitation consultation by a qualified rehabilitation consultant or by another person permitted by rule to provide consultation to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation shall be made within five days after the employee has 30 days of lost work time due to the injury. The lost work time in either case may be intermittent lost work time. If an employer or insurer has medical information at any time prior to the time specified in this subdivision that the employee will be unable to return to the job the employee held at the time of the injury rehabilitation consultation shall be provided immediately after receipt of this information.

For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time. A rehabilitation consultation must be provided by the employer to an injured employee upon request of the employee, the employer, or the commissioner. 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 30 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.

(b) In order to assist the commissioner in determining whether or not to request rehabilitation consultation for an injured employee, an employer shall notify the commissioner whenever the employee's temporary total disability will likely exceed 13 weeks. The notification must be made within 90 days from the date of the injury or when the likelihood of at least a 13-week disability can be determined, whichever is earlier, and must include a current physician's report.

(c) The qualified rehabilitation consultant appointed by the employer or insurer shall disclose in writing at the first meeting or written communication with the employee any ownership interest or affiliation between the firm which employs the qualified rehabilitation consultant and the employer, insurer, adjusting or servicing company, including the nature and extent of the affiliation or interest.

The consultant shall also disclose to all parties any affiliation, business referral or other arrangement between the consultant or the firm employing the consultant and any other party to, attorney, or health care provider involved in the case - including any attorneys, doctors, or chiropractors.

If the employee objects to the employer's selection of a qualified rehabilitation consultant, the employee shall notify the employer and the commissioner in writing of the objection. The notification shall include the name, address, and telephone number of the qualified rehabilitation consultant chosen by the employee to provide rehabilitation consultation.

(d) After the initial provision or selection of a qualified rehabilitation consultant as provided under paragraph (a), the employee may choose request a different qualified rehabilitation consultant as follows:

(1) once during the first 60 days following the first in-person contact between the employee and the original consultant;

(2) once after the 60-day period referred to in clause (1); and

(3) subsequent requests which shall be determined granted or denied by the commissioner or compensation judge according to the best interests of the parties.

(e) The employee and employer shall enter into a program if one is prescribed in develop a rehabilitation plan within 30 days of the rehabilitation consultation if the qualified rehabilitation consultant determines that rehabilitation is appropriate. A copy of the plan, including a target date for return to work, shall be submitted to the commissioner within 15 days after the plan has been developed.

(b) (f) If the employer does not provide rehabilitation consultation as required by this section requested under paragraph (a), the commissioner or compensation judge shall notify the employer that if the employer fails to appoint provide a qualified rehabilitation consultant or other persons as permitted by clause (a) within 15 days to conduct a rehabilitation consultation, the commissioner or compensation judge shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner or compensation judge determines the consultation is not required.

(e) (g) In developing a rehabilitation plan consideration shall be given to the employee's qualifications, including but not limited to age, education, previous work history, interest, transferable skills, and present and future labor market conditions.

(d) (h) The commissioner or compensation judge may waive rehabilitation services under this section if the commissioner or compensation judge is satisfied that the employee will return to work in the near future or that rehabilitation services will not be useful in returning an employee to work.

Sec. 4. Minnesota Statutes 1990, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] (a) The commissioner or a compensation judge shall determine eligibility for rehabilitation services and shall review, approve, modify, or reject rehabilitation plans developed under subdivision 4. The commissioner or a compensation judge shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivisions 9 and 11 to which an employee is entitled.

(b) A rehabilitation consultant must file a progress report on the plan

with the commissioner six months after the plan is filed. The progress report must include a current estimate of the total cost and the expected duration of the plan. The commissioner may require additional progress reports. Based on the progress reports and available information, the commissioner may take actions including, but not limited to, redirecting, amending, suspending, or terminating the plan.

Sec. 5. Minnesota Statutes 1990, section 176.102, subdivision 9, is amended to read:

Subd. 9. [PLAN, COSTS.] (a) An employer is liable for the following rehabilitation expenses under this section:

- ~~(a)~~ (1) Cost of rehabilitation evaluation and preparation of a plan;
- ~~(b)~~ (2) Cost of all rehabilitation services and supplies necessary for implementation of the plan;
- ~~(c)~~ (3) Reasonable cost of tuition, books, travel, and custodial day care; and, in addition, reasonable costs of board and lodging when rehabilitation requires residence away from the employee's customary residence;
- ~~(d)~~ (4) Reasonable costs of travel and custodial day care during the job interview process;
- ~~(e)~~ (5) Reasonable cost for moving expenses of the employee and family if a job is found in a geographic area beyond reasonable commuting distance after a diligent search within the present community. Relocation shall not be paid more than once during any rehabilitation program, and relocation shall not be required if the new job is located within the same standard metropolitan statistical area as the employee's job at the time of injury. An employee shall not be required to relocate and a refusal to relocate shall not result in a suspension or termination of compensation under this chapter; and
- ~~(f)~~ (6) Any other expense agreed to be paid.

(b) Charges for services provided by a rehabilitation consultant or vendor must be submitted on a billing form prescribed by the commissioner. No payment for the services shall be made until the charges are submitted on the prescribed form.

(c) Except as provided in this paragraph, an employer is not liable for charges for services provided by a rehabilitation consultant or vendor unless the employer or its insurer receives a bill for those services within 45 days of the provision of the services. The commissioner or a compensation judge may order payment for charges not timely billed under this paragraph if the rehabilitation consultant or vendor can prove that the failure to submit the bill as required by this paragraph was due to circumstances beyond the control of the rehabilitation consultant or vendor. A rehabilitation consultant or vendor may not collect payment from any other person, including the employee, for bills that an employer is relieved from liability for paying under this paragraph.

Sec. 6. Minnesota Statutes 1990, section 176.103, subdivision 2, is amended to read:

Subd. 2. [SCOPE.] (a) The commissioner shall monitor the medical and surgical treatment provided to injured employees, the services of other health care providers and shall also monitor hospital utilization as it relates to the

treatment of injured employees. This monitoring shall include determinations concerning the appropriateness of the service, whether the treatment is necessary and effective, the proper cost of services, the quality of the treatment, the right of providers to receive payment under this chapter for services rendered or the right to receive payment under this chapter for future services. *Insurers and self-insurers must assist the commissioner in this monitoring by reporting to the commissioner cases of suspected excessive, inappropriate, or unnecessary treatment.* The commissioner shall report the results of the monitoring specific cases of suspected inappropriate, unnecessary, and excessive treatment to the medical services review board. ~~The commissioner may, either as a result of the monitoring or as a result of an investigation following receipt of a complaint, if the commissioner believes that any provider of health care services has violated any provision of this chapter or rules adopted under this chapter, initiate a contested case proceeding under chapter 14. In these cases, The medical services review board shall make the final decision following receipt of the report of an administrative law judge review those cases and make a determination of whether there is inappropriate, unnecessary, or excessive treatment based on its rules. The determination of the board is not subject to the contested case provisions of the administrative procedures act in chapter 14. An affected provider shall be given notice and an opportunity to be heard before the board prior to the board reporting its findings and conclusions. The board shall report its finding and conclusions to the commissioner. The findings and conclusions of the board are binding on the commissioner. The commissioner shall order a sanction if the board has concluded there was inappropriate, unnecessary, or excessive treatment. The commissioner shall adopt rules related to the sanctions to be imposed for inappropriate, unnecessary, or excessive treatment. The sanctions imposed may include, without limitation, a warning, a restriction on providing treatment, requiring preauthorization by the board for a plan of treatment, and suspension from receiving compensation for the provision of treatment under chapter 176. The commissioner's authority under this section also includes the authority to make determinations regarding any other activity involving the questions of utilization of medical services, and any other determination the commissioner deems necessary for the proper administration of this section, but does not include the authority to make the initial determination of primary liability, except as provided by section 176.305.~~

Sec. 7. Minnesota Statutes 1990, section 176.103, is amended by adding a subdivision to read:

Subd. 2a. [APPEALS, EFFECT OF DECISION.] An order imposing sanctions on a health care provider under subdivision 2 may be appealed and has the effect provided by this subdivision.

A sanction becomes effective at the time the commissioner notifies the provider of the order of sanction. The notice shall advise the provider of the right to obtain review as provided in this subdivision. If mailed, the notice of order of sanction is deemed received three days after mailing to the last known address of the provider.

Within 30 days of receipt of a notice of order of sanction, a provider may request in writing a review by the commissioner of the order. Upon receiving a request the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine

whether sufficient cause exists to sustain the order. Within 15 days of receiving the request the commissioner shall report in writing the results of the review. The review provided in this subdivision is not subject to the contested case provisions of the administrative procedure act in chapter 14.

Within 30 days following receipt of the commissioner's decision on review, a provider may petition the workers' compensation court of appeals for review. The petition shall be filed with the court, together with proof of service of a copy on the commissioner, and accompanied by the standard filing fee for appeals from decisions of compensation judges. No responsive pleading shall be required of the commissioner, and no fees shall be charged for the appearance of the commissioner in the matter.

The petition shall be captioned in the full name of the provider making the petition as petitioner and the commissioner as respondent. The petition shall state with specificity the grounds upon which the petitioner seeks rescission of the order of sanction.

The filing of the petition shall not stay the sanction. The court may order a stay of the balance of the sanction if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper. To the extent applicable, review shall be conducted according to the rules of the court for review of decisions of compensation judges.

The scope of the hearing shall be limited to the issues of whether the medical services review board's findings were supported by substantial evidence in view of the record before the board and whether the sanction imposed by the commissioner was authorized by law or rule.

The workers' compensation court of appeals may adopt rules necessary to implement this subdivision.

Sec. 8. Minnesota Statutes 1990, section 176.103, subdivision 3, is amended to read:

Subd. 3. [MEDICAL SERVICES REVIEW BOARD; SELECTION; POWERS.] (a) There is created a medical services review board composed of the commissioner or the commissioner's designee as an ex officio member, two persons representing chiropractic, one person representing hospital administrators, and six physicians representing different specialties which the commissioner determines are the most frequently utilized by injured employees. The board shall also have one person representing employees, one person representing employers or insurers, and one person representing the general public. The members shall be appointed by the commissioner and shall be governed by section 15.0575. Terms of the board's members may be renewed. The board may appoint from its members whatever subcommittees it deems appropriate.

The commissioner may appoint alternates for one-year terms to serve as a member when a member is unavailable. The number of alternates shall not exceed one chiropractor, one hospital administrator, three physicians, one employee representative, one employer or insurer representative, and one representative of the general public.

The board shall review clinical results for adequacy and recommend to the commissioner scales for disabilities and apportionment.

The board shall review and recommend to the commissioner rates for individual clinical procedures and aggregate costs. The board shall assist the commissioner in accomplishing public education.

In evaluating the clinical consequences of the services provided to an employee by a clinical health care provider, the board shall consider the following factors in the priority listed:

- (1) the clinical effectiveness of the treatment;
- (2) the clinical cost of the treatment; and
- (3) the length of time of treatment.

The board shall advise the commissioner on the adoption of rules regarding all aspects of medical care and services provided to injured employees.

(b) The medical services review board may upon petition from the commissioner and after hearing, issue a penalty of \$200 per violation, disqualify, or suspend a provider from receiving payment for services rendered under this chapter if a provider has violated any part of this chapter or rule adopted under this chapter. The hearings are initiated by the commissioner under the contested case procedures of chapter 14. The board shall make the final decision following receipt of the recommendation of the administrative law judge. The board's decision is appealable to the workers' compensation court of appeals in the manner provided by section 176.421.

(c) The board may adopt rules of procedure. The rules may be joint rules with the rehabilitation review panel.

(d) The board must adopt rules defining standards of treatment including inappropriate, unnecessary, or excessive treatment. The board may adopt by reference rules providing standards of treatment including those adopted by federal or state government agencies. The board shall adopt rules under this paragraph using the procedures of sections 14.22 to 14.28, except that no public hearing shall be required notwithstanding section 14.25.

Sec. 9. Minnesota Statutes 1990, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, PSYCHOLOGICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] (a) The employer shall furnish any medical, psychological, chiropractic, podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. This treatment shall include treatments necessary to physical rehabilitation.

(b) The employer shall pay for the reasonable value of nursing services provided by a member of the employee's family in cases of permanent total disability.

(c) Exposure to rabies is an injury and an employer shall furnish preventative treatment to employees exposed to rabies.

(d) The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches, or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. *For the purpose of this paragraph, "injury" includes damage wholly or in part to an artificial member.* In case of the employer's

inability or refusal seasonably to ~~do so~~ *provide the items required to be provided under this paragraph*, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing the same, including costs of copies of any medical records or medical reports that are in existence, obtained from health care providers, and that directly relate to the items for which payment is sought under this chapter, limited to the charges allowed by subdivision 7, and attorney fees incurred by the employee. ~~No action to recover the cost of copies may be brought until the commissioner adopts a schedule of reasonable charges under subdivision 7.~~ Attorney's fees shall be determined on an hourly basis according to the criteria in section 176.081, subdivision 5. ~~The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability.~~

~~(b)~~ (e) Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with sections 176.106 and 176.305.

(f) *Unless otherwise provided by this chapter, an employer may provide the treatment and supplies required to be provided by an employer by this chapter solely through a managed care plan certified under section 176.1351.*

Sec. 10. Minnesota Statutes 1990, section 176.135, subdivision 5, is amended to read:

Subd. 5. [OCCUPATIONAL DISEASE MEDICAL ELIGIBILITY.] Notwithstanding section 176.66, an employee who has contracted an occupational disease is eligible to receive compensation under this section even if the employee is not disabled from earning full wages at the work at which the employee was last employed.

Payment of compensation under this section shall be made by the employer and insurer on the date of the employee's last exposure to the hazard of the occupational disease. Reimbursement for medical benefits paid under this subdivision or subdivision 1a is allowed from the employer and insurer liable under section 176.66, subdivision 10, only in the case of disablement.

Sec. 11. Minnesota Statutes 1990, section 176.135, subdivision 6, is amended to read:

Subd. 6. [COMMENCEMENT OF PAYMENT.] As soon as reasonably possible, and no later than 30 calendar days after receiving the bill, the employer or insurer shall pay the charge or any portion of the charge which is not denied, ~~or deny all or a part of the charge on the basis of excessiveness or noncompensability, or specify the additional data needed,~~ with written notification to the employee and the provider ~~explaining the basis for denial.~~ *All or part of a charge must be denied if any of the following conditions exist:*

- (1) the injury or condition is not compensable under this chapter;*
- (2) the charge or service is excessive under this section or section 176.136;*
- (3) the charges are not submitted on the prescribed billing form; or*
- (4) additional medical records or reports are required under subdivision 7 to substantiate the nature of the charge and its relationship to the work injury.*

If payment is denied under clause (3) or (4), the employer or insurer shall

reconsider the charges in accordance with this subdivision within 30 calendar days after receiving additional medical data, a prescribed billing form, or documentation of enrollment or certification as a provider.

Sec. 12. Minnesota Statutes 1990, section 176.135, subdivision 7, is amended to read:

Subd. 7. [MEDICAL BILLS AND RECORDS.] Health care providers shall submit to the insurer an itemized statement of charges *on a billing form prescribed by the commissioner*. Health care providers ~~other than hospitals~~ shall also submit copies of medical records or reports that substantiate the nature of the charge and its relationship to the work injury; ~~provided, however, that hospitals must submit any copies of records or reports requested under subdivision 6.~~ Health care providers may charge for copies of any records or reports that are in existence and directly relate to the items for which payment is sought under this chapter. ~~Charges for copies provided under this subdivision shall be reasonable.~~ The commissioner shall adopt a schedule of reasonable charges by ~~emergency rules rule~~.

A health care provider shall not collect, attempt to collect, refer a bill for collection, or commence an action for collection against the employee, employer, or any other party until the information required by this section has been furnished.

Sec. 13. [176.1351] [MANAGED CARE.]

Subdivision 1. [APPLICATION.] Any person or entity, other than a workers' compensation insurer or an employer for its own employees, may make written application to the commissioner to have a plan certified that provides managed care to injured workers for injuries and diseases compensable under this chapter. Specifically, and without limitation, an entity licensed under chapter 62C or 62D or a preferred provider organization that is subject to chapter 72A is eligible for certification under this section. Each application for certification shall be accompanied by a reasonable fee prescribed by the commissioner. A certificate is valid for the period the commissioner prescribes unless revoked or suspended. Application for certification shall be made in the form and manner and shall set forth information regarding the proposed plan for providing services as the commissioner may prescribe. A plan may be certified to provide services in a limited geographic area. The information shall include, but not be limited to:

(1) a list of the names of all health care providers who will provide services under the managed care plan, together with appropriate evidence of compliance with any licensing or certification requirements for those providers to practice in this state;

(2) a description of the places and manner of providing services under the plan; or

(3) satisfactory evidence of ability to comply with any financial requirements to ensure delivery of service in accordance with the plan which the commissioner may prescribe.

Subd. 2. [CERTIFICATION.] *The commissioner shall certify a managed care plan if the commissioner finds that the plan:*

(1) proposes to provide services that meet uniform quality, continuity, and other treatment standards prescribed by the commissioner and all medical and health care services that may be required by this chapter in a

manner that is timely, effective, and convenient for the worker;

(2) is reasonably geographically convenient to employees it serves;

(3) provides appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service;

(4) provides adequate methods of peer review, utilization review, and dispute resolution to prevent inappropriate, excessive, or not medically necessary treatment, excludes participation in the plan by those individuals who violate these treatment standards;

(5) provides a procedure for the resolution of medical disputes;

(6) provides a program for early return to work and cooperative efforts by the workers, the employer, and the managed care plan to promote workplace health and safety consultative and other services;

(7) provides a timely and accurate method of reporting to the commissioner necessary information regarding medical and health care service cost and utilization to enable the commissioner to determine the effectiveness of the plan;

(8) authorizes workers to receive compensable treatment from a health care provider who is not a member of the managed care plan, if that provider maintains the employee's medical records and has a documented history of treatment with the employee and agrees to refer the employee to the managed care plan for any treatment that can only be furnished by another provider that the employee may require and if the health care provider agrees to comply with all the rules, terms, and conditions of the managed care plan;

(9) authorizes necessary emergency medical treatment for an injury provided by a health care provider not a part of the managed care plan;

(10) does not discriminate against or exclude from participation in the plan any category of health care provider and includes an adequate number of each category of health care providers to give workers convenient geographic accessibility to all categories of providers and adequate flexibility to choose health care providers from among those who provide services under the plan;

(11) provides an employee the right to change health care providers under the plan at least once; and

(12) complies with any other requirement the commissioner determines is necessary to provide quality medical services and health care to injured workers.

Subd. 3. [DISPUTE RESOLUTION.] *An employee must exhaust the dispute resolution procedure of the certified managed care plan prior to filing a petition or otherwise seeking relief from the commissioner or a compensation judge on an issue related to managed care. If an employee has exhausted the dispute resolution procedure of the managed care plan on the issue of a rating for a disability, the employee may seek a disability rating from a health care provider outside of the managed care organization. The employer is liable for the reasonable fees of the outside provider as limited by the medical fee schedule adopted under this chapter.*

Subd. 4. [TREATMENT STANDARDS.] *The commissioner shall consider treatment standards developed by the health care profession affected, if any, before prescribing treatment standards under subdivision 2.*

Subd. 5. [ACCESS TO ALL HEALTH CARE DISCIPLINES.] The commissioner shall refuse to certify or shall revoke or suspend the certification of a managed care plan that unfairly restricts direct access within the managed care plan to any health care provider profession. Direct access within the managed care plan is unfairly restricted if direct access is denied and the treatment or service sought is within the scope of practice of the profession to which direct access is sought and is appropriate under the standards of treatment adopted by the commissioner.

Subd. 6. [REVOCATION, SUSPENSION, AND REFUSAL TO CERTIFY.] The commissioner shall refuse to certify or shall revoke or suspend the certification of a managed care plan if the commissioner finds that the plan for providing medical or health care services fails to meet the requirements of this section, or service under the plan is not being provided in accordance with the terms of a certified plan.

Subd. 7. [RULES.] (a) The commissioner shall adopt rules necessary to implement this section.

(b) The commissioner shall adopt rules under this section using the procedures of sections 14.22 to 14.28, except that no public hearing shall be required notwithstanding section 14.25. This paragraph applies to rules adopted pursuant to a notice of intention to adopt a rule without a public hearing published before July 1, 1995.

Sec. 14. Minnesota Statutes 1990, section 176.136, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE.] (a) The commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups.

(b) The procedures established by the commissioner shall must limit, in accordance with subdivisions 1a, 1b, and 1c, the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135, based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing. The procedures established by the commissioner for determining whether or not the charge for a health service is excessive shall must be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures shall must incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees.

Sec. 15. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1a. [RELATIVE VALUE FEE SCHEDULE.] The liability of an employer for services included in the medical fee schedule is limited to the maximum fee allowed by the schedule in effect on the date of the medical service, or the provider's actual fee, whichever is lower. The medical fee schedule effective on October 1, 1991, shall remain in effect until the commissioner adopts a new schedule by permanent rule. The commissioner

shall adopt permanent rules regulating fees allowable for medical, chiropractic, podiatric, surgical, hospital outpatient, and other health care provider treatment or service by implementing a relative value fee schedule to be effective on October 1, 1993. The commissioner may adopt by reference the relative value fee schedule adopted for the federal Medicare program or a relative value fee schedule adopted by other federal or state agencies. The relative value fee schedule shall contain reasonable classifications including, but not limited to, classifications that differentiate among health care provider disciplines. The commissioner shall adopt rules under this subdivision using the procedures of sections 14.22 to 14.28, except that no public hearing shall be required notwithstanding section 14.25. The conversion factors for the relative value fee schedule must reasonably reflect a 15 percent overall reduction from the medical fee schedule most recently in effect. The reduction need not be applied equally to all treatment or services, but must represent a gross 15 percent reduction.

After permanent rules have been adopted to implement this section, the conversion factors must be adjusted annually on October 1 by the percentage change computed under section 176.645, but without the annual cap provided by that section. The commissioner shall annually give notice in the State Register of the adjusted conversion factors. This notice shall be in lieu of the requirements of chapter 14.

Sec. 16. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1b. [LIMITATION OF LIABILITY.] (a) The liability of the employer for treatment, articles, and supplies provided to an employee while an inpatient or outpatient at a small hospital shall be the hospital's usual and customary charge, unless the charge is determined by the commissioner or a compensation judge to be unreasonably excessive. A "small hospital," for purposes of this paragraph, is a hospital which has 100 or fewer licensed beds.

(b) The liability of the employer for the treatment, articles, and supplies that are not limited by subdivision 1a or 1c, or paragraph (a) shall be limited to 85 percent of the provider's usual and customary charge, or 85 percent of the prevailing charges for similar treatment, articles, and supplies furnished to an injured person when paid for by the injured person, whichever is lower. On this basis, the commissioner or compensation judge may determine the reasonable value of all treatment, services, and supplies, and the liability of the employer is limited to that amount.

Sec. 17. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1c. [CHARGES FOR INDEPENDENT MEDICAL EXAMINATIONS.] The commissioner shall adopt rules that reasonably limit amounts which may be charged for, or in connection with, independent or adverse medical examinations requested by any party, including the amount that may be charged for depositions, witness fees, or other expenses. The scheduled amount for the examination itself may not exceed the scheduled amount for complex consultations by treating physicians, although additional reasonable charges may be permitted to reflect additional duties or activities. No party may pay fees above the amount in the schedule.

Sec. 18. Minnesota Statutes 1990, section 176.136, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVE FEES.] If the employer or insurer determines that the charge for a health service or medical service is excessive, no payment in excess of the reasonable charge for that service shall be made under this chapter nor may the provider collect or attempt to collect from the injured employee or any other insurer or government amounts in excess of the amount payable under this chapter unless the commissioner, compensation judge, or court of appeals determines otherwise. In such a case, the health care provider may initiate an action under this chapter for recovery of the amounts deemed excessive by the employer or insurer, but the employer or insurer shall have the burden of proving excessiveness.

A charge for a health service or medical service is excessive if it:

(1) exceeds the maximum permissible charge pursuant to subdivision 1, 1a, 1b, or 1c;

(2) is for a service provided at a level, duration, or frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards;

(3) is for a service that is outside the scope of practice of the particular provider or is not generally recognized within the particular profession of the provider as of therapeutic value for the specific injury or condition treated; or

(4) is otherwise deemed excessive or inappropriate pursuant to rules adopted pursuant to this chapter.

Sec. 19. Minnesota Statutes 1990, section 176.155, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYER'S PHYSICIAN.] The injured employee must submit to examination by the employer's physician, if requested by the employer, and at reasonable times thereafter upon the employer's request. *The examination must be scheduled at a location within 150 miles of the employee's residence unless the employer can show cause to the department to order an examination at a location further from the employee's residence.* The employee is entitled upon request to have a personal physician present at any such examination. Each party shall defray the cost of that party's physician. Any report or written statement made by the employer's physician as a result of an examination of the employee, regardless of whether the examination preceded the injury or was made subsequent to the injury, shall be made available, upon request and without charge, to the injured employee or representative of the employee. The employer shall pay reasonable travel expenses incurred by the employee in attending the examination including mileage, parking, and, if necessary, lodging and meals. The employer shall also pay the employee for any lost wages resulting from attendance at the examination. A self-insured employer or insurer who is served with a claim petition pursuant to section 176.271, subdivision 1, or 176.291, shall schedule any necessary examinations of the employee, if an examination by the employer's physician or health care provider is necessary to evaluate benefits claimed. The examination shall be completed and the report of the examination shall be served on the employee and filed with the commissioner within 120 days of service of the claim petition.

No evidence relating to the examination or report shall be received or considered by the commissioner, a compensation judge, or the court of appeals in determining any issues unless the report has been served and filed as required by this section, unless a written extension has been granted

by the commissioner or compensation judge. The commissioner or a compensation judge shall extend the time for completing the adverse examination and filing the report upon good cause shown. The extension must not be for the purpose of delay and the insurer must make a good faith effort to comply with this subdivision. Good cause shall include but is not limited to:

(1) that the extension is necessary because of the limited number of physicians or health care providers available with expertise in the particular injury or disease, or that the extension is necessary due to the complexity of the medical issues, or

(2) that the extension is necessary to gather additional information which was not included on the petition as required by section 176.291.

Sec. 20. Minnesota Statutes 1990, section 176.83, subdivision 5, is amended to read:

Subd. 5. [EXCESSIVE MEDICAL SERVICES.] In consultation with the medical services review board or the rehabilitation review panel, rules establishing standards and procedures for determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the payer that the level, frequency or cost of a procedure or service of a provider is excessive according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer, and the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program unless the commissioner or compensation judge determines at a hearing or administrative conference that the level, frequency, or cost was not excessive in which case the insurer, self-insurer, or group self-insurer shall make the payment deemed reasonable.

A health or rehabilitation provider who is determined by the rehabilitation review panel or medical services review board, after hearing, to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under this chapter. A prohibition imposed on a provider under this subdivision may be grounds for revocation or suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing or certifying body.

~~The rules adopted under this subdivision shall require insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this clause.~~

Sec. 21. Minnesota Statutes 1990, section 176.83, is amended by adding a subdivision to read:

Subd. 5a. [REPORTING.] Rules requiring insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this chapter.

Sec. 22. [MANDATED REDUCTIONS.]

(a) *As a result of the workers' compensation law changes in this act and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of workers' compensation rates in effect on October 1, 1992, must be reduced by 5.7 percent and applied by the insurer to all policies with an effective date between October 1, 1992, and March 31, 1993. For purposes of this section, "insurer" includes the assigned risk plan, and "rates" include rates approved by the commissioner of commerce for the assigned risk plan. The reduction mandated by this section must also be applied on a prorated basis to the unexpired portion of all workers' compensation policies on October 1, 1992. An insurer shall provide a written notice by November 1, 1992, to all workers' compensation policyholders having an unexpired policy with the insurer as of October 1, 1992, that reads as follows: "As a result of the changes in the workers' compensation system enacted by the 1992 legislature, you are entitled to a prorated reduction of 5.7 percent on your current policy premium."*

(b) *No rate increases may be filed between April 1, 1992, and April 1, 1993.*

(c) *The commissioner of commerce shall determine if the mandated workers' compensation insurance rate reductions required under this section have been implemented by insurers, both as to amount and in a manner that is uniform and nondiscriminatory between employers having similar risks with respect to a particular occupational classification. The commissioner shall present a report detailing the findings and conclusions to the legislature by March 1, 1993.*

(d) *The rate reduction mandated in this act is in addition to any other reduction required by law.*

Sec. 23. [UTILIZATION OF HIGH TECHNOLOGY MEDICAL PROCEDURES.]

The commissioner of labor and industry shall appoint a committee to study the utilization of high technology medical procedures for treatment of injuries under Minnesota Statutes, chapter 176. The committee must include physicians, hospital representatives, medical device manufacturers, purchasers, consumers, and ethicists. The study must specifically examine excessive use of technology. The commissioner shall report the results of the study together with any proposals for legislation to the legislature by January 30, 1993.

Sec. 24. [REPEALER.]

Minnesota Statutes 1990, sections 176.135, subdivision 3; and 176.136, subdivision 5, are repealed.

Sec. 25. [EFFECTIVE DATE.]

Section 22 of this act and the rulemaking authority granted to the commissioner of labor and industry and the medical services review board by sections 6, 8, and 13 are effective the day following final enactment. The rest of this act is effective October 1, 1992."

Delete the title and insert:

"A bill for an act relating to workers' compensation; regulating medical and rehabilitation benefits; providing penalties; amending Minnesota Statutes 1990, sections 176.102, subdivisions 1, 2, 4, 6, and 9; 176.103,

subdivisions 2, 3, and by adding a subdivision; 176.135, subdivisions 1, 5, 6, and 7; 176.136, subdivisions 1, 2, and by adding subdivisions; 176.155, subdivision 1; and 176.83, subdivision 5, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 176; repealing Minnesota Statutes 1990, sections 176.135, subdivision 3; and 176.136, subdivision 5."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Chmielewski from the Committee on Employment, to which was referred

S.F. No. 1878: A bill for an act relating to workers' compensation; regulating insurance; regulating the assigned risk plan; creating a health and safety fund; providing for fraud prevention; requiring the department to assist employees; providing for accident prevention and injury reduction; eliminating subsequent injury registration and reimbursement; appropriating money; amending Minnesota Statutes 1990, sections 79.251, by adding subdivisions; 79.252, subdivisions 1 and 3; 176.102, subdivision 3a; 176.103, subdivision 3; 176.106, subdivision 6; 176.129, subdivision 10; 176.130, subdivisions 8 and 9; 176.138; 176.139, subdivision 2; 176.181, subdivisions 3 and 7; 176.182; 176.185, subdivision 5a; 176.194, subdivisions 4 and 5; 176.221, subdivisions 3 and 3a; 176.231, subdivision 10; 176.261; 176.84, subdivision 2; 176A.03, by adding a subdivision; and 182.666, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 79 and 176; repealing Minnesota Statutes 1990, section 176.131.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [79.081] [MANDATORY DEDUCTIBLES.]

Subdivision 1. [PREMIUM REDUCTION.] Each insurer, including the assigned risk plan, issuing a policy of insurance, must offer an employer the option to agree to pay an amount per claim selected by the employer and specified in the policy toward the total of any claim payable under chapter 176. The amount of premium to be paid by an employer who selects a policy with a deductible shall be reduced based upon a rating schedule or rating plan filed with and approved by the commissioner of commerce. Administration of claims shall remain with the insurer as provided in the terms and conditions of the policy.

Subd. 2. [PROCEDURE FOR PAYING DEDUCTIBLE.] If an insured employer chooses a deductible, the insured employer is liable for the amount of the deductible for benefits paid for each compensable claim of work injury suffered by an employee. The insurer shall pay the entire cost of the employee's loss and then seek reimbursement from the insured employer for the deductible. The payment or nonpayment of deductible amounts by the insured employer to the insurer shall be treated under the policy insuring the liability for workers' compensation in the same manner as payment or nonpayment of premiums.

Subd. 3. [CREDIT RISK; EXCEPTION.] An insurer is not required to offer a deductible to an employer if, as a result of a credit investigation, the insurer determines that the employer is not sufficiently financially stable

to be responsible for the payment of deductible amounts.

Subd. 4. [REPORTING REQUIREMENT.] The existence of an insurance contract with a deductible or the fact of payment as a result of a deductible does not affect the requirement of an employer to report an injury or death to an insurer or the commissioner of labor and industry.

Sec. 2. Minnesota Statutes 1990, section 79.251, is amended by adding a subdivision to read:

Subd. 4a. [MEDICAL COST CONTAINMENT.] The assigned risk plan must utilize managed care plans certified under chapter 176 to the extent possible. In addition, the assigned risk plan must implement a medical cost containment program. The program must, at a minimum, include:

(1) billings review to determine if claims are compensable under chapter 176;

(2) utilization of cost management specialists familiar with billing practice guidelines;

(3) review of treatment to determine if it is reasonable and necessary and has a reasonable chance to cure and relieve the employee's injury;

(4) a system to reduce billed charges to the maximum permitted by law or rule;

(5) review of medical care utilization; and

(6) reporting of health care providers suspected of providing unnecessary or excessive services to the commissioner of labor and industry.

Sec. 3. Minnesota Statutes 1990, section 79.251, is amended by adding a subdivision to read:

Subd. 4b. [GROUPS.] The assigned risk plan must create a program that attempts to group employers in the same or similar risk classification for purposes of group premium underwriting and claims management. The assigned risk plan must engage in extensive safety consultation with group members to reduce the extent and severity of injuries of group members. The consultation should include on-site inspections and specific recommendations as to safety improvements.

Sec. 4. Minnesota Statutes 1990, section 79.252, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] The purpose of the assigned risk plan is to provide workers' compensation coverage to employers rejected by a two nonaffiliated licensed insurance ~~company~~ companies, pursuant to subdivision 2. One of these two rejections must come from the insurance company that most recently provided workers' compensation coverage to the employer, unless the employer had no previous coverage. Each rejection must be in writing and must be obtained within 60 days before the date of application to the assigned risk plan. In addition, the rejections must also show the name of the insurance company and the representative contacted.

Sec. 5. Minnesota Statutes 1990, section 79.252, subdivision 3, is amended to read:

Subd. 3. [COVERAGE.] (a) Policies and contracts of coverage issued pursuant to section 79.251, subdivision 4, shall contain the usual and customary provisions of workers' compensation insurance policies, and shall

be deemed to meet the mandatory workers' compensation insurance requirements of section 176.181, subdivision 2.

(b) Policies issued by the assigned risk plan pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The assigned risk plan review board may apply for and obtain any licensure required in any other state to issue that coverage.

Sec. 6. [79.253] [ASSIGNED RISK SAFETY FUND.]

Subdivision 1. [CREATION OF FUND.] There is created the assigned risk safety fund as a separate account in the special compensation fund in the state treasury. Income earned by funds in the account must be credited to the account. Principal and income of the account are annually appropriated to the commissioner of labor and industry and must be used for grants and loans under this section.

Subd. 2. [USE OF FUNDS; SAFETY ASSESSMENTS.] The assigned risk plan shall, through persons under contract with the plan, perform on-site surveys of employers insured by the assigned risk plan and recommend practices and equipment to employers designed to reduce the risk of injury to employees. The recommendations may include that the employer form a joint labor-management safety committee. The plan shall generally survey employers in the following priority:

(1) employers with poor safety records for their industry based on their premium modification factor or other factors;

(2) employers whose workers' compensation premium classification assigned to the greatest portion of the payroll for the employer has a premium rate in the top 25 percent of premium rates for all classes; and

(3) all other employers.

Subd. 3. [INCENTIVES AND PENALTIES.] The assigned risk plan shall develop a premium rating system subject to approval by the commissioner of commerce that provides a reduction in premium rates for employers that follow safety recommendations made under this section and an increase in rates for employers that do not. The system must be sensitive to the economic ability of an employer to implement particular recommendations.

Subd. 4. [GRANTS AND LOANS.] The commissioner of labor and industry may make grants or loans to employers for the cost of implementing safety recommendations made under this section.

Subd. 5. [RULES.] The commissioner of labor and industry may adopt rules necessary to implement this section.

Sec. 7. [79.255] [WORKERS' COMPENSATION INSURANCE; LESSORS OF EMPLOYEES.]

Subdivision 1. [REGISTRATION REQUIRED.] A corporation, partnership, sole proprietorship, or other business entity which provides staff, personnel, or employees to be employed in this state to other businesses pursuant to a lease arrangement or agreement shall, before becoming eligible to be issued a policy of workers' compensation insurance or becoming eligible to secure coverage on a multiple coordinated policies basis, register with the commissioner of commerce. The registration shall:

(1) identify the name of the lessor;

(2) identify the address of the principal place of business of the lessor and the address of each office it maintains within this state;

(3) include the lessor's taxpayer or employer identification number;

(4) include a list by jurisdiction of each and every name that the lessor has operated under in the preceding five years including any alternative names and names of predecessors and, if known, successor business entities;

(5) include a list of each person or entity who owns a five percent or greater interest in the employee leasing business at the time of application and a list of each person who formerly owned a five percent or greater interest in the employee leasing company or its predecessors, successors, or alter egos in the preceding five years; and

(6) include a list of each and every cancellation or nonrenewal or workers' compensation insurance which has been issued to the lessor or any predecessor in the preceding five years. The list shall include the policy or certificate number, name of insurer or other provider of coverage, date of cancellation, and reason for cancellation. If coverage has not been canceled or nonrenewed, the registration shall include a sworn affidavit signed by the chief executive officer of the lessor attesting to that fact.

Subd. 2. [INELIGIBILITY TO REGISTER.] Any lessor of employees whose workers' compensation insurance has been terminated within the past five years in any jurisdiction due to a determination that an employee leasing arrangement was being utilized to avoid premium otherwise payable by lessees shall be ineligible to register with the commissioner or to remain registered, if previously registered.

Subd. 3. [NOTICE OF CHANGE.] Persons filing registration statements pursuant to this section shall notify the commissioner as to any changes in any information required to be provided under this section.

Subd. 4. [LIST MAINTAINED.] The commissioner shall maintain a list of those lessors of employees who are registered with the commissioner.

Subd. 5. [FORMS OF REGISTRATION.] The commissioner may prescribe forms necessary to promote the efficient administration of this action.

Subd. 6. [ADVERTISING PROHIBITION.] No organization registered under this section shall directly or indirectly reference that registration in any advertisements, marketing material, or publications.

Subd. 7. [CRIMINAL PENALTIES.] Any corporation, partnership, sole proprietorship, or other form of business entity and any officer, director, general partner, agent, representative, or employee of theirs who knowingly utilizes or participates in any employee leasing agreement, arrangement, or mechanism for the purpose of depriving one or more insurers of premium otherwise properly payable is guilty of a misdemeanor.

Subd. 8. [APPLICATION OF SECTION.] Any lessor of employees that was doing business in this state prior to enactment of this section shall register with the commissioner within 30 days of the effective date of this section.

Sec. 8. Minnesota Statutes 1990, section 176.106, subdivision 6, is amended to read:

Subd. 6. [PENALTY.] At a conference, if the insurer does not provide a specific reason for nonpayment of the items in dispute, the commissioner

may assess a penalty of \$300 payable to the ~~special compensation~~ *assigned risk safety fund*, unless it is determined that the reason for the lack of specificity was the failure of the insurer, upon timely request, to receive information necessary to remedy the lack of specificity. This penalty is in addition to any penalty that may be applicable for nonpayment.

Sec. 9. Minnesota Statutes 1990, section 176.129, subdivision 10, is amended to read:

Subd. 10. [PENALTY.] Sums paid to the commissioner pursuant to this section shall be in the manner prescribed by the commissioner. The commissioner may impose a penalty *payable to the assigned risk safety fund* of up to 15 percent of the amount due under this section but not less than \$500 in the event payment is not made in the manner prescribed.

Sec. 10. Minnesota Statutes 1990, section 176.130, subdivision 8, is amended to read:

Subd. 8. [PENALTIES; WOOD MILLS.] If the assessment provided for in this chapter is not paid on or before February 15 of the year when due and payable, the commissioner may impose penalties as provided in section 176.129, subdivision 10, *payable to the assigned risk safety fund*.

Sec. 11. Minnesota Statutes 1990, section 176.130, subdivision 9, is amended to read:

Subd. 9. [FALSE REPORTS.] Any person or entity that, for the purpose of evading payment of the assessment or avoiding the reimbursement, or any part of it, makes a false report under this section shall pay to the ~~special compensation~~ *assigned risk safety fund*, in addition to the assessment, a penalty of 50 percent of the amount of the assessment. A person who knowingly makes or signs a false report, or who knowingly submits other false information, is guilty of a misdemeanor.

Sec. 12. Minnesota Statutes 1990, section 176.138, is amended to read:

176.138 [MEDICAL DATA; ACCESS.]

(a) Notwithstanding any other state laws related to the privacy of medical data or any private agreements to the contrary, the release in writing, by telephone discussion, or otherwise of medical data related to a current claim for compensation under this chapter to the employee, employer, or insurer who are parties to the claim, or to the department of labor and industry, shall not require prior approval of any party to the claim. This section does not preclude the release of medical data under section 175.10 or 176.231, subdivision 9. Requests for pertinent data shall be made, and the date of discussions with medical providers about medical data shall be confirmed, in writing to the person or organization that collected or currently possesses the data. Written medical data that exists at the time the request is made shall be provided by the collector or possessor within seven working days of receiving the request. Nonwritten medical data may be provided, but is not required to be provided, by the collector or possessor. In all cases of a request for the data or discussion with a medical provider about the data, except when it is the employee who is making the request, the employee shall be sent written notification of the request by the party requesting the data at the same time the request is made or a written confirmation of the discussion. This data shall be treated as private data by the party who requests or receives the data and the party receiving the data shall provide the employee or the employee's attorney with a copy of all data requested

by the requester.

(b) Medical data which is not directly related to a current injury or disability shall not be released without prior authorization of the employee.

(c) The commissioner may impose a penalty of up to \$200 payable to the ~~special compensation~~ *assigned risk safety* fund against a party who does not timely release data as required in this section. A party who does not treat this data as private pursuant to this section is guilty of a misdemeanor. This paragraph applies only to written medical data which exists at the time the request is made.

(d) Workers' compensation insurers and self-insured employers may, for the sole purpose of identifying duplicate billings submitted to more than one insurer, disclose to health insurers, including all insurers writing insurance described in section 60A.06, subdivision 1, clause (5)(a), nonprofit health service plan corporations subject to chapter 62C, health maintenance organizations subject to chapter 62D, and joint self-insurance employee health plans subject to chapter 62H, computerized information about dates, coded items, and charges for medical treatment of employees and other medical billing information submitted to them by an employee, employer, health care provider, or other insurer in connection with a current claim for compensation under this chapter, without prior approval of any party to the claim. The data may not be used by the health insurer for any other purpose whatsoever and must be destroyed after verification that there has been no duplicative billing. Any person who is the subject of the data which is used in a manner not allowed by this section has a cause of action for actual damages and punitive damages for a minimum of \$5,000.

Sec. 13. Minnesota Statutes 1990, section 176.139, subdivision 2, is amended to read:

Subd. 2. [FAILURE TO POST; PENALTY.] The commissioner may assess a penalty of \$300 against the employer payable to the ~~special compensation~~ *assigned risk safety* fund if, after notice from the commissioner, the employer violates the posting requirement of this section.

Sec. 14. Minnesota Statutes 1990, section 176.181, subdivision 3, is amended to read:

Subd. 3. [FAILURE TO INSURE, PENALTY.] Any employer who fails to comply with the provisions of subdivision 2 to secure payment of compensation is liable to the state of Minnesota for a penalty of \$750, if the number of uninsured employees is less than five and for a penalty of \$1,500 if the number of such uninsured employees is five or more. If the commissioner determines that the failure to comply with the provisions of subdivision 2 was willful and deliberate, the employer shall be liable to the state of Minnesota for a penalty of \$2,500, if the number of uninsured employees is less than five, and for a penalty of \$5,000 if the number of uninsured employees is five or more. If the employer continues noncompliance, the employer is liable for five times the lawful premium for compensation insurance for such employer for the period the employer fails to comply with such provisions, commencing ten days after notice has been served upon the employer by the commissioner of the department of labor and industry by certified mail. These penalties may be recovered jointly or separately in a civil action brought in the name of the state by the attorney general in any court having jurisdiction. Whenever any such failure occurs the commissioner of the department of labor and industry shall immediately certify that fact to the attorney general.

Upon receipt of such certification the attorney general shall forthwith commence and prosecute the action. All penalties recovered by the state in any such action shall be paid into the state treasury and credited to the special compensation fund. If an employer fails to comply with the provisions of subdivision 2, to secure payment of compensation after having been notified of the employer's duty, the attorney general, upon request of the commissioner, may proceed against the employer in any court having jurisdiction for an order restraining the employer from having any person in employment at any time when the employer is not complying with the provisions of subdivision 2 or for an order compelling the employer to comply with subdivision 2. (a) If the commissioner has reason to believe that an employer is in violation of subdivision 2, he may issue an order directing the employer to comply with subdivision 2, to refrain from employing any person at any time without complying with subdivision 2, and to pay a penalty of up to \$1,000 per employee per month during which the employer was not in compliance.

(b) An employer shall have ten working days to contest such an order by filing a written objection with the commissioner, stating in detail its reasons for objecting. If the commissioner does not receive an objection within ten working days, the commissioner's order shall constitute a final order not subject to further review, and violation of that order shall be enforceable by way of civil contempt proceedings in district court. If the commissioner does receive a timely objection, the commissioner shall refer the matter to the office of administrative hearings for an expedited hearing before a compensation judge. The compensation judge shall issue a decision either affirming, reversing, or modifying the commissioner's order within ten days of the close of the hearing. If the compensation judge affirms the commissioner's order, the compensation judge may order the employer to pay an additional penalty if the employer continued to employ persons without complying with subdivision 2 while the proceedings were pending.

(c) All penalties assessed under this subdivision shall be paid into the state treasury and credited to the assigned risk safety fund. Penalties assessed under this section shall constitute a lien for government services pursuant to section 514.67, on all the employer's property and shall be subject to the provisions of the revenue recovery act.

(d) For purposes of this subdivision, the term "employer" includes any owners or officers of a corporation who direct and control the activities of employees.

Sec. 15. Minnesota Statutes 1990, section 176.181, is amended by adding a subdivision to read:

Subd. 8. [DATA SHARING.] (a) The departments of labor and industry, jobs and training, and revenue are authorized to share information regarding the employment status of individuals, including but not limited to payroll and withholding and income tax information, and may use that information for purposes consistent with this section.

(b) The commissioner is authorized to inspect and to order the production of all payroll and other business records and documents of any alleged employer in order to determine the employment status of persons and compliance with this section. If any person or employer refuses to comply with such an order, the commissioner may apply to the district court of the county where the person or employer is located for an order compelling production of the documents.

Sec. 16. Minnesota Statutes 1990, section 176.182, is amended to read:

176.182 [BUSINESS LICENSES OR PERMITS; COVERAGE REQUIRED.]

Every state or local licensing agency shall withhold the issuance or renewal of a license or permit to operate a business in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2, by providing the name of the insurance company, the policy number, and dates of coverage or the permit to self-insure. The commissioner shall assess a penalty to the employer of \$1,000 payable to the ~~special compensation~~ *assigned risk safety* fund, if the information is not reported or is falsely reported.

Neither the state nor any governmental subdivision of the state shall enter into any contract for the doing of any public work before receiving from all other contracting parties acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2.

This section shall not be construed to create any liability on the part of the state or any governmental subdivision to pay workers' compensation benefits or to indemnify the special compensation fund, an employer, or insurer who pays workers' compensation benefits.

Sec. 17. Minnesota Statutes 1990, section 176.183, is amended to read:

176.183 [UNINSURED AND SELF-INSURED EMPLOYERS; BENEFITS TO EMPLOYEES AND DEPENDENTS; LIABILITY OF EMPLOYER.]

Subdivision 1. When any employee sustains an injury arising out of and in the course of employment while in the employ of an employer, other than the state or its political subdivisions, not insured or self-insured as provided for in this chapter, the employee or the employee's dependents shall nevertheless receive benefits as provided for in this chapter from the special compensation fund; ~~and the commissioner has a cause of action against the employer for reimbursement for all moneys paid out or to be paid out, and, in the discretion of the court, as punitive damages an additional amount not exceeding 50 percent of all moneys paid out or to be paid out.~~ As used in this subdivision, "employer" includes ~~any owners or officers of corporations a corporation who have legal direct and control; either individually or jointly with another or others, of the payment of wages the activities of employees.~~ An action to recover ~~the moneys benefits paid~~ shall be instituted unless the commissioner determines that no recovery is possible. All moneys recovered shall be deposited in the general fund. There shall be no payment from the special compensation fund if there is liability for the injury under the provisions of section 176.215, by an insurer or self-insurer.

Subd. 2. *Prior to issuing an order against the special compensation fund to pay compensation benefits to an employee, a compensation judge shall first make findings regarding the insurance status of the employer and its liability. The special compensation fund shall not be found liable in the absence of a finding of liability against the employer. Where the liable employer is found to be not insured or self-insured as provided for in this chapter, the compensation judge shall assess and order the employer to pay all compensation benefits to which the employee is entitled and a penalty in the amount of 50 percent of all compensation benefits ordered to be paid.*

An award issued against an employer shall constitute a lien for government services pursuant to section 514.67 on all property of the employer and shall be subject to the provisions of the revenue recovery act. The special compensation fund may enforce the terms of that award in the same manner as a district court judgment. The commissioner of labor and industry, in accordance with the terms of the order awarding compensation, shall pay compensation to the employee or the employee's dependent from the special compensation fund. The commissioner of labor and industry shall certify to the commissioner of finance and to the legislature annually the total amount of compensation paid from the special compensation fund under subdivision 1. The commissioner of finance shall upon proper certification reimburse the special compensation fund from the general fund appropriation provided for this purpose. The amount reimbursed shall be limited to the certified amount paid under this section or the appropriation made for this purpose, whichever is the lesser amount. Compensation paid under this section which is not reimbursed by the general fund shall remain a liability of the special compensation fund and shall be financed by the percentage assessed under section 176.129.

Subd. 3. (a) Notwithstanding subdivision 2, the commissioner may direct payment from the special compensation fund for compensation payable pursuant to subdivision 1, including benefits payable under sections 176.102 and 176.135, prior to issuance of an order of a compensation judge or the workers' compensation court of appeals directing payment or awarding compensation. *Where payment is issued pursuant to a petition for a temporary order, the terms of any resulting order shall have the same status and be governed by the same provisions as an award issued pursuant to subdivision 2.*

(b) The commissioner may suspend or terminate an order under clause (a) for good cause as determined by the commissioner.

Subd. 4. If the commissioner authorizes the special fund to commence payment ~~under this section~~ *without the issuance of a temporary order*, the commissioner shall serve by certified mail notice upon the employer and other interested parties of the intention to commence payment. This notice shall be served at least ten calendar days before commencing payment and shall be mailed to the last known address of the parties. The notice shall include a statement that failure of the employer to respond within ten calendar days of the date of service will be deemed acceptance by the employer of the proposed action by the commissioner and will be deemed a waiver of defenses the employer has to a subrogation or indemnity action by the commissioner. At any time prior to final determination of liability, the employer may appear as a party and present defenses the employer has, whether or not an appearance by the employer has previously been made in the matter. The commissioner has a cause of action against the employer to recover compensation paid by the special fund under this section.

Sec. 18. Minnesota Statutes 1990, section 176.185, subdivision 5a, is amended to read:

Subd. 5a. [PENALTY FOR IMPROPER WITHHOLDING.] An employer who violates subdivision 5 after notice from the commissioner is subject to a penalty of 200 percent of the amount withheld from or charged the employee. The penalty shall be imposed by the commissioner. Fifty percent of this penalty is payable to the ~~special compensation~~ *assigned risk safety* fund and 50 percent is payable to the employee.

Sec. 19. Minnesota Statutes 1990, section 176.194, subdivision 4, is amended to read:

Subd. 4. [PENALTIES.] The penalties for violations of clauses (1) through (6) are as follows:

1st through 5th violation of each paragraph	written warning
6th through 10th violation of each paragraph	\$2,500 per violation in excess of five
11th through 30th violation of each paragraph	\$5,000 per violation in excess of ten

For violations of clauses (7) and (8), the penalties are:

1st through 5th violation of each paragraph	\$2,500 per violation
6th through 30th violation of each paragraph	\$5,000 per violation in excess of five

The penalties under this section may be imposed in addition to other penalties under this chapter that might apply for the same violation. The penalties under this section are assessed by the commissioner and are payable to the ~~special compensation~~ *assigned risk safety* fund. A party may object to the penalty and request a formal hearing under section 176.85. If an entity has more than 30 violations within any 12-month period, in addition to the monetary penalties provided, the commissioner may refer the matter to the commissioner of commerce with recommendation for suspension or revocation of the entity's (a) license to write workers' compensation insurance; (b) license to administer claims on behalf of a self-insured, the assigned risk plan, or the Minnesota insurance guaranty association; (c) authority to self-insure; or (d) license to adjust claims. The commissioner of commerce shall follow the procedures specified in section 176.195.

Sec. 20. Minnesota Statutes 1990, section 176.194, subdivision 5, is amended to read:

Subd. 5. [RULES.] The commissioner may, by rules adopted in accordance with chapter 14, specify additional *illegal*, misleading, deceptive, or fraudulent practices, or conduct which are subject to the penalties under this section.

Sec. 21. Minnesota Statutes 1990, section 176.221, subdivision 3, is amended to read:

Subd. 3. [PENALTY.] If the employer or insurer does not begin payment of compensation within the time limit prescribed under subdivision 1 or 8, the commissioner may assess a penalty, payable to the ~~special compensation~~ *assigned risk safety* fund, which shall be a percentage of the amount of compensation to which the employee is entitled to receive up to the date compensation payment is made.

The amount of penalty shall be determined as follows:

Numbers of days late	Penalty
1 - 15	25 percent of compensation due, not to exceed \$375,

16 - 30	50 percent of compensation due, not to exceed \$1,140,
31 - 60	75 percent of compensation due, not to exceed \$2,878,
61 or more	100 percent of compensation due, not to exceed \$3,838.

The penalty under this section is in addition to any penalty otherwise provided by statute.

Sec. 22. Minnesota Statutes 1990, section 176.221, subdivision 3a, is amended to read:

Subd. 3a. [PENALTY.] In lieu of any other penalty under this section, the commissioner may assess a penalty of up to \$1,000 *payable to the assigned risk safety fund* for each instance in which an employer or insurer does not pay benefits or file a notice of denial of liability within the time limits prescribed under this section.

Sec. 23. [176.222] [REPORT ON COLLECTION AND ASSESSMENT OF FINES AND PENALTIES.]

The commissioner shall annually, by January 30, submit a report to the legislature detailing the assessment and collection of fines and penalties under this chapter on a fiscal year basis for the immediately preceding fiscal year and for as many prior years as the data is available.

Sec. 24. Minnesota Statutes 1990, section 176.231, subdivision 10, is amended to read:

Subd. 10. [FAILURE TO FILE REQUIRED REPORT, PENALTY.] If an employer, insurer, physician, chiropractor, or other health provider fails to file with the commissioner any report required by this section in the manner and within the time limitations prescribed, or otherwise fails to provide a report required by this section in the manner provided by this section, the commissioner may impose a penalty of up to \$200 for each failure.

The imposition of a penalty may be appealed to a compensation judge within 30 days of notice of the penalty.

Penalties collected by the state under this subdivision shall be paid into the ~~special compensation~~ *assigned risk safety fund*.

Sec. 25. Minnesota Statutes 1990, section 176.261, is amended to read:

176.261 [EMPLOYEE OF COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY MAY ACT FOR AND ADVISE A PARTY TO A PROCEEDING.]

When requested by an employer or an employee or an employee's dependent, the commissioner of the department of labor and industry may designate one or more of the division employees to advise that party of rights under this chapter, and as far as possible to assist in adjusting differences between the parties. The person so designated may appear in person in any proceedings under this chapter as the representative or adviser of the party. In such case, the party need not be represented by an attorney at law.

Prior to advising an employee or employer to seek assistance outside of the department, the department must refer employers and employees seeking advice or requesting assistance in resolving a dispute to an attorney or rehabilitation and medical specialist employed by the department, whichever is appropriate.

The department must make efforts to settle problems of employees and employers by contacting third parties, including attorneys, insurers, and health care providers, on behalf of employers and employees and using the department's persuasion to settle issues quickly and cooperatively.

Sec. 26. [176.87] [FRAUD UNIT.]

The department shall establish a workers' compensation fraud unit to investigate fraudulent and other illegal practices of health care providers, employers, insurers, attorneys, employees, and others related to workers' compensation. The unit shall review files of the department and may conduct field investigations. If the department determines there is illegal activity, the commissioner must refer the case to the attorney general or other appropriate prosecuting authority. The attorney general and other prosecuting authorities must give high priority to reviewing and prosecuting cases referred to them by the commissioner under this section.

The attorney general shall train personnel of the department of labor and industry in effective investigative practices and in the requisites for successful prosecution of illegal activity under chapter 176.

Sec. 27. Minnesota Statutes 1990, section 176A.03, is amended by adding a subdivision to read:

Subd. 3. [COVERAGE OUTSIDE STATE.] *Policies issued by the fund pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The fund may apply for and obtain any licensure required in any other state in order to issue the coverage.*

Sec. 28. [DEPARTMENT STUDY; DATA SHARING ON UNINSURED EMPLOYERS.]

The commissioner of labor and industry shall study the issue of whether there is data in the possession of other state or private entities that would assist the department in identifying employers that are not complying with the insurance requirements of Minnesota Statutes, chapter 176. The department shall report the results of its studies to the legislature by January 30, 1993, together with proposed legislation that would enable the department to obtain that information.

Sec. 29. [REPETITIVE MOTION STUDY; DEPARTMENT OF EMPLOYEE RELATIONS.]

The department of employee relations shall assess the number and severity of work-related repetitive motion injuries incurred by state employees. The assessment shall include carpal tunnel and related injuries. The department shall report the results of the assessment to the legislature by January 30, 1993.

In addition, the department shall develop a plan for a pilot project to reduce repetitive motion injuries for which it shall seek funding from the 1993 legislature.

Sec. 30. [INDEPENDENT CONTRACTORS; LEASED EMPLOYEES.]

The commissioner of labor and industry shall study the practice of employee leasing and declaration of independent contract status as devices to evade or reduce premiums for workers' compensation insurance.

The commissioner shall submit a report to the legislature by January 15, 1993, with the results of the study and proposals for legislative action.

Sec. 31. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in this act and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of workers' compensation rates in effect on October 1, 1992, must be reduced by one percent and applied by the insurer to all policies with an effective date between October 1, 1992, and March 31, 1993. For purposes of this section, "insurer" includes the assigned risk plan, and "rates" include the rates approved by the commissioner of commerce for the assigned risk plan. The reduction mandated by this section must also be applied on a prorated basis to the unexpired portion of all workers' compensation policies on October 1, 1992. An insurer shall provide a written notice by November 1, 1992, to all workers' compensation policyholders having an unexpired policy with the insurer as of October 1, 1992, that reads as follows: "As a result of the changes in the workers' compensation system enacted by the 1992 legislature, you are entitled to a prorated reduction of one percent on your current policy premium."

(b) No rate increases may be filed between April 1, 1992, and April 1, 1993.

(c) The commissioner of labor and industry shall survey Minnesota employers to determine if the mandated workers' compensation insurance rate reductions required under this section have been implemented by insurers, both as to amount and in a manner that is uniform and nondiscriminatory between employers having similar risks with respect to a particular occupational classification. The commissioner shall present a report detailing the findings and conclusions to the legislature by March 1, 1993.

(d) The rate reduction mandated in this act is in addition to any other reduction required by law.

Sec. 32. [REPEALER.]

Minnesota Statutes 1990, section 176.131, is repealed. The special compensation fund shall not reimburse an employer under Minnesota Statutes, section 176.131, for a subsequent injury occurring after June 30, 1992. The special compensation fund shall continue to reimburse employers for subsequent injuries occurring prior to July 1, 1992, and the commissioner of labor and industry shall continue to assess for those reimbursements under Minnesota Statutes, section 176.129.

Sec. 33. [EFFECTIVE DATE.]

Section 31 is effective the day following final enactment retroactive to April 1, 1992. Section 1 is effective for policies insuring liability for workers' compensation that are renewed, issued, delivered, or issued for delivery on or after October 1, 1992. The rest of this act is effective July 1, 1992."

Delete the title and insert:

"A bill for an act relating to workers' compensation; regulating insurance; regulating the assigned risk plan; creating a health and safety fund; providing

for fraud prevention; requiring the department of labor and industry to assist employees; providing for accident prevention and injury reduction; eliminating subsequent injury registration and reimbursement; amending Minnesota Statutes 1990, sections 79.251, by adding subdivisions; 79.252, subdivisions 1 and 3; 176.106, subdivision 6; 176.129, subdivision 10; 176.130, subdivisions 8 and 9; 176.138; 176.139, subdivision 2; 176.181, subdivision 3, and by adding a subdivision; 176.182; 176.183; 176.185, subdivision 5a; 176.194, subdivisions 4 and 5; 176.221, subdivisions 3 and 3a; 176.231, subdivision 10; 176.261; 176A.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 79; and 176; repealing Minnesota Statutes 1990, section 176.131."

And when so amended the bill do pass. Mr. Merriam questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

Mr. Chmielewski from the Committee on Employment, to which was referred

S.F. No. 2107: A bill for an act relating to workers' compensation; regulating benefits and insurance; establishing a permanent commission on workers' compensation; creating a health and safety fund; providing penalties; appropriating money; amending Minnesota Statutes 1990, sections 79.252, by adding a subdivision; 79A.02, by adding subdivisions; 79A.03, subdivisions 3, 4, 7, and 9; 79A.04, subdivision 2; 79A.06, subdivision 5; 176.011, subdivisions 3, 9, 11a, and 18; 176.081, subdivisions 1, 2, and 3; 176.101, subdivisions 1, 2, and 3f; 176.102, subdivisions 1, 1a, 2, 3, 3a, 4, 6, 9, and 11; 176.103, subdivision 3; 176.106, subdivision 6, and by adding a subdivision; 176.111, subdivision 18; 176.129, subdivision 10; 176.135, subdivisions 1, 6, and 7; 176.136, subdivisions 1, 2, and by adding subdivisions; 176.138; 176.139, subdivision 2; 176.155, subdivision 1, and by adding a subdivision; 176.181, subdivisions 3 and 7; 176.182; 176.185, subdivisions 1 and 5a; 176.191, subdivisions 1, 2, 3, and 4; 176.194, subdivision 4; 176.221, subdivisions 3, 3a, and 7; 176.231, subdivision 10; 176.261; 176.645, subdivisions 1 and 2; 176.83, subdivisions 5, 6, and by adding a subdivision; 176.84, subdivision 2; 176A.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 79A; 175; and 176; repealing Minnesota Statutes 1990, sections 175.007; 176.136, subdivision 5; and 176.191, subdivisions 5, 6, 7, and 8, and Minnesota Statutes, chapters 79, 175A, and 176.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. Minnesota Statutes 1990, section 176.011, subdivision 3, is amended to read:

Subd. 3. [DAILY WAGE.] "Daily wage" means the daily wage of the employee in the employment engaged in at the time of injury but does not include tips and gratuities paid directly to an employee by a customer of the employer and not accounted for by the employee to the employer. If the amount of the daily wage received or to be received by the employee in the employment engaged in at the time of injury was irregular or difficult to determine, or if the employment was part time, the daily wage shall be

computed by dividing the total amount the employee actually earned in such employment in the last 26 weeks, by the total number of days in which the employee actually performed any of the duties of such employment; ~~provided further, that.~~ *For the purpose of this computation, holiday pay and vacation pay and the days for which it is paid shall be included in the total amount actually earned and the total days actually performing duties, respectively.* In the case of the construction industry, mining industry, or other industry where the hours of work are affected by seasonal conditions, the weekly wage shall not be less than five times the daily wage. Where board or allowances other than tips and gratuities are made to an employee in addition to wages as a part of the wage contract they are deemed a part of earnings and computed at their value to the employee. In the case of persons performing services for municipal corporations in the case of emergency, then the normal working day shall be considered and computed as eight hours, and in cases where such services are performed gratis or without fixed compensation the daily wage of the person injured shall, for the purpose of calculating compensation payable under this chapter, be taken to be the usual going wage paid for similar services in municipalities where such services are performed by paid employees. If, at the time of injury, the employee was regularly employed by two or more employers, the employee's earnings in all such employments shall be included in the computation of daily wage.

Sec. 2. Minnesota Statutes 1990, section 176.011, subdivision 11a, is amended to read:

Subd. 11a. [FAMILY FARM.] (a) "Family farm" means any farm operation which:

(1) pays or is obligated to pay less than ~~\$8,000~~ \$20,000 in cash wages, exclusive of machine hire, to farm laborers for services rendered during the preceding calendar year; and

(2) has total liability and medical payment coverage equal to \$300,000 and \$5,000, respectively, under a farm liability insurance policy, and the policy covers injuries to farm laborers under clause (1).

(b) For purposes of this subdivision, farm laborer does not include any spouse, parent or child, regardless of age, of a farmer employed by the farmer, or any executive officer of a family farm corporation as defined in section 500.24, subdivision 2, or any spouse, parent or child, regardless of age, of such an officer employed by that family farm corporation, or other farmers in the same community or members of their families exchanging work with the employer. Notwithstanding any law to the contrary, a farm laborer shall not be considered as an independent contractor for the purposes of this chapter; provided that a commercial baler or commercial thresher shall be considered an independent contractor.

Sec. 3. Minnesota Statutes 1990, section 176.011, subdivision 18, is amended to read:

Subd. 18. [WEEKLY WAGE.] "Weekly wage" is arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved. If the employee normally works less than five days per week or works an irregular number of days per week, the number of days normally worked shall be computed by dividing the total number of days in which the employee actually performed any of the duties of employment in the last 26 weeks by the number

of weeks in which the employee actually performed such duties; ~~provided that.~~ *For the purpose of this computation, holiday pay and vacation pay and the days for which it is paid shall be included in the total amount actually earned and the total days actually performing duties, respectively.* 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, 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. 4. Minnesota Statutes 1990, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] For injury producing temporary total disability, the compensation is 66-2/3 percent of the weekly wage at the time of injury.

~~(H) provided that, during the year commencing on October 1, 1979 1992, and each year thereafter, commencing on October 1;~~

~~(1) the maximum weekly compensation payable is 110 percent of the statewide average weekly wage for the period ending December 31, of the preceding year; and~~

~~(2) The minimum weekly compensation benefits for temporary total disability shall be not less than 50 payable is 20 percent of the statewide average weekly wage for the period ending December 31 of the preceding year or the injured employee's actual weekly wage, whichever is less. In no case shall a weekly benefit be less than 20 percent of the statewide average weekly wage.~~

Subject to subdivisions 3a to 3u this compensation shall be paid during the period of disability, payment to be made at the intervals when the wage was payable, as nearly as may be.

Sec. 5. Minnesota Statutes 1990, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] (a) In all cases of temporary partial disability the compensation shall be 66-2/3 percent of the difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition. This compensation shall be paid during the period of disability except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a the maximum compensation equal to the statewide average weekly wage rate for temporary total compensation.

(b) Except as provided under subdivision 3k, 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. Except as provided in section 176.102, subdivision 11, paragraph (b), temporary partial compensation may not be paid for more than 260 weeks, or after 450 weeks after the date of injury, whichever occurs first.

(c) Temporary partial compensation may not exceed the maximum rate for temporary total compensation and must be reduced to the extent that the wage the employee is able to earn in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 300 percent of the statewide average weekly wage.

Sec. 6. Minnesota Statutes 1990, section 176.101, subdivision 3f, is amended to read:

Subd. 3f. [LIGHT-DUTY JOB PRIOR TO THE END OF TEMPORARY TOTAL COMPENSATION.] *(a) If the employer offers a job prior to the end of the 90-day period referred to in subdivision 3e, paragraph (a) and the job is consistent with an approved plan of rehabilitation or if no rehabilitation plan has been approved and the job is within the employee's physical limitations; or the employer procures a job for the employee with another employer which meets the requirements of this subdivision; or the employee accepts a job with another employer which meets the requirements of this subdivision, the employee's temporary total compensation shall cease. In this case the employee shall receive impairment compensation for the permanent partial disability which is ascertainable at that time. This impairment compensation shall be paid at the same rate that temporary total compensation was last paid. Upon the end of temporary total compensation under subdivision 3e, paragraph (a), the provisions of subdivision 3e or 3p apply, whichever is appropriate, and economic recovery compensation or impairment compensation is payable accordingly except that the compensation shall be offset by impairment compensation received under this subdivision.*

(b) If an employee accepts a job under paragraph (a), begins work at that job, and is subsequently unemployed at that job because of economic conditions, or the employee is medically unable to continue at that job because of the injury, or because of the job's seasonal nature, the employee shall receive temporary total compensation, subject to the provisions of subdivision 3e or paragraph (a), as may be applicable. In addition, the employer who was the employer at the time of the injury shall provide rehabilitation consultation by a qualified rehabilitation consultant if the employee remains unemployed for 45 calendar days. The commissioner may waive this rehabilitation consultation if the commissioner determines that rehabilitation is unnecessary. Further rehabilitation, if considered necessary by the commissioner, is subject to section 176.102.

Sec. 7. Minnesota Statutes 1990, section 176.102, subdivision 11, is amended to read:

Subd. 11. [RETRAINING; COMPENSATION.] *(a) Retraining is limited to 156 weeks. An employee who has been approved for retraining may petition the commissioner for additional compensation not to exceed 25 percent of the compensation otherwise payable. If the commissioner or*

compensation judge determines that this additional compensation is warranted due to unusual or unique circumstances of the employee's retraining plan, the commissioner or compensation judge may award additional compensation in an amount the commissioner determines is appropriate, not to exceed the employee's request. This additional compensation shall cease at any time the commissioner or compensation judge determines the special circumstances are no longer present.

(b) If the employee is not employed during a retraining plan that has been specifically approved under this section, temporary total compensation is payable for up to 90 days after the end of the retraining plan; except that, payment during the 90-day period is subject to cessation in accordance with section 176.101. If the employee is employed during the retraining plan but earning less than at the time of injury, temporary partial compensation is payable at the rate of 66-2/3 percent of the difference between the employee's weekly wage at the time of injury and the weekly wage the employee is able to earn in the employee's partially disabled condition, subject to the maximum rate for temporary total compensation. Temporary partial compensation is not subject to the 260-week or 450-week limitations provided by section 176.101, subdivision 2, during the retraining plan, but is subject to those limitations before and after the plan.

Sec. 8. Minnesota Statutes 1990, section 176.111, subdivision 18, is amended to read:

Subd. 18. [BURIAL EXPENSE.] In all cases where death results to an employee from a personal injury arising out of and in the course of employment, the employer shall pay the expense of burial, not exceeding in amount ~~\$2,500~~ \$7,500. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, its reasonable value shall be determined and approved by the commissioner, a compensation judge, or workers' compensation court of appeals, in cases upon appeal, before payment, after reasonable notice to interested parties as is required by the commissioner. If the deceased leaves no dependents, no compensation is payable, except as provided by this chapter.

Sec. 9. Minnesota Statutes 1990, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2 and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, of the year previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on or after October 1, 1977 ~~or thereafter 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. *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. 10. Minnesota Statutes 1990, section 176.645, subdivision 2, is amended to read:

Subd. 2. [TIME OF FIRST ADJUSTMENT.] For injuries occurring on or after October 1, 1981, the initial adjustment made pursuant to subdivision 1 ~~shall be~~ is deferred until the first anniversary of the date of the injury. *For injuries occurring on or after October 1, 1992, the initial adjustment under subdivision 1 is deferred until the second anniversary of the date of the injury.*

Sec. 11. [176.646] [VIOLATIONS OF SAFETY PROVISIONS; PENALTY.]

If injury is caused by the failure of the employer to comply with a statute or a lawful order of the department, compensation and death benefits under this chapter shall be increased 15 percent, but the total increase may not exceed \$15,000. The failure of an employer to reasonably enforce compliance by employees with the statute or order of the department constitutes a failure by the employer to comply with the statute or order.

Sec. 12. [176.647] [FAILURE TO USE SAFETY DEVICES; DECREASED COMPENSATION.]

If injury is caused by the failure of the employee to use safety devices that are provided in accordance with a statute or lawful order of the department, that have been adequately maintained by the employer, and the use of which is reasonably enforced by the employer, the compensation and death benefit provided under this chapter shall be reduced 15 percent, but the total reduction may not exceed \$15,000.

Sec. 13. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in this article and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of workers' compensation rates in effect on October 1, 1992, must be reduced by 7.4 percent and applied by the insurer to all policies with an effective date between October 1, 1992, and March 31, 1993. For purposes of this section, "insurer" includes the assigned risk plan, and "rates" include rates approved by the commissioner of commerce for the assigned risk plan. The reduction mandated by this section must also be applied on a prorated basis to the unexpired portion of all workers' compensation policies on October 1, 1992. An insurer shall provide a written notice by November 1, 1992, to all workers' compensation policyholders having an unexpired policy with the insurer as of October 1, 1992, that reads as follows: "As a result of the changes in the workers' compensation system enacted by the 1992 legislature, you are entitled to a prorated reduction of 7.4 percent on your current policy premium."

(b) No rate increases may be filed between April 1, 1992, and April 1, 1993.

(c) The commissioner of labor and industry shall survey Minnesota employers to determine if the mandated workers' compensation insurance rate reductions required under this section have been implemented by insurers, both as to amount and in a manner that is uniform and nondiscriminatory

between employers having similar risks with respect to a particular occupational classification. The commissioner shall present a report detailing the findings and conclusions to the legislature by March 1, 1993.

(d) The reduction in premiums mandated by this section is in addition to those mandated by other law.

Sec. 14. [EFFECTIVE DATE.]

This article is effective October 1, 1992, except that section 2 is effective January 1, 1993.

ARTICLE 2

Section 1. Minnesota Statutes 1990, section 176.081, subdivision 1, is amended to read:

Subdivision 1. [APPROVAL.] (a) A fee for legal services of 25 percent of the first \$4,000 of compensation awarded to the employee and 20 percent of the next \$27,500 of compensation awarded to the employee is permissible and does not require approval by the commissioner, compensation judge, or any other party except as provided in ~~clause (b)~~ paragraph (c).

(b) If the employer or the insurer or the defendant is given written notice of claims for legal services or disbursements, the claim shall be a lien against the amount paid or payable as compensation. In no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be based solely upon genuinely disputed *claims* or portions of claims, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan. Fees for administrative conferences under section 176.239 shall be determined on an hourly basis, according to the criteria in subdivision 5.

~~(b)~~ (c) An attorney who is claiming legal fees ~~under this section for representing an employee in a workers' compensation matter~~ shall file a statement of ~~attorney's~~ attorney fees with the commissioner, compensation judge before whom the matter was heard, or workers' compensation court of appeals on cases before the court. A copy of the signed retainer agreement shall also be filed. The employee and insurer shall receive a copy of the statement. The statement shall be on a form prescribed by the commissioner, ~~shall report the number of hours spent on the case,~~ and shall clearly and conspicuously state that the employee or insurer has ten calendar days to object to the attorney fees requested. If no objection is timely made by the employee or insurer, the amount requested shall be conclusively presumed reasonable providing the amount does not exceed the limitation in subdivision 1. The commissioner, compensation judge, or court of appeals shall issue an order granting the fees and the amount requested shall be awarded to the party requesting the fee.

If a timely objection is filed, or the fee is determined on an hourly basis, the commissioner, compensation judge, or court of appeals shall review the matter and make a determination based on the criteria in subdivision 5.

If no timely objection is made by an employer or insurer, reimbursement under subdivision 7 shall be made if the statement of fees requested this reimbursement.

(d) An attorney representing employers or insurers shall file a statement of attorney fees or wages with the commissioner, compensation judge before whom the matter was heard, or workers' compensation court of appeals on

cases before the court. The statement of attorney fees or wages must contain the following information: the average hourly wage or the value of hours worked on that case if the attorney is an employee of the employer or insurer, the number of hours worked on that case, and the average hourly rate or amount charged an employer or insurer for that case if the attorney is not an employee of the employer or insurer.

(e) Employers and insurers may not pay attorney fees or wages for legal services of more than \$6,500 per case unless the additional fees or wages are approved under subdivision 2.

Sec. 2. Minnesota Statutes 1990, section 176.081, subdivision 2, is amended to read:

Subd. 2. [APPLICATION.] An application for attorney fees in excess of the amount authorized in subdivision 1 shall be made to the commissioner, compensation judge, or district judge, before whom the matter was heard. An appeal of a decision by the commissioner, a compensation judge, or district court judge on additional fees may be made to the workers' compensation court of appeals. The application shall set forth the fee requested ~~and, the number of hours spent on the case,~~ the basis for the request and whether or not a hearing is requested. The application, with affidavit of service upon the employee, shall be filed by the attorney requesting the fee. If a hearing is requested by an interested party, a hearing shall be set with notice of the hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.

Sec. 3. Minnesota Statutes 1990, section 176.081, subdivision 3, is amended to read:

Subd. 3. [REVIEW.] ~~An employee who~~ A party that is dissatisfied with its attorney fees, may file an application for review by the workers' compensation court of appeals. ~~Such~~ The application shall state the basis for the need of review and whether or not a hearing is requested. A copy of ~~such~~ the application shall be served upon the party's attorney for the employee by the court administrator and if a hearing is requested by either party, the matter shall be set for hearing. The notice of hearing shall be served upon known interested parties. ~~The attorney for the employee shall be served with a notice of the hearing.~~ The workers' compensation court of appeals shall have the authority to raise the question of the issue of the attorney fees at any time upon its own motion and shall have continuing jurisdiction over attorney fees.

Sec. 4. Minnesota Statutes 1990, section 176.105, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE; RULES.] (a) The commissioner of labor and industry shall by rule establish a schedule of degrees of disability resulting from different kinds of injuries. *Disability ratings under the schedule for permanent partial disability must be based on objective medical evidence. The commissioner, in consultation with the medical services review board, shall periodically review the rules adopted under this paragraph to determine whether any injuries omitted from the schedule should be included and amend the rules accordingly.*

(b) No permanent partial disability compensation shall be payable except in accordance with the disability ratings established under this subdivision, except as provided in paragraph (c). The schedule may provide that minor impairments receive a zero rating.

(c) If an injury for which there is objective medical evidence is not rated by the permanent partial disability schedule, the unrated injury must be assigned and compensated for at the rating for the most similar condition that is rated.

Sec. 5. [176.1311] [SECOND INJURY FUND DATA.]

No person shall, directly or indirectly, provide the names of persons who have registered a preexisting physical impairment under section 176.131 to an employer with the intent of assisting the employer to discriminate against those persons who have so registered with respect to hiring or other terms and conditions of employment.

A violation of this section is a gross misdemeanor.

Sec. 6. [176.178] [FRAUD.]

Any person who, with intent to defraud, receives workers' compensation benefits to which the person is not entitled by knowingly misrepresenting, misstating, or failing to disclose any material fact is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3.

Sec. 7. [176.2615] [SMALL CLAIMS COURT.]

Subdivision 1. [PURPOSE.] There is established in the department of labor and industry a small claims court, to be presided over by settlement judges for the purpose of settling small claims.

Subd. 2. [ELIGIBILITY.] The claim is eligible for determination in the small claims court if referred by the commissioner or if all parties agree to submit to its jurisdiction; and

(1) the claim is for rehabilitation benefits only under section 176.102 or medical benefits only under section 176.135; or

(2) the claim in its total amount does not equal more than \$5,000; or

(3) where the claim is for apportionment or for contribution or reimbursement, no counterclaim in excess of \$5,000 is asserted.

Subd. 3. [TESTIMONY; EXHIBITS.] At the hearing a settlement judge shall hear the testimony of the parties and consider any exhibits offered by them and may also hear any witnesses introduced by either party.

Subd. 4. [APPEARANCE OF PARTIES.] A party may appear on the party's own behalf without an attorney, or may retain and be represented by a duly admitted attorney who may participate in the hearing to the extent and in the manner that the settlement judge considers helpful. Attorney fees awarded under this subdivision are included in the overall limit allowed under section 176.081, subdivision 1.

Subd. 5. [EVIDENCE ADMISSIBLE.] At the hearing the settlement judge shall receive evidence admissible under the rules of evidence. In addition, in the interest of justice and summary determination of issues before the court, the settlement judge may receive, in the judge's discretion, evidence not otherwise admissible. The settlement judge, on the judge's own motion, may receive into evidence any documents which have been filed with the department.

Subd. 6. [SETTLEMENT.] A settlement judge may attempt to conciliate the parties. If the parties agree on a settlement, the judge shall issue an order in accordance with that settlement.

Subd. 7. [DETERMINATION.] If the parties do not agree to a settlement, the settlement judge shall summarily hear and determine the issues and issue an order in accordance with section 176.305, subdivision 1a. Any determination by a settlement judge may not be considered as evidence in any other proceeding.

Subd. 8. [COSTS.] The prevailing party is entitled to costs and disbursements as in any other workers' compensation case.

Sec. 8. [176.307] [COMPENSATION JUDGES; BLOCK SYSTEM.]

The chief administrative law judge must assign workers' compensation cases to compensation judges using a block system type of assignment that, among other things, ensures that a case will remain with the same judge from commencement to conclusion unless the judge is removed from the case by exercise of a legal right of a party or by incapacity. The block system must be the principal means of assigning cases, but it may be supplemented by other systems of case assignment to ensure that cases are timely decided.

Sec. 9. [176.325] [CERTIFIED QUESTION.]

Subdivision 1. [WHEN CERTIFIED.] The chief administrative law judge may certify a question of workers' compensation law to the workers' compensation court of appeals as important and doubtful under the following circumstances:

(1) all parties to the case have stipulated in writing to the facts;

(2) the issue to be resolved is a question of workers' compensation law that has not been resolved by the workers' compensation court of appeals or the Minnesota supreme court; and

(3) all parties request that the matter be resolved by certification to the workers' compensation court of appeals as an important and doubtful question.

Subd. 2. [SUPREME COURT REVIEW.] Review by the supreme court of any decision of the workers' compensation court of appeals under this section shall be pursuant to section 176.471.

Subd. 3. [EXPEDITED DECISION.] It is the legislature's intent that the workers' compensation court of appeals and the Minnesota supreme court resolve the certified question as expeditiously as possible, after compliance by the parties with any requirements of the workers' compensation court of appeals or the Minnesota supreme court regarding submission of legal memoranda, oral argument, or other matters, and after the participation of amicus curiae, should the workers' compensation court of appeals or Minnesota supreme court consider such participation advisable.

Subd. 4. [NOTICE.] The chief administrative law judge shall notify all persons who request to be notified of a certification under this section.

Sec. 10. Minnesota Statutes 1990, section 176.421, subdivision 1, is amended to read:

Subdivision 1. [TIME FOR TAKING; GROUNDS.] When a petition has been heard before a compensation judge, within 30 days after a party in interest has been served with notice of an award or disallowance of compensation, or other order affecting the merits of the case, the party may appeal to the workers' compensation court of appeals on any of the following grounds:

- (1) the order does not conform with this chapter; or
- (2) the compensation judge committed an error of law; or
- (3) the findings of fact and order were *clearly erroneous and unsupported* by substantial evidence in view of the entire record as submitted; or
- (4) the findings of fact and order were procured by fraud, or coercion, or other improper conduct of a party in interest.

Sec. 11. Minnesota Statutes 1990, section 176.461, is amended to read:
176.461 [SETTING ASIDE AWARD.]

Except when a writ of certiorari has been issued by the supreme court and the matter is still pending in that court or if as a matter of law the determination of the supreme court cannot be subsequently modified, the workers' compensation court of appeals, for cause, at any time after an award, upon application of either party and not less than five working days after written notice to all interested parties, may set the award aside and grant a new hearing and refer the matter for a determination on its merits to the chief administrative law judge for assignment to a compensation judge, who shall make findings of fact, conclusions of law, and an order of award or disallowance of compensation or other order based on the pleadings and the evidence produced and as required by the provisions of this chapter or rules adopted under it.

As used in this section, the phrase "for cause" is limited to the following:

- (1) *a mutual mistake of fact that was not discoverable at the time of the award;*
- (2) *newly discovered evidence that was not discoverable at the time of the award;*
- (3) *fraud; or*
- (4) *a substantial change in medical condition since the time of the award that was clearly not anticipated and could not reasonably have been anticipated at the time of the award.*

Sec. 12. Minnesota Statutes 1990, section 480B.01, subdivision 1, is amended to read:

Subdivision 1. [JUDICIAL VACANCIES.] If a judge of the district court or workers' compensation court of appeals dies, resigns, retires, or is removed during the judge's term of office, or if a new district or workers' compensation court of appeals judgeship is created, the resulting vacancy must be filled by the governor as provided in this section.

Sec. 13. Minnesota Statutes 1990, section 480B.01, subdivision 10, is amended to read:

Subd. 10. [NOTICE TO THE PUBLIC.] Upon receiving notice from the governor that a judicial vacancy has occurred or will occur on a specified date, the chair shall provide notice of the following information:

- (1) the office that is or will be vacant;
- (2) that applications from qualified persons or on behalf of qualified persons are being accepted by the commission;
- (3) that application forms may be obtained from the governor or the commission at a named address; and

(4) that application forms must be returned to the commission by a named date.

For a district court vacancy, the notice must be made available to attorney associations in the judicial district where the vacancy has occurred or will occur and to at least one newspaper of general circulation in each county in the district. For a workers' compensation court of appeals vacancy, the notice must be given to state attorney associations and all forms of the public media.

Sec. 14. Minnesota Statutes 1990, section 609.52, subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING THEFT.] Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody, or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(a) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 609.631, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(b) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(c) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(d) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 which intentionally and falsely states the costs of or actual treatment or supplies provided; or

(e) the preparation or filing of a claim for reimbursement for providing treatment or supplies required to be furnished to an employee under section 176.135 for treatment or supplies that the provider knew were not medically necessary; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and:

(a) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner; or

(b) the actor pledges or otherwise attempts to subject the property to an adverse claim; or

(c) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof, or any lessee of the property who sells, conveys, or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease and with intent to deprive the lessor of possession thereof. Evidence that a lessee used a false or fictitious name or address in obtaining the property or fails or refuses to return the property to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes, or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes, or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal, or obliteration; or

(11) with the intent to prevent the identification of property involved, so

as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property with knowledge that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by:

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive, or other connection, or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law Number 94-553, section 107; or

(13) except as provided in paragraphs (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio, or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio, or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(i) made or was aware of the connection; and

(ii) was aware that the connection was unauthorized; or

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; or

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it; or

(17) intentionally takes or drives a motor vehicle without the consent of the owner or an authorized agent of the owner.

Sec. 15. [HEARINGS AT THE OFFICE OF ADMINISTRATIVE HEARINGS; REPORT OF CHIEF ADMINISTRATIVE LAW JUDGE.]

The chief administrative law judge shall reduce the formality and length of hearings in workers' compensation cases at the office of administrative hearings, with a goal of completing 50 percent of the hearings in less than

two hours, 75 percent in less than four hours, and nearly all of the hearings in less than one day. Before January 1, 1994, the chief administrative law judge shall report to the legislature on the success in meeting these goals, including any recommendations for legislation needed to achieve these goals.

Sec. 16. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in this article and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of workers' compensation rates in effect on October 1, 1992, must be reduced by one percent and applied by the insurer to all policies with an effective date between October 1, 1992, and March 31, 1993. For purposes of this section, "insurer" includes the assigned risk plan, and "rates" include rates approved by the commissioner of commerce for the assigned risk plan. The reduction mandated by this section must also be applied on a prorated basis to the unexpired portion of all workers' compensation policies on October 1, 1992. An insurer shall provide a written notice by November 1, 1992, to all workers' compensation policyholders having an unexpired policy with the insurer as of October 1, 1992, that reads as follows: "As a result of the changes in the workers' compensation system enacted by the 1992 legislature, you are entitled to a prorated reduction of one percent on your current policy premium."

(b) No rate increases may be filed between April 1, 1992, and April 1, 1993.

(c) The commissioner of labor and industry shall survey Minnesota employers to determine if the mandated workers' compensation insurance rate reductions required under this section have been implemented by insurers, both as to amount and in a manner that is uniform and nondiscriminatory between employers having similar risks with respect to a particular occupational classification. The commissioner shall present a report detailing the findings and conclusions to the legislature by March 1, 1993.

(d) The rate reduction mandated in this article is in addition to any other reduction required by law.

Sec. 17. [EFFECTIVE DATE.]

Section 4 is effective the day following final enactment. Section 16 is effective the day following final enactment retroactive to April 1, 1992. The rest of the article is effective July 1, 1992.

ARTICLE 3

Section 1. [79.081] [MANDATORY DEDUCTIBLES.]

Subdivision 1. [PREMIUM REDUCTION.] Each insurer, including the assigned risk plan, issuing a policy of insurance, must offer an employer the option to agree to pay an amount per claim selected by the employer and specified in the policy toward the total of any claim payable under chapter 176. The amount of premium to be paid by an employer who selects a policy with a deductible shall be reduced based upon a rating schedule or rating plan filed with and approved by the commissioner of commerce. Administration of claims shall remain with the insurer as provided in the terms and conditions of the policy.

Subd. 2. [PROCEDURE FOR PAYING DEDUCTIBLE.] If an insured employer chooses a deductible, the insured employer is liable for the amount of the deductible for benefits paid for each compensable claim of work injury

suffered by an employee. The insurer shall pay the entire cost of the employee's loss and then seek reimbursement from the insured employer for the deductible. The payment or nonpayment of deductible amounts by the insured employer to the insurer shall be treated under the policy insuring the liability for workers' compensation in the same manner as payment or nonpayment of premiums.

Subd. 3. [CREDIT RISK; EXCEPTION.] An insurer is not required to offer a deductible to an employer if, as a result of a credit investigation, the insurer determines that the employer is not sufficiently financially stable to be responsible for the payment of deductible amounts.

Subd. 4. [REPORTING REQUIREMENT.] The existence of an insurance contract with a deductible or the fact of payment as a result of a deductible does not affect the requirement of an employer to report an injury or death to an insurer or the commissioner of labor and industry.

Sec. 2. Minnesota Statutes 1990, section 79.251, is amended by adding a subdivision to read:

Subd. 4a. [MEDICAL COST CONTAINMENT.] The assigned risk plan must utilize managed care plans certified under chapter 176 to the extent possible. In addition, the assigned risk plan must implement a medical cost containment program. The program must, at a minimum, include:

(1) billings review to determine if claims are compensable under chapter 176;

(2) utilization of cost management specialists familiar with billing practice guidelines;

(3) review of treatment to determine if it is reasonable and necessary and has a reasonable chance to cure and relieve the employee's injury;

(4) a system to reduce billed charges to the maximum permitted by law or rule;

(5) review of medical care utilization; and

(6) reporting of health care providers suspected of providing unnecessary or excessive services to the commissioner of labor and industry.

Sec. 3. Minnesota Statutes 1990, section 79.251, is amended by adding a subdivision to read:

Subd. 4b. [GROUPS.] The assigned risk plan must create a program that attempts to group employers in the same or similar risk classification for purposes of group premium underwriting and claims management. The assigned risk plan must engage in extensive safety consultation with group members to reduce the extent and severity of injuries of group members. The consultation should include on-site inspections and specific recommendations as to safety improvements.

Sec. 4. Minnesota Statutes 1990, section 79.252, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] The purpose of the assigned risk plan is to provide workers' compensation coverage to employers rejected by a two nonaffiliated licensed insurance company companies, pursuant to subdivision 2. One of these two rejections must come from the insurance company that most recently provided workers' compensation coverage to the employer, unless the employer had no previous coverage. Each rejection must be in

writing and must be obtained within 60 days before the date of application to the assigned risk plan. In addition, the rejections must also show the name of the insurance company and the representative contacted.

Sec. 5. Minnesota Statutes 1990, section 79.252, subdivision 3, is amended to read:

Subd. 3. [COVERAGE.] *(a) Policies and contracts of coverage issued pursuant to section 79.251, subdivision 4, shall contain the usual and customary provisions of workers' compensation insurance policies, and shall be deemed to meet the mandatory workers' compensation insurance requirements of section 176.181, subdivision 2.*

(b) Policies issued by the assigned risk plan pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The assigned risk plan review board may apply for and obtain any licensure required in any other state to issue that coverage.

Sec. 6. [79.253] [ASSIGNED RISK SAFETY FUND.]

Subdivision 1. [CREATION OF FUND.] There is created the assigned risk safety fund as a separate account in the special compensation fund in the state treasury. Income earned by funds in the account must be credited to the account. Principal and income of the account are annually appropriated to the commissioner of labor and industry and must be used for grants and loans under this section.

Subd. 2. [USE OF FUNDS; SAFETY ASSESSMENTS.] The assigned risk plan shall, through persons under contract with the plan, perform on-site surveys of employers insured by the assigned risk plan and recommend practices and equipment to employers designed to reduce the risk of injury to employees. The recommendations may include that the employer form a joint labor-management safety committee. The plan shall generally survey employers in the following priority:

(1) employers with poor safety records for their industry based on their premium modification factor or other factors;

(2) employers whose workers' compensation premium classification assigned to the greatest portion of the payroll for the employer has a premium rate in the top 25 percent of premium rates for all classes; and

(3) all other employers.

Subd. 3. [INCENTIVES AND PENALTIES.] The assigned risk plan shall develop a premium rating system subject to approval by the commissioner of commerce that provides a reduction in premium rates for employers that follow safety recommendations made under this section and an increase in rates for employers that do not. The system must be sensitive to the economic ability of an employer to implement particular recommendations.

Subd. 4. [GRANTS AND LOANS.] The commissioner of labor and industry may make grants or loans to employers for the cost of implementing safety recommendations made under this section.

Subd. 5. [RULES.] The commissioner of labor and industry may adopt rules necessary to implement this section.

Sec. 7. [79.255] [WORKERS' COMPENSATION INSURANCE; LESSORS OF EMPLOYEES.]

Subdivision 1. [REGISTRATION REQUIRED.] A corporation, partnership, sole proprietorship, or other business entity which provides staff, personnel, or employees to be employed in this state to other businesses pursuant to a lease arrangement or agreement shall, before becoming eligible to be issued a policy of workers' compensation insurance or becoming eligible to secure coverage on a multiple coordinated policies basis, register with the commissioner of commerce. The registration shall:

- (1) identify the name of the lessor;*
- (2) identify the address of the principal place of business of the lessor and the address of each office it maintains within this state;*
- (3) include the lessor's taxpayer or employer identification number;*
- (4) include a list by jurisdiction of each and every name that the lessor has operated under in the preceding five years including any alternative names and names of predecessors and, if known, successor business entities;*
- (5) include a list of each person or entity who owns a five percent or greater interest in the employee leasing business at the time of application and a list of each person who formerly owned a five percent or greater interest in the employee leasing company or its predecessors, successors, or alter egos in the preceding five years; and*
- (6) include a list of each and every cancellation or nonrenewal of workers' compensation insurance which has been issued to the lessor or any predecessor in the preceding five years. The list shall include the policy or certificate number, name of insurer or other provider of coverage, date of cancellation, and reason for cancellation. If coverage has not been canceled or nonrenewed, the registration shall include a sworn affidavit signed by the chief executive officer of the lessor attesting to that fact.*

Subd. 2. [INELIGIBILITY TO REGISTER.] Any lessor of employees whose workers' compensation insurance has been terminated within the past five years in any jurisdiction due to a determination that an employee leasing arrangement was being utilized to avoid premium otherwise payable by lessees shall be ineligible to register with the commissioner or to remain registered, if previously registered.

Subd. 3. [NOTICE OF CHANGE.] Persons filing registration statements pursuant to this section shall notify the commissioner as to any changes in any information required to be provided under this section.

Subd. 4. [LIST MAINTAINED.] The commissioner shall maintain a list of those lessors of employees who are registered with the commissioner.

Subd. 5. [FORMS OF REGISTRATION.] The commissioner may prescribe forms necessary to promote the efficient administration of this action.

Subd. 6. [ADVERTISING PROHIBITION.] No organization registered under this section shall directly or indirectly reference that registration in any advertisements, marketing material, or publications.

Subd. 7. [CRIMINAL PENALTIES.] Any corporation, partnership, sole proprietorship, or other form of business entity and any officer, director, general partner, agent, representative, or employee of theirs who knowingly utilizes or participates in any employee leasing agreement, arrangement, or mechanism for the purpose of depriving one or more insurers of premium otherwise properly payable is guilty of a misdemeanor.

Subd. 8. [APPLICATION OF SECTION.] Any lessor of employees that was doing business in this state prior to enactment of this section shall register with the commissioner within 30 days of the effective date of this section.

Sec. 8. Minnesota Statutes 1990, section 176.106, subdivision 6, is amended to read:

Subd. 6. [PENALTY.] At a conference, if the insurer does not provide a specific reason for nonpayment of the items in dispute, the commissioner may assess a penalty of \$300 payable to the ~~special compensation~~ *assigned risk safety fund*, unless it is determined that the reason for the lack of specificity was the failure of the insurer, upon timely request, to receive information necessary to remedy the lack of specificity. This penalty is in addition to any penalty that may be applicable for nonpayment.

Sec. 9. Minnesota Statutes 1990, section 176.129, subdivision 10, is amended to read:

Subd. 10. [PENALTY.] Sums paid to the commissioner pursuant to this section shall be in the manner prescribed by the commissioner. The commissioner may impose a penalty *payable to the assigned risk safety fund* of up to 15 percent of the amount due under this section but not less than \$500 in the event payment is not made in the manner prescribed.

Sec. 10. Minnesota Statutes 1990, section 176.130, subdivision 8, is amended to read:

Subd. 8. [PENALTIES; WOOD MILLS.] If the assessment provided for in this chapter is not paid on or before February 15 of the year when due and payable, the commissioner may impose penalties as provided in section 176.129, subdivision 10, *payable to the assigned risk safety fund*.

Sec. 11. Minnesota Statutes 1990, section 176.130, subdivision 9, is amended to read:

Subd. 9. [FALSE REPORTS.] Any person or entity that, for the purpose of evading payment of the assessment or avoiding the reimbursement, or any part of it, makes a false report under this section shall pay to the ~~special compensation~~ *assigned risk safety fund*, in addition to the assessment, a penalty of 50 percent of the amount of the assessment. A person who knowingly makes or signs a false report, or who knowingly submits other false information, is guilty of a misdemeanor.

Sec. 12. Minnesota Statutes 1990, section 176.138, is amended to read:

176.138 [MEDICAL DATA; ACCESS.]

(a) Notwithstanding any other state laws related to the privacy of medical data or any private agreements to the contrary, the release in writing, by telephone discussion, or otherwise of medical data related to a current claim for compensation under this chapter to the employee, employer, or insurer who are parties to the claim, or to the department of labor and industry, shall not require prior approval of any party to the claim. This section does not preclude the release of medical data under section 175.10 or 176.231, subdivision 9. Requests for pertinent data shall be made, and the date of discussions with medical providers about medical data shall be confirmed, in writing to the person or organization that collected or currently possesses the data. Written medical data that exists at the time the request is made shall be provided by the collector or possessor within seven working days

of receiving the request. Nonwritten medical data may be provided, but is not required to be provided, by the collector or possessor. In all cases of a request for the data or discussion with a medical provider about the data, except when it is the employee who is making the request, the employee shall be sent written notification of the request by the party requesting the data at the same time the request is made or a written confirmation of the discussion. This data shall be treated as private data by the party who requests or receives the data and the party receiving the data shall provide the employee or the employee's attorney with a copy of all data requested by the requester.

(b) Medical data which is not directly related to a current injury or disability shall not be released without prior authorization of the employee.

(c) The commissioner may impose a penalty of up to \$200 payable to the ~~special compensation~~ *assigned risk safety* fund against a party who does not timely release data as required in this section. A party who does not treat this data as private pursuant to this section is guilty of a misdemeanor. This paragraph applies only to written medical data which exists at the time the request is made.

(d) Workers' compensation insurers and self-insured employers may, for the sole purpose of identifying duplicate billings submitted to more than one insurer, disclose to health insurers, including all insurers writing insurance described in section 60A.06, subdivision 1, clause (5)(a), nonprofit health service plan corporations subject to chapter 62C, health maintenance organizations subject to chapter 62D, and joint self-insurance employee health plans subject to chapter 62H, computerized information about dates, coded items, and charges for medical treatment of employees and other medical billing information submitted to them by an employee, employer, health care provider, or other insurer in connection with a current claim for compensation under this chapter, without prior approval of any party to the claim. The data may not be used by the health insurer for any other purpose whatsoever and must be destroyed after verification that there has been no duplicative billing. Any person who is the subject of the data which is used in a manner not allowed by this section has a cause of action for actual damages and punitive damages for a minimum of \$5,000.

Sec. 13. Minnesota Statutes 1990, section 176.139, subdivision 2, is amended to read:

Subd. 2. [FAILURE TO POST; PENALTY.] The commissioner may assess a penalty of \$300 against the employer payable to the ~~special compensation~~ *assigned risk safety* fund if, after notice from the commissioner, the employer violates the posting requirement of this section.

Sec. 14. Minnesota Statutes 1990, section 176.181, subdivision 3, is amended to read:

Subd. 3. [FAILURE TO INSURE, PENALTY.] ~~Any employer who fails to comply with the provisions of subdivision 2 to secure payment of compensation is liable to the state of Minnesota for a penalty of \$750; if the number of uninsured employees is less than five and for a penalty of \$1,500 if the number of such uninsured employees is five or more. If the commissioner determines that the failure to comply with the provisions of subdivision 2 was willful and deliberate, the employer shall be liable to the state of Minnesota for a penalty of \$2,500; if the number of uninsured employees is less than five, and for a penalty of \$5,000 if the number of uninsured employees is~~

five or more. If the employer continues noncompliance, the employer is liable for five times the lawful premium for compensation insurance for such employer for the period the employer fails to comply with such provisions; commencing ten days after notice has been served upon the employer by the commissioner of the department of labor and industry by certified mail. These penalties may be recovered jointly or separately in a civil action brought in the name of the state by the attorney general in any court having jurisdiction. Whenever any such failure occurs the commissioner of the department of labor and industry shall immediately certify that fact to the attorney general. Upon receipt of such certification the attorney general shall forthwith commence and prosecute the action. All penalties recovered by the state in any such action shall be paid into the state treasury and credited to the special compensation fund. If an employer fails to comply with the provisions of subdivision 2, to secure payment of compensation after having been notified of the employer's duty, the attorney general, upon request of the commissioner, may proceed against the employer in any court having jurisdiction for an order restraining the employer from having any person in employment at any time when the employer is not complying with the provisions of subdivision 2 or for an order compelling the employer to comply with subdivision 2. (a) If the commissioner has reason to believe that an employer is in violation of subdivision 2, he may issue an order directing the employer to comply with subdivision 2, to refrain from employing any person at any time without complying with subdivision 2, and to pay a penalty of up to \$1,000 per employee per month during which the employer was not in compliance.

(b) An employer shall have ten working days to contest such an order by filing a written objection with the commissioner, stating in detail its reasons for objecting. If the commissioner does not receive an objection within ten working days, the commissioner's order shall constitute a final order not subject to further review, and violation of that order shall be enforceable by way of civil contempt proceedings in district court. If the commissioner does receive a timely objection, the commissioner shall refer the matter to the office of administrative hearings for an expedited hearing before a compensation judge. The compensation judge shall issue a decision either affirming, reversing, or modifying the commissioner's order within ten days of the close of the hearing. If the compensation judge affirms the commissioner's order, the compensation judge may order the employer to pay an additional penalty if the employer continued to employ persons without complying with subdivision 2 while the proceedings were pending.

(c) All penalties assessed under this subdivision shall be paid into the state treasury and credited to the assigned risk safety fund. Penalties assessed under this section shall constitute a lien for government services pursuant to section 514.67, on all the employer's property and shall be subject to the provisions of the revenue recovery act.

(d) For purposes of this subdivision, the term "employer" includes any owners or officers of a corporation who direct and control the activities of employees.

Sec. 15. Minnesota Statutes 1990, section 176.181, is amended by adding a subdivision to read:

Subd. 8. [DATA SHARING.] (a) The departments of labor and industry, jobs and training, and revenue are authorized to share information regarding the employment status of individuals, including but not limited to payroll and withholding and income tax information, and may use that information

for purposes consistent with this section.

(b) The commissioner is authorized to inspect and to order the production of all payroll and other business records and documents of any alleged employer in order to determine the employment status of persons and compliance with this section. If any person or employer refuses to comply with such an order, the commissioner may apply to the district court of the county where the person or employer is located for an order compelling production of the documents.

Sec. 16. Minnesota Statutes 1990, section 176.182, is amended to read:

176.182 [BUSINESS LICENSES OR PERMITS; COVERAGE REQUIRED.]

Every state or local licensing agency shall withhold the issuance or renewal of a license or permit to operate a business in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2, by providing the name of the insurance company, the policy number, and dates of coverage or the permit to self-insure. The commissioner shall assess a penalty to the employer of \$1,000 payable to the ~~special compensation~~ assigned risk safety fund, if the information is not reported or is falsely reported.

Neither the state nor any governmental subdivision of the state shall enter into any contract for the doing of any public work before receiving from all other contracting parties acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2.

This section shall not be construed to create any liability on the part of the state or any governmental subdivision to pay workers' compensation benefits or to indemnify the special compensation fund, an employer, or insurer who pays workers' compensation benefits.

Sec. 17. Minnesota Statutes 1990, section 176.183, is amended to read:

176.183 [UNINSURED AND SELF-INSURED EMPLOYERS; BENEFITS TO EMPLOYEES AND DEPENDENTS; LIABILITY OF EMPLOYER.]

Subdivision 1. When any employee sustains an injury arising out of and in the course of employment while in the employ of an employer, other than the state or its political subdivisions, not insured or self-insured as provided for in this chapter, the employee or the employee's dependents shall nevertheless receive benefits as provided for in this chapter from the special compensation fund; ~~and the commissioner has a cause of action against the employer for reimbursement for all moneys paid out or to be paid out; and, in the discretion of the court, as punitive damages an additional amount not exceeding 50 percent of all moneys paid out or to be paid out.~~ As used in this subdivision, "employer" includes ~~any owners or officers of corporations a corporation who have legal direct and control, either individually or jointly with another or others, of the payment of wages the activities of employees.~~ An action to recover the ~~moneys benefits paid~~ shall be instituted unless the commissioner determines that no recovery is possible. All moneys recovered shall be deposited in the general fund. There shall be no payment from the special compensation fund if there is liability for the injury under the provisions of section 176.215, by an insurer or self-insurer.

Subd. 2. *Prior to issuing an order against the special compensation fund to pay compensation benefits to an employee, a compensation judge shall first make findings regarding the insurance status of the employer and its liability. The special compensation fund shall not be found liable in the absence of a finding of liability against the employer. Where the liable employer is found to be not insured or self-insured as provided for in this chapter, the compensation judge shall assess and order the employer to pay all compensation benefits to which the employee is entitled and a penalty in the amount of 50 percent of all compensation benefits ordered to be paid. An award issued against an employer shall constitute a lien for government services pursuant to section 514.67 on all property of the employer and shall be subject to the provisions of the revenue recovery act. The special compensation fund may enforce the terms of that award in the same manner as a district court judgment. The commissioner of labor and industry, in accordance with the terms of the order awarding compensation, shall pay compensation to the employee or the employee's dependent from the special compensation fund. The commissioner of labor and industry shall certify to the commissioner of finance and to the legislature annually the total amount of compensation paid from the special compensation fund under subdivision 1. The commissioner of finance shall upon proper certification reimburse the special compensation fund from the general fund appropriation provided for this purpose. The amount reimbursed shall be limited to the certified amount paid under this section or the appropriation made for this purpose, whichever is the lesser amount. Compensation paid under this section which is not reimbursed by the general fund shall remain a liability of the special compensation fund and shall be financed by the percentage assessed under section 176.129.*

Subd. 3. (a) *Notwithstanding subdivision 2, the commissioner may direct payment from the special compensation fund for compensation payable pursuant to subdivision 1, including benefits payable under sections 176.102 and 176.135, prior to issuance of an order of a compensation judge or the workers' compensation court of appeals directing payment or awarding compensation. Where payment is issued pursuant to a petition for a temporary order, the terms of any resulting order shall have the same status and be governed by the same provisions as an award issued pursuant to subdivision 2.*

(b) *The commissioner may suspend or terminate an order under clause (a) for good cause as determined by the commissioner.*

Subd. 4. *If the commissioner authorizes the special fund to commence payment under this section without the issuance of a temporary order, the commissioner shall serve by certified mail notice upon the employer and other interested parties of the intention to commence payment. This notice shall be served at least ten calendar days before commencing payment and shall be mailed to the last known address of the parties. The notice shall include a statement that failure of the employer to respond within ten calendar days of the date of service will be deemed acceptance by the employer of the proposed action by the commissioner and will be deemed a waiver of defenses the employer has to a subrogation or indemnity action by the commissioner. At any time prior to final determination of liability, the employer may appear as a party and present defenses the employer has, whether or not an appearance by the employer has previously been made in the matter. The commissioner has a cause of action against the employer to recover compensation paid by the special fund under this section.*

Sec. 18. Minnesota Statutes 1990, section 176.185, subdivision 5a, is amended to read:

Subd. 5a. [PENALTY FOR IMPROPER WITHHOLDING.] An employer who violates subdivision 5 after notice from the commissioner is subject to a penalty of 200 percent of the amount withheld from or charged the employee. The penalty shall be imposed by the commissioner. Fifty percent of this penalty is payable to the ~~special compensation~~ *assigned risk safety* fund and 50 percent is payable to the employee.

Sec. 19. Minnesota Statutes 1990, section 176.194, subdivision 4, is amended to read:

Subd. 4. [PENALTIES.] The penalties for violations of clauses (1) through (6) are as follows:

1st through 5th violation of each paragraph	written warning
6th through 10th violation of each paragraph	\$2,500 per violation in excess of five
11th through 30th violation of each paragraph	\$5,000 per violation in excess of ten

For violations of clauses (7) and (8), the penalties are:

1st through 5th violation of each paragraph	\$2,500 per violation
6th through 30th violation of each paragraph	\$5,000 per violation in excess of five

The penalties under this section may be imposed in addition to other penalties under this chapter that might apply for the same violation. The penalties under this section are assessed by the commissioner and are payable to the ~~special compensation~~ *assigned risk safety* fund. A party may object to the penalty and request a formal hearing under section 176.85. If an entity has more than 30 violations within any 12-month period, in addition to the monetary penalties provided, the commissioner may refer the matter to the commissioner of commerce with recommendation for suspension or revocation of the entity's (a) license to write workers' compensation insurance; (b) license to administer claims on behalf of a self-insured, the assigned risk plan, or the Minnesota insurance guaranty association; (c) authority to self-insure; or (d) license to adjust claims. The commissioner of commerce shall follow the procedures specified in section 176.195.

Sec. 20. Minnesota Statutes 1990, section 176.194, subdivision 5, is amended to read:

Subd. 5. [RULES.] The commissioner may, by rules adopted in accordance with chapter 14, specify additional *illegal*, misleading, deceptive, or fraudulent practices, or conduct which are subject to the penalties under this section.

Sec. 21. Minnesota Statutes 1990, section 176.221, subdivision 3, is amended to read:

Subd. 3. [PENALTY.] If the employer or insurer does not begin payment of compensation within the time limit prescribed under subdivision 1 or 8, the commissioner may assess a penalty, payable to the ~~special compensation~~ *assigned risk safety* fund, which shall be a percentage of the amount of

compensation to which the employee is entitled to receive up to the date compensation payment is made.

The amount of penalty shall be determined as follows:

Numbers of days late	Penalty
1 - 15	25 percent of compensation due, not to exceed \$375,
16 - 30	50 percent of compensation due, not to exceed \$1,140,
31 - 60	75 percent of compensation due, not to exceed \$2,878,
61 or more	100 percent of compensation due, not to exceed \$3,838.

The penalty under this section is in addition to any penalty otherwise provided by statute.

Sec. 22. Minnesota Statutes 1990, section 176.221, subdivision 3a, is amended to read:

Subd. 3a. [PENALTY.] In lieu of any other penalty under this section, the commissioner may assess a penalty of up to \$1,000 *payable to the assigned risk safety fund* for each instance in which an employer or insurer does not pay benefits or file a notice of denial of liability within the time limits prescribed under this section.

Sec. 23. [176.222] [REPORT ON COLLECTION AND ASSESSMENT OF FINES AND PENALTIES.]

The commissioner shall annually, by January 30, submit a report to the legislature detailing the assessment and collection of fines and penalties under this chapter on a fiscal year basis for the immediately preceding fiscal year and for as many prior years as the data is available.

Sec. 24. Minnesota Statutes 1990, section 176.231, subdivision 10, is amended to read:

Subd. 10. [FAILURE TO FILE REQUIRED REPORT, PENALTY.] If an employer, insurer, physician, chiropractor, or other health provider fails to file with the commissioner any report required by this section in the manner and within the time limitations prescribed, or otherwise fails to provide a report required by this section in the manner provided by this section, the commissioner may impose a penalty of up to \$200 for each failure.

The imposition of a penalty may be appealed to a compensation judge within 30 days of notice of the penalty.

Penalties collected by the state under this subdivision shall be paid into the ~~special compensation~~ *assigned risk safety fund*.

Sec. 25. Minnesota Statutes 1990, section 176.261, is amended to read:

176.261 [EMPLOYEE OF COMMISSIONER OF THE DEPARTMENT

OF LABOR AND INDUSTRY MAY ACT FOR AND ADVISE A PARTY TO A PROCEEDING.]

When requested by an employer or an employee or an employee's dependent, the commissioner of the department of labor and industry may designate one or more of the division employees to advise that party of rights under this chapter, and as far as possible to assist in adjusting differences between the parties. The person so designated may appear in person in any proceedings under this chapter as the representative or adviser of the party. In such case, the party need not be represented by an attorney at law.

Prior to advising an employee or employer to seek assistance outside of the department, the department must refer employers and employees seeking advice or requesting assistance in resolving a dispute to an attorney or rehabilitation and medical specialist employed by the department, whichever is appropriate.

The department must make efforts to settle problems of employees and employers by contacting third parties, including attorneys, insurers, and health care providers, on behalf of employers and employees and using the department's persuasion to settle issues quickly and cooperatively.

Sec. 26. [176.87] [FRAUD UNIT.]

The department shall establish a workers' compensation fraud unit to investigate fraudulent and other illegal practices of health care providers, employers, insurers, attorneys, employees, and others related to workers' compensation. The unit shall review files of the department and may conduct field investigations. If the department determines there is illegal activity, the commissioner must refer the case to the attorney general or other appropriate prosecuting authority. The attorney general and other prosecuting authorities must give high priority to reviewing and prosecuting cases referred to them by the commissioner under this section.

The attorney general shall train personnel of the department of labor and industry in effective investigative practices and in the requisites for successful prosecution of illegal activity under chapter 176.

Sec. 27. Minnesota Statutes 1990, section 176A.03, is amended by adding a subdivision to read:

Subd. 3. [COVERAGE OUTSIDE STATE.] Policies issued by the fund pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The fund may apply for and obtain any licensure required in any other state in order to issue the coverage.

Sec. 28. [DEPARTMENT STUDY; DATA SHARING ON UNINSURED EMPLOYERS.]

The commissioner of labor and industry shall study the issue of whether there is data in the possession of other state or private entities that would assist the department in identifying employers that are not complying with the insurance requirements of Minnesota Statutes, chapter 176. The department shall report the results of its studies to the legislature by January 30, 1993, together with proposed legislation that would enable the department to obtain that information.

Sec. 29. [REPETITIVE MOTION STUDY; DEPARTMENT OF EMPLOYEE RELATIONS.]

The department of employee relations shall assess the number and severity of work-related repetitive motion injuries incurred by state employees. The assessment shall include carpal tunnel and related injuries. The department shall report the results of the assessment to the legislature by January 30, 1993.

In addition, the department shall develop a plan for a pilot project to reduce repetitive motion injuries for which it shall seek funding from the 1993 legislature.

Sec. 30. [INDEPENDENT CONTRACTORS; LEASED EMPLOYEES.]

The commissioner of labor and industry shall study the practice of employee leasing and declaration of independent contract status as devices to evade or reduce premiums for workers' compensation insurance.

The commissioner shall submit a report to the legislature by January 15, 1993, with the results of the study and proposals for legislative action.

Sec. 31. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in this article and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of workers' compensation rates in effect on October 1, 1992, must be reduced by one percent and applied by the insurer to all policies with an effective date between October 1, 1992, and March 31, 1993. For purposes of this section, "insurer" includes the assigned risk plan, and "rates" include the rates approved by the commissioner of commerce for the assigned risk plan. The reduction mandated by this section must also be applied on a prorated basis to the unexpired portion of all workers' compensation policies on October 1, 1992. An insurer shall provide a written notice by November 1, 1992, to all workers' compensation policyholders having an unexpired policy with the insurer as of October 1, 1992, that reads as follows: "As a result of the changes in the workers' compensation system enacted by the 1992 legislature, you are entitled to a prorated reduction of one percent on your current policy premium."

(b) No rate increases may be filed between April 1, 1992, and April 1, 1993.

(c) The commissioner of labor and industry shall survey Minnesota employers to determine if the mandated workers' compensation insurance rate reductions required under this section have been implemented by insurers, both as to amount and in a manner that is uniform and nondiscriminatory between employers having similar risks with respect to a particular occupational classification. The commissioner shall present a report detailing the findings and conclusions to the legislature by March 1, 1993.

(d) The rate reduction mandated in this article is in addition to any other reduction required by law.

Sec. 32. [REPEALER.]

Minnesota Statutes 1990, section 176.131, is repealed. The special compensation fund shall not reimburse an employer under Minnesota Statutes, section 176.131, for a subsequent injury occurring after June 30, 1992. The special compensation fund shall continue to reimburse employers for subsequent injuries occurring prior to July 1, 1992, and the commissioner of labor and industry shall continue to assess for those reimbursements under Minnesota Statutes, section 176.129.

Sec. 33. [EFFECTIVE DATE.]

Section 31 is effective the day following final enactment retroactive to April 1, 1992. Section 1 is effective for policies insuring liability for workers' compensation that are renewed, issued, delivered, or issued for delivery on or after October 1, 1992. The rest of this article is effective July 1, 1992.

ARTICLE 4

Section 1. Minnesota Statutes 1990, 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, through physical and vocational rehabilitation, so the employee may return to a job related to the employee's former employment or to a job in another work area which produces an economic status as close as possible to that the employee would have enjoyed without disability. Rehabilitation to a job with a higher economic status than would have occurred without disability is permitted if it can be demonstrated that this rehabilitation is necessary to increase the likelihood of reemployment. Economic status is to be measured not only by opportunity for immediate income but also by opportunity for future income.

Sec. 2. Minnesota Statutes 1990, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner shall hire a director of rehabilitation services in the classified service. The commissioner shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services *and shall by rule 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. 3. Minnesota Statutes 1990, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] *(a) An employer or insurer shall provide rehabilitation consultation by a qualified rehabilitation consultant or by another person permitted by rule to provide consultation to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation shall be made within five days after the employee has 30 days of lost work time due to the injury. The lost work time in either case may be intermittent lost work time. If an employer or insurer has medical*

information at any time prior to the time specified in this subdivision that the employee will be unable to return to the job the employee held at the time of the injury rehabilitation consultation shall be provided immediately after receipt of this information.

For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time. A rehabilitation consultation must be provided by the employer to an injured employee upon request of the employee, the employer, or the commissioner. 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 30 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.

(b) In order to assist the commissioner in determining whether or not to request rehabilitation consultation for an injured employee, an employer shall notify the commissioner whenever the employee's temporary total disability will likely exceed 13 weeks. The notification must be made within 90 days from the date of the injury or when the likelihood of at least a 13-week disability can be determined, whichever is earlier, and must include a current physician's report.

(c) The qualified rehabilitation consultant appointed by the employer or insurer shall disclose in writing at the first meeting or written communication with the employee any ownership interest or affiliation between the firm which employs the qualified rehabilitation consultant and the employer, insurer, adjusting or servicing company, including the nature and extent of the affiliation or interest.

The consultant shall also disclose to all parties any affiliation, business referral or other arrangement between the consultant or the firm employing the consultant and any other party to, attorney, or health care provider involved in the case, including any attorneys, doctors, or chiropractors.

If the employee objects to the employer's selection of a qualified rehabilitation consultant, the employee shall notify the employer and the commissioner in writing of the objection. The notification shall include the name, address, and telephone number of the qualified rehabilitation consultant chosen by the employee to provide rehabilitation consultation.

(d) After the initial provision or selection of a qualified rehabilitation consultant as provided under paragraph (a), the employee may choose request a different qualified rehabilitation consultant as follows:

(1) once during the first 60 days following the first in-person contact between the employee and the original consultant;

(2) once after the 60-day period referred to in clause (1); and

(3) subsequent requests which shall be determined granted or denied by the commissioner or compensation judge according to the best interests of the parties.

(e) The employee and employer shall enter into a program if one is prescribed in develop a rehabilitation plan within 30 days of the rehabilitation consultation if the qualified rehabilitation consultant determines that rehabilitation is appropriate. A copy of the plan, including a target date for return to work, shall be submitted to the commissioner within 15 days after the plan has been developed.

(b) (f) If the employer does not provide rehabilitation consultation as required by this section requested under paragraph (a), the commissioner or compensation judge shall notify the employer that if the employer fails to appoint provide a qualified rehabilitation consultant or other persons as permitted by clause (a) within 15 days to conduct a rehabilitation consultation, the commissioner or compensation judge shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner or compensation judge determines the consultation is not required.

(e) (g) In developing a rehabilitation plan consideration shall be given to the employee's qualifications, including but not limited to age, education, previous work history, interest, transferable skills, and present and future labor market conditions.

(d) (h) The commissioner or compensation judge may waive rehabilitation services under this section if the commissioner or compensation judge is satisfied that the employee will return to work in the near future or that rehabilitation services will not be useful in returning an employee to work.

Sec. 4. Minnesota Statutes 1990, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] (a) The commissioner or a compensation judge shall determine eligibility for rehabilitation services and shall review, approve, modify, or reject rehabilitation plans developed under subdivision 4. The commissioner or a compensation judge shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivisions 9 and 11 to which an employee is entitled.

(b) A rehabilitation consultant must file a progress report on the plan with the commissioner six months after the plan is filed. The progress report must include a current estimate of the total cost and the expected duration of the plan. The commissioner may require additional progress reports. Based on the progress reports and available information, the commissioner may take actions including, but not limited to, redirecting, amending, suspending, or terminating the plan.

Sec. 5. Minnesota Statutes 1990, section 176.102, subdivision 9, is amended to read:

Subd. 9. [PLAN, COSTS.] (a) An employer is liable for the following rehabilitation expenses under this section:

- (a) (1) Cost of rehabilitation evaluation and preparation of a plan;
- (a) (2) Cost of all rehabilitation services and supplies necessary for implementation of the plan;
- (a) (3) Reasonable cost of tuition, books, travel, and custodial day care; and, in addition, reasonable costs of board and lodging when rehabilitation requires residence away from the employee's customary residence;
- (a) (4) Reasonable costs of travel and custodial day care during the job interview process;
- (a) (5) Reasonable cost for moving expenses of the employee and family if a job is found in a geographic area beyond reasonable commuting distance after a diligent search within the present community. Relocation shall not be paid more than once during any rehabilitation program, and relocation shall not be required if the new job is located within the same standard metropolitan statistical area as the employee's job at the time of injury. An employee shall not be required to relocate and a refusal to relocate shall not result in a suspension or termination of compensation under this chapter; and
- (a) (6) Any other expense agreed to be paid.

(b) *Charges for services provided by a rehabilitation consultant or vendor must be submitted on a billing form prescribed by the commissioner. No payment for the services shall be made until the charges are submitted on the prescribed form.*

(c) *Except as provided in this paragraph, an employer is not liable for charges for services provided by a rehabilitation consultant or vendor unless the employer or its insurer receives a bill for those services within 45 days of the provision of the services. The commissioner or a compensation judge may order payment for charges not timely billed under this paragraph if the rehabilitation consultant or vendor can prove that the failure to submit the bill as required by this paragraph was due to circumstances beyond the control of the rehabilitation consultant or vendor. A rehabilitation consultant or vendor may not collect payment from any other person, including the employee, for bills that an employer is relieved from liability for paying under this paragraph.*

Sec. 6. Minnesota Statutes 1990, section 176.103, subdivision 2, is amended to read:

Subd. 2. [SCOPE.] (a) The commissioner shall monitor the medical and surgical treatment provided to injured employees, the services of other health care providers and shall also monitor hospital utilization as it relates to the treatment of injured employees. This monitoring shall include determinations concerning the appropriateness of the service, whether the treatment is necessary and effective, the proper cost of services, the quality of the treatment, the right of providers to receive payment under this chapter for services rendered or the right to receive payment under this chapter for future services. *Insurers and self-insurers must assist the commissioner in this monitoring by reporting to the commissioner cases of suspected excessive, inappropriate, or unnecessary treatment. The commissioner shall report the results of the monitoring specific cases of suspected inappropriate, unnecessary, and excessive treatment to the medical services review board.*

The commissioner may, either as a result of the monitoring or as a result of an investigation following receipt of a complaint, if the commissioner believes that any provider of health care services has violated any provision of this chapter or rules adopted under this chapter, initiate a contested case proceeding under chapter 14. In these cases, The medical services review board shall make the final decision following receipt of the report of an administrative law judge review those cases and make a determination of whether there is inappropriate, unnecessary, or excessive treatment based on its rules. The determination of the board is not subject to the contested case provisions of the administrative procedures act in chapter 14. An affected provider shall be given notice and an opportunity to be heard before the board prior to the board reporting its findings and conclusions. The board shall report its finding and conclusions to the commissioner. The findings and conclusions of the board are binding on the commissioner. The commissioner shall order a sanction if the board has concluded there was inappropriate, unnecessary, or excessive treatment. The commissioner shall adopt rules related to the sanctions to be imposed for inappropriate, unnecessary, or excessive treatment. The sanctions imposed may include, without limitation, a warning, a restriction on providing treatment, requiring preauthorization by the board for a plan of treatment, and suspension from receiving compensation for the provision of treatment under chapter 176. The commissioner's authority under this section also includes the authority to make determinations regarding any other activity involving the questions of utilization of medical services, and any other determination the commissioner deems necessary for the proper administration of this section, but does not include the authority to make the initial determination of primary liability, except as provided by section 176.305.

Sec. 7. Minnesota Statutes 1990, section 176.103, is amended by adding a subdivision to read:

Subd. 2a. [APPEALS, EFFECT OF DECISION.] An order imposing sanctions on a health care provider under subdivision 2 may be appealed and has the effect provided by this subdivision.

A sanction becomes effective at the time the commissioner notifies the provider of the order of sanction. The notice shall advise the provider of the right to obtain review as provided in this subdivision. If mailed, the notice of order of sanction is deemed received three days after mailing to the last known address of the provider.

Within 30 days of receipt of a notice of order of sanction, a provider may request in writing a review by the commissioner of the order. Upon receiving a request the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine whether sufficient cause exists to sustain the order. Within 15 days of receiving the request the commissioner shall report in writing the results of the review. The review provided in this subdivision is not subject to the contested case provisions of the administrative procedure act in chapter 14.

Within 30 days following receipt of the commissioner's decision on review, a provider may petition the workers' compensation court of appeals for review. The petition shall be filed with the court, together with proof of service of a copy on the commissioner, and accompanied by the standard filing fee for appeals from decisions of compensation judges. No responsive pleading shall be required of the commissioner, and no fees shall be charged

for the appearance of the commissioner in the matter.

The petition shall be captioned in the full name of the provider making the petition as petitioner and the commissioner as respondent. The petition shall state with specificity the grounds upon which the petitioner seeks rescission of the order of sanction.

The filing of the petition shall not stay the sanction. The court may order a stay of the balance of the sanction if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper. To the extent applicable, review shall be conducted according to the rules of the court for review of decisions of compensation judges.

The scope of the hearing shall be limited to the issues of whether the medical services review board's findings were supported by substantial evidence in view of the record before the board and whether the sanction imposed by the commissioner was authorized by law or rule.

The workers' compensation court of appeals may adopt rules necessary to implement this subdivision.

Sec. 8. Minnesota Statutes 1990, section 176.103, subdivision 3, is amended to read:

Subd. 3. [MEDICAL SERVICES REVIEW BOARD; SELECTION; POWERS.] (a) There is created a medical services review board composed of the commissioner or the commissioner's designee as an ex officio member, two persons representing chiropractic, one person representing hospital administrators, and six physicians representing different specialties which the commissioner determines are the most frequently utilized by injured employees. The board shall also have one person representing employees, one person representing employers or insurers, and one person representing the general public. The members shall be appointed by the commissioner and shall be governed by section 15.0575. Terms of the board's members may be renewed. The board may appoint from its members whatever subcommittees it deems appropriate.

The commissioner may appoint alternates for one-year terms to serve as a member when a member is unavailable. The number of alternates shall not exceed one chiropractor, one hospital administrator, three physicians, one employee representative, one employer or insurer representative, and one representative of the general public.

The board shall review clinical results for adequacy and recommend to the commissioner scales for disabilities and apportionment.

The board shall review and recommend to the commissioner rates for individual clinical procedures and aggregate costs. The board shall assist the commissioner in accomplishing public education.

In evaluating the clinical consequences of the services provided to an employee by a clinical health care provider, the board shall consider the following factors in the priority listed:

- (1) the clinical effectiveness of the treatment;
- (2) the clinical cost of the treatment; and
- (3) the length of time of treatment.

The board shall advise the commissioner on the adoption of rules regarding all aspects of medical care and services provided to injured employees.

(b) The medical services review board may upon petition from the commissioner and after hearing, issue a penalty of \$200 per violation, disqualify, or suspend a provider from receiving payment for services rendered under this chapter if a provider has violated any part of this chapter or rule adopted under this chapter. The hearings are initiated by the commissioner under the contested case procedures of chapter 14. The board shall make the final decision following receipt of the recommendation of the administrative law judge. The board's decision is appealable to the workers' compensation court of appeals in the manner provided by section 176.421.

(c) The board may adopt rules of procedure. The rules may be joint rules with the rehabilitation review panel.

(d) The board must adopt rules defining standards of treatment including inappropriate, unnecessary, or excessive treatment. The board may adopt by reference rules providing standards of treatment including those adopted by federal or state government agencies. The board shall adopt rules under this paragraph using the procedures of sections 14.22 to 14.28, except that no public hearing shall be required notwithstanding section 14.25.

Sec. 9. Minnesota Statutes 1990, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, PSYCHOLOGICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] (a) The employer shall furnish any medical, psychological, chiropractic, podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. This treatment shall include treatments necessary to physical rehabilitation.

(b) The employer shall pay for the reasonable value of nursing services provided by a member of the employee's family in cases of permanent total disability.

(c) Exposure to rabies is an injury and an employer shall furnish preventative treatment to employees exposed to rabies.

(d) The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches, or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. For the purpose of this paragraph, "injury" includes damage wholly or in part to an artificial member. In case of the employer's inability or refusal seasonably to ~~do so~~ provide the items required to be provided under this paragraph, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing the same, including costs of copies of any medical records or medical reports that are in existence, obtained from health care providers, and that directly relate to the items for which payment is sought under this chapter, limited to the charges allowed by subdivision 7, and attorney fees incurred by the employee. ~~No action to recover the cost of copies may be brought until the commissioner adopts a schedule of reasonable charges under subdivision 7.~~ Attorney's fees shall be determined on an hourly basis according to the

criteria in section 176.081, subdivision 5. ~~The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability.~~

~~(b)~~ (e) Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with sections 176.106 and 176.305.

(f) *Unless otherwise provided by this chapter, an employer may provide the treatment and supplies required to be provided by an employer by this chapter solely through a managed care plan certified under section 176.1351.*

Sec. 10. Minnesota Statutes 1990, section 176.135, subdivision 5, is amended to read:

Subd. 5. [OCCUPATIONAL DISEASE MEDICAL ELIGIBILITY.] Notwithstanding section 176.66, an employee who has contracted an occupational disease is eligible to receive compensation under this section even if the employee is not disabled from earning full wages at the work at which the employee was last employed.

Payment of compensation under this section shall be made by the employer and insurer on the date of the employee's last exposure to the hazard of the occupational disease. Reimbursement for medical benefits paid under this subdivision or subdivision 1a is allowed from the employer and insurer liable under section 176.66, subdivision 10, only in the case of disablement.

Sec. 11. Minnesota Statutes 1990, section 176.135, subdivision 6, is amended to read:

Subd. 6. [COMMENCEMENT OF PAYMENT.] As soon as reasonably possible, and no later than 30 calendar days after receiving the bill, the employer or insurer shall pay the charge or any portion of the charge which is not denied, ~~or deny all or a part of the charge on the basis of excessiveness or noncompensability, or specify the additional data needed,~~ with written notification to the employee and the provider *explaining the basis for denial. All or part of a charge must be denied if any of the following conditions exist:*

- (1) the injury or condition is not compensable under this chapter;*
- (2) the charge or service is excessive under this section or section 176.136;*
- (3) the charges are not submitted on the prescribed billing form; or*
- (4) additional medical records or reports are required under subdivision 7 to substantiate the nature of the charge and its relationship to the work injury.*

If payment is denied under clause (3) or (4), the employer or insurer shall reconsider the charges in accordance with this subdivision within 30 calendar days after receiving additional medical data, a prescribed billing form, or documentation of enrollment or certification as a provider.

Sec. 12. Minnesota Statutes 1990, section 176.135, subdivision 7, is amended to read:

Subd. 7. [MEDICAL BILLS AND RECORDS.] Health care providers shall submit to the insurer an itemized statement of charges *on a billing form prescribed by the commissioner.* Health care providers ~~other than hospitals~~ shall also submit copies of medical records or reports that substantiate

the nature of the charge and its relationship to the work injury; ~~provided, however, that hospitals must submit any copies of records or reports requested under subdivision 6.~~ Health care providers may charge for copies of any records or reports that are in existence and directly relate to the items for which payment is sought under this chapter. ~~Charges for copies provided under this subdivision shall be reasonable.~~ The commissioner shall adopt a schedule of reasonable charges by ~~emergency rules rule.~~

A health care provider shall not collect, attempt to collect, refer a bill for collection, or commence an action for collection against the employee, employer, or any other party until the information required by this section has been furnished.

Sec. 13. [176.1351] [MANAGED CARE.]

Subdivision 1. [APPLICATION.] Any person or entity, other than a workers' compensation insurer or an employer for its own employees, may make written application to the commissioner to have a plan certified that provides managed care to injured workers for injuries and diseases compensable under this chapter. Specifically, and without limitation, an entity licensed under chapter 62C or 62D or a preferred provider organization that is subject to chapter 72A is eligible for certification under this section. Each application for certification shall be accompanied by a reasonable fee prescribed by the commissioner. A certificate is valid for the period the commissioner prescribes unless revoked or suspended. Application for certification shall be made in the form and manner and shall set forth information regarding the proposed plan for providing services as the commissioner may prescribe. A plan may be certified to provide services in a limited geographic area. The information shall include, but not be limited to:

(1) a list of the names of all health care providers who will provide services under the managed care plan, together with appropriate evidence of compliance with any licensing or certification requirements for those providers to practice in this state;

(2) a description of the places and manner of providing services under the plan; or

(3) satisfactory evidence of ability to comply with any financial requirements to ensure delivery of service in accordance with the plan which the commissioner may prescribe.

Subd. 2. [CERTIFICATION.] The commissioner shall certify a managed care plan if the commissioner finds that the plan:

(1) proposes to provide services that meet uniform quality, continuity, and other treatment standards prescribed by the commissioner and all medical and health care services that may be required by this chapter in a manner that is timely, effective, and convenient for the worker;

(2) is reasonably geographically convenient to employees it serves;

(3) provides appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service;

(4) provides adequate methods of peer review, utilization review, and dispute resolution to prevent inappropriate, excessive, or not medically necessary treatment, excludes participation in the plan by those individuals who violate these treatment standards;

- (5) provides a procedure for the resolution of medical disputes;
- (6) provides a program for early return to work and cooperative efforts by the workers, the employer, and the managed care plan to promote workplace health and safety consultative and other services;
- (7) provides a timely and accurate method of reporting to the commissioner necessary information regarding medical and health care service cost and utilization to enable the commissioner to determine the effectiveness of the plan;
- (8) authorizes workers to receive compensable treatment from a health care provider who is not a member of the managed care plan, if that provider maintains the employee's medical records and has a documented history of treatment with the employee and agrees to refer the employee to the managed care plan for any treatment that can only be furnished by another provider that the employee may require and if the health care provider agrees to comply with all the rules, terms, and conditions of the managed care plan;
- (9) authorizes necessary emergency medical treatment for an injury provided by a health care provider not a part of the managed care plan;
- (10) does not discriminate against or exclude from participation in the plan any category of health care provider and includes an adequate number of each category of health care providers to give workers convenient geographic accessibility to all categories of providers and adequate flexibility to choose health care providers from among those who provide services under the plan;
- (11) provides an employee the right to change health care providers under the plan at least once; and
- (12) complies with any other requirement the commissioner determines is necessary to provide quality medical services and health care to injured workers.

Subd. 3. [DISPUTE RESOLUTION.] An employee must exhaust the dispute resolution procedure of the certified managed care plan prior to filing a petition or otherwise seeking relief from the commissioner or a compensation judge on an issue related to managed care. If an employee has exhausted the dispute resolution procedure of the managed care plan on the issue of a rating for a disability, the employee may seek a disability rating from a health care provider outside of the managed care organization. The employer is liable for the reasonable fees of the outside provider as limited by the medical fee schedule adopted under this chapter.

Subd. 4. [TREATMENT STANDARDS.] The commissioner shall consider treatment standards developed by the health care profession affected, if any, before prescribing treatment standards under subdivision 2.

Subd. 5. [ACCESS TO ALL HEALTH CARE DISCIPLINES.] The commissioner shall refuse to certify or shall revoke or suspend the certification of a managed care plan that unfairly restricts direct access within the managed care plan to any health care provider profession. Direct access within the managed care plan is unfairly restricted if direct access is denied and the treatment or service sought is within the scope of practice of the profession to which direct access is sought and is appropriate under the standards of treatment adopted by the commissioner.

Subd. 6. [REVOCATION, SUSPENSION, AND REFUSAL TO CERTIFY.] The commissioner shall refuse to certify or shall revoke or suspend the certification of a managed care plan if the commissioner finds that the plan for providing medical or health care services fails to meet the requirements of this section, or service under the plan is not being provided in accordance with the terms of a certified plan.

Subd. 7. [RULES.] (a) The commissioner shall adopt rules necessary to implement this section.

(b) The commissioner shall adopt rules under this section using the procedures of sections 14.22 to 14.28, except that no public hearing shall be required notwithstanding section 14.25. This paragraph applies to rules adopted pursuant to a notice of intention to adopt a rule without a public hearing published before July 1, 1995.

Sec. 14. Minnesota Statutes 1990, section 176.136, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE.] (a) The commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups.

(b) The procedures established by the commissioner ~~shall~~ *must* limit, in accordance with subdivisions 1a, 1b, and 1c, the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135, ~~based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing.~~ The procedures established by the commissioner for determining whether or not the charge for a health service is excessive ~~shall~~ *must* be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures ~~shall~~ *must* incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees.

Sec. 15. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1a. [RELATIVE VALUE FEE SCHEDULE.] The liability of an employer for services included in the medical fee schedule is limited to the maximum fee allowed by the schedule in effect on the date of the medical service, or the provider's actual fee, whichever is lower. The medical fee schedule effective on October 1, 1991, shall remain in effect until the commissioner adopts a new schedule by permanent rule. The commissioner shall adopt permanent rules regulating fees allowable for medical, chiropractic, podiatric, surgical, hospital outpatient, and other health care provider treatment or service by implementing a relative value fee schedule to be effective on October 1, 1993. The commissioner may adopt by reference the relative value fee schedule adopted for the federal Medicare program or a relative value fee schedule adopted by other federal or state agencies. The relative value fee schedule shall contain reasonable classifications including, but not limited to, classifications that differentiate among health

care provider disciplines. The commissioner shall adopt rules under this subdivision using the procedures of sections 14.22 to 14.28, except that no public hearing shall be required notwithstanding section 14.25. The conversion factors for the relative value fee schedule must reasonably reflect a 15 percent overall reduction from the medical fee schedule most recently in effect. The reduction need not be applied equally to all treatment or services, but must represent a gross 15 percent reduction.

After permanent rules have been adopted to implement this section, the conversion factors must be adjusted annually on October 1 by the percentage change computed under section 176.645, but without the annual cap provided by that section. The commissioner shall annually give notice in the State Register of the adjusted conversion factors. This notice shall be in lieu of the requirements of chapter 14.

Sec. 16. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1b. [LIMITATION OF LIABILITY.] (a) The liability of the employer for treatment, articles, and supplies provided to an employee while an inpatient or outpatient at a small hospital shall be the hospital's usual and customary charge, unless the charge is determined by the commissioner or a compensation judge to be unreasonably excessive. A "small hospital," for purposes of this paragraph, is a hospital which has 100 or fewer licensed beds.

(b) The liability of the employer for the treatment, articles, and supplies that are not limited by subdivision 1a or 1c, or paragraph (a) shall be limited to 85 percent of the provider's usual and customary charge, or 85 percent of the prevailing charges for similar treatment, articles, and supplies furnished to an injured person when paid for by the injured person, whichever is lower. On this basis, the commissioner or compensation judge may determine the reasonable value of all treatment, services, and supplies, and the liability of the employer is limited to that amount.

Sec. 17. Minnesota Statutes 1990, section 176.136, is amended by adding a subdivision to read:

Subd. 1c. [CHARGES FOR INDEPENDENT MEDICAL EXAMINATIONS.] The commissioner shall adopt rules that reasonably limit amounts which may be charged for, or in connection with, independent or adverse medical examinations requested by any party, including the amount that may be charged for depositions, witness fees, or other expenses. The scheduled amount for the examination itself may not exceed the scheduled amount for complex consultations by treating physicians, although additional reasonable charges may be permitted to reflect additional duties or activities. No party may pay fees above the amount in the schedule.

Sec. 18. Minnesota Statutes 1990, section 176.136, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVE FEES.] If the employer or insurer determines that the charge for a health service or medical service is excessive, no payment in excess of the reasonable charge for that service shall be made under this chapter nor may the provider collect or attempt to collect from the injured employee or any other insurer or government amounts in excess of the amount payable under this chapter unless the commissioner, compensation judge, or court of appeals determines otherwise. In such a case, the health care provider may initiate an action under this chapter for recovery of the

amounts deemed excessive by the employer or insurer, but the employer or insurer shall have the burden of proving excessiveness.

A charge for a health service or medical service is excessive if it:

(1) exceeds the maximum permissible charge pursuant to subdivision 1, 1a, 1b, or 1c;

(2) is for a service provided at a level, duration, or frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards;

(3) is for a service that is outside the scope of practice of the particular provider or is not generally recognized within the particular profession of the provider as of therapeutic value for the specific injury or condition treated; or

(4) is otherwise deemed excessive or inappropriate pursuant to rules adopted pursuant to this chapter.

Sec. 19. Minnesota Statutes 1990, section 176.155, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYER'S PHYSICIAN.] The injured employee must submit to examination by the employer's physician, if requested by the employer, and at reasonable times thereafter upon the employer's request. *The examination must be scheduled at a location within 150 miles of the employee's residence unless the employer can show cause to the department to order an examination at a location further from the employee's residence.* The employee is entitled upon request to have a personal physician present at any such examination. Each party shall defray the cost of that party's physician. Any report or written statement made by the employer's physician as a result of an examination of the employee, regardless of whether the examination preceded the injury or was made subsequent to the injury, shall be made available, upon request and without charge, to the injured employee or representative of the employee. The employer shall pay reasonable travel expenses incurred by the employee in attending the examination including mileage, parking, and, if necessary, lodging and meals. The employer shall also pay the employee for any lost wages resulting from attendance at the examination. A self-insured employer or insurer who is served with a claim petition pursuant to section 176.271, subdivision 1, or 176.291, shall schedule any necessary examinations of the employee, if an examination by the employer's physician or health care provider is necessary to evaluate benefits claimed. The examination shall be completed and the report of the examination shall be served on the employee and filed with the commissioner within 120 days of service of the claim petition.

No evidence relating to the examination or report shall be received or considered by the commissioner, a compensation judge, or the court of appeals in determining any issues unless the report has been served and filed as required by this section, unless a written extension has been granted by the commissioner or compensation judge. The commissioner or a compensation judge shall extend the time for completing the adverse examination and filing the report upon good cause shown. The extension must not be for the purpose of delay and the insurer must make a good faith effort to comply with this subdivision. Good cause shall include but is not limited to:

(1) that the extension is necessary because of the limited number of

physicians or health care providers available with expertise in the particular injury or disease, or that the extension is necessary due to the complexity of the medical issues, or

(2) that the extension is necessary to gather additional information which was not included on the petition as required by section 176.291.

Sec. 20. Minnesota Statutes 1990, section 176.83, subdivision 5, is amended to read:

Subd. 5. [EXCESSIVE MEDICAL SERVICES.] In consultation with the medical services review board or the rehabilitation review panel, rules establishing standards and procedures for determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the payer that the level, frequency or cost of a procedure or service of a provider is excessive according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer, and the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program unless the commissioner or compensation judge determines at a hearing or administrative conference that the level, frequency, or cost was not excessive in which case the insurer, self-insurer, or group self-insurer shall make the payment deemed reasonable.

A health or rehabilitation provider who is determined by the rehabilitation review panel or medical services review board, after hearing, to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under this chapter. A prohibition imposed on a provider under this subdivision may be grounds for revocation or suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing or certifying body.

~~The rules adopted under this subdivision shall require insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this clause.~~

Sec. 21. Minnesota Statutes 1990, section 176.83, is amended by adding a subdivision to read:

Subd. 5a. [REPORTING.] Rules requiring insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this chapter.

Sec. 22. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in this article and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of workers' compensation rates in effect on October 1, 1992, must be reduced by 5.7 percent and applied by the insurer to all policies with an effective date between October 1, 1992, and March 31, 1993. For purposes of this section, "insurer" includes the

assigned risk plan, and "rates" include rates approved by the commissioner of commerce for the assigned risk plan. The reduction mandated by this section must also be applied on a prorated basis to the unexpired portion of all workers' compensation policies on October 1, 1992. An insurer shall provide a written notice by November 1, 1992, to all workers' compensation policyholders having an unexpired policy with the insurer as of October 1, 1992, that reads as follows: "As a result of the changes in the workers' compensation system enacted by the 1992 legislature, you are entitled to a prorated reduction of 5.7 percent on your current policy premium."

(b) No rate increases may be filed between April 1, 1992, and April 1, 1993.

(c) The commissioner of commerce shall determine if the mandated workers' compensation insurance rate reductions required under this section have been implemented by insurers, both as to amount and in a manner that is uniform and nondiscriminatory between employers having similar risks with respect to a particular occupational classification. The commissioner shall present a report detailing the findings and conclusions to the legislature by March 1, 1993.

(d) The rate reduction mandated in this article is in addition to any other reduction required by law.

Sec. 23. [UTILIZATION OF HIGH TECHNOLOGY MEDICAL PROCEDURES.]

The commissioner of labor and industry shall appoint a committee to study the utilization of high technology medical procedures for treatment of injuries under Minnesota Statutes, chapter 176. The committee must include physicians, hospital representatives, medical device manufacturers, purchasers, consumers, and ethicists. The study must specifically examine excessive use of technology. The commissioner shall report the results of the study together with any proposals for legislation to the legislature by January 30, 1993.

Sec. 24. [REPEALER.]

Minnesota Statutes 1990, sections 176.135, subdivision 3; and 176.136, subdivision 5, are repealed.

Sec. 25. [EFFECTIVE DATE.]

Section 22 of this article and the rulemaking authority granted to the commissioner of labor and industry and the medical services review board by sections 6, 8, and 13 are effective the day following final enactment. The rest of this article is effective October 1, 1992."

Delete the title and insert:

"A bill for an act relating to workers' compensation; providing for comprehensive reform; regulating benefits; providing for medical cost control; requiring improved safety measures; regulating attorneys; providing for more efficient administrative procedures; eliminating the second injury fund; regulating insurance; reforming the assigned risk plan; regulating fraud; imposing penalties; amending Minnesota Statutes 1990, sections 79.251, by adding subdivisions; 79.252, subdivisions 1 and 3; 176.011, subdivisions 3, 11a, and 18; 176.081, subdivisions 1, 2, and 3; 176.101, subdivisions 1, 2, and 3f; 176.102, subdivisions 1, 2, 4, 6, 9, and 11;

176.103, subdivisions 2, 3, and by adding a subdivision; 176.105, subdivision 1; 176.106, subdivision 6; 176.111, subdivision 18; 176.129, subdivision 10; 176.130, subdivisions 8 and 9; 176.135, subdivisions 1, 5, 6, and 7; 176.136, subdivisions 1, 2, and by adding subdivisions; 176.138; 176.139, subdivision 2; 176.155, subdivision 1; 176.181, subdivision 3, and by adding a subdivision; 176.182; 176.183; 176.185, subdivision 5a; 176.194, subdivisions 4 and 5; 176.221, subdivisions 3 and 3a; 176.231, subdivision 10; 176.261; 176.421, subdivision 1; 176.461; 176.645, subdivisions 1 and 2; 176.83, subdivision 5, and by adding a subdivision; 176A.03, by adding a subdivision; 480B.01, subdivisions 1 and 10; 609.52, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 79; and 176; repealing Minnesota Statutes 1990, sections 176.131; 176.135, subdivision 3; and 176.136, subdivision 5."

And when so amended the bill do pass. Mr. Merriam questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 2235: A bill for an act relating to state government; the department of administration; directing the commissioner of administration to monitor the availability of federal money to state agencies and agency application for and receipt of federal grants; requiring agencies to cooperate with the commissioner; requiring reports to the legislature; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 16B.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 2382: A bill for an act relating to retirement; providing for surviving spouse benefits for the Minneapolis Police Relief Association and the Minneapolis Fire Department Relief Association; amending Laws 1949, chapter 406, section 6, subdivision 1, as amended; and Laws 1965, chapter 519, section 1, as amended.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 2300: A bill for an act relating to appropriations; validating certain appropriations for volunteer firefighters' supplemental benefits; limiting appropriations; appropriating money; amending Minnesota Statutes 1990, section 424A.10, by adding a subdivision.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 2236: A bill for an act relating to governmental units; organizations and agencies established by law, executive order, or action of a political subdivision acting alone or jointly with another political subdivision; imposing standards and requirements of accountability; proposing coding for new law in Minnesota Statutes, chapter 471.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 18, delete "*and*" and insert "*or*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 2182: A bill for an act relating to retirement; Duluth teachers retirement fund association; proposing coding for new law in Minnesota Statutes, chapter 354A; repealing Laws 1985, chapter 259, sections 2 and 3; and Laws 1990, chapter 570, article 7, section 4.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 36, delete "*sections*" and insert "*section*" and delete "*and 3*"

Amend the title as follows:

Page 1, line 5, delete "*sections*" and insert "*section*" and delete "*and 3*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 2115: A bill for an act relating to state government; purchases; amending the definition of "manufactured in the United States"; amending Minnesota Statutes 1991 Supplement, section 16B.101, subdivision 1.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was re-referred

S.F. No. 2102: A bill for an act relating to water; requiring maintenance of a statewide nitrate data base; establishing a nitrate data advisory task force; modifying requirements relating to well disclosure certificates and sealing of wells; establishing a well sealing account; requiring a report on environmental consulting services; appropriating money; amending Minnesota Statutes 1990, sections 103I.301, subdivision 4; 103I.315; and 103I.341, subdivisions 1 and 5; Minnesota Statutes 1991 Supplement, sections 16B.92, by adding a subdivision; 103I.235; and 103I.301, subdivision

1; proposing coding for new law in Minnesota Statutes, chapters 103A and 103I.

Reports the same back with the recommendation that the bill be amended as follows:

Page 9, line 2, delete "*November 1, 1992*" and insert "*February 1, 1993*"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 2023: A bill for an act relating to retirement; permitting certain persons to have employer contributions transferred from the teachers retirement association to the individual retirement account plan; amending Laws 1990, chapter 570, article 3, section 11.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 2450: A bill for an act relating to telecommunications; appropriating money to facilitate public sector regional telecommunications systems statewide, to create a public sector telecommunications clearinghouse, and to continue STARS telecommunications master planning development, including matching funds for pilot project development, in the Northeast and Southeast regions.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, delete lines 1 to 3

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 1837: A bill for an act relating to retirement; higher education individual retirement account plan; amending Minnesota Statutes 1990, sections 354B.04, subdivision 1; and 354B.05, subdivision 1; Minnesota Statutes 1991 Supplement, section 354B.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 354B.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 13, strike everything after "contribution"

Page 1, line 14, strike "section" and delete the new language and insert "*of 4-1/2 percent of salary*"

Page 1, line 15, delete "(a)"

Page 1, line 21, strike "in an amount equal to the"

Page 1, line 22, strike "amount prescribed by section" and delete

"352D.04," and insert "*of six percent of salary*"

Page 1, line 23, delete the new language

Page 2, delete section 5

Page 2, line 30, delete "5" and insert "4" and delete "1992" and insert "1993"

Renumber the sections in sequence

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 1819: A bill for an act relating to retirement; changing provisions governing reduced annuities from the public employees retirement association due to reemployment of annuitants; amending Minnesota Statutes 1990, section 353.37, subdivision 1.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was re-referred

S.F. No. 2389: A bill for an act relating to natural resources; allowing use of alternative rulemaking procedures for certain rules of the commissioner of natural resources; regulating activities relating to stromatolites; changing definitions; modifying provisions relating to game refuges, scientific and natural areas, experimental waters, and special management waters; expanding certain authorities relating to deer licenses; exempting certain rules of the commissioner from the administrative procedure act; allowing nonmetal tags for fish nets; authorizing rulemaking; amending Minnesota Statutes 1990, sections 86A.05, subdivision 5; 97A.015, subdivisions 15 and 40; 97A.085, subdivisions 2, 3, 4, 5, 8, and by adding a subdivision; 97A.411, subdivision 3; 97A.485, subdivision 9; 97C.001, subdivisions 1 and 3; 97C.005; 97C.351; and 103G.615, subdivision 3; Minnesota Statutes 1991 Supplement, sections 14.29, subdivision 4; and 97A.093; and Laws 1991, chapter 259, section 25, as amended; proposing coding for new law in Minnesota Statutes, chapter 84.

Reports the same back with the recommendation that the bill be amended as follows:

Page 5, line 20, strike "COMMISSIONER'S ORDER" and insert "*COMMISSIONER*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 1793: A bill for an act relating to retirement; legislators and elective state officers retirement plans; establishing a retirement fund for each plan; establishing concurrent employer retirement contributions for each plan; establishing special additional employer contribution for each

plan; transferring a portion of an existing appropriation; appropriating money; amending Minnesota Statutes 1990, sections 3A.03; 3A.11, subdivision 1; and 352C.09, subdivision 1, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 3A and 352C; repealing Minnesota Statutes 1990, sections 3A.02, subdivision 3; and 352C.10.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Mr. Frank from the Committee on Metropolitan Affairs, to which was referred

S.F. No. 1504: A bill for an act relating to taxation; repealing the tax levy authority of the metropolitan mosquito control district; amending Minnesota Statutes 1990, section 473.711, subdivisions 1, 2, and 3; repealing Minnesota Statutes 1990, section 473.711, subdivisions 4 and 5.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1991 Supplement, section 275.065, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF PROPOSED PROPERTY TAXES.] (a) The county auditor shall prepare and the county treasurer shall deliver on or before November 10 each year, by first class mail to each taxpayer at the address listed on the county's current year's assessment roll, a notice of proposed property taxes and, in the case of a town, final property taxes.

(b) The commissioner of revenue shall prescribe the form of the notice.

(c) The notice must inform taxpayers that it contains the amount of property taxes each taxing authority other than a town proposes to collect for taxes payable the following year as required in paragraph (d) or (e) and, for a town, the amount of its final levy. It must clearly state that each taxing authority, other than a town or special taxing district, will hold a public meeting to receive public testimony on the proposed budget and proposed or final property tax levy, or, in case of a school district, on the current budget and proposed property tax levy. It must clearly state the time and place of each taxing authority's meeting and an address where comments will be received by mail.

(d) Except as provided in paragraph (e), for taxes levied in 1990 and 1991, the notice must state by county, city or town, and school district:

(1) the total proposed or, for a town, final property tax levy for taxes payable the following year after reduction for state aid;

(2) the percentage increase or decrease from the actual property tax levy for taxes payable in the current year; and

(3) for counties, cities, and towns, the increase or decrease in population from the second previous calendar year to the immediately prior calendar year, and for school districts, the increase or decrease in the number of pupils in average daily membership from the current school year to the immediately following school year as determined by the commissioner of education. The data used to determine the increase or decrease in population

under this clause must be the data used for purposes of the population adjustment to the levy limit base of the county, city, or town under section 275.51, subdivision 6.

For notices which are not parcel-specific, the notice must also state a total percentage increase or decrease in the proposed levy, relative to the actual property tax levy for taxes payable in the current year for the county, city or town, and school district. The county auditor shall compute the total percentage increase or decrease as an average percentage change weighted in proportion to each taxing jurisdiction's proportion of the total levy.

For purposes of this paragraph, "proposed property taxes after reduction for state aid" means the taxing authority's levy certified under section 275.07, subdivision 1.

(e) In the case of a county containing a city of the first class, or taxing authority lying wholly within a county or counties containing a city of the first class, for taxes levied in 1991, and thereafter, and for all counties for taxes levied in 1992 and thereafter, the notice must state for each parcel:

(1) the market value of the property as defined under section 272.03, subdivision 8, for property taxes payable in the following year and for taxes payable the current year;

(2) by county, city or town, school district, the sum of the special taxing districts, and as a total of the taxing authorities, including special taxing districts, the proposed or, for a town, final net tax on the property for taxes payable the following year and the actual tax for taxes payable the current year. In the case of a parcel where tax increment or the fiscal disparities areawide tax applies, the proposed tax levy on the captured value or the proposed tax levy on the tax capacity subject to the areawide tax must each be stated separately and not included in the sum of the special taxing districts; and

(3) the increase or decrease in the amounts in clause (2) from taxes payable in the current year to proposed or, for a town, final taxes payable the following year, expressed as a dollar amount and as a percentage.

(f) In the case of a county subject to the taxing authority of the metropolitan mosquito control commission, the notice must state for each parcel the increase or decrease in taxes payable to the commission expressed as a dollar amount and a percentage of total property tax.

(f) (g) The notice must clearly state that the proposed or final taxes do not include the following:

(1) special assessments;

(2) levies approved by the voters after the date the proposed taxes are certified, including bond referenda, school district levy referenda, and levy limit increase referenda;

(3) amounts necessary to pay cleanup or other costs due to a natural disaster occurring after the date the proposed taxes are certified;

(4) amounts necessary to pay tort judgments against the taxing authority that become final after the date the proposed taxes are certified; and

(5) any additional amount levied in lieu of a local sales and use tax, unless this amount is included in the proposed or final taxes.

(g) (h) Except as provided in subdivision 7, failure of the county auditor

to prepare or the county treasurer to deliver the notice as required in this section does not invalidate the proposed or final tax levy or the taxes payable pursuant to the tax levy.

~~(b)~~ (i) In the case of class 4 residential property used as a residence for lease or rental periods of 30 days or more, the taxpayer must either:

(1) mail or deliver a copy of the notice of proposed property taxes to each tenant, renter, or lessee; or

(2) post a copy of the notice in a conspicuous place on the premises of the property.

The notice must be mailed or posted by the taxpayer by November 13 or within three days of receipt of the notice, whichever is later. A taxpayer may notify the county treasurer of the address of the taxpayer, agent, caretaker, or manager of the premises to which the notice must be mailed in order to fulfill the requirements of this paragraph.

Sec. 2. Minnesota Statutes 1990, section 473.711, subdivision 2, is amended to read:

Subd. 2. The metropolitan mosquito control commission shall prepare an annual budget. The budget may provide for expenditures in an amount not exceeding the property tax levy limitation determined in this subdivision. The commission may levy a tax on all taxable property in the district as defined in section 473.702 to provide funds for the purposes of sections 473.701 to 473.716. The tax shall not exceed the property tax levy limitation determined in this subdivision. A participating county may agree to levy an additional tax to be used by the commission for the purposes of sections 473.701 to 473.716 but the sum of the county's and commission's taxes may not exceed the county's proportionate share of the property tax levy limitation determined under this subdivision based on the ratio of its total net tax capacity to the total net tax capacity of the entire district as adjusted by section 270.12, subdivision 3. The auditor of each county in the district shall add the amount of the levy made by the district to other taxes of the county for collection by the county treasurer with other taxes. When collected, the county treasurer shall make settlement of the tax with the district in the same manner as other taxes are distributed to political subdivisions. No county shall levy any tax for mosquito, disease vectoring tick, and black gnat (Simuliidae) control except under sections 473.701 to 473.716. The levy shall be in addition to other taxes authorized by law and shall be disregarded in the calculation of limits on taxes imposed by chapter 275.

The property tax levied by the metropolitan mosquito control commission shall not exceed the following amount for the years specified:

(a) for taxes payable in 1988, the product of six tenths on one mill multiplied by the total assessed valuation of all taxable property located within the district as adjusted by the provisions of Minnesota Statutes 1986, sections 272.64; 273.13; subdivision 7a; and 275.49;

(b) for taxes payable in 1989, the product of (1) the commission's property tax levy limitation for the taxes payable year 1988 determined under clause (a) multiplied by (2) an index for market valuation changes equal to the assessment year 1988 total market valuation of all taxable property located within the district divided by the assessment year 1987 total market valuation of all taxable property located within the district; and

(c) for taxes payable in 1990 and subsequent years, the product of (1) the

commission's property tax levy limitation for the previous year determined under this subdivision multiplied by (2) an index for market valuation changes equal to the total market valuation of all taxable property located within the district for the current assessment year divided by the total market valuation of all taxable property located within the district for the previous assessment year.

For the purpose of determining the commission's property tax levy limitation for the taxes payable year 1988 and subsequent years under this subdivision, "total market valuation" means the total market valuation of all taxable property within the district without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425) .00405 percent of tax capacity for property taxes payable in 1993 and subsequent years.

Sec. 3. Minnesota Statutes 1990, section 473.714, is amended to read:
473.714 [COMPENSATION OF COMMISSIONERS.]

Subdivision 1. [COMPENSATION.] Except as provided in subdivision 2, each commissioner, including the officers of the commission shall be reimbursed for actual and necessary expenses incurred in the performance of duties. The chair shall be paid a per diem for attending meetings, monthly, executive, and special, and each commissioner shall be paid a per diem for attending meetings, monthly, executive, and special, which per diem shall be established by the commission; such expense reimbursement and per diem notwithstanding any other funds which such commissioners may receive from any other public body. A commissioner who receives a per diem from the commissioner's county shall not be paid a per diem for the same day by the commission for attending meetings of the commission. The annual budget of the commission shall provide as a separate account anticipated expenditures for per diem, travel and associated expenses for the chair and members, and compensation or reimbursement shall be made to the chair or members only when budgeted.

Subd. 2. [CERTAIN COMMISSIONERS.] A commissioner whose annual public salary is \$25,000 or more shall only be reimbursed for expenses related to travel."

Delete the title and insert:

"A bill for an act relating to taxation; limiting the tax levy authority of the metropolitan mosquito control district; providing for certain notice; eliminating the expense and per diem payments to certain commissioners; amending Minnesota Statutes 1990, sections 473.711, subdivision 2; 473.714; Minnesota Statutes 1991 Supplement, section 275.065, subdivision 3."

And when so amended the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Commerce, to which was referred

S.F. No. 2662: A bill for an act relating to commerce; regulating the real estate, education, research, and recovery fund; amending Minnesota Statutes 1990, section 82.34, subdivisions 3, 4, 7, 9, 11, 13, and 14; repealing Minnesota Statutes 1990, section 82.34, subdivision 20.

Reports the same back with the recommendation that the bill be amended

as follows:

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 1990, section 80A.14, subdivision 4, is amended to read:

Subd. 4. [BROKER-DEALER.] "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for that person's own account. *"Broker-dealer" includes a real estate broker or agent licensed under chapter 82 who sells a vendor's interest in more than ten contracts for deed during any period of 12 consecutive months.* "Broker-dealer" does not include:

- (1) an agent;
 - (2) an issuer;
 - (3) a trust company; or
 - (4) a bank, savings institution, savings and loan association
- (i) acting for the account of others, provided that such activities are conducted in compliance with such rules as may be adopted by the commissioner;
- (ii) acting for its own account; or
- (iii) acting in a fiduciary capacity pursuant to the powers and privileges described by sections 48.36 to 48.49 or United States Code, title 12, section 92(a);
- (5) a person who has no place of business in this state if that person effects transactions in this state exclusively with or through (i) the issuers of the securities involved in the transactions, (ii) other broker-dealers, or (iii) banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit sharing trusts, or other financial institutions or institutional buyers, or to broker-dealers, whether the purchaser is acting for itself or in some fiduciary capacity; or
- (6) other persons not within the intent of this subsection whom the commissioner by rule or order designates."

Page 2, lines 27 and 29, strike "\$150,000" and insert "\$75,000"

Page 2, line 35, strike "\$250,000" and insert "\$150,000" and after the period, insert *"An aggrieved person who has a cause of action under section 80A.23 shall first seek recovery as provided in section 80A.05, subdivision 5, before the commissioner may order payment from the recovery fund."*

Page 5, line 14, delete "section 7" and insert "this section"

Page 6, line 13, delete "9" and insert "10"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete "section" insert "sections 80A.14, subdivision 4; and"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Metzen from the Committee on Economic Development and Housing, to which was referred

S.F. No. 2605: A bill for an act relating to the emergency jobs program; modifying program conditions; amending Minnesota Statutes 1990, sections 268.676, subdivision 1; 268.77, subdivision 1; and 268.681, subdivisions 1 and 2.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, line 26, delete “*must be*” and insert “*is*”

Page 3, line 27, after “*employees*” insert “*or other alternative health care coverage*”

Page 4, after line 26, insert:

“Sec. 5. Minnesota Statutes 1990, section 268.682, subdivision 3, is amended to read:

Subd. 3. [EMPLOYER CERTIFICATION.] In order to qualify as an eligible employer, a government or nonprofit agency or business must certify to the eligible local service unit:

(1) that the wage subsidy will result in an employee obtaining identifiable and portable skills and submit an on-the-job training plan to describe how portable skills will be developed; and

(2) that each job created and funded under sections 268.672 to 268.682:

(a) will result in an increase in employment opportunities over those which would otherwise be available;

(b) will not result in the displacement of currently employed workers, including partial displacement such as reduction in hours of nonovertime work, wages, or employment benefits; and

(c) will not impair existing contracts for service or result in the substitution of wage subsidy funds for other funds in connection with work that would otherwise be performed.

Sec. 6. [REVISOR INSTRUCTION.]

The revisor is directed to change the words “emergency job program” wherever they appear in Minnesota Statutes to “Minnesota employment economic development program.”

Sec. 7. [APPROPRIATION.]

\$ is appropriated from the general fund to the commissioner of jobs and training for the Minnesota employment economic development program.

Sec. 8. [REPEALER.]

Minnesota Statutes 1990, section 268.6751, subdivision 2, is repealed.”

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, after the semicolon, insert “instructions to revisor; appropriating money;”

Page 1, line 5, delete the first “and” and before the period, insert “; and

268.682, subdivision 3; repealing Minnesota Statutes 1990, section 268.6751, subdivision 2"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Metzen from the Committee on Economic Development and Housing, to which was referred

S.F. No. 2496: A bill for an act relating to housing; modifying provisions of rehabilitation loans, lease-purchase housing, and urban and rural home-steading; limiting use of emergency rules; modifying limitations on the use of bond proceeds; modifying provisions of publicly-owned transitional housing program; modifying provisions for neighborhood land trusts; amending Minnesota Statutes 1990, sections 462A.05, subdivision 14a; 462A.06, subdivision 11; and 462A.202, subdivision 2; Minnesota Statutes 1991 Supplement, sections 462A.05, subdivision 36; 462A.073, subdivision 2; and 462A.30, subdivisions 6 and 9; repealing Minnesota Statutes 1990, section 462A.057, subdivisions 2, 3, 4, 5, 6, 7, 8, 9, and 10; and Laws 1991, chapter 292, article 9, section 35.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 17, insert:

"Section 1. Minnesota Statutes 1990, section 462A.03, subdivision 7, is amended to read:

Subd. 7. "Residential housing" means a specific work or improvement within this state undertaken primarily to provide residential care facilities for mentally ill, mentally retarded, physically handicapped, and drug dependent persons licensed or potentially eligible for licensure under rules promulgated by the commissioner of human services, or to provide dwelling accommodations *or manufactured home parks* for persons and families of low and moderate income and for other persons and families when determined to be necessary in furtherance of the policy of economic integration stated in section 462A.02, subdivision 6, including land development and the acquisition, construction or rehabilitation of buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental or appurtenant thereto."

Page 4, line 18, after "properties" insert "*or the acquisition, site improvement, and development of new properties*"

Page 4, line 26, after "*property*" insert "*or the part thereof financed under this subdivision*"

Page 5, after line 10, insert:

"Sec. 7. Minnesota Statutes 1990, section 462A.22, subdivision 1, is amended to read:

Subdivision 1. The aggregate principal amount of bonds and notes which are outstanding at any time, excluding the principal amount of any bonds and notes refunded by the issuance of new bonds or notes, shall not exceed the sum of ~~\$1,990,000,000~~ \$2,400,000,000."

Page 5, after line 26, insert:

"Sec. 10. [EXEMPTION.]

Notwithstanding Minnesota Statutes, sections 462A.073, subdivision 2, and 462C.071, subdivision 2, the Minnesota housing finance agency and a city may make loans financed with the proceeds of mortgage bonds for new housing in the metropolitan area during the first one-third of an origination period if all of the other conditions specified under Minnesota Statutes, sections 462A.073, subdivision 2, and 462C.071, subdivision 2 are met. For the purposes of this section, "city" has the meaning given in Minnesota Statutes, section 462C.02, subdivision 6."

Page 5, line 30, after the period, insert "Section 10 expires June 30, 1992."

Page 5, line 32, delete "5, 6, and 7" and insert "2, and 6 to 10"

Page 5, line 33, after the period, insert "Section 10 applies to bonds with an origination period that began on or after October 1, 1991."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, after the semicolon, insert "increasing the debt ceiling of the Minnesota housing finance agency;"

Page 1, line 9, after "sections" insert "462A.03, subdivision 7;"

Page 1, line 10, delete "and" and after "2;" insert "and 462A.22, subdivision 1;"

And when so amended the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was re-referred

S.F. No. 2233: A bill for an act relating to natural resources; specifying certain provisions applicable to recipients of grant funds; exempting snowmobile testing activities from applicable speed limits under certain conditions; allowing the use of snowmobiles on certain conservation lands unless prohibited by rule of the commissioner of natural resources; amending Minnesota Statutes 1990, sections 84.83, by adding a subdivision; 84.87, by adding a subdivision; and 84A.55, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, delete section 1

Page 2, line 19, delete "2" and insert "1"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "specifying certain"

Page 1, delete line 3

Page 1, lines 9 and 10, delete "84.83, by adding a subdivision;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was re-referred

S.F. No. 1900: A bill for an act relating to health; allowing nursing homes to establish review organizations; including quality assurance under medical assistance and Medicare as an activity of a review organization; allowing nursing homes to limit access to certain physicians and pharmacists on the basis of quality assurance activities; amending Minnesota Statutes 1991 Supplement, sections 145.61, subdivisions 4a and 5; and 256B.48, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Pages 3 to 7, delete section 3

Amend the title as follows:

Page 1, line 5, delete "allowing nursing"

Page 1, delete lines 6 and 7

Page 1, line 8, delete "activities;"

Page 1, line 9, delete "sections" and insert "section" and delete the semicolon and insert a period

Page 1, delete line 10

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was referred

S.F. No. 1319: A bill for an act relating to the practice of law; allowing the sole shareholder of a corporation to appear on behalf of the corporation in court; amending Minnesota Statutes 1990, section 481.02, subdivision 3.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. DeCramer from the Committee on Transportation, to which was referred

S.F. No. 2637: A bill for an act relating to motor carriers; regulating courier services carriers and local cartage carriers; amending Minnesota Statutes 1990, section 221.011, subdivisions 25, 28, and by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 13, before "by" insert "except household goods"

Page 2, delete sections 2 and 3 and insert:

"Courier service carriers must maintain accurate records of each shipment picked up and delivered, including (1) time of the request for service, (2) time of the pickup, (3) time of delivery, (4) weight of the shipment, and (5) the specific vehicle or vehicles used to transport the shipment."

Amend the title as follows:

Page 1, line 3, delete "and local cartage carriers"

Page 1, line 4, delete "subdivisions" and insert "subdivision 25."

Page 1, delete line 5

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Commerce, to which was referred

S.F. No. 1997: A bill for an act relating to insurance; providing for automobile insurance policy coverage on the repair or replacement of motor vehicle glass; amending Minnesota Statutes 1991 Supplement, section 72A.201, subdivision 6.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1991 Supplement, section 72A.201, subdivision 6, is amended to read:

Subd. 6. [STANDARDS FOR AUTOMOBILE INSURANCE CLAIMS HANDLING, SETTLEMENT OFFERS, AND AGREEMENTS.] In addition to the acts specified in subdivisions 4, 5, 7, 8, and 9, the following acts by an insurer, adjuster, or a self-insured or self-insurance administrator constitute unfair settlement practices:

(1) if an automobile insurance policy provides for the adjustment and settlement of an automobile total loss on the basis of actual cash value or replacement with like kind and quality and the insured is not an automobile dealer, failing to offer one of the following methods of settlement:

(a) comparable and available replacement automobile, with all applicable taxes, license fees, at least pro rata for the unexpired term of the replaced automobile's license, and other fees incident to the transfer or evidence of ownership of the automobile paid, at no cost to the insured other than the deductible amount as provided in the policy;

(b) a cash settlement based upon the actual cost of purchase of a comparable automobile, including all applicable taxes, license fees, at least pro rata for the unexpired term of the replaced automobile's license, and other fees incident to transfer of evidence of ownership, less the deductible amount as provided in the policy. The costs must be determined by:

(i) the cost of a comparable automobile, adjusted for mileage, condition, and options, in the local market area of the insured, if such an automobile is available in that area; or

(ii) one of two or more quotations obtained from two or more qualified sources located within the local market area when a comparable automobile is not available in the local market area. The insured shall be provided the information contained in all quotations prior to settlement; or

(iii) any settlement or offer of settlement which deviates from the procedure above must be documented and justified in detail. The basis for the settlement or offer of settlement must be explained to the insured;

(2) if an automobile insurance policy provides for the adjustment and settlement of an automobile partial loss on the basis of repair or replacement with like kind and quality and the insured is not an automobile dealer, failing

to offer one of the following methods of settlement:

(a) to assume all costs, including reasonable towing costs, for the satisfactory repair of the motor vehicle. Satisfactory repair includes repair of both obvious and hidden damage as caused by the claim incident. This assumption of cost may be reduced by applicable policy provision; or

(b) to offer a cash settlement sufficient to pay for satisfactory repair of the vehicle. Satisfactory repair includes repair of obvious and hidden damage caused by the claim incident, and includes reasonable towing costs;

(3) regardless of whether the loss was total or partial, in the event that a damaged vehicle of an insured cannot be safely driven, failing to exercise the right to inspect automobile damage prior to repair within five business days following receipt of notification of claim. In other cases the inspection must be made in 15 days;

(4) regardless of whether the loss was total or partial, requiring unreasonable travel of a claimant or insured to inspect a replacement automobile, to obtain a repair estimate, to allow an insurer to inspect a repair estimate, to allow an insurer to inspect repairs made pursuant to policy requirements, or to have the automobile repaired;

(5) regardless of whether the loss was total or partial, if loss of use coverage exists under the insurance policy, failing to notify an insured at the time of the insurer's acknowledgment of claim, or sooner if inquiry is made, of the fact of the coverage, including the policy terms and conditions affecting the coverage and the manner in which the insured can apply for this coverage;

(6) regardless of whether the loss was total or partial, failing to include the insured's deductible in the insurer's demands under its subrogation rights. Subrogation recovery must be shared at least on a proportionate basis with the insured, unless the deductible amount has been otherwise recovered by the insured, except that when an insurer is recovering directly from an uninsured third party by means of installments, the insured must receive the full deductible share as soon as that amount is collected and before any part of the total recovery is applied to any other use. No deduction for expenses may be made from the deductible recovery unless an attorney is retained to collect the recovery, in which case deduction may be made only for a pro rata share of the cost of retaining the attorney;

(7) requiring as a condition of payment of a claim that repairs to any damaged vehicle must be made by a particular contractor or repair shop or that parts, other than window glass, must be replaced with parts other than original equipment parts;

(8) where liability is reasonably clear, failing to inform the claimant in an automobile property damage liability claim that the claimant may have a claim for loss of use of the vehicle;

(9) failing to make a good faith assignment of comparative negligence percentages in ascertaining the issue of liability;

(10) failing to pay any interest required by statute on overdue payment for an automobile personal injury protection claim;

(11) if an automobile insurance policy contains either or both of the time limitation provisions as permitted by section 65B.55, subdivisions 1 and 2, failing to notify the insured in writing of those limitations at least 60

days prior to the expiration of that time limitation;

(12) if an insurer chooses to have an insured examined as permitted by section 65B.56, subdivision 1, failing to notify the insured of all of the insured's rights and obligations under that statute, including the right to request, in writing, and to receive a copy of the report of the examination;

(13) failing to provide, to an insured who has submitted a claim for benefits described in section 65B.44, a complete copy of the insurer's claim file on the insured, excluding internal company memoranda, all materials that relate to any insurance fraud investigation, materials that constitute attorney work-product or that qualify for the attorney-client privilege, and medical reviews that are subject to section 145.64, within ten business days of receiving a written request from the insured. The insurer may charge the insured a reasonable copying fee. This clause supersedes any inconsistent provisions of sections 72A.49 to 72A.505;

(14) if an automobile policy provides for the adjustment or settlement of an automobile loss due to damaged window glass, failing to assume all *reasonable* costs sufficient to pay the insured's chosen vendor for the *repair or replacement* of comparable window glass ~~at a price generally available in the area~~. This clause does not prohibit an insurer from recommending a vendor to the insured or from agreeing with a vendor to perform work at an agreed-upon price-, *provided, however, that before recommending a vendor, the insurer shall offer its insured the opportunity to choose the vendor;*

(15) requiring that the repair or replacement of motor vehicle glass and related products and services be made in a particular place or shop or by a particular entity, or by otherwise limiting the ability of the insured to select the place, shop, or entity to repair or replace the motor vehicle glass and related products and services; or

(16) engaging in any act or practice of intimidation, coercion, threat, incentive, or inducement for or against an insured to use a particular company or location to provide the motor vehicle glass repair or replacement services or products. For purposes of this section, a warranty shall not be considered an inducement or incentive.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Novak from the Committee on Energy and Public Utilities, to which was referred

S.F. No. 2428: A bill for an act relating to energy; requiring the use of energy-efficient lighting for highways, streets, and parking lots; establishing minimum energy efficiency standards for lamps, motors, showerheads, faucets, and replacement commercial heating, ventilating, and air conditioning equipment; requiring that all new residential combustion appliances be unable to spill combustion gases into homes regardless of the airtightness or operating condition of the home; requiring continuing education in energy efficiency standards in building codes for licensed building contractors, remodelers, and specialty contractors; authorizing rulemaking; amending Minnesota Statutes 1990, section 216C.19, subdivision 1, and by adding

subdivisions; and Minnesota Statutes 1991 Supplement, section 326.87, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 24, strike "maximum" and insert "minimum" and strike "use" and insert "efficiency"

Page 1, line 29, strike "lighting"

Page 1, line 31, delete the new language

Page 2, line 1, delete "ratio of 58" and insert "light fixtures using lamps with efficiencies less than 70"

Page 2, delete lines 2 to 4 and insert "fixtures using lamps with efficiencies of at least 70 lumens per watt."

Sec. 2. Minnesota Statutes 1990, section 216C.19, subdivision 13, is amended to read:

Subd. 13. (a) No new room air conditioner or room air conditioner heat pump shall be sold or installed or transported for resale into Minnesota unless it has an energy efficiency ratio of 7.0 or higher. Beginning January 1, 1987, the energy efficiency ratio for room air conditioners with a 6,000 Btu per hour rating or higher must be 7.8 or higher equal to or greater than that shown in paragraph (b). For purposes of this subdivision, "energy efficiency ratio" means the ratio of the cooling capacity of the air conditioner in British thermal units per hour to the electrical power input in watts. The cooling and capacity, and electrical power input, and energy efficiency ratio of room air conditioners and room air conditioning heat pumps is determined by using the standard for room air conditioners, approved by the American National Standards Institute on April 20, 1982, known as ANSI/AHAM RAC-1, with ASHRAE 58-74 used in lieu of ASHRAE 58-65. The method of sampling of room air conditioners shall be that required by the Department of Energy and found in 44 Federal Register 22410-22418 (April 13, 1979). A new room air conditioner having dual voltage ratings shall conform to the energy efficiency ratio requirements at each rating for room air conditioners ANS Z234.1-1972 in accordance with ASHRAE Standard 16-69.

(b) ROOM AIR CONDITIONERS AND ROOM AIR CONDITIONER
HEAT PUMPS MINIMUM REQUIRED EFFICIENCY

EQUIPMENT CATEGORIES	ENERGY EFFICIENCY RATIO
Without Reverse Cycle and With Louvered Sides	
less than 6,000 Btu/hr	8.0
6,000 to 7,999 Btu/hr	8.5
8,000 to 13,999 Btu/hr	9.0
14,000 to 19,999 Btu/hr	8.8
20,000 Btu/hr and greater	8.2
Without Reverse Cycle and Without Louvered Sides	
less than 6,000 Btu/hr	8.0
6,000 to 19,999 Btu/hr	8.5
20,000 Btu/hr and greater	8.2

With Reverse Cycle and With Louvered Sides
All Capacities 8.5

With Reverse Cycle and Without Louvered Sides
All Capacities 8.0"

Page 3, delete lines 15 to 27

Page 5, line 11, delete "60" and insert "66"

Page 5, line 13, delete "61" and insert "67"

ReNUMBER the clauses in sequence

Page 7, line 4, after "*subdivision*" insert ", *excluding those sold as part of an appliance,*"

Page 8, delete section 6

Page 8, line 36, delete "21" and insert "20"

Page 9, line 18, delete "6" and insert "7"

ReNUMBER the sections in sequence

Amend the title as follows:

Page 1, line 7, delete everything after the semicolon

Page 1, delete lines 8 to 10

Page 1, line 15, delete "*subdivision 1*" and insert "*subdivisions 1, 13*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was referred

S.F. No. 2383: A bill for an act relating to peace officers; affording qualified federal law enforcement officers the authority of peace officers when assigned to special state and federal task forces; proposing coding for new law in Minnesota Statutes, chapter 626.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 18, delete "*state*"

Page 1, line 19, delete "*and*" and after "*government*" insert "*and the commissioners of the state agencies*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was re-referred

S.F. No. 2229: A bill for an act relating to children; providing for a recognition of parentage with the force and effect of a paternity adjudication; providing for preparation and distribution of a recognition form and educational materials for paternity; amending Minnesota Statutes 1990, sections 144.215, subdivision 3; 257.54; 257.541; 257.55, subdivision 1; 257.59, subdivision 1; 257.74, subdivision 1; and 518.156, subdivision 1; Minnesota Statutes 1991 Supplement, section 257.57, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 257.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, line 2, after the period, insert "*An action for custody or visitation rights based on a recognition of parentage may not be combined with any proceeding under chapter 518B.*"

Page 5, lines 16 to 18, delete the new language

Page 6, line 34, delete "*the existence of one or more*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2399: A bill for an act relating to state lands; defining "substantially equal value" for purposes of state land exchanges; amending Minnesota Statutes 1990, section 94.344, subdivision 3.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 94.344, subdivision 3, is amended to read:

Subd. 3. (a) Except as otherwise provided, Class B land may be exchanged only for land of substantially equal value or greater value to the state, as determined by the county board, with the approval of the commissioner and the land exchange board. For an exchange involving Class B land for Class A or Class C land, the value of the lands shall be determined by the commissioner, with approval of the land exchange board. For purposes of the determination, the commissioner shall appraise the state and tax-forfeited land proposed to be exchanged in the same manner as Class A land. For all other purposes, the county board shall appraise the state land and the land in the proposed exchange in the same manner as tax-forfeited land to be offered for sale. The appraised values shall not be conclusive, but shall be taken into consideration, together with such other matters as may be deemed material, in determining the values for the purposes of exchange.

(b) *For the purposes of this subdivision, "substantially equal value" means:*

(1) *where the lands being exchanged both consist of more than 100 acres, the values of the lands do not differ by more than ten percent of the lower value; and*

(2) *in other cases, the values of the exchanged lands do not differ by more than 20 percent of the lower value.*

Sec. 2. [CAMP 97 CREEK, GOLD MINE, AND CRANE LAKE TOWER IMPOUNDMENTS.]

Subdivision 1. [AGREEMENT; PURPOSE.] In accordance with Minnesota Statutes, section 103G.545, the commissioner of natural resources may enter into a cooperative agreement with the United States Forest Service to construct and maintain a dam and control structure across, and thereby alter the natural water level and volume of flowage of, the following waters

in St. Louis county:

(1) Camp 97 Creek in the Southwest Quarter of the Southwest Quarter of Section 33, Township 66 North, Range 16 West;

(2) an unnamed tributary of the Vermilion River in the Southeast Quarter of the Southeast Quarter of Section 11, Township 66 North, Range 18 West; and

(3) an unnamed flowage in the Northwest Quarter of the Northeast Quarter of Section 33, Township 67 North, Range 17 West.

The purpose of these projects, to be known as the Camp 97 Creek Impoundment, the Gold Mine Impoundment, and the Crane Lake Tower Impoundment, respectively, is to create and maintain permanent impoundments for the benefit of wildlife, recreation, and other public purposes.

Subd. 2. [AUTHORIZATION.] *No alteration of the course, current, or cross-section of any of the waters described in subdivision 1 or any other public waters, and no filling or draining of wetlands, may be accomplished until any authorizations required for these activities under Minnesota Statutes, sections 103G.222, 103G.2369, and 103G.245, have been obtained.*

Subd. 3. [EASEMENT.] *Lands owned by the state may not be flooded or otherwise affected by flooding resulting from the projects described in subdivision 1 until an easement, lease, license, or permit for this purpose is obtained from the commissioner of natural resources. The commissioner may grant any necessary easements, leases, licenses, or permits.*

Sec. 3. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Amend the title as follows:

Page 1, line 2, delete "state lands" and insert "natural resources"

Page 1, line 3, after the semicolon, insert "authorizing the Camp 97 Creek, Gold Mine, and Crane Lake Tower impoundments in St. Louis county;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was referred

S.F. No. 1687: A bill for an act relating to crime; increasing penalties for certain sex offenders; providing for life imprisonment for certain repeat sex offenders; increasing supervision of sex offenders following release from prison; eliminating the "good time" reduction in a prison sentence unless a sex offender satisfactorily completes a treatment program in prison; prohibiting the release of a prison inmate on a weekend or holiday; requiring review of sex offenders for psychopathic personality commitment before prison release; amending Minnesota Statutes 1990, sections 241.67, subdivision 3; 244.04, subdivision 1; 244.05, subdivisions 1, 3, 4, 5, and by adding a subdivision; 609.1352, subdivision 5, and by adding a subdivision; 609.342, subdivision 2; 609.343, subdivision 2; 609.346, subdivisions 2, 2a, and by adding a subdivision; Minnesota Statutes 1991 Supplement, sections 244.05, subdivision 6; and 244.12, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 609.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

SEX OFFENDERS

Section 1. Minnesota Statutes 1990, section 241.67, subdivision 3, is amended to read:

Subd. 3. [PROGRAMS FOR ADULT OFFENDERS COMMITTED TO THE COMMISSIONER.] (a) The commissioner shall provide for a range of sex offender ~~treatment~~ programs, including intensive sex offender ~~treatment~~ programs, within the state adult correctional facility system. Participation in any ~~treatment~~ program is ~~voluntary~~ and is subject to the rules and regulations of the department of corrections. Nothing in this section requires the commissioner to accept or retain an offender in a ~~treatment~~ program if *the offender is determined by prison professionals as unamenable to programming within the prison system or if the offender refuses or fails to comply with the program's requirements.* Nothing in this section creates a right of an offender to treatment.

(b) The commissioner shall provide for residential and outpatient sex offender ~~treatment programming~~ and aftercare when required for conditional release under section 609.1352 or as a condition of supervised release.

Sec. 2. Minnesota Statutes 1990, section 241.67, subdivision 6, is amended to read:

Subd. 6. [SPECIALIZED CORRECTIONS AGENTS AND PROBATION OFFICERS; SEX OFFENDER SUPERVISION.] *By January 1, 1990,* The commissioner of corrections shall develop in-service training for state and local corrections agents and probation officers who supervise adult and juvenile sex offenders on probation or supervised release. The commissioner shall make the training available to all current and future corrections agents and probation officers who supervise or will supervise sex offenders on probation or supervised release.

After January 1, 1991, A state or local corrections agent or probation officer may not supervise adult or juvenile sex offenders on probation or supervised release unless the agent or officer has completed the in-service sex offender supervision training. The commissioner may waive this requirement if the corrections agent or probation officer has completed equivalent training as part of a post-secondary educational curriculum.

After January 1, 1991, When an adult sex offender is placed on supervised release or is sentenced to probationary supervision, and when a juvenile offender is found delinquent by the juvenile court for a sex offense and placed on probation or is paroled from a juvenile correctional facility, a corrections agent or probation officer may not be assigned to the offender unless the agent or officer has completed the in-service sex offender supervision training.

Sec. 3. Minnesota Statutes 1990, section 244.05, is amended by adding a subdivision to read:

Subd. 1a. [RELEASE ON CERTAIN DAYS.] Notwithstanding the amount of good time earned by an inmate sentenced before August 1, 1992, if the inmate's scheduled release date occurs on a Friday, Saturday, Sunday, or

holiday, the inmate's supervised release term shall begin on the last day before the inmate's scheduled release date that is not a Friday, Saturday, Sunday, or holiday. For inmates sentenced on or after August 1, 1992, if the inmate's scheduled release date occurs on a Friday, Saturday, Sunday, or holiday, the inmate's supervised release term shall begin on the first day after the inmate's scheduled release date that is not a Friday, Saturday, Sunday, or holiday.

Sec. 4. Minnesota Statutes 1990, section 244.05, subdivision 3, is amended to read:

Subd. 3. [SANCTIONS FOR VIOLATION.] If an inmate violates the conditions of the inmate's supervised release imposed by the commissioner, the commissioner may:

(1) continue the inmate's supervised release term, with or without modifying or enlarging the conditions imposed on the inmate; or

(2) revoke the inmate's supervised release and reimprison the inmate for the appropriate period of time.

The period of time for which a supervised release may be revoked may not exceed the period of time remaining in the inmate's sentence, except that ~~for if a sex offender is sentenced and conditionally released under section 609.1352, subdivision 5, the period of time for which conditional release may be revoked may not exceed the balance of the original sentence imposed less good time earned under section 244.04, subdivision 1~~ conditional release term.

Sec. 5. Minnesota Statutes 1990, section 244.05, subdivision 4, is amended to read:

Subd. 4. [MINIMUM IMPRISONMENT, LIFE SENTENCE.] An inmate serving a mandatory life sentence under section 609.184 must not be given supervised release under this section. An inmate serving a mandatory life sentence ~~for conviction of murder in the first degree under section 609.185, clause (1), (2), (4), (5), or (6); or 609.346, subdivision 2a,~~ must not be given supervised release under this section without having served a minimum term of 30 years. An inmate serving a mandatory life sentence under section 609.385 must not be given supervised release under this section without having served a minimum term of imprisonment of 17 years.

Sec. 6. Minnesota Statutes 1990, section 244.05, subdivision 5, is amended to read:

Subd. 5. [SUPERVISED RELEASE, LIFE SENTENCE.] The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence under section 609.185, clause (1), (3), (4), (5), or (6); 609.346, subdivision 2a; or 609.385 after the inmate has served the minimum term of imprisonment specified in subdivision 4.

Sec. 7. Minnesota Statutes 1991 Supplement, section 244.05, subdivision 6, is amended to read:

Subd. 6. [INTENSIVE SUPERVISED RELEASE.] The commissioner may order that an inmate be placed on intensive supervised release for all or part of the inmate's supervised release or parole term if the commissioner determines that the action will further the goals described in section 244.14, subdivision 1, clauses (2), (3), and (4). *In addition, the commissioner may*

order that an inmate be placed on intensive supervised release for all of the inmate's conditional or supervised release term if the inmate was convicted of a sex offense under sections 609.342 to 609.345 or was sentenced under the provisions of section 609.1352. The commissioner may impose appropriate conditions of release on the inmate including but not limited to unannounced searches of the inmate's person, vehicle, or premises by an intensive supervision agent; compliance with court-ordered restitution, if any; random drug testing; house arrest; daily curfews; frequent face-to-face contacts with an assigned intensive supervision agent; work, education, or treatment requirements; and electronic surveillance. In addition, any sex offender placed on intensive supervised release may be ordered to participate in an appropriate sex offender treatment program as a condition of release. If the inmate violates the conditions of the intensive supervised release, the commissioner shall impose sanctions as provided in subdivision 3 and section 609.1352.

Sec. 8. Minnesota Statutes 1991 Supplement, section 244.12, subdivision 3, is amended to read:

Subd. 3. [OFFENDERS NOT ELIGIBLE.] The following are not eligible to be placed on intensive community supervision, under subdivision 2, clause (2):

(1) offenders who were committed to the commissioner's custody under a statutory mandatory minimum sentence;

(2) offenders who were committed to the commissioner's custody following a conviction for murder, manslaughter, criminal sexual conduct ~~in the first or second degree~~, or criminal vehicular homicide or operation resulting in death; and

(3) offenders whose presence in the community would present a danger to public safety.

Sec. 9. Minnesota Statutes 1990, section 260.185, subdivision 1, is amended to read:

Subdivision 1. If the court finds that the child is delinquent, it shall enter an order making any of the following dispositions of the case which are deemed necessary to the rehabilitation of the child:

(a) Counsel the child or the parents, guardian, or custodian;

(b) Place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court including reasonable rules for the child's conduct and the conduct of the child's parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child, or with the consent of the commissioner of corrections, in a group foster care facility which is under the management and supervision of said commissioner;

(c) Subject to the supervision of the court, transfer legal custody of the child to one of the following:

(1) a child placing agency; or

(2) the county welfare board; or

(3) a reputable individual of good moral character. No person may receive custody of two or more unrelated children unless licensed as a residential facility pursuant to sections 245A.01 to 245A.16; or

(4) a county home school, if the county maintains a home school or enters into an agreement with a county home school; or

(5) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(d) Transfer legal custody by commitment to the commissioner of corrections;

(e) If the child is found to have violated a state or local law or ordinance which has resulted in damage to the person or property of another, the court may order the child to make reasonable restitution for such damage;

(f) Require the child to pay a fine of up to \$700; the court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(g) If the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails to provide this treatment or care, the court may order it provided;

(h) If the court believes that it is in the best interests of the child and of public safety that the driver's license of the child be canceled until the child's 18th birthday, the court may recommend to the commissioner of public safety the cancellation of the child's license for any period up to the child's 18th birthday, and the commissioner is hereby authorized to cancel such license without a hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety that the child be authorized to apply for a new license, and the commissioner may so authorize.

If the child is petitioned and found by the court to have committed or attempted to commit an act in violation of section 609.342, 609.343, 609.344, ~~or~~ 609.345, 609.3451, 609.746, subdivision 1, 609.79, or 617.23, the court shall order an independent professional assessment of the child's need for sex offender treatment. An assessor providing an assessment for the court may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If the assessment indicates that the child is in need of and amenable to sex offender treatment, the court shall include in its disposition order a requirement that the child undergo treatment.

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

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

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

Sec. 10. Minnesota Statutes 1991 Supplement, section 609.135, subdivision 2, is amended to read:

Subd. 2. (a) If the conviction is for a felony the stay shall be for not more than three years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(b) If the conviction is for a gross misdemeanor the stay shall be for not more than two years.

(c) If the conviction is for any misdemeanor under section 169.121; 609.3451; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(d) If the conviction is for a misdemeanor not specified in paragraph (c), the stay shall be for not more than one year.

(e) The defendant shall be discharged when the stay expires, unless the stay has been revoked or extended under paragraph (f), or the defendant has already been discharged.

(f) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (e), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution that the defendant owes.

Sec. 11. Minnesota Statutes 1990, section 609.1352, subdivision 1, is amended to read:

Subdivision 1. [SENTENCING AUTHORITY.] A court ~~may~~ *shall* sentence a person to a term of imprisonment of not less than double the presumptive sentence under the sentencing guidelines and not more than the statutory maximum, or if the statutory maximum is less than double the presumptive sentence, to a term of imprisonment equal to the statutory maximum, if:

(1) the court is imposing an executed sentence, based on a sentencing guidelines presumptive imprisonment sentence or a dispositional departure for aggravating circumstances or a mandatory minimum sentence, on a person convicted of committing or attempting to commit a violation of section 609.342, 609.343, 609.344, or 609.345, or on a person convicted of committing or attempting to commit any other crime listed in subdivision 2 if it reasonably appears to the court that the crime was motivated by the offender's sexual impulses or was part of a predatory pattern of behavior that had criminal sexual conduct as its goal;

(2) the court finds that the offender is a danger to public safety; and

(3) the court finds that the offender needs long-term treatment or supervision beyond the presumptive term of imprisonment and supervised release. The finding must be based on a professional assessment by an examiner experienced in evaluating sex offenders that concludes that the offender is

a patterned sex offender. The assessment must contain the facts upon which the conclusion is based, with reference to the offense history of the offender or the severity of the current offense, the social history of the offender, and the results of an examination of the offender's mental status *unless the offender refuses to be examined*. The conclusion may not be based on testing alone. A patterned sex offender is one whose criminal sexual behavior is so engrained that the risk of reoffending is great without intensive psychotherapeutic intervention or other long-term controls.

Sec. 12. Minnesota Statutes 1990, section 609.1352, subdivision 5, is amended to read:

Subd. 5. [CONDITIONAL RELEASE.] At the time of sentencing under subdivision 1, the court ~~may~~ *shall* provide that after the offender has completed ~~one-half of the full pronounced~~ sentence imposed, ~~without regard to less any good time earned by an offender sentenced before August 1, 1993,~~ the commissioner of corrections ~~may~~ *shall* place the offender on conditional release for the remainder of the statutory maximum period or for ten years, whichever is longer; ~~if the commissioner finds that:~~

(1) ~~the offender is amenable to treatment and has made sufficient progress in a sex offender treatment program available in prison to be released to a sex offender treatment program operated by the department of human services or a community sex offender treatment and reentry program; and~~

(2) ~~the offender has been accepted in a program approved by the commissioner that provides treatment, aftercare, and phased reentry into the community.~~

The conditions of release ~~must~~ *may* include successful completion of treatment and aftercare in a program approved by the commissioner, *satisfaction of the release conditions specified in section 244.05, subdivision 6*, and any other conditions the commissioner considers appropriate. Before the offender is released, the commissioner shall notify the sentencing court, the prosecutor in the jurisdiction where the offender was sentenced and the victim of the offender's crime, where available, of the terms of the offender's conditional release. ~~Release may be revoked and the stayed sentence executed in its entirety less good time~~ If the offender fails to meet any condition of release, *the commissioner may revoke the offender's conditional release and order that the offender serve the remaining portion of the conditional release term in prison*. The commissioner shall not dismiss the offender from supervision before the ~~sentence~~ *conditional release term* expires.

Conditional release granted under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

Sec. 13. Minnesota Statutes 1990, section 609.184, subdivision 2, is amended to read:

Subd. 2. [LIFE WITHOUT RELEASE.] The court shall sentence a person to life imprisonment without possibility of release ~~when~~ *under the following circumstances:*

(1) *the person is convicted of first degree murder under section 609.185, clause (2); or*

(2) *the person is convicted of first degree murder under section 609.185, clause (1), (3), (4), (5), or (6), and the person has one or more previous convictions for a heinous crime.*

Sec. 14. Minnesota Statutes 1990, section 609.342, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] *Except as otherwise provided in section 609.346, subdivision 2a or 2b, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 25 30 years or to a payment of a fine of not more than \$40,000, or both.*

Sec. 15. Minnesota Statutes 1990, section 609.343, subdivision 2, is amended to read:

Subd. 2. [PENALTY.] *Except as otherwise provided in section 609.346, subdivision 2a or 2b, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 20 25 years or to a payment of a fine of not more than \$35,000, or both.*

Sec. 16. Minnesota Statutes 1990, section 609.346, subdivision 2, is amended to read:

Subd. 2. [SUBSEQUENT SEX OFFENSE; PENALTY.] *Except as provided in subdivision 2a or 2b, if a person is convicted under sections 609.342 to 609.345, within 15 years of a previous sex offense conviction, the court shall commit the defendant to the commissioner of corrections for imprisonment for a term of not less than three years, nor more than the maximum sentence provided by law for the offense for which convicted, notwithstanding the provisions of sections 242.19, 243.05, 609.11, 609.12 and 609.135. The court may stay the execution of the sentence imposed under this subdivision only if it finds that a professional assessment indicates the offender is accepted by and can respond to treatment at a long-term inpatient program exclusively treating sex offenders and approved by the commissioner of corrections. If the court stays the execution of a sentence, it shall include the following as conditions of probation: (1) incarceration in a local jail or workhouse; and (2) a requirement that the offender successfully complete the treatment program and aftercare as directed by the court.*

Sec. 17. Minnesota Statutes 1990, section 609.346, subdivision 2a, is amended to read:

Subd. 2a. [MAXIMUM MANDATORY LIFE SENTENCE IMPOSED.] (a) *The court shall sentence a person to a term of imprisonment of 37 years for life, notwithstanding the statutory maximum sentences sentence under sections section 609.342 and 609.343 if:*

(1) *the person is convicted under section 609.342 or 609.343; and*

(2) *the court determines on the record at the time of sentencing that any of the following circumstances exists:*

(i) *the person has previously been sentenced under section 609.1352;*

(ii) *the person has one previous sex offense conviction under section 609.342, 609.343, or 609.344 for which the person was sentenced to prison in an upward durational departure from the sentencing guidelines; or*

(iii) *the person has two previous sex offense convictions under section 609.342, 609.343, or 609.344.*

(b) *Notwithstanding sections 609.342, subdivision 3; and 609.343, subdivision 3; and 609.344, subdivision 3; and subdivision 2, the court may not stay imposition of the sentence required by this subdivision.*

Sec. 18. Minnesota Statutes 1990, section 609.346, is amended by adding

a subdivision to read:

Subd. 2b. [MANDATORY 30-YEAR SENTENCE.] (a) The court shall sentence a person to a term of 30 years, notwithstanding the statutory maximum sentence under section 609.343, if:

(1) the person is convicted under section 609.342, subdivision 1, clause (c), (d), (e), or (f); or 609.343, subdivision 1, clause (c), (d), (e), or (f); and

(2) the court determines on the record at the time of sentencing that:

(i) the crime involved an aggravating factor that would provide grounds for an upward departure under the sentencing guidelines other than the aggravating factor applicable to repeat criminal sexual conduct convictions; and

(ii) the person has a previous sex offense conviction under section 609.342, 609.343, or 609.344.

(b) Notwithstanding sections 609.342, subdivision 3; and 609.343, subdivision 3; and subdivision 2, the court may not stay imposition or execution of the sentence required by this subdivision.

Sec. 19. Minnesota Statutes 1990, section 609.346, is amended by adding a subdivision to read:

Subd. 4. [MINIMUM DEPARTURE FOR SEX OFFENDERS.] The court shall sentence a person to at least twice the presumptive sentence recommended by the sentencing guidelines if:

(1) the person is convicted under section 609.342, subdivision 1, clause (c), (d), (e), or (f); 609.343, subdivision 1, clause (c), (d), (e), or (f); or 609.344, subdivision 1, clause (c) or (d); and

(2) the court determines on the record at the time of sentencing that the crime involved an aggravating factor that would provide grounds for an upward departure under the sentencing guidelines.

Sec. 20. Minnesota Statutes 1990, section 609.346, is amended by adding a subdivision to read:

Subd. 5. [SUPERVISED RELEASE OF SEX OFFENDERS.] (a) Notwithstanding the statutory maximum sentence otherwise applicable to the offense or any provision of the sentencing guidelines, any person who is sentenced to prison for a violation of section 609.342, 609.343, 609.344, or 609.345 must be sentenced to serve a supervised release term as provided in this subdivision. The court shall sentence a person convicted for a violation of section 609.342, 609.343, 609.344, or 609.345 to serve a supervised release term of not less than five years. The court shall sentence a person convicted for a violation of one of those sections a second or subsequent time, or sentenced under section 19 to a mandatory departure, to serve a supervised release term of not less than ten years. The court shall sentence a person convicted for a violation of one of those sections and sentenced to serve a 30-year sentence under section 18 to serve a supervised release term of not less than 15 years.

(b) The commissioner of corrections shall set the level of supervision for offenders subject to this section based on the public risk presented by the offender.

Sec. 21. Minnesota Statutes 1990, section 609.346, is amended by adding

a subdivision to read:

Subd. 6. [SEX OFFENDER ASSESSMENT.] When a person is convicted of a violation of section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.746, subdivision 1, 609.79, or 617.23, the court shall order an independent professional assessment of the offender's need for sex offender treatment. An assessor providing an assessment for the court must be experienced in the evaluation and treatment of sex offenders. If the assessment indicates that the offender is in need of and amenable to sex offender treatment, the court shall include in the sentence a requirement that the offender undergo treatment.

Sec. 22. Minnesota Statutes 1990, section 630.36, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] The issues on the calendar shall be disposed of in the following order, unless, upon the application of either party, for good cause, the court directs an indictment or complaint to be tried out of its order:

- (1) indictments or complaints for felony, where the defendant is in custody;
- (2) indictments or complaints for misdemeanor, where the defendant is in custody;
- (3) indictments or complaints alleging child abuse, as defined in subdivision 2, where the defendant is on bail;
- (4) *indictments or complaints alleging a violation of section 609.342, 609.343, 609.344, or 609.345, where the defendant is on bail;*
- (5) *indictments or complaints alleging an assault committed against the actor's family or household member, as defined in section 518B.01, subdivision 2, where the defendant is on bail;*
- (6) indictments or complaints for felony, where the defendant is on bail; and
- ~~(5)~~ (7) indictments or complaints for misdemeanor, where the defendant is on bail.

After a plea, the defendant shall be entitled to at least four days to prepare for trial, if the defendant requires it.

Sec. 23. [EFFECTIVE DATE.]

Section 3 is effective the day following final enactment. Sections 4, 5, 6, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 are effective August 1, 1992, and apply to crimes committed on or after that date. Section 9 is effective August 1, 1992, and applies to persons adjudicated delinquent on or after that date. The court shall consider convictions occurring before August 1, 1992, as previous convictions in sentencing offenders under sections 16, 17, 18, and 19.

ARTICLE 2

SENTENCING

Section 1. Minnesota Statutes 1990, section 244.01, subdivision 8, is amended to read:

Subd. 8. "Term of imprisonment," *as applied to inmates sentenced before August 1, 1993*, is the period of time to which an inmate is committed to

the custody of the commissioner of corrections minus earned good time. *"Term of imprisonment," as applied to inmates sentenced on or after August 1, 1993, is the period of time which an inmate is ordered to serve in prison by the sentencing court, plus any disciplinary confinement period imposed by the commissioner under section 244.05, subdivision 1a.*

Sec. 2. Minnesota Statutes 1990, section 244.03, is amended to read:

244.03 [~~VOLUNTARY~~ REHABILITATIVE PROGRAMS.]

The commissioner shall provide appropriate mental health programs and vocational and educational programs with employment-related goals for inmates who desire to voluntarily participate in such programs *and for inmates who are required to participate in the programs under the disciplinary offense rules adopted by the commissioner under section 244.05, subdivision 1a.* The selection, design and implementation of programs under this section shall be the sole responsibility of the commissioner, acting within the limitations imposed by the funds appropriated for such programs.

No action challenging the level of expenditures for programs authorized under this section, nor any action challenging the selection, design or implementation of these programs, may be maintained by an inmate in any court in this state.

Sec. 3. Minnesota Statutes 1990, section 244.04, subdivision 1, is amended to read:

Subdivision 1. [REDUCTION OF SENTENCE.] Notwithstanding the provisions of section 609.11, subdivision 6, and section 609.346, subdivision 1, the term of imprisonment of any inmate sentenced to a presumptive fixed sentence after May 1, 1980, *and before August 1, 1993,* shall be reduced in duration by one day for each two days during which the inmate violates none of the disciplinary offense rules promulgated by the commissioner. The reduction shall accrue to the period of supervised release to be served by the inmate, except that the period of supervised release for a sex offender sentenced and conditionally released by the commissioner under section 609.1352, subdivision 5, is governed by that provision.

Except as otherwise provided in subdivision 2, if an inmate *sentenced before August 1, 1993,* violates a disciplinary offense rule promulgated by the commissioner, good time earned prior to the violation may not be taken away, but the inmate may be required to serve an appropriate portion of the term of imprisonment after the violation without earning good time.

Sec. 4. Minnesota Statutes 1990, section 244.04, subdivision 3, is amended to read:

Subd. 3. The provisions of this section do not apply to an inmate serving a mandatory life sentence *or to persons sentenced on or after August 1, 1993.*

Sec. 5. Minnesota Statutes 1990, section 244.05, subdivision 1, is amended to read:

Subdivision 1. [SUPERVISED RELEASE REQUIRED.] Except as provided in subdivisions 1a, 4, and 5, every inmate shall serve a supervised release term upon completion of the inmate's term of imprisonment as reduced by any good time earned by the inmate or extended by confinement in punitive segregation pursuant to section 244.04, subdivision 2. Except for a sex offender conditionally released under section 609.1352, subdivision

5, the supervised release term shall be equal to the period of good time the inmate has earned, and shall not exceed the length of time remaining in the inmate's sentence.

Sec. 6. Minnesota Statutes 1990, section 244.05, is amended by adding a subdivision to read:

Subd. 1b. [SUPERVISED RELEASE; OFFENDERS SENTENCED ON OR AFTER AUGUST 1, 1993.] (a) Except as provided in subdivisions 4 and 5, every inmate sentenced to prison for a felony offense on or after August 1, 1993, shall serve a supervised release term upon completion of the term of imprisonment pronounced by the sentencing court under section 7 and any disciplinary confinement period imposed by the commissioner due to the inmate's violation of any disciplinary offense rule adopted by the commissioner under paragraph (b). The supervised release term shall be equal in length to the amount of time remaining in the inmate's imposed sentence after the inmate has served the pronounced term of imprisonment and any disciplinary confinement period imposed by the commissioner.

(b) By August 1, 1992, the commissioner shall modify the commissioner's existing disciplinary rules to specify disciplinary offenses which may result in imposition of a disciplinary confinement period and the length of the disciplinary confinement period for each disciplinary offense. These disciplinary offense rules may cover violation of institution rules, refusal to work, refusal to participate in treatment or other rehabilitative programs, and other matters determined by the commissioner. No inmate who violates a disciplinary rule shall be placed on supervised release until the inmate has served the disciplinary confinement period or until the inmate is discharged or released from punitive segregation confinement, whichever is later. The imposition of a disciplinary confinement period shall be considered to be a disciplinary sanction imposed upon an inmate, and the procedure for imposing the disciplinary confinement period and the rights of the inmate in the procedure shall be those in effect for the imposition of other disciplinary sanctions at each state correctional institution.

Sec. 7. [244.101] [SENTENCING OF FELONY OFFENDERS ON AND AFTER AUGUST 1, 1993.]

Subdivision 1. [SENTENCING AUTHORITY.] When a felony offender is sentenced to a fixed executed prison sentence on or after August 1, 1993, the sentence pronounced by the court shall consist of two parts: (1) a specified minimum term of imprisonment; and (2) a specified maximum supervised release term that is one-half of the minimum term of imprisonment. The lengths of the term of imprisonment and the supervised release term actually served by an inmate are subject to the provisions of section 244.05, subdivision 1a.

Subd. 2. [EXPLANATION OF SENTENCE.] When a court pronounces sentence under this section, it shall specify the amount of time the defendant will serve in prison and the amount of time the defendant will serve on supervised release, assuming the defendant commits no disciplinary offense in prison that may result in the imposition of a disciplinary confinement period. The court shall also explain that the defendant's term of imprisonment may be extended by the commissioner if the defendant commits any disciplinary offenses in prison and that this extension could result in the defendant's serving the entire pronounced sentence in prison. The court's explanation shall be included in the sentencing order.

Subd. 3. [NO RIGHT TO SUPERVISED RELEASE.] Notwithstanding the court's specification of the potential length of a defendant's supervised release term in the sentencing order, the court's order creates no right of a defendant to any specific, minimum length of a supervised release term.

Sec. 8. Minnesota Statutes 1990, section 609.15, subdivision 2, is amended to read:

~~Subd. 2. [LIMIT ON TERMS; MISDEMEANOR AND GROSS MISDEMEANOR.] If the court specifies that the sentence shall run consecutively, the total of the terms of imprisonment imposed, other than a term of imprisonment for life, shall not exceed 40 years. If and all of the sentences are for misdemeanors, the total of the terms of imprisonment shall not exceed one year; If all of the sentences are for gross misdemeanors, the total of such the terms shall not exceed three years.~~

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 7 are effective August 1, 1993, and apply to crimes committed on or after that date. Section 8 is effective August 1, 1992, and applies to crimes committed on or after that date.

ARTICLE 3

PSYCHOPATHIC PERSONALITY PROVISIONS

Section 1. Minnesota Statutes 1990, section 8.01, is amended to read:

8.01 [APPEARANCE.]

The attorney general shall appear for the state in all causes in the supreme and federal courts wherein the state is directly interested; also in all civil causes of like nature in all other courts of the state whenever, in the attorney general's opinion, the interests of the state require it. Upon request of the county attorney, the attorney general shall appear in court in such criminal cases as the attorney general deems proper. *Upon request of a county attorney, the attorney general shall assume the duties of the county attorney in psychopathic personality commitment proceedings under section 526.10.* Whenever the governor shall so request, in writing, the attorney general shall prosecute any person charged with an indictable offense, and in all such cases may attend upon the grand jury and exercise the powers of a county attorney.

Sec. 2. Minnesota Statutes 1991 Supplement, section 8.15, is amended to read:

8.15 [ATTORNEY GENERAL COSTS.]

The attorney general in consultation with the commissioner of finance shall assess executive branch agencies a fee for legal services rendered to them. The assessment against appropriations from other than the general fund must be the full cost of providing the services. The assessment against appropriations supported by fees must be included in the fee calculation. The assessment against appropriations from the general fund not supported by fees must be one-half of the cost of providing the services. An amount equal to the general fund receipts in the even-numbered year of the biennium is appropriated to the attorney general for each year of the succeeding biennium. All other receipts from assessments must be deposited in the state treasury and credited to the general fund.

The attorney general in consultation with the commissioner of finance

shall assess political subdivisions fees to cover half the cost of legal services rendered to them; *except that the attorney general may not assess a county any fee for legal services rendered in connection with a psychopathic personality commitment proceeding under section 526.10 for which the attorney general assumes responsibility under section 8.01.*

Sec. 3. Minnesota Statutes 1990, section 244.05, is amended by adding a subdivision to read:

Subd. 7. [SEX OFFENDERS; CIVIL COMMITMENT DETERMINATION.] Before the commissioner releases from prison any inmate convicted of a sex offense under sections 609.342 to 609.345 or sentenced as a patterned sex offender, as defined in section 609.1352, the commissioner shall make a preliminary determination whether, in the commissioner's opinion, a petition under section 526.10 may be appropriate. If the commissioner determines that a petition may be appropriate, the commissioner shall forward this determination, along with a summary of the reasons for the determination, to the county attorney in the county where the inmate was convicted no later than six months before the inmate's release date. Upon receiving the commissioner's preliminary determination, the county attorney shall proceed in the manner provided in section 526.10. The commissioner shall release to the county attorney all requested documentation maintained by the department.

Sec. 4. Minnesota Statutes 1990, section 253B.18, subdivision 2, is amended to read:

Subd. 2. [REVIEW; HEARING.] A written treatment report shall be filed with the committing court within 60 days after commitment. If the person is in the custody of the commissioner of corrections when the initial commitment is ordered under subdivision 1, the written treatment report must be filed within 60 days after the person is admitted to the Minnesota security hospital or a private hospital receiving the person. The court, prior to making a final determination with regard to a person initially committed as mentally ill and dangerous to the public, shall hold a hearing. The hearing shall be held within the earlier of 14 days of the court's receipt of the written treatment report, if one is filed, or within 90 days of the date of initial commitment or admission, ~~whichever is earlier~~, unless otherwise agreed by the parties. If the court finds that the patient qualifies for commitment as mentally ill, but not as mentally ill and dangerous to the public, the court may commit the person as a mentally ill person and the person shall be deemed not to have been found to be dangerous to the public for the purposes of subdivisions 4 to 15. Failure of the treatment facility to provide the required report at the end of the 60-day period shall not result in automatic discharge of the patient.

Sec. 5. Minnesota Statutes 1990, section 526.10, is amended to read:

526.10 [LAWS RELATING TO MENTALLY ILL PERSONS DANGEROUS TO THE PUBLIC TO APPLY TO PSYCHOPATHIC PERSONALITIES; TRANSFER OR COMMITMENT TO CORRECTIONS.]

Subdivision 1. [PROCEDURE.] Except as otherwise provided in this section or in chapter 253B, the provisions of chapter 253B, pertaining to persons mentally ill and dangerous to the public shall apply with like force and effect to persons having a psychopathic personality, to persons alleged to have such personality, and to persons found to have such personality, respectively. Before such proceedings are instituted, the facts shall first be

submitted to the county attorney, who, if satisfied that good cause exists therefor, shall prepare the petition to be executed by a person having knowledge of the facts and file the same with the judge of the probate court of the county in which the "patient," as defined in such statutes, has a settlement or is present. *If the patient is in the custody of the commissioner of corrections, the petition may be filed in the county where the conviction for which the person is incarcerated was entered.* The judge of probate shall thereupon follow the same procedures set forth in chapter 253B, for judicial commitment. The judge may exclude the general public from attendance at such hearing. If, upon completion of the hearing and consideration of the record, the court finds the proposed patient has a psychopathic personality, the court shall commit such person to a public hospital or a private hospital consenting to receive the person, subject to a mandatory review by the head of the hospital within 60 days from the date of the order as provided for in chapter 253B for persons found to be mentally ill and dangerous to the public. The patient shall thereupon be entitled to all of the rights provided for in chapter 253B, for persons found to be mentally ill and dangerous to the public, and all of the procedures provided for in chapter 253B, for persons found to be mentally ill and dangerous to the public shall apply to such patient except as otherwise provided in subdivision 2.

Subd. 2. [TRANSFER TO CORRECTIONAL FACILITY.] ~~Unless the provisions of section 609.1351 apply,~~ (a) If a person has been committed under this section and ~~also has been~~ later is committed to the custody of the commissioner of corrections, the person may be transferred from a hospital to another facility designated by the commissioner of corrections as provided in section 253B.18; except that the special review board and the commissioner of human services may consider the following factors in lieu of the factors listed in section 253B.18, subdivision 6, to determine whether a transfer to the commissioner of corrections is appropriate:

- (1) the person's unamenability to treatment;
- (2) the person's unwillingness or failure to follow treatment recommendations;
- (3) the person's lack of progress in treatment at the public or private hospital;
- (4) the danger posed by the person to other patients or staff at the public or private hospital; and
- (5) the degree of security necessary to protect the public.

(b) *If a person is committed under this section after a commitment to the commissioner of corrections, the person shall first serve the sentence in a facility designated by the commissioner of corrections. After the person has served the sentence, the person shall be transferred to a regional center designated by the commissioner of human services.*

Sec. 6. [526.115] [STATEWIDE JUDICIAL PANEL; PSYCHOPATHIC PERSONALITY COMMITMENTS.]

Subdivision 1. [CREATION.] The supreme court may establish a panel of district judges with statewide authority to preside over commitment proceedings brought under section 526.10. Only one judge of the panel is required to preside over a particular commitment proceeding. Panel members shall serve for one-year terms. One of the judges shall be designated as the chief judge of the panel, and is vested with the power to designate

the presiding judge in a particular case, to set the proper venue for the proceedings, and to otherwise supervise and direct the operation of the panel. The chief judge shall designate one of the other judges to act as chief judge whenever the chief judge is unable to act.

Subd. 2. [EFFECT OF CREATION OF PANEL.] If the supreme court creates the judicial panel authorized by this section, all petitions for civil commitment brought under section 526.10 shall be filed with the chief judge of the panel instead of with the probate court in the county where the proposed patient is present, notwithstanding any provision of section 526.10 to the contrary. Otherwise, all of the other applicable procedures contained in section 526.10 and chapter 253B apply to commitment proceedings conducted by a judge on the panel.

Sec. 7. Minnesota Statutes 1990, section 609.1351, is amended to read:
609.1351 [PETITION FOR CIVIL COMMITMENT.]

When a court sentences a person under section 609.1352, 609.342, 609.343, 609.344, or 609.345, the court shall make a preliminary determination whether in the court's opinion a petition under section 526.10 may be appropriate *and include the determination as part of the sentencing order.* If the court determines that a petition may be appropriate, the court shall forward its preliminary determination along with supporting documentation to the county attorney. ~~If the person is subsequently committed under section 526.10, the person shall serve the sentence in a facility designated by the commissioner of corrections. After the person has served the sentence the person shall be transferred to a facility designated by the commissioner of human services.~~

Sec. 8. [EFFECTIVE DATE.]

Section 7 is effective August 1, 1992, and applies to sentences imposed on or after that date.

ARTICLE 4 PENALTIES

Section 1. Minnesota Statutes 1990, section 609.152, subdivision 2, is amended to read:

Subd. 2. [INCREASED SENTENCES; DANGEROUS OFFENDERS.] Whenever a person is convicted of a violent crime, and the judge is imposing an executed sentence based on a sentencing guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive imprisonment sentence up to the statutory maximum sentence if the offender was at least 18 years old at the time the felony was committed, and:

(1) *the court determines on the record at the time of sentencing that the offender has two or more prior convictions for violent crimes; and*

(2) *the court finds that the offender is a danger to public safety and specifies on the record the basis for the finding, which may include:*

(i) *the offender's past criminal behavior, such as the offender's high frequency rate of criminal activity or juvenile adjudications, or long involvement in criminal activity including juvenile adjudications; or*

(ii) *the fact that the present offense of conviction involved an aggravating factor that would justify a durational departure under the sentencing*

guidelines.

Sec. 2. Minnesota Statutes 1990, section 609.152, subdivision 3, is amended to read:

Subd. 3. [INCREASED SENTENCES; CAREER OFFENDERS.] Whenever a person is convicted of a felony, and the judge is imposing an executed sentence based on a sentencing guidelines presumptive imprisonment sentence, the judge may impose an aggravated durational departure from the presumptive sentence up to the statutory maximum sentence if the judge finds and specifies on the record that the offender has more than four prior felony convictions and that the present offense is a felony that was committed as part of a pattern of criminal conduct ~~from which a substantial portion of the offender's income was derived.~~

Sec. 3. Minnesota Statutes 1990, section 609.184, subdivision 1, is amended to read:

Subdivision 1. [TERMS.] (a) A "heinous crime" is:

(1) a violation or attempted violation of section 609.185, or 609.19;

(2) a violation of section 609.195, or 609.221; or

(3) a violation of section 609.342 ~~or~~, 609.343, or 609.344, if the offense was committed with force or violence.

(b) "Previous conviction" means a conviction in Minnesota of a heinous crime or a conviction elsewhere for conduct that would have been a heinous crime under this chapter if committed in Minnesota. The term includes any conviction that occurred before the commission of the present offense of conviction, but does not include a conviction if 15 years have elapsed since the person was discharged from the sentence imposed for the offense.

Sec. 4. Minnesota Statutes 1990, section 609.185, is amended to read:
609.185 [MURDER IN THE FIRST DEGREE.]

Whoever does any of the following is guilty of murder in the first degree and shall be sentenced to imprisonment for life:

(1) causes the death of a human being with premeditation and with intent to effect the death of the person or of another;

(2) causes the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the person or another;

(3) causes the death of a human being with intent to effect the death of the person or another, while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, tampering with a witness in the first degree, escape from custody, or any felony violation of chapter 152 involving the unlawful sale of a controlled substance;

(4) causes the death of a peace officer or a guard employed at a Minnesota state correctional facility, with intent to effect the death of that person or another, while the peace officer or guard is engaged in the performance of official duties;

(5) causes the death of a minor under circumstances other than those described in clause (1) or (2) while committing child abuse, when the perpetrator has engaged in a past pattern of child abuse upon the child and the death occurs under circumstances manifesting an extreme indifference

to human life; or

(6) causes the death of a human being under circumstances other than those described in clause (1), (2), or (5) while committing domestic abuse, when the perpetrator has engaged in a past pattern of domestic abuse upon the victim and the death occurs under circumstances manifesting an extreme indifference to human life.

For purposes of clause (5), "child abuse" means an act committed against a minor victim that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.342, 609.343, 609.344, 609.345, 609.377, ~~or~~ 609.378, *or* 609.713.

For purposes of clause (6), "domestic abuse" means an act that:

(1) constitutes a violation of section 609.221, 609.222, ~~or~~ 609.223, 609.224, 609.342, 609.343, 609.344; 609.345, *or* 609.713; and

(2) is committed against the victim who is a family or household member as defined in section 518B.01, subdivision 2, paragraph (b).

Sec. 5. Minnesota Statutes 1990, section 609.19, is amended to read:

609.19 [MURDER IN THE SECOND DEGREE.]

Whoever does ~~either~~ any of the following is guilty of murder in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) Causes the death of a human being with intent to effect the death of that person or another, but without premeditation; ~~or~~;

(2) Causes the death of a human being, without intent to effect the death of any person, while committing or attempting to commit a felony offense other than criminal sexual conduct in the first or second degree with force or violence; *or*

(3) Causes the death of a human being without intent to effect the death of any person, while intentionally inflicting or attempting to inflict bodily harm upon the victim, when the perpetrator is restrained under an order for protection issued under chapter 518B and the victim is a person designated to receive protection under the order.

Sec. 6. Minnesota Statutes 1990, section 609.21, subdivision 1, is amended to read:

Subdivision 1. **[CRIMINAL VEHICULAR HOMICIDE.]** Whoever causes the death of a human being not constituting murder or manslaughter as a result of operating a motor vehicle,

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more; or

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving,

is guilty of criminal vehicular homicide resulting in death and may be sentenced to imprisonment for not more than ~~ten~~ 15 years or to payment of a fine of not more than ~~\$20,000~~ \$30,000, or both.

Sec. 7. Minnesota Statutes 1990, section 609.21, subdivision 2, is amended to read:

Subd. 2. [RESULTING IN GREAT BODILY HARM.] Whoever causes great bodily harm to another, not constituting attempted murder or assault, as a result of operating a motor vehicle,

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;
- (3) while having an alcohol concentration of 0.10 or more; or
- (4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving,

is guilty of criminal vehicular operation resulting in great bodily harm and may be sentenced to imprisonment for not more than ~~five~~ *ten* years or to payment of a fine of not more than ~~\$10,000~~ *\$20,000*, or both.

Sec. 8. Minnesota Statutes 1990, section 609.21, subdivision 2a, is amended to read:

Subd. 2a. [RESULTING IN SUBSTANTIAL BODILY HARM.] Whoever causes substantial bodily harm to another, as a result of operating a motor vehicle,

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;
- (3) while having an alcohol concentration of 0.10 or more; or
- (4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving,

is guilty of criminal vehicular operation resulting in substantial bodily harm and may be sentenced to imprisonment for not more than ~~three~~ *five* years or to payment of a fine of not more than \$10,000, or both.

Sec. 9. Minnesota Statutes 1990, section 609.21, subdivision 3, is amended to read:

Subd. 3. [RESULTING IN DEATH TO AN UNBORN CHILD.] Whoever causes the death of an unborn child as a result of operating a motor vehicle,

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;
- (3) while having an alcohol concentration of 0.10 or more; or
- (4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving,

is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ~~ten~~ *15* years or to payment of a fine of not more than ~~\$20,000~~ *\$30,000*, or both. A prosecution for or conviction of a crime under this subdivision is not a bar

to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 10. Minnesota Statutes 1990, section 609.21, subdivision 4, is amended to read:

Subd. 4. [RESULTING IN INJURY TO UNBORN CHILD.] Whoever causes great bodily harm to an unborn child who is subsequently born alive, as a result of operating a motor vehicle,

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of alcohol, a controlled substance, or any combination of those elements;
- (3) while having an alcohol concentration of 0.10 or more; or
- (4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving,

is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than ~~five~~ *ten* years or to payment of a fine of not more than ~~\$10,000~~ *\$20,000*, or both. A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Sec. 11. Minnesota Statutes 1990, section 609.222, is amended to read:
609.222 [ASSAULT IN THE SECOND DEGREE.]

*Subdivision 1. [DANGEROUS WEAPON.] Whoever assaults another with a dangerous weapon may be sentenced to imprisonment for not more than ~~seven~~ *ten* years or to payment of a fine of not more than ~~\$14,000~~ *\$20,000*, or both.*

Subd. 2. [DANGEROUS WEAPON; SUBSTANTIAL BODILY HARM.] Whoever assaults another with a dangerous weapon and inflicts substantial bodily harm may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than \$30,000, or both.

Sec. 12. Minnesota Statutes 1990, section 609.2231, is amended by adding a subdivision to read:

Subd. 5. [PUBLIC EMPLOYEES WITH MANDATED DUTIES.] A person is guilty of a gross misdemeanor who:

- (1) assaults an agricultural inspector, child protection worker, public health nurse, or probation or parole officer while the employee is engaged in the performance of a duty mandated by law, court order, or ordinance;*
- (2) knows that the victim is a public employee engaged in the performance of the official public duties of the office; and*
- (3) inflicts demonstrable bodily harm.*

Sec. 13. Minnesota Statutes 1990, section 609.713, is amended to read:
609.713 [TERRORISTIC THREATS.]

Subdivision 1. Whoever threatens, directly or indirectly, to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly or facility of public transportation or

otherwise to cause serious public inconvenience, or in a reckless disregard of the risk of causing such terror or inconvenience may be sentenced to imprisonment for not more than ~~five~~ *ten years or to payment of a fine of not more than \$20,000, or both.*

Subd. 2. Whoever communicates to another with purpose to terrorize another or in reckless disregard of the risk of causing such terror, that explosives or an explosive device or any incendiary device is present at a named place or location, whether or not the same is in fact present, may be sentenced to imprisonment for not more than ~~three~~ *five years or to payment of a fine of not more than \$10,000, or both.*

Subd. 3. (a) Whoever displays, exhibits, brandishes, or otherwise employs a replica firearm in a threatening manner, may be sentenced to imprisonment for not more than ~~one year and one day~~ *three years* or to payment of a fine of not more than ~~\$3,000~~ *\$10,000*, or both, if, in doing so, the person either:

- (1) causes or attempts to cause terror in another person; or
- (2) acts in reckless disregard of the risk of causing terror in another person.

(b) For purposes of this subdivision, "replica firearm" means a device or object that is not defined as a dangerous weapon, and that is a facsimile or toy version of, and reasonably appears to be a pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher, or any other firearm.

Sec. 14. [EFFECTIVE DATE.]

Sections 1 to 13 are effective August 1, 1992, and apply to crimes committed on or after that date.

ARTICLE 5

CRIME VICTIMS

Section 1. Minnesota Statutes 1990, section 135A.15, is amended to read:

135A.15 [SEXUAL HARASSMENT AND VIOLENCE POLICY.]

Subdivision 1. [POLICY REQUIRED.] The governing board of each public post-secondary system and each public post-secondary institution shall adopt a clear, understandable written policy on sexual harassment and sexual violence *that informs victims of their rights under the crime victims bill of rights, including the right to assistance from the crime victims reparations board and the office of the crime victim ombudsman.* The policy must apply to students and employees and must provide information about their rights and duties. It must include procedures for reporting incidents of sexual harassment or sexual violence and for disciplinary actions against violators. During student registration, each public post-secondary institution shall provide each student with information regarding its policy. *A copy of the policy also shall be posted at appropriate locations on campus at all times.* Each private post-secondary institution that enrolls students who receive state financial aid must adopt a policy that meets the requirements of this section. The higher education coordinating board shall coordinate the policy development of the systems and institutions and periodically provide for review and necessary changes in the policies.

Subd. 2. [VICTIMS' RIGHTS.] *The policy required under subdivision 1 shall, at a minimum, contain the following rights:*

(1) the right to the prompt assistance of school authorities in notifying the appropriate prosecutorial and disciplinary authorities of a sexual assault incident;

(2) the right to a prompt investigation and resolution of a sexual assault complaint by the appropriate prosecutorial and disciplinary authorities;

(3) the right to participate in and have the assistance of an attorney or other support person at any school disciplinary proceeding concerning the sexual assault complaint;

(4) the right to be notified of the outcome of any school disciplinary proceeding concerning the sexual assault complaint;

(5) the right to the complete and prompt assistance of school authorities in obtaining, securing, and maintaining evidence relevant to the school disciplinary proceeding or other legal proceeding concerning the sexual assault complaint; and

(6) the right to have school authorities and personnel take all necessary steps to shield the victim from unwanted contact with the alleged assailant, including, but not limited to, relocation of the victim to safe, alternative housing and transfer of the victim to alternative classes, if requested.

Sec. 2. Minnesota Statutes 1990, section 595.02, subdivision 4, is amended to read:

Subd. 4. [COURT ORDER.] (a) In a proceeding in which a child less than ~~ten~~ 12 years of age is alleging, denying, or describing:

(1) an act of physical abuse or an act of sexual contact or penetration performed with or on the child or any other person by another; or

(2) an act that constitutes a felony assault committed against the child, the court may, upon its own motion or upon the motion of any party, order that the testimony of the child be taken in a room other than the courtroom or in the courtroom and televised at the same time by closed-circuit equipment, or recorded for later showing to be viewed by the jury in the proceeding.

(b) At the taking of testimony under this subdivision, only the judge, the attorneys for the defendant and for the state, any person whose presence would contribute to the welfare and well-being of the child, persons necessary to operate the recording or closed-circuit equipment and, in a child protection proceeding under chapter 260 or a dissolution or custody proceeding under chapter 518, the attorneys for those parties with a right to participate may be present with the child during the child's testimony.

(c) The court shall permit the defendant in a criminal or delinquency matter to observe and hear the testimony of the child in person. If the court, upon its own motion or the motion of any party, determines that the presence of the defendant during testimony taken pursuant to this subdivision would psychologically traumatize the witness so as to render the witness unavailable to testify, the court may order that the testimony be taken in a manner that:

(1) the defendant can see and hear the testimony of the child in person and communicate with counsel, but the child cannot see or hear the defendant; or

(2) the defendant ~~and child can view each other~~ can see and hear the

testimony of the child by video or television monitor from a separate room and communicate with counsel, but the child cannot see or hear the defendant.

Sec. 3. Minnesota Statutes 1990, section 611A.034, is amended to read:

611A.034 [SEPARATE WAITING AREAS IN COURTHOUSE.]

The court shall provide a waiting area for victims during court proceedings which is separate from the waiting area used by the defendant, the defendant's relatives, and defense witnesses, if such a waiting area is available and its use is practical. If a separate waiting area for victims is not available or practical, the court shall provide other safeguards to minimize implement procedures that prevent the victim's contact with the defendant, the defendant's relatives, and defense witnesses during court proceedings, such as increased bailiff surveillance and victim escorts.

Sec. 4. Minnesota Statutes 1990, section 611A.04, subdivision 1, is amended to read:

Subdivision 1. [REQUEST; DECISION.] (a) A victim of a crime has the right to request that receive restitution be considered as part of the disposition of a criminal charge or juvenile delinquency proceeding against the offender if the offender is convicted or found delinquent. The request for restitution shall be made by the victim in writing in affidavit form. The request court, or a person or agency designated by the court, shall request information from the victim to determine the amount of restitution owed. The court or its designee shall obtain the information from the victim in affidavit form. Information submitted relating to restitution must describe the items or elements of loss, itemize the total dollar amounts of restitution claimed, and specify the reasons justifying these amounts, if the request is for monetary restitution is in the form of money or property restitution. A request for restitution may include, but is not limited to, any out-of-pocket losses resulting from the crime, including medical and therapy costs, replacement of wages and services, and funeral expenses. In order to be considered by the court, the request at the sentencing or dispositional hearing, all information regarding restitution must be received by the court administrator of the appropriate court at least three business days before the sentencing or dispositional hearing. The court administrator shall provide copies of this request to the prosecutor and the offender at least 24 hours before the sentencing or dispositional hearing and must also be provided to the offender at least three business days before the sentencing or dispositional hearing. If the victim's noncooperation prevents the court or its designee from obtaining competent evidence regarding restitution, the court is not obligated to consider information regarding restitution in the sentencing or dispositional hearing. At the sentencing or dispositional hearing, the court shall give the offender an opportunity to respond to specific items of restitution and their dollar amounts.

(b) The court may amend or issue an order of restitution after the sentencing or dispositional hearing if:

(1) the offender is on probation or supervised release;

(2) a request for information regarding restitution is filed by the victim or prosecutor in affidavit form was submitted as required under paragraph (a); and

(3) the true extent of the victim's loss was not known at the time of the

sentencing or dispositional hearing.

If the court holds a hearing on the restitution request, the court must notify the offender, the offender's attorney, the victim, and the prosecutor at least five business days before the hearing. The court's restitution decision is governed by this section and section 611A.045.

(c) The court shall grant or deny restitution or partial restitution and shall state on the record its reasons for its decision on restitution if ~~a request for restitution has been made~~ *information relating to restitution has been presented*. If the court grants partial restitution it shall also specify the full amount of restitution that may be docketed as a civil judgment under subdivision 3. The court may not require that the victim waive or otherwise forfeit any rights or causes of action as a condition of granting restitution or partial restitution.

Sec. 5. Minnesota Statutes 1990, section 611A.04, subdivision 1a, is amended to read:

Subd. 1a. [CRIME BOARD REQUEST.] The crime victims reparations board may request restitution on behalf of a victim by filing a copy of a claim for reparations submitted under sections 611A.52 to 611A.67, along with orders of the board, if any, which detail any amounts paid by the board to the victim. *The board may file the claim with the court administrator or with the person or agency the court has designated to obtain information relating to restitution. In either event, the board shall submit the claim not less than three business days before the sentencing or dispositional hearing. If the board submits the claim directly to the court administrator, it shall also provide a copy to the offender.* The filing of a claim for reparations with the court administrator shall also serve as a request for restitution by the victim. The restitution requested by the board may be considered to be both on its own behalf and on behalf of the victim. If the board has not paid reparations to the victim, restitution may be made directly to the victim. If the board has paid reparations to the victim, the court shall order restitution payments to be made directly to the board.

Sec. 6. Minnesota Statutes 1990, section 611A.52, subdivision 6, is amended to read:

Subd. 6. [CRIME.] (a) "Crime" means conduct that:

(1) occurs or is attempted anywhere within the geographical boundaries of this state, including Indian reservations and other trust lands;

(2) poses a substantial threat of personal injury or death; and

(3) is included within the definition of "crime" in section 609.02, subdivision 1, or would be included within that definition but for the fact that (i) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state; or (ii) the act was alleged or found to have been committed by a juvenile.

(b) A crime occurs whether or not any person is prosecuted or convicted but the conviction of a person whose acts give rise to the claim is conclusive evidence that a crime was committed unless an application for rehearing, appeal, or petition for certiorari is pending or a new trial or rehearing has been ordered.

(c) "Crime" does not include an act involving the operation of a motor vehicle, aircraft, or watercraft that results in injury or death, except that a

crime includes any of the following:

(1) injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or watercraft;

(2) injury or death caused by a driver in violation of section 169.09, subdivision 1; 169.121; or 609.21; and

(3) injury or death caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which the driver knowingly and willingly participated.

Sec. 7. [611A.711] [CRIME VICTIM SERVICES TELEPHONE LINE.]

The commissioner of public safety shall operate at least one statewide toll-free 24-hour telephone line for the purpose of providing crime victims with referrals for victim services and resources.

Sec. 8. [611A.76] [MEDIATION PROGRAMS FOR CRIME VICTIMS AND OFFENDERS.]

Subdivision 1. [GRANTS.] The state court administrator shall award grants to nonprofit organizations to create or expand mediation programs for crime victims and offenders. For purposes of this section, "offender" means an adult charged with a nonviolent crime or a juvenile with respect to whom a petition for delinquency has been filed in connection with a nonviolent offense.

Subd. 2. [PROGRAMS.] The state court administrator shall award grants to further the following goals:

(1) to expand existing mediation programs for crime victims and juvenile offenders to also include adult offenders;

(2) to initiate victim-offender mediation programs in areas that have no victim-offender mediation programs;

(3) to expand the opportunities for crime victims to be involved in the criminal justice process;

(4) to evaluate the effectiveness of victim-offender mediation programs in reducing recidivism and encouraging the payment of court-ordered restitution; and

(5) to evaluate the satisfaction of victims who participate in the mediation programs.

Subd. 3. [MEDIATOR QUALIFICATIONS.] The state court administrator shall establish criteria to ensure that mediators participating in the program are qualified.

Subd. 4. [MATCH REQUIRED.] A nonprofit organization may not receive a grant under this section unless the group has raised a matching amount from other sources.

Sec. 9. [611A.77] [CRIME VICTIMIZATION SURVEYS.]

Subdivision 1. [PURPOSE OF SURVEYS.] The commissioner of corrections shall conduct a statewide crime victimization survey every three years. Each survey shall compile information concerning:

(1) the extent to which Minnesota citizens, households, and commercial establishments were victimized by crimes, whether completed or attempted;

- (2) *the characteristics of victims;*
- (3) *the circumstances surrounding the criminal acts, such as the relationship between victim and offender;*
- (4) *the characteristics of offenders;*
- (5) *the extent of victim injuries;*
- (6) *the economic consequences to victims;*
- (7) *whether the use of drugs or alcohol was involved in the incident;*
- (8) *the time and place of criminal acts;*
- (9) *the use of weapons;*
- (10) *whether the incident was reported to police, and if not, the reasons for not doing so; and*
- (11) *whether the incident resulted in a prosecution and the result of that prosecution.*

Subd. 2. [CRIMES.] *For purposes of the survey required by subdivision 1, "crime" means a felony crime of violence or crime against property. The commissioner shall develop a list of crimes to be included in the surveys, and may add any nonfelony offense if the commissioner determines that including the offense will substantially increase the value of the surveys.*

Subd. 3. [CONSULTANT.] *The commissioner shall contract for each three-year survey with a qualified consultant.*

Subd. 4. [REPORTS.] *The commissioner shall report the survey results to the legislature every third year by January 1, beginning January 1, 1996.*

Sec. 10. [EFFECTIVE DATE.]

Sections 3 to 6 are effective August 1, 1992, and apply to crimes committed on or after that date.

ARTICLE 6

DOMESTIC ABUSE

Section 1. [480.30] [JUDICIAL TRAINING ON DOMESTIC ABUSE.]

The supreme court's judicial education program on domestic abuse must include ongoing training for district court judges on domestic abuse laws and related civil and criminal court issues. The program must include education on the causes of family violence and culturally responsive approaches to serving victims. The program must emphasize the need for the coordination of court and legal victim advocacy services and include education on domestic abuse programs and policies within law enforcement agencies and prosecuting authorities as well as the court system.

Sec. 2. Minnesota Statutes 1991 Supplement, section 518B.01, subdivision 4, is amended to read:

Subd. 4. [ORDER FOR PROTECTION.] *There shall exist an action known as a petition for an order for protection in cases of domestic abuse.*

(a) *A petition for relief under this section may be made by any family or household member personally or on behalf of minor family or household members.*

(b) *A petition for relief shall allege the existence of domestic abuse, and*

shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(c) A petition for relief must state whether there is an existing order for protection in effect under this chapter governing both the parties and whether there is a pending lawsuit, complaint, petition or other action between the parties under chapter 257, 518, 518A, 518B, or 518C. The clerk of court shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A subsequent order in a separate action under this chapter may modify only the provision of an existing order that grants relief authorized under subdivision 6, paragraph (a), clause (1). A petition for relief may be granted, regardless of whether there is a pending action between the parties.

(d) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

(e) The court shall advise a petitioner under clause (d) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist with the writing and filing of the motion and affidavit.

(f) The court shall advise a petitioner under clause (d) of the right to serve the respondent by published notice under subdivision 5, paragraph (b), if the respondent is avoiding personal service by concealment or otherwise, and shall assist with the writing and filing of the affidavit.

(g) *The court shall advise the petitioner of the right to seek restitution under the petition for relief.*

Sec. 3. Minnesota Statutes 1991 Supplement, section 518B.01, subdivision 6, is amended to read:

Subd. 6. [RELIEF BY THE COURT.] (a) Upon notice and hearing, the court may provide relief as follows:

- (1) restrain the abusing party from committing acts of domestic abuse;
- (2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;
- (3) award temporary custody or establish temporary visitation with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court's deliberation under this subdivision shall in no way delay the issuance of an order for protection granting other reliefs provided for in Laws 1985, chapter 195;
- (4) on the same basis as is provided in chapter 518, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518;
- (5) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;
- (6) order the abusing party to participate in treatment or counseling services;

(7) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(8) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment; ~~and~~

(9) *order the abusing party to pay restitution to the petitioner; and*

(10) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or constable, as provided by this section.

(b) Any relief granted by the order for protection shall be for a fixed period not to exceed one year, except when the court determines a longer fixed period is appropriate.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.

(f) *An order for restitution issued under this subdivision is enforceable as a civil judgment.*

Sec. 4. Minnesota Statutes 1990, section 518B.01, subdivision 13, is amended to read:

Subd. 13. [COPY TO LAW ENFORCEMENT AGENCY.] (a) An order for protection granted pursuant to this section shall be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the residence of the applicant.

Each appropriate law enforcement agency shall make available to other law enforcement officers through a system for verification, information as to the existence and status of any order for protection issued pursuant to this section.

(b) *If the applicant notifies the court administrator of a change in the applicant's residence so that a different local law enforcement agency has jurisdiction over the residence, the order for protection must be forwarded by the court administrator to the new law enforcement agency within 24 hours of the notice. If the applicant notifies the new law enforcement agency that an order for protection has been issued under this section and the*

applicant has established a new residence within that agency's jurisdiction, within 24 hours the local law enforcement agency shall request a copy of the order for protection from the court administrator in the county that issued the order.

(c) When an order for protection is granted, the applicant for an order for protection must be told by the court that:

(1) notification of a change in residence should be given immediately to the court administrator and to the local law enforcement agency having jurisdiction over the new residence of the applicant;

(2) the reason for notification of a change in residence is to forward an order for protection to the proper law enforcement agency; and

(3) the order for protection must be forwarded to the law enforcement agency having jurisdiction over the new residence within 24 hours of notification of a change in residence, whether notification is given to the court administrator or to the local law enforcement agency having jurisdiction over the applicant's new residence.

An order for protection is enforceable even if the applicant does not notify the court administrator or the appropriate law enforcement agency of a change in residence.

Sec. 5. Minnesota Statutes 1991 Supplement, section 518B.01, subdivision 14, is amended to read:

Subd. 14. [VIOLATION OF AN ORDER FOR PROTECTION.] (a) Whenever an order for protection is granted pursuant to this section, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor. *Upon conviction, the defendant must be sentenced to a minimum of two days' imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court.* A person who violates this paragraph within two years after a previous conviction under this paragraph or within two years after a previous conviction under a similar law of another state, is guilty of a gross misdemeanor. ~~When a court sentences a person convicted of a gross misdemeanor and does not impose a period of incarceration, the court shall make findings on the record regarding the reasons for not requiring incarceration~~ *Upon conviction, the defendant must be sentenced to a minimum of ten days' imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the applicable minimum sentence provided in this paragraph.*

(b) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to this section restraining the person or excluding the person from the residence or the petitioner's place of employment, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

(c) A violation of an order for protection shall also constitute contempt of court and be subject to the penalties therefor.

(d) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent, and not to exceed \$10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(e) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted pursuant to this section, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. The court also may refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (a).

(f) If it is alleged that the respondent has violated an order for protection issued under subdivision 6 and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the court finds that the respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year.

(g) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.

A peace officer is not liable under section 609.43, clause (1), for a failure to perform a duty required by clause (b).

Sec. 6. Minnesota Statutes 1990, section 518B.01, is amended by adding a subdivision to read:

Subd. 20. [STATEWIDE APPLICATION.] An order for protection granted under this section applies throughout this state.

Sec. 7. Minnesota Statutes 1990, section 518B.01, is amended by adding a subdivision to read:

Subd. 21. [ORDER FOR PROTECTION FORMS.] The state court administrator, in consultation with the advisory council on battered women, city and county attorneys, and legal advocates who work with victims, shall develop a uniform order for protection form that will facilitate the consistent

enforcement of orders for protection throughout the state.

Sec. 8. Minnesota Statutes 1990, section 609.135, subdivision 5, is amended to read:

Subd. 5. If a person is convicted of assaulting a spouse or other person with whom the person resides, and the court stays imposition or execution of sentence and places the defendant on probation, the court ~~may~~ *must* condition the stay upon the defendant's participation in counseling or other appropriate programs selected by the court.

Sec. 9. Minnesota Statutes 1990, section 609.224, subdivision 2, is amended to read:

Subd. 2. [GROSS MISDEMEANOR.] (a) Whoever violates the provisions of subdivision 1 against the same victim within five years of a previous conviction under subdivision 1 ~~or~~, sections 609.221 to 609.2231, *or any similar law of another state*, may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than \$3,000, or both.

(b) Whoever violates the provisions of subdivision 1 within two years of a previous conviction under subdivision 1 or sections 609.221 to 609.2231 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.

Sec. 10. Minnesota Statutes 1990, section 609.605, is amended by adding a subdivision to read:

Subd. 4. [FELONY.] A person is guilty of a felony and 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 the person:

(1) is restrained by a temporary or permanent order for protection granted under section 518B.01;

(2) knows that the order has been issued;

(3) violates the order by entering the dwelling of the person who petitioned for the order; and

(4) enters the dwelling when the petitioner is present and without that person's consent.

Sec. 11. Minnesota Statutes 1990, section 611A.0311, subdivision 2, is amended to read:

Subd. 2. [CONTENTS OF PLAN.] ~~The commissioner of public safety shall select five county attorneys and five city attorneys whose jurisdictions have higher than a 50 percent dismissal rate of domestic abuse cases and direct them to Each county and city attorney shall develop and implement a written plan to expedite and improve the efficiency and just disposition of domestic abuse cases brought to the prosecuting authority. Domestic abuse advocates, law enforcement officials, and other interested members of the public must have an opportunity to assist in the development of a model plan and in the development or adaptation of the plans in each of the jurisdictions selected for the pilot program jurisdiction. Once a model plan is developed, The commissioner shall make it the model and related training and technical assistance available to all city and county attorneys regardless of whether they are participating in the pilot program. All plans must state goals and contain policies and procedures to address the following matters:~~

(1) early assignment of a trial prosecutor who has the responsibility of handling the domestic abuse case through disposition, whenever feasible, or, where applicable, probation revocation; and early contact between the trial prosecutor and the victim;

(2) procedures to facilitate the earliest possible contact between the prosecutor's office and the victim for the purpose of acquainting the victim with the criminal justice process, the use of subpoenas, the victim's role as a witness in the prosecution, and the domestic abuse or victim services that are available;

(3) procedures to coordinate the trial prosecutor's efforts with those of the domestic abuse advocate or victim advocate, where available, and to facilitate the early provision of advocacy services to the victim;

(4) *procedures to encourage the prosecution of all domestic abuse cases where a crime can be proven;*

(5) methods that will be used to identify, gather, and preserve evidence in addition to the victim's in-court testimony that will enhance the ability to prosecute a case when a victim is reluctant to assist, including but not limited to physical evidence of the victim's injury, evidence relating to the scene of the crime, eyewitness testimony, and statements of the victim made at or near the time of the injury;

(5) (6) procedures for educating local law enforcement agencies about the contents of the plan and their role in assisting with its implementation, *including procedures to make arrests for domestic abuse and violations of an order for protection issued under chapter 518B;*

(6) (7) the use for subpoenas to victims and witnesses, where appropriate;

(7) (8) procedures for annual review of the plan to evaluate whether it is meeting its goals effectively and whether improvements are needed; and

(8) (9) a timetable for implementation.

Sec. 12. Minnesota Statutes 1990, section 611A.0311, subdivision 3, is amended to read:

Subd. 3. ~~[COPY NOTICE FILED WITH DEPARTMENT OF PUBLIC SAFETY.] A copy of the written plan must be filed with the commissioner of public safety on or before November 15, 1990. The Each city and county attorneys selected for the pilot program attorney shall file a status report on the pilot program notice that their prosecution plan has been adopted with the commissioner of public safety by January 1, 1992. The status report must contain information on the number of prosecutions and dismissals of domestic abuse cases in the prosecutor's office June 1, 1994.~~

Sec. 13. Minnesota Statutes 1991 Supplement, section 611A.32, subdivision 1, is amended to read:

Subdivision 1. [GRANTS AWARDED.] The commissioner shall award grants to programs which provide emergency shelter services and support services to battered women and their children. The commissioner shall also award grants for training, technical assistance, and for the development and implementation of education programs to increase public awareness of the causes of battering, the solutions to preventing and ending domestic violence, and the problems faced by battered women. Grants shall be awarded in a manner that ensures that they are equitably distributed to programs serving metropolitan and nonmetropolitan populations. *By July 1, 1995,*

community-based domestic abuse advocacy and support services programs must be established in every judicial assignment.

Sec. 14. [629.342] [LAW ENFORCEMENT POLICIES FOR DOMESTIC ABUSE ARRESTS.]

Subdivision 1. [DEFINITION.] For purposes of this section, "domestic abuse" has the meaning given in section 518B.01, subdivision 2.

Subd. 2. [POLICIES REQUIRED.] Each law enforcement agency shall develop, adopt, and implement a written policy regarding arrest procedures for domestic abuse incidents. In the development of a policy, each law enforcement agency shall consult with domestic abuse advocates, community organizations, and other law enforcement agencies with expertise in the recognition and handling of domestic abuse incidents. The policy shall discourage dual arrests and include consideration of whether one of the parties acted in self defense.

Subd. 3. [ASSISTANCE TO VICTIM WHERE NO ARREST.] If a law enforcement officer does not make an arrest when the officer has probable cause to believe that a person is committing or has committed domestic abuse or violated an order for protection, the officer shall provide immediate assistance to the victim. Assistance includes:

- (1) assisting the victim in obtaining necessary medical treatment;*
- (2) providing the victim with the notice of rights under section 629.341, subdivision 3; and*
- (3) remaining at the scene for a reasonable time until, in the reasonable judgment of the officer, the likelihood of further imminent violence has been eliminated.*

Sec. 15. [EFFECTIVE DATE.]

Sections 5, 8, and 9 are effective August 1, 1992, and apply to crimes committed on or after that date.

ARTICLE 7

JUVENILES

Section 1. Minnesota Statutes 1991 Supplement, section 260.015, subdivision 2a, is amended to read:

Subd. 2a. [CHILD IN NEED OF PROTECTION OR SERVICES.] "Child in need of protection or services" means a child who is in need of protection or services because the child:

- (1) is abandoned or without parent, guardian, or custodian;*
- (2)(i) has been a victim of physical or sexual abuse, or (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 24 28, (iii) resides with or would reside with a perpetrator of domestic child abuse, or (iv) is a victim of emotional maltreatment as defined in subdivision 5a;*
- (3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;*
- (4) is without the special care made necessary by a physical, mental, or*

emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) has committed a delinquent act before becoming ten years old;

(11) is a runaway;

(12) is an habitual truant; or

(13) is one whose custodial parent's parental rights to another child have been involuntarily terminated within the past five years.

Sec. 2. Minnesota Statutes 1990, section 260.015, is amended by adding a subdivision to read:

Subd. 28. [CHILD ABUSE.] "Child abuse" means an act that involves a minor victim and that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.321, 609.322, 609.323, 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, or 617.246.

Sec. 3. Minnesota Statutes 1990, section 260.151, subdivision 1, is amended to read:

Subdivision 1. Upon request of the court the county welfare board or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260.111 and shall report its findings to the court. The court may

order any minor coming within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

The court shall have a chemical use assessment conducted when a child is (1) found to be delinquent for violating a provision of chapter 152, *or for committing a felony-level violation of a provision of chapter 609 if the probation officer determines that alcohol or drug use was a contributing factor in the commission of the offense*, or (2) alleged to be delinquent for violating a provision of chapter 152, if the child is being held in custody under a detention order. The assessor's qualifications and the assessment criteria shall comply with Minnesota Rules, parts 9530.6600 to 9530.6655. If funds under chapter 254B are to be used to pay for the recommended treatment, the assessment and placement must comply with all provisions of Minnesota Rules, parts 9530.6600 to 9530.6655 and 9530.7000 to 9530.7030. The commissioner of public safety shall reimburse the court for the cost of the chemical use assessment, up to a maximum of \$100.

With the consent of the commissioner of corrections and agreement of the county to pay the costs thereof, the court may, by order, place a minor coming within its jurisdiction in an institution maintained by the commissioner for the detention, diagnosis, custody and treatment of persons adjudicated to be delinquent, in order that the condition of the minor be given due consideration in the disposition of the case. Adoption investigations shall be conducted in accordance with the laws relating to adoptions. Any funds received under the provisions of this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for use by the commissioner of corrections during that period and are hereby appropriated annually to the commissioner of corrections as reimbursement of the costs of providing these services to the juvenile courts.

Sec. 4. Minnesota Statutes 1990, section 260.161, subdivision 1, is amended to read:

Subdivision 1. (a) The juvenile court judge shall keep such minutes and in such manner as the court deems necessary and proper. *Except as provided in paragraph (b)*, the court shall keep and maintain records pertaining to delinquent adjudications until the person reaches the age of 23 years and shall release the records on an individual to a requesting adult court for purposes of sentencing, or to an adult court or juvenile court as required by the right of confrontation of either the United States Constitution or the Minnesota Constitution. The juvenile court shall provide, upon the request of any other juvenile court, copies of the records concerning adjudications involving the particular child. The court shall also keep an index in which files pertaining to juvenile matters shall be indexed under the name of the child. After the name of each file shall be shown the file number and, if ordered by the court, the book and page of the register in which the documents pertaining to such file are listed. The court shall also keep a register properly indexed in which shall be listed under the name of the child all documents filed pertaining to the child and in the order filed. The list shall show the name of the document and the date of filing thereof. The juvenile court legal records shall be deposited in files and shall include the petition, summons, notice, findings, orders, decrees, judgments, and motions and such other matters as the court deems necessary and proper. The legal records maintained in this file shall be open at all reasonable times to the inspection of any child to whom the records relate, and to the child's parent and guardian.

(b) The court shall retain records of the court finding that a juvenile committed an act that would be a violation of, or an attempt to violate, section 609.342, 609.343, 609.344, or 609.345, for as long as the records would be retained if the juvenile had been an adult at the time of the offense. This paragraph does not apply unless the juvenile was represented by an attorney when the petition was admitted or proven.

Sec. 5. Minnesota Statutes 1990, section 260.161, is amended by adding a subdivision to read:

Subd. 1a. [RECORD OF ADJUDICATIONS; NOTICE TO BUREAU OF CRIMINAL APPREHENSION.] The juvenile court shall forward to the bureau of criminal apprehension the following data on juveniles adjudicated delinquent for having committed an act described in subdivision 1, paragraph (b):

- (1) the name and birth date of the juvenile;*
- (2) the type of act for which the juvenile was adjudicated delinquent and date of the offense; and*
- (3) the date and county of the adjudication.*

Sec. 6. Minnesota Statutes 1990, section 260.165, is amended by adding a subdivision to read:

Subd. 4. A child may be taken into immediate custody by a peace officer when the peace officer reasonably believes the child to be truant from school and school is in session. The child may be taken into custody under this subdivision only for the limited purpose of transporting the child to the school in which the child is enrolled. When the peace officer and the child arrive at the school, the peace officer shall inform the school that the child was believed to be truant and shall request the school to immediately contact the child's parent, guardian, or custodian.

Sec. 7. Minnesota Statutes 1990, section 260.172, subdivision 1, is amended to read:

Subdivision 1. (a) If a child was taken into custody under section 260.165, subdivision 1, clause (a) or (c)(2), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) In all other cases, the court shall hold a detention hearing:

(1) within 36 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at a juvenile secure detention facility or shelter care facility; or

(2) within 24 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, if the child is being held at an adult jail or municipal lockup.

(c) Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, *subject to reasonable conditions of release including, but not limited*

to, a requirement that the child undergo a chemical use assessment as provided in section 260.151, subdivision 1. In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse. In a proceeding regarding a child in need of protection or services, the court, before determining whether a child should continue in custody, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts, or in the case of an Indian child, active efforts, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement or to reunite the child with the child's family, or that reasonable efforts were not possible. The court shall also determine whether there are available services that would prevent the need for further detention.

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

Sec. 8. Minnesota Statutes 1990, section 260.185, is amended by adding a subdivision to read:

Subd. 1a. [POSSESSION OF FIREARM.] If the child is petitioned and found delinquent by the court, and the court also finds that the child was in possession of a firearm at the time of the offense, in addition to any other disposition the court shall order that the firearm be immediately seized and forfeited and that the child be required to serve at least 200 hours of community service.

Sec. 9. Minnesota Statutes 1990, section 260.185, subdivision 4, is amended to read:

Subd. 4. All orders for supervision under subdivision 1, clause (b) shall be for an indeterminate period unless otherwise specified by the court, and shall be reviewed by the court at least annually. All orders under subdivision 1, clause (c) shall be for a specified length of time set by the court. However, before an order has expired and upon the court's own motion or that of any interested party, the court has continuing jurisdiction to renew the order or, after notice to the parties and a hearing, make some other disposition of the case, until the individual is no longer a minor becomes 19 years of age. Any person to whom legal custody is transferred shall report to the court in writing at such periods as the court may direct.

Sec. 10. [299C.095] [SYSTEM FOR IDENTIFICATION OF ADJUDICATED JUVENILES.]

The bureau shall establish a system for recording the data on adjudicated juveniles received from the juvenile courts under section 5. The data in the system are private data as defined in section 13.02, subdivision 12, but are accessible to a person who has access to the juvenile court records as provided in section 260.161 or under court rule.

Sec. 11. Minnesota Statutes 1990, section 609.055, is amended to read:
609.055 [LIABILITY OF CHILDREN.]

Subdivision 1. [GENERAL RULE.] Children under the age of 14 years are incapable of committing crime.

Subd. 2. [ADULT PROSECUTION.] Children of the age of 14 years or

over but under 18 years may be prosecuted for a criminal offense if the alleged violation is duly referred to the appropriate prosecuting authority in accordance with the provisions of chapter 260. *A child who is 14 years of age or older but under 18 years of age is capable of committing a crime and may be prosecuted for a gross misdemeanor or felony if:*

(1) the child has been previously referred for prosecution on a felony charge by an order of reference issued pursuant to a hearing under section 260.125, subdivision 2, or pursuant to the waiver of the right to such a hearing, or prosecuted pursuant to this subdivision; and

(2) the child was convicted of the felony offense or offenses for which the child was prosecuted or of a lesser included felony offense.

Sec. 12. [REPEALER.]

Minnesota Statutes 1990, section 260.125, subdivision 3a, is repealed.

Sec. 13. [EFFECTIVE DATE.]

Sections 7, 9, and 11 are effective August 1, 1992, and apply to violations committed on or after that date.

ARTICLE 8

LAW ENFORCEMENT

Section 1. [169.797] [CRIMINAL PENALTY FOR FAILURE TO PRODUCE RENTAL OR LEASE AGREEMENT.]

Subdivision 1. [DEFINITION.] As used in this section:

(1) "rental or lease agreement" means a written agreement to rent or lease a motor vehicle that contains the name, address, and driver's license number of the renter or lessee; and

(2) "person" has the meaning given the term in section 645.44, subdivision 7.

Subd. 2. [REQUIREMENT.] Every person who rents or leases a motor vehicle in this state for a time period of less than 180 days shall have the rental or lease agreement covering the vehicle in possession at all times when operating the vehicle and shall produce it upon the demand of a peace officer. If the person is unable to produce the rental or lease agreement upon the demand of a peace officer, the person shall, within 14 days after the demand, produce the rental or lease agreement to the place stated in the notice provided by the peace officer. The rental or lease agreement may be mailed by the person as long as it is received within 14 days.

Subd. 3. [PENALTY.] A person who fails to produce a rental or lease agreement as required by this section is guilty of a misdemeanor. The peace officer may mail the citation to the address given by the person or to the address stated on the driver's license, and this service by mail is valid notwithstanding section 629.34. It is not a defense that the person failed to notify the department of public safety of a change of name or address as required under section 171.11. The citation may be sent after the 14-day period.

Subd. 4. [FALSE OR FICTITIOUS RENTAL OR LEASE AGREEMENT.] It is a misdemeanor for any person to alter or make a fictitious rental or lease agreement, or to display an altered or fictitious rental or lease agreement knowing or having reason to know the agreement is altered

or fictitious.

Sec. 2. Minnesota Statutes 1990, section 259.11, is amended to read:

259.11 [ORDER; FILING COPIES.]

(a) Upon meeting the requirements of section 259.10, the court shall grant the application unless it finds that there is an intent to defraud or mislead or in the case of the change of a minor child's name, the court finds that such name change is not in the best interests of the child. The court shall set forth in the order the name and age of the applicant's spouse and each child of the applicant, if any, and shall state a description of the lands, if any, in which the applicant and the spouse and children, if any, claim to have an interest. The clerk shall file such order, and record the same in the judgment book. If lands be described therein, a certified copy of the order shall be filed for record, by the applicant, with the county recorder of each county wherein any of the same are situated. Before doing so the clerk shall present the same to the county auditor who shall enter the change of name in the auditor's official records and note upon the instrument, over an official signature, the words "change of name recorded." Any such order shall not be filed, nor any certified copy thereof be issued, until the applicant shall have paid to the county recorder and clerk the fee required by law. No application shall be denied on the basis of the marital status of the applicant.

(b) *When a person applies for a name change, the court shall determine whether the person has been convicted of a felony in this or any other state. If so, the court shall, within ten days after the name change application is granted, report the name change to the bureau of criminal apprehension. The person whose name is changed shall also report the change to the bureau of criminal apprehension within ten days. The court granting the name change application must explain this reporting duty in its order. Any person required to report the person's name change to the bureau of criminal apprehension who fails to report the name change as required under this paragraph is guilty of a gross misdemeanor.*

Sec. 3. Minnesota Statutes 1990, section 626.5531, subdivision 1, is amended to read:

Subdivision 1. [REPORTS REQUIRED.] A peace officer must report to the head of the officer's department every violation of chapter 609 or a local criminal ordinance if the officer has reason to believe, *or if the victim alleges*, that the offender was motivated to commit the act by the victim's race, religion, national origin, sex, age, disability, or characteristics identified as sexual orientation. The superintendent of the bureau of criminal apprehension shall adopt a reporting form to be used by law enforcement agencies in making the reports required under this section. The reports must include for each incident all of the following:

- (1) the date of the offense;
- (2) the location of the offense;
- (3) whether the target of the incident is a person, private property, or public property;
- (4) the crime committed;
- (5) the type of bias and information about the offender and the victim that is relevant to that bias;

(6) any organized group involved in the incident;

(7) the disposition of the case; ~~and~~

(8) *whether the determination that the offense was motivated by bias was based on the officer's reasonable belief or on the victim's allegation; and*

(9) any additional information the superintendent deems necessary for the acquisition of accurate and relevant data.

Sec. 4. Minnesota Statutes 1990, section 626.843, subdivision 1, is amended to read:

Subdivision 1. [RULES REQUIRED.] The board shall adopt rules with respect to:

(a) The certification of peace officer training schools, programs, or courses including training schools for the Minnesota state patrol. Such schools, programs and courses shall include those administered by the state, county, school district, municipality, or joint or contractual combinations thereof, and shall include preparatory instruction in law enforcement and minimum basic training courses;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required at each certified peace officers training school located within the state;

(c) Minimum qualifications for instructors at certified peace officer training schools located within this state;

(d) Minimum standards of physical, mental, and educational fitness which shall govern the recruitment and licensing of peace officers within the state, by any state, county, municipality, or joint or contractual combination thereof, including members of the Minnesota state patrol;

(e) Minimum standards of conduct which would affect the individual's performance of duties as a peace officer;

These standards shall be established and published on or before July 1, 1979.

(f) Minimum basic training which peace officers appointed to temporary or probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following any such appointment to a temporary or probationary term;

(g) Minimum specialized training which part-time peace officers shall complete in order to be eligible for continued employment as a part-time peace officer or permanent employment as a peace officer, and the time within which the specialized training must be completed;

(h) Content of minimum basic training courses required of graduates of certified law enforcement training schools or programs. Such courses shall not duplicate the content of certified academic or general background courses completed by a student but shall concentrate on practical skills deemed essential for a peace officer. Successful completion of such a course shall be deemed satisfaction of the minimum basic training requirement;

(i) Grading, reporting, attendance and other records, and certificates of attendance or accomplishment;

(j) The procedures to be followed by a part-time peace officer for notifying the board of intent to pursue the specialized training for part-time peace

officers who desire to become peace officers pursuant to clause (g), and section 626.845, subdivision 1, clause (g);

(k) The establishment and use by any political subdivision or state law enforcement agency which employs persons licensed by the board of procedures for investigation and resolution of allegations of misconduct by persons licensed by the board. The procedures shall be in writing and shall be established on or before October 1, 1984;

(l) The issues that must be considered by each political subdivision and state law enforcement agency that employs persons licensed by the board in establishing procedures under section 626.5532 to govern the conduct of peace officers who are in pursuit of a vehicle being operated in violation of section 609.487, and requirements for the training of peace officers in conducting pursuits. The adoption of specific procedures and requirements is within the authority of the political subdivision or agency; ~~and~~

(m) *Supervision of part-time peace officers and requirements for documentation of hours worked by a part-time peace officer who is on active duty. These rules shall be adopted by December 31, 1993; and*

(n) Such other matters as may be necessary consistent with sections 626.84 to 626.855. Rules promulgated by the attorney general with respect to these matters may be continued in force by resolution of the board if the board finds the rules to be consistent with sections 626.84 to 626.855.

Sec. 5. Minnesota Statutes 1990, section 626.8451, is amended to read:

626.8451 [TRAINING IN IDENTIFYING AND RESPONDING TO CERTAIN CRIMES MOTIVATED BY BIAS.]

Subdivision 1. [TRAINING COURSE; CRIMES MOTIVATED BY BIAS.] The board must prepare a training course to assist peace officers in identifying and responding to crimes motivated by the victim's race, religion, national origin, sex, age, disability, or characteristics identified as sexual orientation. The course must include material to help officers distinguish bias crimes from other crimes, to help officers in understanding and assisting victims of these crimes, and to ensure that bias crimes will be accurately reported as required under section 626.5531. The course must be updated periodically as the board considers appropriate.

Subd. 1a. [TRAINING COURSE; CRIMES OF VIOLENCE.] The board must prepare a training course to assist peace officers in responding to crimes of violence. The course must include information about:

(1) the needs of victims of these crimes and the most effective way to meet those needs;

(2) the extent and causes of violence, which includes sexual abuse, physical violence, and neglect;

(3) identification of violence, which includes physical or sexual abuse and neglect; and

(4) culturally responsive approaches to dealing with victims and perpetrators of violence.

Subd. 2. [PRESERVICE TRAINING REQUIREMENT.] An individual may not be licensed as a peace officer ~~after August 1, 1990,~~ unless the individual has received the training described in subdivision 1. *An individual may not be eligible to take the peace officer licensing examination after*

August 1, 1994, unless the individual has received the training described in subdivision 1a.

Subd. 3. [IN-SERVICE TRAINING; BOARD REQUIREMENTS.] The board must provide to chief law enforcement officers instructional materials patterned after the materials developed by the board under ~~subdivision subdivisions 1 and 1a~~. These materials must meet board requirements for continuing education credit and be updated periodically as the board considers appropriate. The board must also seek funding for an educational conference to inform and sensitize chief law enforcement officers and other interested persons to the law enforcement issues associated with bias crimes and crimes of violence. If funding is obtained, the board may sponsor the educational conference on its own or with other public or private entities.

Subd. 4. [IN-SERVICE TRAINING; CHIEF LAW ENFORCEMENT OFFICER REQUIREMENTS.] A chief law enforcement officer must inform all peace officers within the officer's agency of (1) the requirements of section 626.5531, (2) the availability of the instructional materials provided by the board under subdivision 3, and (3) the availability of continuing education credit for the completion of these materials. The chief law enforcement officer must also encourage these peace officers to review or complete the materials.

Sec. 6. [626.8453] [CRIME VICTIM SENSITIVITY TRAINING.]

Subdivision 1. [DEVELOPMENT OF CURRICULUM.] The board shall collaborate with the crime victim and witness advisory council and the school of law enforcement in developing a model training curriculum designed to enhance peace officer sensitivity in interacting with and assisting crime victims.

Subd. 2. [REPORT TO LEGISLATURE.] The board shall submit a written report to the legislature by February 15, 1993, describing the model training curriculum developed under subdivision 1 and providing recommendations on the manner in which the training should be provided to peace officers.

Sec. 7. Minnesota Statutes 1990, section 626.8465, subdivision 1, is amended to read:

Subdivision 1. [SUPERVISION OF POWERS AND DUTIES.] No law enforcement agency shall utilize the services of a part-time peace officer unless the part-time peace officer exercises the part-time peace officer's powers and duties under the supervision, ~~directly or indirectly~~ of a licensed peace officer designated by the chief law enforcement officer. Supervision also may be via radio communications. With the consent of the county sheriff, the designated supervising officer may be a member of the county sheriff's department.

Sec. 8. Minnesota Statutes 1991 Supplement, section 626.861, subdivision 1, is amended to read:

Subdivision 1. [LEVY OF ASSESSMENT.] There is levied a penalty assessment of ~~42~~ 15 percent on each fine imposed and collected by the courts of this state for traffic offenses in violation of chapters 168 to 173 or equivalent local ordinances, other than a fine or forfeiture for a violation of a local ordinance or other law relating to the parking of a vehicle. In cases where the defendant is convicted but a fine is not imposed, or execution of the fine is stayed, the court shall impose a penalty assessment of not

less than \$5 nor more than \$10 when the conviction is for a misdemeanor or petty misdemeanor, and shall impose a penalty assessment of not less than \$10 but not more than \$50 when the conviction is for a gross misdemeanor or felony. Where multiple offenses are involved, the penalty assessment shall be assessed separately on each offense for which the defendant is sentenced. If imposition or execution of sentence is stayed for all of the multiple offenses, the penalty assessment shall be based upon the most serious offense of which the defendant was convicted. Where the court suspends a portion of a fine, the suspended portion shall not be counted in determining the amount of the penalty assessment unless the offender is ordered to pay the suspended portion of the fine. Suspension of an entire fine shall be treated as a stay of execution for purposes of computing the amount of the penalty assessment.

Sec. 9. Minnesota Statutes 1990, section 626.861, subdivision 3, is amended to read:

Subd. 3. [COLLECTION BY COURT.] After a determination by the court of the amount of the fine or penalty assessment due, the court administrator shall collect the appropriate penalty assessment and transmit it to the county treasurer separately with designation of its origin as a penalty assessment, but with the same frequency as fines are transmitted. Amounts collected under this subdivision shall then be transmitted to the state treasurer for deposit ~~in the general fund~~ *for peace officers training, in the same manner as fines collected for the state by a county*. The state treasurer shall identify and report to the commissioner of finance all amounts deposited in the general fund under this section.

Sec. 10. Minnesota Statutes 1991 Supplement, section 626.861, subdivision 4, is amended to read:

Subd. 4. [PEACE OFFICERS TRAINING ACCOUNT.] Receipts from penalty assessments must be credited to ~~the general fund~~ *a peace officers training account in the special revenue fund*. The peace officers standards and training board ~~may~~ *shall* allocate from funds appropriated as follows:

(a) ~~Up to~~ 30 percent may be provided for reimbursement to board approved skills courses.

(b) ~~Up to~~ 15 percent may be used for the school of law enforcement.

(c) The balance may be used to pay each local unit of government an amount in proportion to the number of licensed peace officers and constables employed, at a rate to be determined by the board. The disbursed amount must be used exclusively for reimbursement of the cost of in-service training required under this chapter and chapter 214.

Sec. 11. [EFFECTIVE DATE.]

Sections 1 and 3 are effective August 1, 1992, and apply to crimes committed on or after that date.

ARTICLE 9

PUBLIC SAFETY

Section 1. [237.74] [CALLER IDENTIFICATION SERVICES.]

Notwithstanding the provisions of chapter 626A and subject to the approval of the commission, a telephone company may elect to offer, for a reasonable fee, caller identification service to its subscribers who purchase

a caller identification device for installation on the subscriber's telephone or who purchase a telephone with a built-in caller identification device. "Caller identification device" means a device that displays to the person being called the number of the telephone being used by the caller or the name of the subscriber of the telephone being used by the caller.

Sec. 2. Minnesota Statutes 1991 Supplement, section 624.712, subdivision 5, is amended to read:

Subd. 5. "Crime of violence" includes murder in the first, second, and third degrees, manslaughter in the first and second degrees, aiding suicide, aiding attempted suicide, ~~felony violations of~~ assault in the first, second, third, and fourth degrees, *assault in the fifth degree that is also domestic abuse as defined in section 518B.01, subdivision 2, assault in the fifth degree if the assault was committed within five years of a previous conviction under sections 609.221 to 609.224, malicious punishment of a child, terroristic threats, use of drugs to injure or to facilitate crime, simple robbery, aggravated robbery, kidnapping, false imprisonment, criminal sexual conduct in the first, second, third, and fourth degrees, felonious theft, arson in the first and second degrees, riot, burglary in the first, second, third, and fourth degrees, reckless use of a gun or dangerous weapon, intentionally pointing a gun at or towards a human being, setting a spring gun, and unlawfully owning, possessing, or operating a machine gun, and an attempt to commit any of these offenses, as each of those offenses is defined in chapter 609. "Crime of violence" also includes felony violations of chapter 152.*

Sec. 3. Minnesota Statutes 1990, section 624.713, subdivision 1, is amended to read:

Subdivision 1. [INELIGIBLE PERSONS.] The following persons shall not be entitled to possess a pistol:

(a) a person under the age of 18 years except that a person under 18 may carry or possess a pistol (i) in the actual presence or under the direct supervision of the person's parent or guardian, (ii) for the purpose of military drill under the auspices of a legally recognized military organization and under competent supervision, (iii) for the purpose of instruction, competition, or target practice on a firing range approved by the chief of police or county sheriff in whose jurisdiction the range is located and under direct supervision; or (iv) if the person has successfully completed a course designed to teach marksmanship and safety with a pistol and approved by the commissioner of natural resources;

(b) a person who has been convicted in this state or elsewhere of a *felony or crime of violence* unless ten years have elapsed since the person has been restored to civil rights or *unless ten years have elapsed since the sentence has expired, whichever occurs first, and during that time the person has not been convicted of any other felony or crime of violence.* For purposes of this section, crime of violence includes crimes in other states or jurisdictions which would have been *felonies or crimes of violence* as herein defined if they had been committed in this state;

(c) a person who is or has ever been confined or committed in Minnesota or elsewhere as a "mentally ill," "mentally retarded," or "mentally ill and dangerous to the public" person as defined in section 253B.02, to a treatment facility, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof that the person

is no longer suffering from this disability;

(d) a person who has been convicted in Minnesota or elsewhere for the unlawful use, possession, or sale of a controlled substance other than conviction for possession of a small amount of marijuana, as defined in section 152.01, subdivision 16, or a person who is or has ever been hospitalized or committed for treatment for the habitual use of a controlled substance or marijuana, as defined in sections 152.01 and 152.02, unless the person possesses a certificate of a medical doctor or psychiatrist licensed in Minnesota, or other satisfactory proof, that the person has not abused a controlled substance or marijuana during the previous two years;

(e) a person who has been confined or committed to a treatment facility in Minnesota or elsewhere as "chemically dependent" as defined in section 253B.02, unless the person has completed treatment. Property rights may not be abated but access may be restricted by the courts; or

(f) a peace officer who is informally admitted to a treatment facility pursuant to section 253B.04 for chemical dependency, unless the officer possesses a certificate from the head of the treatment facility discharging or provisionally discharging the officer from the treatment facility. Property rights may not be abated but access may be restricted by the courts.

A person who issues a certificate pursuant to this subdivision in good faith is not liable for damages resulting or arising from the actions or misconduct with a firearm committed by the individual who is the subject of the certificate.

Sec. 4. Minnesota Statutes 1990, section 624.713, is amended by adding a subdivision to read:

Subd. 3. [NOTICE TO CONVICTED PERSONS.] When a person is convicted of an offense that results in ineligibility to possess a pistol under this section, the sentencing court shall inform the offender that the offender is not permitted to possess a pistol until ten years have elapsed since the person was restored to civil rights or since the sentence has expired, whichever occurs first, and that the period of ineligibility will be extended if the offender is convicted of any other felony or crime of violence during that time.

Sec. 5. Minnesota Statutes 1990, section 624.7131, subdivision 1, is amended to read:

Subdivision 1. [INFORMATION.] Any person may apply for a pistol transferee permit by providing the following information in writing to the chief of police of an organized full time police department of the municipality in which the person resides or to the county sheriff if there is no such local chief of police:

(a) The name, residence, telephone number and driver's license number or nonqualification certificate number, if any, of the proposed transferee;

(b) The sex, date of birth, height, weight and color of eyes, and distinguishing physical characteristics, if any, of the proposed transferee; and

(c) A statement by the proposed transferee that the proposed transferee is not prohibited by section 624.713 from possessing a pistol.

The statement shall be signed by the person applying for a permit. At the time of application, the local police authority shall provide the applicant with a dated receipt for the application.

Sec. 6. Minnesota Statutes 1990, section 624.7131, subdivision 6, is amended to read:

Subd. 6. ~~[PERMITS VALID STATEWIDE; RENEWAL.]~~ Transferee permits issued pursuant to this section are valid statewide and shall expire after one year. A transferee permit may be renewed in the same manner and subject to the same provisions by which the original permit was obtained, *except that all renewed permits must comply with the standards adopted by the commissioner of public safety under section 624.7151.* Permits issued pursuant to this section are not transferable. A person who transfers a permit in violation of this subdivision is guilty of a misdemeanor.

Sec. 7. Minnesota Statutes 1990, section 624.7132, subdivision 1, is amended to read:

Subdivision 1. ~~[REQUIRED INFORMATION.]~~ Except as provided in this section and section 624.7131, every person who agrees to transfer a pistol shall report the following information in writing to the chief of police of the organized full-time police department of the municipality where the agreement is made or to the appropriate county sheriff if there is no such local chief of police:

(a) The name, residence, telephone number and driver's license number or nonqualification certificate number, if any, of the proposed transferee;

(b) The sex, date of birth, height, weight and color of eyes, *and distinguishing physical characteristics, if any,* of the proposed transferee;

(c) A statement by the proposed transferee that the transferee is not prohibited by section 624.713 from possessing a pistol; and

(d) The address of the place of business of the transferor.

The report shall be signed by the transferor and the proposed transferee. The report shall be delivered by the transferor to the chief of police or sheriff no later than three days after the date of the agreement to transfer, excluding weekends and legal holidays.

Sec. 8. Minnesota Statutes 1990, section 624.714, subdivision 1, is amended to read:

Subdivision 1. ~~[PENALTY.]~~ A person, other than a law enforcement officer who has authority to make arrests other than citizens arrests, who carries, holds or possesses a pistol in a motor vehicle, snowmobile or boat, or on or about the person's clothes or the person, or otherwise in possession or control in a public place or public area without first having obtained a permit to carry the pistol is guilty of a gross misdemeanor. A person who has been issued a permit and *who fails to have the permit in actual possession whenever the person carries the pistol, or who engages in activities other than those for which the permit has been issued,* is guilty of a misdemeanor.

Sec. 9. Minnesota Statutes 1990, section 624.714, subdivision 3, is amended to read:

Subd. 3. ~~[CONTENTS.]~~ Applications for permits to carry shall set forth ~~the name, residence, date of birth, height, weight, color of eyes and hair, sex and distinguishing physical characteristics, if any, of the applicant in writing the following information:~~

(1) the name, residence, telephone number, and driver's license number or nonqualification certificate number, if any, of the applicant;

(2) the sex, date of birth, height, weight, and color of eyes and hair, and distinguishing physical characteristics, if any, of the applicant;

(3) a statement by the applicant that the applicant is not prohibited by section 624.713 from possessing a pistol; and

(4) a recent color photograph of the applicant.

The application shall be signed by the applicant.

Sec. 10. Minnesota Statutes 1990, section 624.714, subdivision 7, is amended to read:

Subd. 7. [RENEWAL.] Permits to carry a pistol issued pursuant to this section shall expire after one year and shall thereafter be renewed in the same manner and subject to the same provisions by which the original permit was obtained, *except that all renewed permits must comply with the standards adopted by the commissioner of public safety under section 10.*

Sec. 11. [624.7151] [STANDARDIZED FORMS.]

By December 1, 1992, the commissioner of public safety shall adopt statewide standards governing the form and contents, as required by sections 624.7131 to 624.714, of every application for a pistol transferee permit, report of transfer of a pistol, application for a permit to carry a pistol, and permit to carry a pistol that is granted or renewed on or after January 1, 1993. The adoption of these standards is not subject to the rulemaking provisions of chapter 14.

Every application for a pistol transferee permit, pistol transferee permit, report of transfer of a pistol, application for a permit to carry a pistol, and permit to carry a pistol that is received, granted, or renewed by a police chief or county sheriff on or after January 1, 1993, must meet the statewide standards adopted by the commissioner of public safety. Notwithstanding the previous sentence, neither failure of the department of public safety to adopt standards nor failure of the police chief or county sheriff to meet them shall delay the timely processing of applications nor invalidate permits issued on other forms meeting the requirements of sections 624.7131 to 624.714.

Sec. 12. [624.7161] [FIREARMS DEALERS; CERTAIN SECURITY MEASURES REQUIRED.]

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

(b) *"Firearms dealer" means a dealer federally licensed to sell pistols who operates a retail business in which pistols are sold from a permanent business location other than the dealer's home.*

(c) *"Small firearms dealer" means a firearms dealer who operates a retail business at which no more than 50 pistols are displayed for sale at any time.*

(d) *"Large firearms dealer" means a firearms dealer who operates a retail business at which more than 50 pistols are displayed for sale at any time.*

Subd. 2. [SECURITY MEASURES REQUIRED.] *A small firearms dealer shall place all pistols that are located in the dealer's place of business*

in a locked safe after business hours. The safe must comply with the Underwriters Laboratories Burglary Resistant Safe Classification TL-15 and must be anchored to prevent its removal from the premises.

Subd. 3. [SECURITY STANDARDS.] The commissioner of public safety shall adopt standards specifying minimum security requirements for small and large firearms dealers. By January 1, 1993, all firearms dealers shall comply with the standards. The standards may provide for:

- (1) alarm systems for small and large firearms dealers;*
- (2) site hardening and other security measures required for large firearms dealers;*
- (3) a system of inspections by local law enforcement officials for compliance with the standards; and*
- (4) other reasonable requirements necessary to reduce the risk of burglaries at firearms dealers' business establishments.*

Sec. 13. Minnesota Statutes 1990, section 626A.02, subdivision 2, is amended to read:

Subd. 2. [EXEMPTIONS.] (a) It is not unlawful under sections 626A.01 to ~~626A.23~~ 626A.20 for an operator of a switchboard, or an officer, employee, or agent of a provider of wire or electronic communication service, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of employment while engaged in any activity which is a necessary incident to the rendition of service or to the protection of the rights or property of the provider of that service, except that a provider of wire communication service to the public shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

(b) It is not unlawful under sections 626A.01 to ~~626A.23~~ 626A.20 for an officer, employee, or agent of the Federal Communications Commission, in the normal course of employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of chapter 5 of title 47 of the United States Code, to intercept a wire or electronic communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.

(c) It is not unlawful under sections 626A.01 to ~~626A.23~~ 626A.20 for a person acting under color of law to intercept a wire, electronic, or oral communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

(d) It is not unlawful under sections 626A.01 to ~~626A.23~~ 626A.20 for a person not acting under color of law to intercept a wire, electronic, or oral communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the constitution or laws of the United States or of any state.

(e) It is not a violation of sections 626A.01 to ~~626A.23~~ 626A.20 or sections 626A.26 to 626A.34 for a person:

- (1) to intercept or access an electronic communication made through an electronic communication system that is configured so that the electronic

communication is readily accessible to the general public;

(2) to intercept any radio communication that is transmitted:

(i) by a station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

(ii) by a governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

(iii) by a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

(iv) by a marine or aeronautical communications system;

(3) to engage in any conduct which:

(i) is prohibited by section 553 of title 47 of the United States Code; or

(ii) is excepted from the application of section 605(a) of title 47 of the United States Code by section 605(b) of that title;

(4) to intercept a wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

(5) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if the communication is not scrambled or encrypted.

(f) It is not unlawful under sections 626A.01 to ~~626A.23~~ 626A.20:

(1) to use a pen register or a trap and trace device as those terms are defined by section 626A.39; or

(2) for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect the provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful, or abusive use of the service.

(g) It is not unlawful under sections 626A.01 to ~~626A.23~~ 626A.20 for a person not acting under color of law to intercept the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit if the initial interception of the communication was obtained inadvertently.

(h) *It is not unlawful under sections 626A.01 to 626A.20 for a person to use a caller identification service or device authorized by section 1.*

Sec. 14. [ADVISORY TASK FORCE.]

The commissioner of public safety shall appoint a task force to recommend firearms dealers' security standards as required by section 12. The task force shall consist of appropriate interested persons, including firearms dealers and crime prevention officers. The task force shall recommend standards by September 1, 1992, and the commissioner shall adopt standards by October 1, 1992.

Sec. 15. [EFFECTIVE DATE.]

Sections 2 to 4 are effective August 1, 1992, and apply to crimes committed on or after that date. Section 14 is effective the day following final enactment.

ARTICLE 10

APPROPRIATIONS

Section 1. [APPROPRIATIONS; DEPARTMENT OF CORRECTIONS.]

(a) \$ is appropriated from the general fund to the commissioner of corrections for the fiscal year ending June 30, 1993, to be used for grants for crime victim programs and services. The commissioner shall give priority in awarding grants to those areas and regions in the state that currently have insufficient programs or services for crime victims.

(b) \$ is appropriated from the general fund to the commissioner of corrections for services for victims of sexual assault to be available until June 30, 1993.

(c) \$ is appropriated from the general fund to the commissioner of corrections for services for victims of domestic abuse to be available until June 30, 1993.

(d) \$ is appropriated from the general fund to the commissioner of corrections for purposes of making grants for domestic abuse programs required under article 6, section 12, to be available until June 30, 1993.

(e) \$ is appropriated from the general fund to the commissioner of corrections to provide special programming for juveniles convicted in adult court and committed to the commissioner of corrections to be available until June 30, 1993.

(f) \$ is appropriated from the general fund to the commissioner of corrections to conduct the crime victimization survey required by article 5, section 9, to be available until June 30, 1993.

Sec. 2. [APPROPRIATION; SUPREME COURT.]

\$ is appropriated to the supreme court for victim-offender mediation programs to be available until June 30, 1993.

Sec. 3. [APPROPRIATION; DEPARTMENT OF HUMAN SERVICES.]

\$ is appropriated from the general fund to the commissioner of human services to increase the availability of and access to treatment for juvenile victims of child abuse to be available until June 30, 1993.

Sec. 4. [APPROPRIATION; STATE BOARD OF PUBLIC DEFENSE.]

\$ is appropriated from the general fund to the state board of public defense."

Delete the title and insert:

"A bill for an act relating to crime; increasing penalties for repeat and violent sex offenders; providing for life imprisonment for certain repeat sex offenders; increasing supervision of sex offenders following release from prison; eliminating the "good time" reduction in a prison sentence; allowing the extension of prison terms for disciplinary violations in prison; prohibiting the release of a prison inmate on a weekend or holiday; requiring review of sex offenders for psychopathic personality commitment before prison release; providing for mediation programs for crime victims and offenders;

requiring training of peace officers regarding crimes of violence; providing for automatic prosecution in adult court of previously certified juveniles; requiring city and county attorneys to adopt a domestic abuse prosecution plan; defining child abuse; increasing penalty for second degree assault resulting in substantial bodily harm; removing the limit on consecutive sentences for felonies; allowing telephone companies to offer caller identification service to subscribers; requiring a crime victimization survey; appropriating money; amending Minnesota Statutes 1990, sections 8.01; 135A.15; 241.67, subdivisions 3 and 6; 244.01, subdivision 8; 244.03; 244.04, subdivisions 1 and 3; 244.05, subdivisions 1, 3, 4, 5, and by adding subdivisions; 253B.18, subdivision 2; 259.11; 260.015, by adding a subdivision; 260.151, subdivision 1; 260.161, subdivision 1, and by adding a subdivision; 260.165, by adding a subdivision; 260.172, subdivision 1; 260.185, subdivisions 1, 4, and by adding a subdivision; 518B.01, subdivision 13, and by adding subdivisions; 526.10; 595.02, subdivision 4; 609.055; 609.135, subdivision 5; 609.1351; 609.1352, subdivisions 1 and 5; 609.15, subdivision 2; 609.152, subdivisions 2 and 3; 609.184, subdivisions 1 and 2; 609.185; 609.19; 609.21, subdivisions 1, 2, 2a, 3, and 4; 609.222; 609.2231, by adding a subdivision; 609.224, subdivision 2; 609.342, subdivision 2; 609.343, subdivision 2; 609.346, subdivisions 2, 2a, and by adding subdivisions; 609.605, by adding a subdivision; 609.713; 611A.0311, subdivisions 2 and 3; 611A.034; 611A.04, subdivisions 1 and 1a; 611A.52, subdivision 6; 624.713, subdivision 1, and by adding a subdivision; 624.7131, subdivisions 1 and 6; 624.7132, subdivision 1; 624.714, subdivisions 1, 3, and 7; 626.5531, subdivision 1; 626.843, subdivision 1; 626.8451; 626.8465, subdivision 1; 626.861, subdivision 3; 626A.02, subdivision 2; 630.36, subdivision 1; Minnesota Statutes 1991 Supplement, sections 8.15; 244.05, subdivision 6; 244.12, subdivision 3; 260.015, subdivision 2a; 518B.01, subdivisions 4, 6, and 14; 609.135, subdivision 2; 611A.32, subdivision 1; 624.712, subdivision 5; and 626.861, subdivisions 1 and 4; proposing coding for law in Minnesota Statutes, chapters 169; 237; 244; 299C; 480; 526; 611A; 624; 626; and 629; repealing Minnesota Statutes 1990, section 260.125, subdivision 3a."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Metzen from the Committee on Economic Development and Housing, to which was referred

S.F. No. 2291: A bill for an act relating to tax increment financing; clarifying, recodifying, and providing tax increment financing procedures and requirements; proposing coding for new law in Minnesota Statutes, chapter 469; repealing Minnesota Statutes 1990, section 273.1399, as amended.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 7, insert:

"ARTICLE 1

TAX INCREMENT FINANCING LAW"

Page 2, line 14, delete "469.060" and insert "469.068"

Page 2, line 17, delete "469.100" and insert "469.108"

Page 5, after line 18, insert:

"Subd. 24. [ORIGINAL LOCAL TAX RATE.] "Original local tax rate" means, with respect to a parcel in a district, the sum of the local tax rates for the parcel imposed by the taxing jurisdictions in which the parcel is located as of the date of certification or, if later, the date the parcel is added to the district."

Page 6, lines 31 and 34, after "aggregate" insert "equalized"

Page 7, line 20, delete "part"

Page 7, line 21, delete "of"

Renumber the subdivisions in sequence

Page 8, line 23, delete the semicolon and insert a comma

Page 8, line 25, delete the first "a"

Page 9, line 25, delete "concerning" and insert "of"

Page 9, line 29, after the first "district," insert "a pre-1979 district,"

Page 10, line 29, after the period, insert *"Within 30 days after the date the resolution approving the plan is adopted by the municipality, an executed copy of the plan must be delivered to the commissioner of revenue."*

Page 13, line 2, after "begins" insert "acquisition,"

Page 13, line 10, after the period, insert *"The county auditor must enforce the provisions of this subdivision."*

Page 15, line 4, delete ", or if 95 percent of the dwelling units in" and insert a period

Page 15, delete lines 5 to 10

Page 15, line 11, delete *"Internal Revenue Code."*

Page 15, line 23, after "rehabilitated" insert *", if at least 85 percent of the property is used"*

Page 15, line 30, delete "and" and insert "or"

Page 20, line 17, delete "of"

Page 23, lines 4, 10, and 14, delete "part" and insert "amount"

Page 23, lines 5, 11, and 15, delete *"the parcels"* and insert *"each parcel"*

Page 23, line 27, after "The" insert *"portion of the"* and after "revenues" insert *"equal to the product of the captured tax capacity and the lesser of the original local tax rate or the local tax rate"*

Page 23, line 30, after the period, insert *"If the original local tax rate is less than the local tax rate, then the difference between the product of the captured tax capacity and the local tax rate and the product of the captured tax capacity and the original local tax rate is treated as if it is excess tax increment and must be distributed under the terms of section 6 [469.1795], subdivision 1, paragraphs (a), clause (7), and (f)."*

Page 26, line 19, delete "part" and insert "amount"

Page 27, line 19, delete "part" and insert "amount"

Page 29, line 7, delete "given" and insert "stated"

Page 33, line 24, delete everything after "(1)"

Page 33, line 25, delete everything before "the" and insert "on the date"

Page 33, line 26, delete "after May 1, 1988"

Page 33, line 27, delete "at the time the referendum is approved"

Page 33, line 32, after "district" insert "in accordance with section 124A.03, subdivision 2, paragraph (g). The school districts must use the tax increment in the same manner as the money derived from the referendum levy"

Page 34, line 16, after "project" insert "created after the effective date of sections 1 [469.179] to 10 [469.179]"

Page 35, line 11, after the period, insert "The county auditor must report to the commissioner of education the amount of any excess tax increment distributed to a school district within 30 days of the distribution. The amounts distributed to a city or county must be deducted from the levy limits of the governmental unit for the following year. In calculating the levy limit base for later years, the amount deducted must be treated as a local government aid payment."

Page 35, line 33, after "district" insert ", excluding hazardous substance districts, manufacturing districts that provide financial assistance to a tourism facility, and redevelopment districts,"

Page 36, line 28, delete "or (2)" and insert ", (2), or (3)"

Page 38, line 25, after "procedures" insert ", or the transfer is made to the political subdivision according to a central service cost allocation plan, as described by Office of Management and Budget circular A-87, and the plan has been approved by the state auditor"

Page 40, line 15, after "of" insert "relocation costs,"

Page 40, line 20, after the comma, insert "credit enhanced bonds or"

Page 41, line 4, after "the" insert "relocation costs,"

Page 41, line 5, after "expenses" insert a comma

Page 41, line 23, after the comma, insert "credit enhanced bonds or"

Page 42, delete lines 3 to 7

Page 42, line 8, delete "(2)" and insert "(1)"

Page 42, line 11, delete "issued"

Page 42, line 12, delete "under section 143(f)" and insert "within the meaning of section 143"

Page 42, line 13, delete "(3)" and insert "(2)"

Page 42, line 20, delete "satisfies the income requirements for" and insert "is occupied by persons and families of low or moderate income"

Page 42, delete line 21

Page 42, line 22, delete "142(d) of the Internal Revenue Code"

Page 42, line 27, after the period, insert "Rental housing will be considered occupied by persons and families of low or moderate income if the

rental and occupancy requirements of section 142(d) of the Internal Revenue Code are satisfied, or if 50 percent or more of the dwelling units in the rental housing are occupied by individuals whose income is 80 percent or less of the area median income, as defined in section 142(d) of the Internal Revenue Code."

Page 42, line 30, delete "*before the effective date of sections 1*"

Page 42, line 31, delete "*[469.179] to 10 [469.1799]*"

Page 43, line 17, after "*of*" insert "*a public improvement,*" and after "*facility*" insert a comma

Page 43, line 19, after "*4*" insert "*, or relocation costs*"

Page 43, line 21, after the comma, insert "*credit enhanced bonds or*"

Page 44, line 3, after the comma, insert "*pay the principal, premium, or purchase price of, or interest on, credit enhanced bonds or bonds issued to finance such costs, or pay relocation costs,*"

Page 44, line 16, after the comma, insert "*pay the principal, premium, or purchase price of, or interest on, credit enhanced bonds or bonds issued to finance such costs, or pay relocation costs,*"

Page 45, line 4, after the comma, insert "*pay relocation costs,*"

Page 45, lines 6 and 24, before "*pay*" insert "*to*"

Page 45, line 7, after the comma, insert "*credit enhanced bonds or*"

Page 45, line 26, after the second comma, insert "*pay relocation costs,*"

Page 45, line 30, after the comma, insert "*credit enhanced bonds or*"

Page 50, line 25, delete "*are*" and insert "*is*" and delete "*a federal volume limitation*"

Page 50, delete line 26

Page 50, line 27, delete "*subdivision 9, or existing*"

Page 55, line 6, delete "*or*"

Page 55, line 7, delete "*after May 1, 1992,*"

Page 55, line 9, delete "*1988*" and insert "*1992*"

Page 55, line 13, delete "*1988*" and insert "*1992*"

Page 55, line 27, after the period, insert "*Section 6 [469.1795], subdivision 3, paragraph (d), is effective after December 31, 1992, for property and facilities acquired or constructed after December 31, 1992.*"

Page 55, after line 29, insert:

"ARTICLE 2

RELATED PROVISIONS

Section 1. Minnesota Statutes 1990, section 8.31, is amended by adding a subdivision to read:

Subd. 4. [CIVIL ACTIONS UNDER SECTION 115B.04.] Upon the request of an authority, as defined in article 1, section 1 [469.179], subdivision 4, the attorney general may bring a civil action under section 115B.04 or other law, or the attorney general may intervene in an action

brought by an authority. The attorney general may provide legal and technical advice or other assistance to an authority commencing such a civil action. The attorney general may deduct its administrative costs and litigation expenses from any recovery. The attorney general may accept tax increment from an authority as reimbursement for the administrative costs and litigation expenses of the attorney general. Any recovered administrative expenses or litigation costs must be deposited in the general fund of the state to the account of the attorney general.

Sec. 2. Minnesota Statutes 1990, section 116.07, is amended by adding a subdivision to read:

Subd. 4l. [HAZARDOUS SUBSTANCE DISTRICTS.] The agency shall review and, in its discretion, approve action proposals, as defined in article 1, section 1 [469.179], subdivision 2, with respect to hazardous substance districts, as defined in article 1, section 1 [469.179], subdivision 15. The agency shall render any services requested by the attorney general with respect to actions in a hazardous substance district undertaken by the attorney general under section 8.31. The agency may accept tax increment from an authority, as defined in article 1, section 1 [469.179], subdivision 4, in reimbursement for expenses incurred by the agency in reviewing and approving plans and in rendering services to the attorney general. Any reimbursements must be deposited in the environmental response, compensation, and compliance account in the environmental fund in the state treasury.

Sec. 3. Minnesota Statutes 1991 Supplement, section 124A.03, subdivision 2, is amended to read:

Subd. 2. [REFERENDUM REVENUE.] (a) The revenue authorized by section 124A.22, subdivision 1, may be increased in the amount approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the school board or shall be called by the school board upon written petition of qualified voters of the district. Unless the referendum is conducted by mail under paragraph (g), the referendum must be held on the first Tuesday after the first Monday in November. The ballot shall state the maximum amount of the increased revenue per actual pupil unit, the estimated net tax capacity rate in the first year it is to be levied, and that the revenue shall be used to finance school operations. The ballot may state that existing levy authority is expiring. In this case, the ballot may also compare the proposed levy authority to the existing expiring levy authority, and express the proposed increase as the amount, if any, over the expiring authority. The ballot shall designate the specific number of years, not to exceed five, for which the referendum authorization shall apply. The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

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

If approved, an amount equal to the approved revenue per actual pupil unit times the actual pupil units for the school year beginning in the year after the levy is certified shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

(b) The school board shall prepare and deliver by first class mail at least 15

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

The notice for a referendum may state that an existing referendum levy is expiring and project the anticipated amount of increase over the existing referendum levy, if any, in annual dollars and annual percentage for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the school district.

The notice must include the following statement: "Passage of this referendum will result in an increase in your property taxes."

(c) A referendum on the question of revoking or reducing the increased revenue amount authorized pursuant to paragraph (a) may be called by the school board and shall be called by the school board upon the written petition of qualified voters of the district. A referendum to revoke or reduce the levy amount must be based upon the dollar amount, local tax rate, or amount per actual pupil unit, that was stated to be the basis for the initial authorization. Revenue approved by the voters of the district pursuant to paragraph (a) must be received at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one revocation or reduction referendum may be held to revoke or reduce referendum revenue for any specific year and for years thereafter.

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

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

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

(g) Any referendum under this section held on a day other than the first Tuesday after the first Monday in November must be conducted by mail in accordance with section 204B.46. Notwithstanding paragraph (b) to the contrary, in the case of a referendum conducted by mail under this paragraph, the notice required by paragraph (b) shall be prepared and delivered by first class mail at least 20 days before the referendum.

(h) The district may accept from an authority, as defined in article 1, section 1 [469.179], subdivision 4, tax increment attributable to a referendum levy under the terms of article 1, section 6 [469.1795], subdivision 1, paragraphs (a), clause (5), and (d), and the school board may approve such payments under article 1, section 6 [469.1795], subdivision 1, paragraph (d), clause (2).

Sec. 4. Minnesota Statutes 1990, section 270.06, is amended to read:

270.06 [POWERS AND DUTIES.]

The commissioner of revenue shall:

(1) have and exercise general supervision over the administration of the assessment and taxation laws of the state, over assessors, town, county, and city boards of review and equalization, and all other assessing officers in the performance of their duties, to the end that all assessments of property be made relatively just and equal in compliance with the laws of the state;

(2) confer with, advise, and give the necessary instructions and directions to local assessors and local boards of review throughout the state as to their duties under the laws of the state;

(3) direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to the liability and punishment of public officers and officers and agents of corporations for failure or negligence to comply with the provisions of the laws of this state governing returns of assessment and taxation of property, and cause complaints to be made against local assessors, members of boards of equalization, members of boards of review, or any other assessing or taxing officer, to the proper authority, for their removal from office for misconduct or negligence of duty;

(4) require county attorneys to assist in the commencement of prosecutions in actions or proceedings for removal, forfeiture and punishment for violation of the laws of this state in respect to the assessment and taxation of property in their respective districts or counties;

(5) require town, city, county, and other public officers to report information as to the assessment of property, collection of taxes received from licenses and other sources, and such other information as may be needful in the work of the department of revenue, in such form and upon such blanks as the commissioner may prescribe;

(6) require individuals, copartnerships, companies, associations, and corporations to furnish information concerning their capital, funded or other debt, current assets and liabilities, earnings, operating expenses, taxes, as well as all other statements now required by law for taxation purposes;

(7) summon witnesses, at a time and place reasonable under the circumstances, to appear and give testimony, and to produce books, records, papers and documents relating to any tax matter which the commissioner may have authority to investigate or determine. Provided, that any summons which does not identify the person or persons with respect to whose tax liability the summons is issued may be served only if (a) the summons relates to the investigation of a particular person or ascertainable group or class of persons, (b) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any tax law administered by the commissioner, (c) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the summons is issued) is not readily available from

other sources, (d) the summons is clear and specific as to the information sought to be obtained, and (e) the information sought to be obtained is limited solely to the scope of the investigation. Provided further that the party served with a summons which does not identify the person or persons with respect to whose tax liability the summons is issued shall have the right, within 20 days after service of the summons, to petition the district court for the judicial district in which lies the county in which that party is located for a determination as to whether the commissioner of revenue has complied with all the requirements in (a) to (e), and thus, whether the summons is enforceable. If no such petition is made by the party served within the time prescribed, the summons shall have the force and effect of a court order;

(8) cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken, upon notice to the interested party, if any, in like manner that depositions of witnesses are taken in civil actions in the district court, in any matter which the commissioner may have authority to investigate or determine;

(9) investigate the tax laws of other states and countries and to formulate and submit to the legislature such legislation as the commissioner may deem expedient to prevent evasions of assessment and taxing laws, and secure just and equal taxation and improvement in the system of assessment and taxation in this state;

(10) consult and confer with the governor upon the subject of taxation, the administration of the laws in regard thereto, and the progress of the work of the department of revenue, and furnish the governor, from time to time, such assistance and information as the governor may require relating to tax matters;

(11) transmit to the governor, on or before the third Monday in December of each even-numbered year, and to each member of the legislature, on or before November 15 of each even-numbered year, the report of the department of revenue for the preceding years, showing all the taxable property in the state and the value of the same, in tabulated form;

(12) inquire into the methods of assessment and taxation and ascertain whether the assessors faithfully discharge their duties, particularly as to their compliance with the laws requiring the assessment of all property not exempt from taxation;

(13) administer and enforce the assessment and collection of state taxes and, from time to time, make, publish, and distribute rules for the administration and enforcement of state tax laws. The rules have the force of law;

(14) prepare blank forms for the returns required by state tax law and distribute them throughout the state, furnishing them subject to charge on application;

(15) prescribe rules governing the qualification and practice of agents, attorneys, or other persons representing taxpayers before the commissioner. The rules may require that those persons, agents, and attorneys show that they are of good character and in good repute, have the necessary qualifications to give taxpayers valuable services, and are otherwise competent to advise and assist taxpayers in the presentation of their case before being recognized as representatives of taxpayers. After due notice and opportunity for hearing, the commissioner may suspend and disbar from further practice before the commissioner any person, agent, or attorney who is shown to be incompetent or disreputable, who refuses to comply with the rules, or who

with intent to defraud, willfully or knowingly deceives, misleads, or threatens a taxpayer or prospective taxpayer, by words, circular, letter, or by advertisement. This clause does not curtail the rights of individuals to appear in their own behalf or partners or corporations' officers to appear in behalf of their respective partnerships or corporations;

(16) appoint agents as the commissioner considers necessary to make examinations and determinations. The agents have the rights and powers conferred on the commissioner to examine books, records, papers, or memoranda, subpoena witnesses, administer oaths and affirmations, and take testimony. Upon demand of an agent, the clerk or court administrator of any court shall issue a subpoena for the attendance of a witness or the production of books, papers, records, or memoranda before the agent. The commissioner may also issue subpoenas. Disobedience of subpoenas issued under this chapter shall be punished by the district court of the district in which the subpoena is issued, or in the case of a subpoena issued by the commissioner, by the district court of the district in which the party served with the subpoena is located, in the same manner as contempt of the district court;

(17) appoint and employ additional help, purchase supplies or materials, or incur other expenditures in the enforcement of state tax laws as considered necessary. The salaries of all agents and employees provided for in this chapter shall be fixed by the appointing authority, subject to the approval of the commissioner of administration;

(18) execute and administer any agreement with the secretary of the treasury of the United States or a representative of another state regarding the exchange of information and administration of the tax laws;

(19) administer and enforce the provisions of sections 325D.30 to 325D.42, the Minnesota unfair cigarette sales act;

(20) authorize the use of unmarked motor vehicles to conduct seizures or criminal investigations pursuant to the commissioner's authority; and

(21) *receive and retain plans, as defined in article 1, section 1 [469.179], subdivision 27, acknowledge the receipt of plans, and make the plans available to the public;*

(22) *at the discretion of the commissioner, audit the use of tax increment financing by an authority, as defined in article 1, section 1 [469.179], subdivision 4, or bring suit for equitable relief or for damages arising out of a failure of a municipality, as defined in article 1, section 1 [469.179], subdivision 21, or authority to comply with article 1, sections 1 [469.179] to 10 [469.1799] or related provisions of chapter 469, with respect to any district, as defined in article 1, section 1 [469.179], subdivision 13, in the municipality or authority; and*

(23) exercise other powers and perform other duties required of or imposed upon the commissioner of revenue by law."

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "amending Minnesota Statutes 1990, sections 8.31, by adding a subdivision; 116.07, by adding a subdivision; and 270.06; Minnesota Statutes 1991 Supplement, section 124A.03, subdivision 2;"

And when so amended the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health and Human Services, to which was referred

S.F. No. 2337: A bill for an act relating to human services; providing for medical assistance coverage of personal care services provided outside the home when authorized by the responsible party; allowing recipients to request continuation of services at a previously authorized level while an appeal is pending; amending Minnesota Statutes 1991 Supplement, sections 256B.0625, subdivision 19a; and 256B.0627, subdivisions 5 and 6.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 1991 Supplement, section 256B.0625, subdivision 6a, is amended to read:

Subd. 6a. [HOME HEALTH SERVICES.] Home health services are those services specified in Minnesota Rules, part 9505.0290. Medical assistance covers home health services at a recipient's home residence. Medical assistance does not cover home health services at a hospital, nursing facility, intermediate care facility, or a health care facility licensed by the commissioner of health, *unless the program is funded under a home- and community-based services waiver or unless the commissioner of human services has prior authorized skilled nurse visits for less than 90 days for a resident at an intermediate care facility for persons with mental retardation, to prevent an admission to a hospital or nursing facility. Home health services must be provided by a Medicare certified home health agency. All nursing and home health aide services must be provided according to section 256B.0627.*"

Page 2, line 4, strike the second comma and insert "or"

Page 2, line 5, strike "their" and insert "*the recipient's*"

Page 2, line 6, strike "or the recipient's legal guardian" and insert "*unless, in the case of a foster provider, a county or state case manager visits the recipient as needed, but no less than every six months, to monitor the health and safety of the recipient and to ensure the goals of the care plan are met*"

Page 2, line 9, strike "An exception"

Page 2, strike lines 10 and 11

Page 2, after line 11, insert:

"Sec. 3. Minnesota Statutes 1991 Supplement, section 256B.0627, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] (a) "Home care services" means a health service, determined by the commissioner as medically necessary, that is ordered by a physician and documented in a care plan that is reviewed by the physician at least once every 60 days for the provision of home health services, or private duty nursing, or at least once every 365 days for personal care. Home care services are provided to the recipient at the recipient's residence that is a place other than a hospital or long-term care facility or as specified in section 256B.0625.

(b) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475.

(c) "Care plan" means a written description of the services needed which ~~shall include~~ *is signed by the recipient or responsible party and includes a detailed description of the covered home care services, who is providing the services, frequency of those services, and duration of those services. The care plan shall also include, and* expected outcomes and goals including expected date of goal accomplishment.

(d) "Responsible party" means an individual residing with a recipient of personal care services who is capable of providing the supportive care necessary to assist the recipient to live in the community, is at least 18 years old, and is not a personal care assistant. Responsible parties who are parents of minors or guardians of minors or incapacitated persons may delegate the responsibility to another adult during a temporary absence of at least 24 hours but not more than six months. The person delegated as a responsible party must be able to meet the definition of responsible party, except that the delegated responsible party is required to reside with the recipient only while serving as the responsible party. Foster care license holders may be designated the responsible party for residents of the foster care home if case management is provided as required in section 256B.0625, subdivision 19a. For persons sharing personal care services in order to obtain the availability of 24-hour coverage, an employee of the personal care provider organization may be designated as the responsible party if case management is provided as required in section 256B.0625, subdivision 19a.

Sec. 4. Minnesota Statutes 1991 Supplement, section 256B.0627, subdivision 4, is amended to read:

Subd. 4. [PERSONAL CARE SERVICES.] (a) The personal care services that are eligible for payment are the following:

- (1) bowel and bladder care;
- (2) skin care to maintain the health of the skin;
- (3) range of motion exercises;
- (4) respiratory assistance;
- (5) transfers;
- (6) bathing, grooming, and hairwashing necessary for personal hygiene;
- (7) turning and positioning;
- (8) assistance with furnishing medication that is normally self-administered;
- (9) application and maintenance of prosthetics and orthotics;
- (10) cleaning medical equipment;
- (11) dressing or undressing;
- (12) assistance with food, nutrition, and diet activities;
- (13) accompanying a recipient to obtain medical diagnosis or treatment;
- (14) helping the recipient to complete daily living skills such as personal and oral hygiene and medication schedules;
- (15) supervision and observation that are medically necessary because of the recipient's diagnosis or disability; and

(16) incidental household services that are an integral part of a personal care service described in clauses (1) to (15).

(b) The personal care services that are not eligible for payment are the following:

(1) personal care services that are not in the care plan developed by the supervising registered nurse in consultation with the personal care assistants and the recipient or the responsible party directing the care of the recipient;

(2) services that are not supervised by the registered nurse;

(3) services provided by the recipient's spouse, legal guardian, or parent of a minor child;

(4) *services provided by a foster care provider of a recipient who cannot direct their own care, unless prior authorized by the commissioner under paragraph (i) monitored by a county or state case manager under section 256B.0625, subdivision 19a;*

(5) sterile procedures;

(6) injections of fluids into veins, muscles, or skin;

(7) services provided by parents of adult recipients, adult children, or adult siblings, unless these relatives meet one of the following hardship criteria and the commissioner waives this requirement:

(i) the relative resigns from a part-time or full-time job to provide personal care for the recipient;

(ii) the relative goes from a full-time to a part-time job with less compensation to provide personal care for the recipient;

(iii) the relative takes a leave of absence without pay to provide personal care for the recipient;

(iv) the relative incurs substantial expenses by providing personal care for the recipient; or

(v) because of labor conditions, the relative is needed in order to provide an adequate number of qualified personal care assistants to meet the medical needs of the recipient;

(8) homemaker services that are not an integral part of a personal care services; and

(9) home maintenance, or chore services."

Page 4, line 12, after the period, insert "*When home health services are used in combination with personal care and private duty nursing, the cost of all home care services shall be considered for cost effectiveness.*"

Page 7, line 30, after the first comma, insert "*the cost effectiveness of services,*"

Page 7, line 33, after the first comma, insert "*the cost of services,*"

Page 8, line 18, strike everything after "or" and insert "*case management is provided as required in section 256B.0625, subdivision 19a*"

Page 8, line 19, strike everything before the semicolon

Page 8, line 23, strike everything after "unless"

Page 8, strike line 24

Page 8, line 25, strike "evaluation team" and insert "*case management is provided as required in section 256B.0625, subdivision 19a*"

Page 8, line 27, after "four" insert "*unless the county responsible for the recipient's foster placement requests that services be provided as required in section 256B.0625, subdivision 19a*"

Page 8, line 29, strike "less the base rate" and insert "*other than room and board payments plus the cost of home- and community-based waived services*"

Page 9, line 5, delete "3" and insert "6"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "providing for medical assistance coverage of home health services delivered in a facility under certain circumstances;"

Page 1, line 5, after the semicolon, insert "allowing foster care providers to deliver personal care services if monitored; defining responsible party;"

Page 1, line 7, after the semicolon, insert "requiring cost effectiveness of services to be considered;"

Page 1, line 8, delete "subdivision" and insert "subdivisions 6a and"

Page 1, line 9, after "subdivisions" insert "1, 4," and after "5" insert a comma

And when so amended the bill do pass. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health and Human Services, to which was re-referred

S.F. No. 1946: A bill for an act relating to juveniles; establishing a youth employment and education pilot program; appropriating money for the pilot program.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 2531: A bill for an act relating to retirement; providing for the calculation of pension increases for the Virginia police relief association.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 7, after "law" insert "*to the contrary*" and before "*the*" insert "*but subject to Minnesota Statutes, section 69.77, subdivision 1,*"

Page 1, line 14, delete "*shall*" and insert "*must*"

Page 1, line 22, delete "*beneficiaries would then*" and insert "*benefit recipients must*"

Page 1, line 23, after the period, insert "*For deferred service pensioners, the percentage must be applied to the initially calculated deferred service*"

pension amount, plus any prior percentage increases granted since the date on which the deferred service pensioner terminated active service."

Page 1, delete lines 24 and 25 and insert:

"The increase also must be granted to the three benefit recipients who had no automatic postretirement adjustments payable as of December 31, 1991."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 2547: A bill for an act relating to retirement; Minneapolis police relief association; recodifying the local laws applicable to the local relief association; amending Laws 1980, chapter 607, article XV, sections 8, 9, as amended, and 10; Laws 1989, chapter 319, article 19, sections 6 and 7, subdivisions 1 and 4, as amended; and Laws 1990, chapter 589, article 1, section 6; repealing Minnesota Statutes 1957, sections 423.71; 423.715; 423.72; 423.725; 423.73; 423.735; 423.74; 423.745; 423.75; 423.755; 423.76; 423.765; 423.77; 423.775; Special Laws 1891, chapter 143; Laws 1943, chapter 280; Laws 1949, chapter 406; Laws 1953, chapter 127; Laws 1957, chapters 721 and 939; Laws 1959, chapters 428 and 662; Laws 1961, chapter 532; Laws 1963, chapter 315; Laws 1965, chapters 493, 520, and 534; Laws 1967, chapters 820 and 825; Laws 1969, chapters 258 and 560; Laws 1973, chapters 272 and 309; Laws 1975, chapter 428; Laws 1980, chapter 607, article XV, section 21; Laws 1983, chapter 88; Laws 1987, chapters 322, sections 2, 3, 4, 5, 6, 7, and 8; and 372, article 2, sections 2, 3, 4, 6, and 15; Laws 1988, chapters 572, sections 3, 5, and 6; and 574, sections 2, 4, and 5; Laws 1990, chapter 589, article 1, section 4; and Laws 1991, chapter 90.

Reports the same back with the recommendation that the bill be amended as follows:

Page 9, line 18, before the first "the" insert "*notwithstanding a contrary provision of Minnesota Statutes, section 69.80,*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

H.F. No. 31: A bill for an act relating to public safety; creating the Minnesota advisory council on fire protection systems; requiring licensing and certifying of the fire protection industry; providing for rules and an exemption; providing for fees; imposing a penalty; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 299M.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 18, before the period, insert "*and is registered with a state or federal approval agency*"

Page 4, line 8, delete "*exempt from examination*" and insert "*eligible for licensure or certification without examination for two years after the*

effective date of this section"

Page 4, line 9, before the comma, insert "*for the two-year period*"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 1970: A bill for an act relating to retirement; local police and salaried firefighter relief associations; eliminating eligibility for amortization state aid and supplementary amortization state aid for relief associations and consolidation accounts with no unfunded actuarial accrued liability; amending Minnesota Statutes 1991 Supplement, section 423A.02.

Reports the same back with the recommendation that the bill be amended as follows:

Page 3, after line 31, insert:

"Sec. 2. [EFFECTIVE DATE.]

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

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 2412: A bill for an act relating to retirement; St. Paul police relief association; authorizing retirees and surviving spouses to participate in relief association board elections; amending Laws 1955, chapter 151, section 1, subdivision 3, as amended.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 12, delete "or" and insert a comma

Page 1, line 13, after "4" insert ", or acting on any question at a regular membership meeting or a special membership meeting"

Page 2, after line 5, insert:

"(c) Notwithstanding any provision of law, relief association articles of incorporation, or relief association bylaws to the contrary, for a question considered at a regular membership meeting or a special membership meeting to be approved, approval must be given by both a majority of members described in paragraph (b) and a majority of members described in paragraph (a) but not also described in paragraph (b)."

Amend the title as follows:

Page 1, line 5, after "elections" insert "and other governance issues"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 2485: A bill for an act relating to telecommunications; establishing a grant and loan program to assist political subdivisions of the state and other public entities to participate in regional or statewide telecommunications systems; authorizing the issuance and sale of state bonds for the program; appropriating money.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 15, delete everything after "in"

Page 1, line 16, delete "including"

Page 1, line 20, before "Half" insert "Up to" and delete "and half" and insert ". The remainder must be used"

Page 1, after line 21, insert:

"Subd. 2. [RESTRICTIONS ON USE OF MONEY.] Loan and grant money under the program may be used for on-site construction and renovation costs, on-site design and engineering costs, and on-site equipment costs. Money may not be used to purchase off-site telecommunications transmission facilities and equipment.

Subd. 3. [REGIONAL ADVISORY GROUPS.] The commissioners shall appoint a regional telecommunications advisory group for each economic development region. A regional telecommunications advisory group must include, at a minimum, representation from health care providers, elementary and secondary education, post-secondary education, city or county government, the judicial system, state agencies that have offices or facilities in the region, and local telecommunications providers. In addition, an advisory group's membership must reflect broad geographic representation from within the region."

Page 1, line 25, delete "and that can"

Page 1, line 26, delete everything before the period

Page 2, line 10, delete "or" and insert "and"

Page 2, line 11, delete "community or"

Page 2, line 12, delete everything after "group"

Page 2, delete lines 13 and 14

Page 2, line 15, delete everything before the semicolon and insert "appointed under subdivision 3"

Page 2, line 21, delete "and"

Page 2, line 22, delete "be duplicated" and insert "serve as a model to be replicated"

Page 2, line 25, delete the period and insert "; and

(7) the applicant can demonstrate financial need.

In determining whether projects meet the criterion set out in clause (2), the commissioners shall give preference to plans that maximize public access for the region."

Page 2, line 26, delete "*In addition*" and insert "*Of applicants that satisfy the criteria in paragraph (a)*"

Page 2, line 34, delete everything after the period

Page 2, delete lines 35 and 36 and insert:

"(d) The commissioners shall administer the program in a minimum of two application and grant cycles a year, with the first round of awards to be announced no later than August 1, 1992. Any money designated for an economic development region that is not awarded within that region in earlier cycles is available in the final cycle of the year to qualified applicants in all regions."

Page 3, delete line 1

Page 3, line 7, delete everything after "*loans*" and insert "*. In addition, money in the account is to be used to pay costs incurred by the commissioner of trade and economic development and the commissioner of administration to administer*"

Page 3, line 8, delete "*administering*"

Renumber the subdivisions in sequence

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Commerce, to which was referred

S.F. No. 2483: A bill for an act relating to alcoholic beverages; authorizing the sale of liqueur-filled candy in confectionery stores; amending Minnesota Statutes 1990, section 31.121.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 16B.54, subdivision 2, is amended to read:

Subd. 2. [VEHICLES.] (a) [ACQUISITION FROM AGENCY; APPROPRIATION.] The commissioner may direct an agency to make a transfer of a passenger motor vehicle or truck currently assigned to it. The transfer must be made to the commissioner for use in the central motor pool. The commissioner shall reimburse an agency whose motor vehicles have been paid for with funds dedicated by the constitution for a special purpose and which are assigned to the central motor pool. The amount of reimbursement for a motor vehicle is its average wholesale price as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(b) [PURCHASE.] To the extent that funds are available for the purpose, the commissioner may purchase or otherwise acquire additional passenger motor vehicles and trucks necessary for the central motor pool. The title to all motor vehicles assigned to or purchased or acquired for the central motor pool is in the name of the department of administration.

(c) [TRANSFER AT AGENCY REQUEST.] On the request of an agency, the commissioner may transfer to the central motor pool any passenger motor vehicle or truck for the purpose of disposing of it. The department

or agency transferring the vehicle or truck must be paid for it from the motor pool revolving account established by this section in an amount equal to two-thirds of the average wholesale price of the vehicle or truck as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(d) [VEHICLES; MARKING.] The commissioner shall provide for the uniform marking of all motor vehicles. Motor vehicle colors must be selected from the regular color chart provided by the manufacturer each year. The commissioner may further provide for the use of motor vehicles without marking by the governor, the lieutenant governor, the division of criminal apprehension, *division of liquor control*, division of gambling enforcement, arson investigators of the division of fire marshal in the department of public safety, financial institutions division of the department of commerce, division of state lottery in the department of gaming, criminal investigators of the department of revenue, state-owned community service facilities in the department of human services, the investigative staff of the department of jobs and training, and the office of the attorney general.

Sec. 2. Minnesota Statutes 1990, section 31.121, is amended to read:

31.121 [FOOD ADULTERATION.]

A food shall be deemed to be adulterated:

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or

(b) If it bears or contains any added poisonous or added deleterious substance, other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive, which is unsafe within the meaning of section 31.122; or

(c) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 31.122; or

(d) If it is or it bears or contains any food additive which is unsafe within the meaning of section 31.122; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under section 31.122, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of section 31.122 and this clause, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity; or

(e) If it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or

(f) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or

(g) If it is in whole or in part the product of a diseased animal or of an animal which has died otherwise than by slaughter, or of an animal that has been fed upon the uncooked offal from a slaughterhouse; or

(h) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or

(i) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption in effect pursuant to section 31.122 or section 409 of the federal act; or

(j) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or

(k) If any substance has been substituted wholly or in part therefor; or

(l) If damage or inferiority has been concealed in any manner; or

(m) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is; or

(n) If it is confectionery, and (1) has partially or completely imbedded therein any nonnutritive object; provided, that this clause shall not apply in the case of any nonnutritive object if in the judgment of the commissioner, as provided by rules, such object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; or (2) bears or contains any nonnutritive substance; provided, that this clause shall not apply to a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storing of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of any provision of the Minnesota food law; and provided further, that the commissioner may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue rules allowing or prohibiting the use of particular nonnutritive substances; or (3) *bears or contains alcohol in excess of one-half of one percent by volume; provided that this clause does not apply to liqueur-filled candy that may be sold only in exclusive liquor stores as authorized under section 340A.908 or to confectionery containing alcohol which complies with all of the following conditions:*

(i) it contains less than five percent alcohol by volume;

(ii) it is not sold in a form containing liquid alcohol;

(iii) it is not sold to persons under the age of 21;

(iv) it is labeled with a conspicuous, readily legible statement that reads: "This product may not be sold to anyone under 21 years of age";

(v) it is labeled with a conspicuous, readily legible statement that the product contains not more than five percent alcohol by volume; and

(vi) it may only be sold in or from a business establishment which derives more than 50 percent of its gross sales from the sale of confectioneries or an exclusive liquor store; or

(o) If it is or bears or contains any color additive which is unsafe within the meaning of section 31.122; or

(p) If it is oleomargarine or margarine or butter and any of the raw

material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance, or such oleomargarine or margarine or butter is otherwise unfit for food.

Sec. 3. Minnesota Statutes 1990, section 168.012, subdivision 1, is amended to read:

Subdivision 1. (a) The following vehicles are exempt from the provisions of this chapter requiring payment of tax and registration fees, except as provided in subdivision 1c:

(1) vehicles owned and used solely in the transaction of official business by representatives of foreign powers, by the federal government, the state, or any political subdivision;

(2) vehicles owned and used exclusively by educational institutions and used solely in the transportation of pupils to and from such institutions;

(3) vehicles used solely in driver education programs at nonpublic high schools;

(4) vehicles owned by nonprofit charities and used exclusively to transport disabled persons for educational purposes;

(5) vehicles owned and used by honorary consul or consul general of foreign governments; and

(6) ambulances owned by ambulance services licensed under section 144.802, the general appearance of which is unmistakable.

(b) Vehicles owned by the federal government, municipal fire apparatus, police patrols and ambulances, the general appearance of which is unmistakable, shall not be required to register or display number plates.

(c) Unmarked vehicles used in general police work ~~and, liquor investigations, arson investigations,~~ and passenger automobiles, pickup trucks, and buses owned or operated by the department of corrections shall be registered and shall display appropriate license number plates which shall be furnished by the registrar at cost. Original and renewal applications for these license plates authorized for use in general police work and for use by the department of corrections must be accompanied by a certification signed by the appropriate chief of police if issued to a police vehicle, the appropriate sheriff if issued to a sheriff's vehicle, the commissioner of corrections if issued to a department of corrections vehicle, or the appropriate officer in charge if issued to a vehicle of any other law enforcement agency. The certification must be on a form prescribed by the commissioner and state that the vehicle will be used exclusively for a purpose authorized by this section.

(d) Unmarked vehicles used by the department of revenue in conducting seizures or criminal investigations must be registered and must display passenger vehicle classification license number plates which shall be furnished at cost by the registrar. Original and renewal applications for these passenger vehicle license plates must be accompanied by a certification signed by the commissioner of revenue. The certification must be on a form prescribed by the commissioner and state that the vehicles will be used exclusively for the purposes authorized by this section.

(e) All other motor vehicles shall be registered and display tax-exempt number plates which shall be furnished by the registrar at cost, except as provided in subdivision 1c. All vehicles required to display tax-exempt

number plates shall have the name of the state department or political subdivision, or the nonpublic high school operating a driver education program, on the vehicle plainly displayed on both sides thereof in letters not less than 2-1/2 inches high and one-half inch wide; except that each state hospital and institution for the mentally ill and mentally retarded may have one vehicle without the required identification on the sides of the vehicle. Such identification shall be in a color giving contrast with that of the part of the vehicle on which it is placed and shall endure throughout the term of the registration. The identification must not be on a removable plate or placard and shall be kept clean and visible at all times; except that a removable plate or placard may be utilized on vehicles leased or loaned to a political subdivision or to a nonpublic high school driver education program.

Sec. 4. Minnesota Statutes 1990, section 340A.101, is amended by adding a subdivision to read:

Subd. 15b. [LIQUEUR-FILLED CANDY.] "Liqueur-filled candy" is any confectionery containing more than one-half of one percent alcohol by volume in liquid form that is intended for or capable of beverage use.

Sec. 5. Minnesota Statutes 1991 Supplement, section 340A.408, subdivision 2, is amended to read:

Subd. 2. [INTOXICATING LIQUOR; ON-SALE.] (a) The license fee for a retail on-sale intoxicating liquor license is the fee set by the city or county issuing the license subject to the limitations imposed under this subdivision. The license fee is intended to cover the costs of issuing and inspecting and other directly related costs of enforcement.

(b) The annual license fee for an on-sale intoxicating liquor license issued by a municipality to a club must be no greater than:

- (1) \$300 for a club with under 200 members;
- (2) \$500 for a club with between 201 and 500 members;
- (3) \$650 for a club with between 501 and 1,000 members;
- (4) \$800 for a club with between 1,001 and 2,000 members;
- (5) \$1,000 for a club with between 2,001 and 4,000 members;
- (6) \$2,000 for a club with between 4,001 and 6,000 members; or
- (7) \$3,000 for a club with over 6,000 members.

(c) The license fee for the issuance of a wine license may not exceed one-half of the license fee charged for an on-sale intoxicating liquor license, or \$2,000, whichever is less.

(d) The town board of a town in which an on-sale establishment has been licensed by a county may impose an additional license fee on each such establishment in an amount not to exceed 20 percent of the county license fee.

Sec. 6. Minnesota Statutes 1990, section 340A.602, is amended to read:
340A.602 [CONTINUATION.]

In any city in which the report of the operations of a municipal liquor store has shown *in any two of three consecutive years both (1) a net loss* ~~in any two of three consecutive years or has shown~~ and (2) that no contribution

to other municipal funds has been made from the net income of the operation ~~in any two of three consecutive years~~, the city council shall, not more than 45 days prior to the end of the fiscal year following the three-year period, hold a public hearing on the question of whether the city shall continue to operate a municipal liquor store. Two weeks notice, written in clear and easily understandable language, of the hearing must be printed in the city's official newspaper. Following the hearing the city council may on its own motion or shall upon petition of five percent or more of the registered voters of the city, submit to the voters at a general or special municipal election the question of whether the city shall continue or discontinue municipal liquor store operations by a date which the city council shall designate. The date designated by the city council must not be more than 30 months following the date of the election.

Sec. 7. [BLAINE; ON-SALE INTOXICATING LIQUOR LICENSE.]

The city of Blaine may issue an on-sale intoxicating liquor license to the Minnesota amateur sports commission established in Minnesota Statutes, section 240A.02, for the National Sports Center. The license authorizes the sale of intoxicating liquor to persons attending social events at the center, but does not authorize the sale of intoxicating liquor at any youth athletic contest at the center. The license issued under this section is in addition to all other licenses authorized by law. The provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, apply to the license issued under this section.

Sec. 8. [ON-SALE LICENSE; BLUE EARTH COUNTY.]

The Blue Earth county board may issue an on-sale intoxicating liquor license to a billiard hall located within South Bend township in the county, without regard to whether the licensed establishment meets the definition of "restaurant" in Minnesota Statutes, section 340A.101, subdivision 25. All other provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section apply to the license authorized under this section.

Sec. 9. [ON-SALE LICENSE; DULUTH.]

Notwithstanding any law to the contrary, the city of Duluth may issue an on-sale intoxicating liquor license to a restaurant located at 109 North Second Avenue West in the city of Duluth. The license authorized by this section is in addition to any other licenses authorized by law. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, apply to the license authorized by this section.

Sec. 10. [LAKE TOWNSHIP; OPERATION OF LIQUOR STORE.]

Notwithstanding any other provision of law, the town board of Lake township in Roseau county may by majority vote establish, own, and operate an exclusive liquor store within the township for the off-sale of intoxicating liquor. The authority granted under this section does not include the authority for the town board to issue retail alcoholic beverage licenses. All provisions of Minnesota Statutes, chapter 340A, that apply to the holders of off-sale intoxicating liquor licenses, not inconsistent with this section, apply to the establishment, ownership, and operation of an exclusive liquor store under this section; provided that the provisions of Minnesota Statutes, sections 340A.603 and 340A.604, apply to the exclusive liquor store authorized by this section as if the exclusive liquor store were a municipal liquor store.

Sec. 11. [EFFECTIVE DATE.]

Sections 6 to 8 are effective the day following final enactment. Section 10 is effective on approval by the town board of Lake township and compliance with Minnesota Statutes, section 645.021, subdivision 3."

Delete the title and insert:

"A bill for an act relating to alcoholic beverages; authorizing the sale of confectionery containing alcohol in confectionery stores; providing for the division of liquor control to use unmarked motor vehicles for liquor investigations; providing for reasonable licensing fees; specifying conditions under which a municipality is required to hold a public hearing on the question of continued operation of a municipal liquor store; authorizing the cities of Blaine and Duluth to issue additional on-sale liquor licenses; authorizing Blue Earth county to issue an on-sale liquor license to a billiard hall; authorizing Lake township in Roseau county to establish, own, and operate an exclusive liquor store; amending Minnesota Statutes 1990, sections 16B.54, subdivision 2; 31.121; 168.012, subdivision 1; 340A.101, by adding a subdivision; and 340A.602; Minnesota Statutes 1991 Supplement, section 340A.408, subdivision 2."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mrs. Adkins from the Committee on Local Government, to which was referred

H.F. No. 1957: A bill for an act relating to elected officials; restricting compensation for local elected officials; providing for terms for Cook county hospital district board members; amending Minnesota Statutes 1990, section 43A.17, by adding a subdivision; and Laws 1989, chapter 211, section 8, subdivision 3.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 17, before "*Section*" insert "*Section 1 is effective the day following final enactment and applies to all officials elected thereafter.*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mrs. Adkins from the Committee on Local Government, to which was referred

H.F. No. 1852: A bill for an act relating to Big Stone, Chippewa, and Kandiyohi counties; permitting each county to consolidate the offices of auditor and treasurer.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mrs. Adkins from the Committee on Local Government, to which was referred

S.F. No. 2694: A bill for an act relating to courts; authorizing issuance of bonds to finance the construction of centrally located suburban Ramsey county court facility; amending Minnesota Statutes 1990, sections 488A.18, subdivision 10; and 488A.185; proposing coding for new law in Minnesota Statutes, chapter 488A.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, delete section 3

Delete the title and insert:

"A bill for an act relating to courts; authorizing Ramsey county to provide for a single suburban court facility; amending Minnesota Statutes 1990, sections 488A.18, subdivision 10; and 488A.185."

And when so amended the bill do pass. Mr. Merriam questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 1567 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1567	2354				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Mr. Spear from the Committee on Judiciary, to which was referred

S.F. No. 2088: A bill for an act relating to corporations; making miscellaneous changes in provisions dealing with the organization and operation of nonprofit corporations; amending Minnesota Statutes 1990, sections 317A.011, subdivisions 7 and 14; 317A.111, subdivision 3; 317A.201; 317A.213; 317A.227; 317A.251, subdivision 3; 317A.255, subdivisions 1, 2, and by adding a subdivision; 317A.341, subdivision 2; 317A.431, subdivision 2; 317A.447; 317A.461; 317A.751, subdivision 3; and 317A.827, by adding a subdivision; Minnesota Statutes 1991 Supplement, sections 317A.821, subdivision 2; 317A.823; and 317A.827, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 6, line 10, delete "*or officer*,"

Page 6, lines 11, 12, 13, 15, 16, and 20, delete "*or officer*"

Page 6, lines 18 and 19, delete "*, the officer*,"

Page 6, line 32, delete "*or officer's*"

Page 6, line 36, strike "or" and delete "*officer*"

Page 7, line 4, delete "*or officer's*"

Page 7, lines 9, 10, 18, 20, 21, 22, 24, and 33, delete "*or officer*"

Page 7, line 27, delete "*or*"

Page 7, line 28, delete the first "*officer*" and delete "*or officer*"

Page 9, line 22, delete "*three*" and insert "*six*"

Page 9, lines 23 and 31, delete "*with voting rights*"

Page 9, lines 24 and 25, delete "*with voting rights*"

Page 10, delete lines 1 to 22

Page 10, line 30, delete "*Copies of all documents*"

Page 10, delete lines 31 and 32

Page 10, line 33, delete everything before the first "*the*"

Page 10, line 35, delete "*the copy*" and insert "*copies of documents under this section*"

Page 11, delete line 2

Page 11, line 3, delete "*micro-images,*"

Page 11, line 12, delete "*6*" and insert "*5*"

Page 11, line 16, delete "*with voting rights*"

Renumber the subdivisions in sequence

Page 12, after line 30, insert:

"Sec. 17. Minnesota Statutes 1990, section 317A.821, subdivision 3, is amended to read:

Subd. 3. [DISSOLUTION; EXTENSION.] If a corporation fails to regain its good standing under subdivision 2 on or before December 31, ~~2000~~ 1997, the corporation is dissolved under section 317A.827. After December 31, ~~2000~~ 1997, the corporate existence of a corporation dissolved under this subdivision may be extended by filing the initial corporate registration with the secretary of state and payment of a \$1,000 fee. The extension relates back to December 31, ~~2000~~ 1997."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 11, after the first semicolon, insert "*317A.821, subdivision 3;*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2143: A bill for an act relating to game and fish; providing for agricultural crop protection assistance; providing for issuance of deer licenses to certain owners of agricultural land in consideration for allowing access for hunting; appropriating money; amending Minnesota Statutes 1990, sections 97A.441, by adding a subdivision; and 97B.301, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97A.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [97A.026] [AGRICULTURAL CROP PROTECTION ASSISTANCE.]

Subdivision 1. [DEFINITIONS.] (a) For the purposes of this section, "agricultural crops" means annually seeded crops, legumes, fruit orchards, tree farms and nurseries, sod farms, and apiaries.

(b) For the purposes of this section, "specialty crops" means fruit orchards, vegetables, tree farms and nurseries, sod farms, and apiaries.

Subd. 2. [TECHNICAL ASSISTANCE.] The commissioner shall establish a statewide program to provide technical assistance to persons for the protection of agricultural crops from destruction by wild animals. As part of the program, the commissioner shall develop and identify the latest and most effective abatement techniques; acquire appropriate demonstration supplies and materials required to meet specialized needs; train property owners, field staff, public land managers, extension agents, pest control operators, and others; provide technical manuals and brochures; and provide field personnel with supplies and materials for damage abatement demonstrations and short-term assistance and for the establishment of food or lure crops where appropriate.

Subd. 3. [DETERRENT MATERIALS ASSISTANCE.] (a) A person may apply to the commissioner for deterrent materials assistance in controlling destruction of specialty crops by wild animals. Subject to the availability of money appropriated for this purpose, the commissioner shall provide suitable deterrent materials, at no cost to the applicant, for the protection of specialty crops when the commissioner estimates that the benefit from the use of the deterrent materials is greater than twice the cost of providing the materials. Deterrent materials may include repellents or fencing materials. The landowner is responsible for implementing the deterrent system, including the placement and operation of repellents or the erection and maintenance of fences.

(b) In providing assistance to landowners under this subdivision, the commissioner shall prioritize projects based on their relative benefit-cost ratios and shall give first priority to fencing projects required by court order issued on or before May 1, 1992.

(c) If a landowner who has received assistance under this subdivision in the form of materials with a design life of more than five years sells the property within five years after installation of the materials, the landowner shall reimburse the commissioner for the value of the materials, prorated over the remainder of the five-year period.

Sec. 2. Minnesota Statutes 1990, section 97A.441, is amended by adding a subdivision to read:

Subd. 7. [OWNERS OR TENANTS OF AGRICULTURAL LAND.] (a) The commissioner may issue, without a fee, a bonus license to take deer with firearms to a person who is an owner or tenant and lives on at least 40 acres of agricultural land, as defined in section 97B.001, in an area where bonus licenses are available. Landowners and tenants applying for a bonus license under this subdivision must receive preference over other applicants for bonus licenses.

(b) Persons who obtain a bonus deer license under paragraph (a) must allow public deer hunting on their land during that deer hunting season.

Sec. 3. [APPROPRIATION.]

\$ is appropriated from the general fund to the commissioner of natural resources to implement section 1.

Sec. 4. [EFFECTIVE DATE.]

Section 2 is effective March 1, 1993."

Amend the title as follows:

Page 1, line 7, delete "sections" and insert "section" and delete "and"

Page 1, line 8, delete everything before "proposing"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Waldorf from the Committee on Governmental Operations, to which was referred

S.F. No. 2002: A bill for an act relating to public safety; providing a procedure for determining claims under the public safety officer's death benefit program; amending Minnesota Statutes 1990, section 299A.41, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 299A.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 299A.41, subdivision 4, is amended to read:

Subd. 4. [PUBLIC SAFETY OFFICER.] "Public safety officer" includes:

(1) a peace officer defined in section 626.84, *subdivision 1, paragraph (c) or (f)*;

(2) a correction officer employed at a correctional facility and charged with maintaining the safety, security, discipline, and custody of inmates at the facility;

(3) a firefighter employed on a full-time basis by the state or by a fire department of a governmental subdivision of the state, who is engaged in the hazards of firefighting;

(4) a legally enrolled member of a volunteer fire department or member of an independent nonprofit firefighting corporation who is engaged in the hazards of firefighting;

(5) a good samaritan while complying with the request or direction of a public safety officer to assist the officer;

(6) a reserve police officer or a reserve deputy sheriff while acting under the supervision and authority of a political subdivision;

(7) a driver or attendant with a licensed basic or advanced life support transportation service who is engaged in providing emergency care; and

(8) a first responder who is certified by the commissioner of health to perform basic emergency skills before the arrival of a licensed ambulance service and who is a member of an organized service recognized by a local

political subdivision to respond to medical emergencies to provide initial medical care before the arrival of an ambulance.

Sec. 2. [299A.47] [CLAIMS LIMITATION; DATA CLASSIFICATION.]

Subdivision 1. [FILING LIMITATIONS.] Claims for benefits from the public safety officer's death benefit account made by or on behalf of a survivor of a public safety officer must be filed within two years after the date of death of the officer.

Subd. 2. [CLAIM CLASSIFICATION.] Claims for death benefits and supporting documents and reports are investigative data and subject to the provisions of section 13.39 until the claim is paid, denied, withdrawn, or abandoned. Following the payment, denial, withdrawal, or abandonment of a claim, the claim and supporting documents and reports are private data on individuals as defined in section 13.02, subdivision 12."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Dahl from the Committee on Education, to which was referred

S.F. No. 2221: A bill for an act relating to education; appropriating money to the state university board to assist in the cleanup of the Kummer landfill.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 9, insert:

"Sec. 2. [NELSON HALL.]

\$ is appropriated from the bond proceeds fund to the state university board for emergency construction to repair fire damage to Nelson Hall at Mankato State University. The funds may be used to pay for obligations incurred or to reimburse expenditures already made before the effective date of this section.

Sec. 3. [SALE OF BONDS.]

To provide the money appropriated in section 2 from the bond proceeds fund, the commissioner of finance upon request of the governor shall sell and issue bonds of the state in an amount up to \$ in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7.

Sec. 4. [REPLACE BEMIDJI'S ANISHINABE CENTER.]

The state university board may demolish and replace the Anishinabe Center on the Bemidji State University campus. The demolition and replacement must be carried out with Bemidji State University Foundation or other non-state money. The new center must be on state university land and must be state owned.

Sec. 5. [ADVANCE FOR BEMIDJI BOOKSTORE.]

The Bemidji State University Foundation may provide money for the design and construction of a bookstore on the Bemidji State University campus. The state board shall repay the principal and interest on the loan within five years. The interest must be at a rate not to exceed the rate the state would pay on its bonds if issued for the same purpose.

Sec. 6. [LAND EXCHANGE.]

Notwithstanding Minnesota Statutes, chapter 94, the state university board may enter into an agreement with the city of St. Cloud to exchange parcels of land. The conveyances must be made for no monetary consideration and by quitclaim deed in a form approved by the attorney general. Before the conveyances, the state university board and the city of St. Cloud shall enter an agreement on temporary easements on the parcels of land to be exchanged.

Sec. 7. [EFFECTIVE DATE.]

Sections 2, 3, and 6 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to education; providing assistance to the state university board related to the cleanup of the Kummer landfill and repair of fire damage at Mankato State University; permitting the state university board to demolish and replace the Anishinabe Center on the Bemidji State University campus; permitting the Bemidji State University Foundation to advance money for a new bookstore on the Bemidji State University campus; authorizing a land exchange between the city of St. Cloud and the state university board; authorizing bonds; appropriating money."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Dahl from the Committee on Education, to which was referred

S.F. No. 1968: A bill for an act relating to education; making changes in the school consolidation law; amending Minnesota Statutes 1990, section 122.23, subdivision 16; Minnesota Statutes 1991 Supplement, section 122.23, subdivision 2.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1991 Supplement, section 122.23, subdivision 2, is amended to read:

Subd. 2. (a) Upon a resolution of a school board in the area proposed for consolidation or upon receipt of a petition therefor executed by 25 percent of the voters resident in the area proposed for consolidation or by 50 such voters, whichever is lesser, the county auditor of the county which contains the greatest land area of the proposed new district shall forthwith cause a plat to be prepared. The resolution or petition shall show the approximate area proposed for consolidation.

(b) The resolution or petition may propose the following:

(1) that the bonded debt of the component districts will be paid according to the levies previously made for that debt under chapter 475, as provided in subdivision 16a, or that the taxable property in the newly created district will be taxable for the payment of all or a portion of the bonded debt previously incurred by any component district as provided in subdivision 16b;

(2) that obligations for a capital loan or an energy loan made according

to section 216C.37 or sections 298.292 to 298.298 outstanding in a preexisting district as of the effective date of consolidation remain solely with the preexisting district that obtained the loan, or that all or a portion of the loan obligations will be assumed by the newly created or enlarged district and paid by the newly created or enlarged district on behalf of the preexisting district that obtained the loan;

(3) that referendum levies previously approved by voters of the component districts pursuant to section 124A.03, subdivision 2, or its predecessor provision, be combined as provided in section 122.531, subdivision 2a or 2b, or that the referendum levies be discontinued;

(4) that the board of the newly created district consist of seven members; or

(5) that separate election districts from which school board members will be elected, the boundaries of these election districts, and the initial term of the member elected from each of these election districts be established.

A group of districts that operates a cooperative secondary facility funded under section 124.494 may also propose a temporary school board structure as specified in section 2.

If a county auditor receives more than one request for a plat and the requests involve parts of identical districts, the auditor shall forthwith prepare a plat which in the auditor's opinion best serves the educational interests of the inhabitants of the districts or areas affected.

(c) The plat shall show:

(1) Boundaries of the proposed district, as determined by the county auditor, and present district boundaries,

(2) The location of school buildings in the area proposed as a new district and the location of school buildings in adjoining districts,

(3) The boundaries of any proposed separate election districts, and

(4) Other pertinent information as determined by the county auditor.

Sec. 2. Minnesota Statutes 1990, section 124.494, is amended by adding a subdivision to read:

Subd. 7. [CONSOLIDATION.] A group of districts that operates a cooperative secondary facility that was acquired, constructed, remodeled, or improved under this section and implements consolidation proceedings according to section 122.23, may propose a temporary school board structure in the petition or resolution required under section 122.23, subdivision 2. The districts may propose the number of existing school board members of each district to become members of the school board of the consolidated district and a method to gradually reduce the membership to six or seven. The proposal shall be approved, disapproved, or modified by the state board of education. The election requirements of section 122.23, subdivision 18, do not apply to a proposal approved by the state board. Elections conducted after the effective date of the consolidation are subject to the Minnesota election law."

Delete the title and insert:

"A bill for an act relating to education; authorizing recipients of a cooperative secondary facilities grant to have a temporary school board structure after they consolidate; amending Minnesota Statutes 1990, section 124.494,

by adding a subdivision; and Minnesota Statutes 1991 Supplement, section 122.23, subdivision 2.”

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Metzen from the Committee on Economic Development and Housing, to which was referred

S.F. No. 2626: A bill for an act relating to housing and redevelopment authorities; permitting use of general obligation bonds for housing projects; amending Minnesota Statutes 1990, section 469.034.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, lines 6 and 26, after “*housing*” insert “*development*”

Page 2, line 10, before “*issue*” insert “*principal amount of the*”

Page 2, line 14, delete “120” and insert “15”

Page 2, line 15, delete “15” and insert “120”

Page 2, line 17, delete “*lesser*” and insert “*greater*”

Page 2, line 18, before “*one*” insert “*one-half of*”

Page 2, line 19, after “*obligation*” insert “*which includes a tax on property*”

Page 2, line 20, delete “\$5,000,000 for the authority” and insert “\$3,000,000”

Page 2, line 24, after the period, insert “*Obligations under this subdivision are excluded from net debt limits.*”

And when so amended the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Amendments adopted. Report adopted.

Mr. Metzen from the Committee on Economic Development and Housing, to which was referred

S.F. No. 2617: A bill for an act relating to the world trade center; authorizing and establishing procedures for the privatization of the world trade corporation; appropriating money; amending Minnesota Statutes 1990, section 44A.031 I; proposing coding for new law in Minnesota Statutes, chapter 44A.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Mr. Metzen from the Committee on Economic Development and Housing, to which was referred

S.F. No. 2422: A bill for an act relating to economic development; establishing the affirmative enterprise program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116J.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Mr. Metzen from the Committee on Economic Development and Housing, to which was referred

S.F. No. 2401: A bill for an act relating to the city of Red Wing; authorizing the expenditure of certain tax increment revenue.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 7, delete "*plan*" and insert "*plans*"

Page 1, line 8, delete "*plan*" and insert "*plans*" and after "*I*" insert "*and Development District II*"

Page 1, line 12, after "*I*" insert "*and Development District II*"

And when so amended the bill do pass and be re-referred to the Committee on Taxes and Tax Laws. Amendments adopted. Report adopted.

Mr. Metzen from the Committee on Economic Development and Housing, to which was referred

S.F. No. 2059: A bill for an act relating to appropriations; appropriating money to the housing development as state match for the federal HOME program; proposing coding for new law in Minnesota Statutes, chapter 462A.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [462A.204] [HOME MATCH ACCOUNT.]

The HOME match account is created as a separate account in the housing development fund. The agency may grant funds to participating jurisdictions to be used as state match for federal funds available under the home investment partnerships program as provided by United States Code, title 42, sections 12741 to 12756, or if no state match is required, for the purposes of the home investment partnerships program as provided by United States Code, title 42, sections 12741 to 12576. For the purpose of this section, "participating jurisdiction" is a jurisdiction that has been designated to receive HOME funds under United States Code, title 42, section 12746. The agency must allocate funds under this section based on each participating jurisdiction's share of Minnesota's allocation of federal funds under the home investment partnerships program.

Sec. 2. Minnesota Statutes 1990, section 462A.21, is amended by adding a subdivision to read:

Subd. 17. [HOME MATCH.] It may make grants for the purpose of section 462A.204 and pay the costs and expenses necessary and incidental to the development and operation of the grant program.

Sec. 3. [APPROPRIATION.]

\$ is appropriated from the general fund to the commissioner of the Minnesota housing finance agency for the purposes of sections 1 and 2."

Amend the title as follows:

Page 1, line 3, delete "housing development" and insert "Minnesota housing finance agency"

Page 1, line 4, after the semicolon, insert "amending Minnesota Statutes 1990, section 462A.21, by adding a subdivision;"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

H.F. No. 1013: A bill for an act repealing certain pipeline approval authority of the commissioner of natural resources; repealing Minnesota Statutes 1990, section 117.49.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2430: A bill for an act relating to the environment; providing that the pollution control agency adopt rules with respect to competence and fees of underground tank installers; amending Minnesota Statutes 1990, section 116.491, subdivision 3.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1990, section 115C.02, is amended by adding a subdivision to read:

Subd. 5a. [CONSULTANT.] "Consultant" means an individual, partnership, association, private corporation, or any other legal entity, that provides consulting services. Consulting services include the rendering of professional opinion, advice, or analysis regarding a release.

Sec. 2. Minnesota Statutes 1990, section 115C.02, is amended by adding a subdivision to read:

Subd. 5b. [CONTRACTOR.] "Contractor" means an individual, partnership, association, private corporation, or any other legal entity, that provides contractor services. Contractor services include activities related to the investigation of a release such as taking of soil borings and installation of monitoring wells, and activities related to corrective action such as soil excavation and installation of a soil or groundwater treatment system.

Sec. 3. Minnesota Statutes 1990, section 115C.03, is amended by adding a subdivision to read:

Subd. 10. [RETENTION OF RECORDS.] A person who applies for reimbursement under this chapter and a contractor or consultant who has billed the applicant for services that are part of the claim for reimbursement must maintain all records related to the claim for reimbursement for a minimum of five years from the date the claim for reimbursement is submitted to the board.

Sec. 4. [115C.045] [KICKBACKS.]

A consultant or contractor may not agree to pay or forgive the nonreimbursable portion of an application for reimbursement submitted under this

chapter.

Sec. 5. [115C.065] [CONSULTANT'S OR CONTRACTOR'S DUTY TO NOTIFY.]

A consultant or contractor involved in the removal of a petroleum tank shall immediately notify the agency whenever the consultant or contractor observes any petroleum tank release.

Sec. 6. Minnesota Statutes 1991 Supplement, section 115C.09, subdivision 7, is amended to read:

Subd. 7. [DUTY TO PROVIDE INFORMATION.] A person who submits an application to the board for reimbursement, or who has issued invoices or other demands for payment which are the basis of an application, shall furnish to the board copies of any financial records which the board requests and which are relevant to determining the validity of the costs listed in the application, or shall make the financial records reasonably available to the board for inspection and auditing. *The commissioner or board may obtain access to information required to be made available under this subdivision in the manner provided in section 115C.03, subdivision 7.*

Sec. 7. [115C.11] [CONSULTANTS AND CONTRACTORS; SANCTIONS.]

Subdivision 1. [REGISTRATION.] (a) All consultants and contractors must register with the board in order to participate in the petroleum tank release cleanup program.

(b) The board must maintain a list of all registered consultants and contractors.

(c) Any applicant who applies for reimbursement must use a registered consultant and contractor in order to be eligible for reimbursement.

(d) The commissioner must inform any person who notifies the agency of a release pursuant to section 115.061 that the person must use a registered consultant or contractor to qualify for reimbursement and that a list of registered consultants or contractors is available from the board.

(e) Any applicant who submits a claim based on work done by a consultant or contractor who fails to register with the board is ineligible for reimbursement of that work.

(f) Work performed by a consultant or contractor prior to being removed from the registration list may be reimbursed by the board.

Subd. 2. [DISQUALIFICATION.] *(a) The board must automatically remove a consultant or contractor from the registration list who is convicted in a criminal proceeding for submitting false or fraudulent bills that are part of a claim for reimbursement under section 115C.09, for a period of three years.*

(b) The board may, following a contested case hearing under chapter 14, impose any of the sanctions set forth in paragraph (c) based on any of the following reasons:

(1) engaging in conduct that departs from or fails to conform to the minimal standards of acceptable and prevailing engineering, hydrogeological, or other technical practices within the reasonable control of the consultant or contractor;

- (2) participating in a kickback scheme as prohibited by section 115C.045;
- (3) engaging in conduct likely to deceive or defraud, or demonstrating a willful or careless disregard for the public health or the environment;
- (4) commission of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice; or
- (5) revocation, suspension, restriction, limitation, or other disciplinary action against the contractor's or consultant's license or certification in another state or jurisdiction.

(c) The board may impose the following sanctions:

- (1) remove a consultant or contractor from the registration list for a period of up to three years;
- (2) publicly reprimand or censure the consultant or contractor;
- (3) place the consultant or contractor on probation for a period and upon terms and conditions the board prescribes;
- (4) require payment of all costs of proceedings resulting in an action instituted under this paragraph; or
- (5) impose a civil penalty of not more than \$10,000, the amount to be fixed so as to deprive the consultant or contractor of any economic advantage gained by reason of the consultant's or contractor's conduct or to reimburse the board for the cost of the investigation and proceeding.

(d) In deciding whether a particular sanction is appropriate, the board must consider the seriousness of the consultant's or contractor's acts or omissions and any mitigating factors.

(e) Civil penalties recovered by the state under this section must be credited to the fund.

Subd. 3. [NOTICE OF SANCTION.] The board must notify any consultant or contractor of a proposed sanction. The notice must advise the consultant or contractor of:

- (1) the fact that sanctions are being considered;
- (2) the reasons for the proposed sanction in terms sufficient to put the consultant or contractor on notice of the conduct on which the proposed sanction is based;
- (3) the reasons relied on under subdivision 2 for the proposed sanction;
- (4) the right to request a contested case hearing under chapter 14; and
- (5) the potential effect of sanctions.

Subd. 4. [EFFECTIVE DATES.] The board's order of sanction is final. The board may impose a sanction after a hearing before the board if a contested case hearing has not been requested. The sanction is effective 30 days after the board's order.

Sec. 8. Minnesota Statutes 1990, section 116.48, is amended by adding a subdivision to read:

Subd. 8. [NOTICE OF TANK INSTALLATION OR REMOVAL.] Before beginning installation or removal of an underground or aboveground tank system above 1,100 gallons in capacity, owners and operators must notify

the commissioner. Notification must be in writing or by telephone at least ten days before the tank installation or removal. Owners and operators must renotify the commissioner if the date of the tank installation or removal changes by more than 48 hours. The notification must include the following information:

- (1) the name, address, and telephone number of the site owner;*
- (2) the location of the site, if different from clause (1);*
- (3) the date of the tank installation or removal; and*
- (4) the name of the contractor or company that will install or remove the tank."*

Delete the title and insert:

"A bill for an act relating to the environment; adding sanctions and procedures relating to petroleum tank release consultants and contractors; amending Minnesota Statutes 1990, sections 115C.02, by adding subdivisions; 115C.03, by adding a subdivision; 116.48, by adding a subdivision; Minnesota Statutes 1991 Supplement, section 115C.09, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 115C."

And when so amended the bill do pass. Mr. Waldorf questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was re-referred

S.F. No. 2432: A bill for an act relating to agriculture; regulating aquatic farming; protecting certain wildlife populations; amending Minnesota Statutes 1990, sections 97C.203; 97C.211, subdivision 1; 97C.301, by adding a subdivision; 97C.345, subdivision 4; 97C.391; 97C.505, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 17; repealing Minnesota Statutes 1990, section 97C.209.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [17.4981] [GENERAL CONDITIONS FOR REGULATION OF AQUATIC FARMS.]

Aquatic farms are licensed to culture private aquatic life. Cultured aquatic life is not wildlife under state law. Aquatic farms are to be licensed and given classifications to prevent or minimize impacts on natural resources. Sections 1 to 14 must be implemented to:

- (1) prevent public aquatic life from entering an aquatic farm;*
- (2) prevent release of nonindigenous or exotic species into public waters without approval of the commissioner; and*
- (3) protect against release of disease pathogens to public waters.*

Private aquatic life that is legally acquired and possessed is an article of interstate commerce and may be restricted only as necessary to protect state fish and water resources.

Sec. 2. [17.4982] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to sections 1 to 14.

Subd. 2. [APPROVED LABORATORY METHODS.] "Approved laboratory methods" means methods described in the latest edition of the "Procedures for the Detection and Identification of Certain Fish Pathogens" published by the American Fisheries Society Fish Health Section known as the "fish health blue book."

Subd. 3. [AQUARIUM FACILITIES.] "Aquarium facilities" means facilities that rear or hold private aquatic life for sale for aquarium or display purposes.

Subd. 4. [AQUATIC FARM.] "Aquatic farm" means a licensed facility used for the purpose of hatching, raising, rearing, and culturing private aquatic life in waters and preparing aquatic life for sale, including but not limited to ponds, vats, tanks, raceways, and other indoor or outdoor facilities that an aquatic farmer owns or waters where an aquatic farmer has riparian use of the waters.

Subd. 5. [AQUATIC LIFE.] "Aquatic life" has the meaning given in section 17.47, subdivision 7, and for purposes of commercial transactions, aquatic life is livestock.

Subd. 6. [CERTIFIABLE DISEASES.] "Certifiable diseases" include channel catfish virus, bacterial kidney disease, bacterial furunculosis, enteric redmouth disease, enteric septicemia of catfish, infectious hematopoietic necrosis virus, infectious pancreatic necrosis virus, whirling disease, proliferative kidney disease, viral hemorrhagic septicemia virus, epizootic epitheliotropic virus, ceratomyxosis, and any emergency disease.

Subd. 7. [COMMISSIONER.] "Commissioner" means the commissioner of natural resources.

Subd. 8. [CONTAINMENT FACILITY.] "Containment facility" means a licensed facility that:

(1) disinfects its effluent to the standards in section 9 before the effluent is discharged to public waters;

(2) does not discharge to public waters or to waters of the state directly connected to public waters;

(3) raises aquatic life for food consumption only; or

(4) contains aquatic life requiring a fish health inspection prior to movement.

Subd. 9. [EMERGENCY FISH DISEASE.] "Emergency fish disease" means designated fish diseases not already present in this state that could impact populations of aquatic life if inadvertently released by infected aquatic life, including channel catfish virus, viral hemorrhagic septicemia virus, infectious hematopoietic necrosis virus, infectious pancreatic necrosis virus, whirling disease, ceratomyxosis, proliferative kidney disease, and epizootic epitheliotropic virus disease or any other disease listed in a rule or published by the commissioner in the State Register on an emergency basis to be effective for not more than 240 days.

Subd. 10. [ENZOOTIC.] "Enzootic" means a disease that is known to occur within well-defined geographic boundaries.

Subd. 11. [FISH HEALTH BLUE BOOK.] "Fish health blue book" means

the standardized set of procedures and guidelines established and published by the American Fisheries Society Fish Health Section for the detection and isolation of fish pathogens.

Subd. 12. [FISH HEALTH INSPECTION.] "Fish health inspection" means an on-site, statistically based sampling in accordance with processes set forth in the "fish health blue book" for all lots of fish in a facility. An inspection will require a minimum of the following: viral testing of ovarian fluids at the 95 percent confidence level of detecting two percent incidence of disease (ovarian fluids must be sampled for certification of viral hemorrhagic septicemia and infectious hematopoietic necrosis). Bacterial diseases must be sampled at the 95 percent confidence level with a five percent incidence of disease. The inspection must be performed by a fish health inspector in cooperation with the producer, with subsequent examination of the collected tissues and fluids for the detection of certifiable diseases.

Subd. 13. [FISH HEALTH INSPECTOR.] "Fish health inspector" means an individual certified as a fish health inspector by the American Fisheries Society or a state, federal, or provincial resource management agency.

Subd. 14. [GAME FISH.] "Game fish" has the meaning given in section 97A.015, subdivision 25, except that green or orange spotted sunfish are not game fish for purposes of determining fish of significant public value.

Subd. 15. [INTENSIVE CULTURE.] "Intensive culture" means the rearing of fish at densities greater than can be supported in the natural environment.

Subd. 16. [LICENSED FACILITY.] "Licensed facility" means licensed aquatic farm, including all licensed waters.

Subd. 17. [LOT.] "Lot" means a group of fish of the same species and age that originated from the same discrete spawning population and that always have shared a common water supply. Various age groups of adult brood of the same species stock may comprise the same lot if they have shared the same containers for one brood cycle.

Subd. 18. [MINNOWS.] "Minnows" has the meaning given in section 97A.015, subdivision 29, except the 12-inch restriction on sucker minnows shall not apply.

Subd. 19. [PUBLIC WATERS.] "Public waters" has the meaning given in section 103G.005, subdivision 15.

Subd. 20. [QUARANTINE FACILITY.] "Quarantine facility" means a culture system that is enclosed in a building and is separated from other fish culture facilities, where fish can be isolated and maintained while preventing their introduction and pathogen introduction into the environment.

Subd. 21. [ROUGH FISH.] "Rough fish" has the meaning given in section 97A.015, subdivision 43.

Subd. 22. [STANDARD FACILITY.] "Standard facility" means a licensed facility with a continual or intermittent discharge of effluent to public waters.

Subd. 23. [WATERS OF THE STATE.] "Waters of the state" has the meaning given in section 103G.005, subdivision 17.

Sec. 3. [17.4983] [AQUATIC FARM OPERATIONS.]

Subdivision 1. [ACQUISITION AND SALE OF PRIVATE AQUATIC LIFE.] Aquatic life legally possessed may be bought, acquired, and sold by licensed facilities as provided in sections 1 to 14.

Subd. 2. [ACQUISITION FROM STATE.] (a) The commissioner may sell aquatic life to licensed facilities at fair market value. Fair market value must be determined by the average market price charged in this state and contiguous states and provinces for similar quantities.

(b) The commissioner shall establish procedures to make aquatic life available to licensed facilities if state aquatic life would otherwise die or go to waste, such as in cases of winterkill or summerkill lakes, waters where piscicides will be applied, and waters subject to extreme draw-down. The public must be given angling opportunities if public access is available.

(c) The commissioner shall attempt to provide opportunities to make broodstock available to licensed facilities to reduce reliance on out-of-state sources without causing adverse impacts to game fish populations.

(d) If the commissioner denies approval to obtain aquatic life outside the state, a written notice must be submitted to the applicant stating the reasons for denial, and the commissioner shall:

(1) designate approved sources to obtain the desired aquatic life; or

(2) sell the aquatic life from state hatcheries at fair market value if there is a surplus from state operations.

Subd. 3. [METHODS TO HARVEST AQUATIC LIFE.] Licensed facilities may use all reasonable methods to operate and harvest aquatic life from licensed facilities, including available nets.

Subd. 4. [DISCHARGE MAY REQUIRE PERMIT.] The discharge from the aquatic farm must not be a significant contributor of pollution to public waters without required discharge permits.

Subd. 5. [OWNERSHIP OF AQUATIC LIFE.] (a) Notwithstanding other provisions of law, aquatic life lawfully acquired and possessed by a licensed facility is private aquatic life and property of the owner of the licensed facility.

(b) The state may not seize or otherwise confiscate private aquatic life without due process of law, except that private aquatic life in public waters may become property of the state if the waters are not part of a licensed facility. The commissioner shall notify the licensee that the aquatic life in a licensed facility, that is no longer licensed, then will become property of the state if the aquatic life is not removed. If the licensee does not respond in writing within 30 days after receiving the notice and make alternative arrangements, or does not remove the aquatic life by 60 ice-free days after receiving the notice, the private aquatic life becomes property of the state.

(c) Private aquatic life that is transferred to the state or released into public waters that are not part of a licensed facility is owned by the state and may be considered wildlife.

Subd. 6. [ACCESS FROM ROADS TO LICENSED FACILITIES.] A person may not access licensed aquatic farm waters from a road easement unless the access is specifically designated for public use.

Subd. 7. [CONTROL OF LICENSED WATERS.] (a) If the public cannot access waters of the state that are part of a licensed aquatic farm except

by permission of the licensee, the use of the waters by the public is subject to regulation by the licensee.

(b) Waters of the state may not be licensed for aquaculture use to more than one licensee.

Subd. 8. [ANGLING IN LICENSED WATERS.] A person may not fish by angling from waters subject to regulation by the licensee under subdivision 7 unless:

(1) the person has an invoice in possession when in possession of fish; or

(2) has permission from the licensee to take fish under an angling license and subject to the limits and conditions under the game and fish laws.

Sec. 4. [17.4984] [AQUATIC FARM LICENSE.]

Subdivision 1. [LICENSE REQUIRED.] (a) A person or entity may not operate an aquatic farm without first obtaining an aquatic farm license from the commissioner.

(b) Applications for an aquatic farm license must be made on forms provided by the commissioner.

(c) Licenses are valid for a period of five years and are transferable upon notification to the commissioner.

(d) The commissioner shall issue an aquatic farm license upon payment of the required license fee under section 8.

Subd. 2. [LISTED WATERS.] (a) The aquatic farm license must list:

(1) the specific waters of the state that may be used in connection with the licensed aquatic farm and whether aeration is approved; and

(2) whether piscicide use is approved.

Additional waters may not be used until approved by the commissioner.

Waters licensed for private fish hatchery or fish farm purposes may be transferred between licensees with prior approval by the commissioner, provided requirements for species to be raised are met. Waters that are connected by a permanent watercourse to other waters will not be approved for aquatic farm use, except that connected waters which are isolated from other waters may be licensed as a single water body. Waters that may become connected with other waters may be denied; or measures, including screening, may be required to prevent fish passage. Listed waters may be changed upon approval by the area fisheries supervisor.

(b) The commissioner shall conduct an inspection of waters to be licensed prior to approving or denying initial licensing of the waters.

(c) Waters found to contain game fish of significant public value may be denied unless the applicant can demonstrate exclusive riparian control.

(d) Waters containing game fish of significant public value may not be licensed unless the game fish of significant public value are sold to the licensee, removed for other state use by the department of natural resources, or disposed of as provided in writing by the commissioner.

Subd. 3. [LISTED SPECIES.] (a) The license must list the species of aquatic life appropriate for the protective classification of the waters. Listed

species of aquatic life may be changed upon written request to and approval by the area fisheries supervisor. Species of aquatic life may not be cultured unless listed on the license.

(b) Species of aquatic life not found in the watershed may only be contained in licensed waters without connections to public waters which would allow their passage. After July 1, 1992, species of aquatic life not found in the watershed may not be contained in licensed waters in a 25-year floodplain unless in an enclosed building. For purposes of this subdivision, "watershed" means one of the 81 discrete units identified on the division of waters maps.

Subd. 4. [SINGLE LICENSE FOR AQUATIC FARMING OPERATION.] The commissioner shall issue a single license for aquatic farming, with the following information and endorsements:

- (1) waters covered by the license;*
- (2) classification of each of the licensed waters;*
- (3) aeration endorsement for each of the licensed waters; and*
- (4) endorsements requested by the licensee.*

Subd. 5. [STATE LIST OF WATERS.] If the state uses waters of the state for aquatic farming, the state shall acquire legal access to the waters and make documentation of the access available to the public.

Subd. 6. [INSPECTIONS.] (a) The premises, property, vehicles, and equipment where private aquatic farm operations are being conducted are subject to an annual operations inspection and other reasonable and necessary inspections at reasonable times by conservation officers. The owner, operator, or designee may be present when inspections are conducted.

Subd. 7. [NONPUBLIC RECORDS.] (a) Licensees must keep current records containing complete, up-to-date nonpublic records of the operation of the aquatic farm. The records must be kept for at least three years.

(b) The records must be in English and include the following information:

(1) for each species acquired, the number and pounds of fish or eggs acquired, names and addresses of the sources from which acquired, and the dates of receipt;

(2) for each species sold or disposed of, the number and pounds of fish sold or disposed of, the names and addresses of the purchasers or persons to whom the conveyances are made, and the dates of sale; and

(3) for fish sperm or viable eggs, the amount acquired or sold, the names and addresses of the sources from where acquired, the purchasers to whom conveyed, and the dates of purchase or sale;

(c) On or before March 1 of each year, the licensee shall submit a complete annual report on a form furnished by the commissioner, covering the quantity of all species sold in the preceding licensed year.

(d) An aquatic farmer shall maintain records for reasonable inspection by the commissioner. Information on aquatic life production, harvest, and sales is nonpublic information.

Sec. 5. [17.4985] [TRANSPORTATION OF AQUATIC LIFE.]

Subdivision 1. [REQUIREMENTS FOR IMPORTATION, TRANSPORTATION WITHIN THE STATE, OR STORAGE OF FISH.] Except as provided in subdivisions 3 and 4, a licensee may not import aquatic life into the state, transport aquatic life within the state, or stock waters of the state with aquatic life without first obtaining a transportation permit from the commissioner with disease certification, if applicable.

Subd. 2. [BILL OF LADING.] (a) A person may transport aquatic life with a completed bill of lading for:

(1) intrastate transportation of aquatic life between licensed private fish hatcheries, aquatic farms, or aquarium facilities licensed for the same species and of the proper protective classification for private aquatic life;

(2) stocking of waters other than public waters; and

(3) stocking of private fish hatchery or aquatic farm waters.

(b) A copy of the bill of lading must be submitted to the regional fisheries manager by 72 hours after any transportation of aquatic life between licensed private fish hatcheries, aquatic farms, or aquarium facilities. A copy of the bill of lading must be submitted to the regional fisheries manager 72 hours prior to any transportation for stocking of fish into waters of the state, except that a bill of lading may be issued for transportation and stocking following telephone or telecopy confirmation that the waters to be stocked are not public waters. Bill of lading forms may only be issued by the department of natural resources in St. Paul, and new bill of lading forms may not be issued until all previously issued forms have been returned.

Subd. 3. [EXEMPTIONS FOR TRANSPORTATION PERMITS AND BILLS OF LADING.] (a) A bill of lading or transportation permit is not required by an aquatic farm licensee for importation, transportation, or export for the following:

(1) minnows taken under an aquatic farm license in this state and transported intrastate;

(2) aquarium or ornamental fish including tropical, subtropical, and saltwater species that cannot survive in the waters of the state, can be imported or transported, if accompanied by shipping documents;

(3) fish or fish eggs that have been processed for use as food, bait, or other purposes unrelated to fish propagation;

(4) live fish, except salmonids and catfish, from a licensed private fish hatchery or aquatic farm may be transported directly to an outlet for processing or for other food purposes if accompanied by shipping documents;

(5) fish exported if the fish are accompanied by shipping documents;

(6) sucker eggs, sucker fry, or fathead minnows transported intrastate for bait propagation or feeding of cultural aquatic life; or

(7) species of fish that are found within the state used in connection with public shows, exhibits, demonstrations, or fishing pools for periods not exceeding 14 days.

(b) Shipping documents must show place of origin, owner or consignee, destination, number, and species.

Subd. 4. [TRANSPORTATION PERMIT REQUIREMENTS.] A transportation permit may be used for multiple shipments within the 30-day term

for the permit, provided the source and the destination remains the same. Transportation permits, which include importation or stocking of public waters, may be issued through department of natural resources regional offices or the St. Paul office, and must be obtained prior to shipment.

Subd. 5. [PERMIT APPLICATION.] An application for a transportation permit must be made on forms provided by the commissioner. All information on the application form must be completed or the application will be rejected. Application for a transportation permit for salmonids, their eggs, or sperm, must be accompanied by certification that the source of the eggs or sperm is free of certifiable diseases, except that eggs with enteric redmouth or furunculosis can be imported, transported, or stocked following treatment approved by the commissioner, and fish with bacterial kidney disease can be imported, transported, or stocked into areas where the disease has been previously introduced. A copy of the transportation permit which shows the date of certification inspection must accompany the shipment of fish while in transit and must be available for inspection by the commissioner. By 14 days after a completed application is received, the commissioner must approve or deny the importation permits as provided in this section.

Subd. 6. [VEHICLE IDENTIFICATION.] (a) Vehicles used by a licensee for transporting aquatic life must be identified with a licensee's name and town of residence, as it appears on the license, and the license number.

(b) Applications for vehicle licensing for minnow transport or export or for use as a fish vendor that are received by the commissioner are temporary licenses until approved or denied.

Sec. 6. [17.4986] [IMPORTATION OF AQUATIC LIFE.]

Subdivision 1. [IMPORTATION AND STOCKING RESTRICTIONS.] Fish may not be imported into or stocked within the state without first obtaining a transportation permit with a disease certification when required or a bill of lading from the commissioner, unless otherwise exempted.

Subd. 2. [LICENSED FACILITIES.] (a) The commissioner shall issue transportation permits to import:

(1) any species of aquatic life to a licensed containment or quarantine facility;

(2) indigenous and naturalized species from any source to an isolation facility licensed for that species;

(3) indigenous and naturalized species except trout, salmon, and catfish from any source to a standard facility;

(4) trout, salmon, and catfish from any source to a containment facility if the fish are certified within the previous year to be free of certifiable diseases; and

(5) trout, salmon, and catfish from a facility with a disease-free history of three years or more located in a nonemergency disease enzootic area to a standard facility.

(b) If a source facility cannot demonstrate a history free from disease, aquatic life may only be imported into a quarantine facility.

Subd. 2. [ENZOOTIC DISEASE AREA.] A facility located in an emergency disease enzootic area must have a five-year disease-free history. Hatchery inspections must occur at least once a year and fish must be tested

for all certifiable diseases. Facilities must have been inspected according to sampling and methods guidelines established in the Fish Health Blue Book. Eggs received from enzootic emergency disease areas or other areas with unknown disease histories may be imported only to an approved containment or quarantine facility. Source fish farms from emergency disease enzootic areas from which eggs are to be imported having less than a three-year disease-free history may only be imported to a containment or quarantine facility.

Sec. 7. [17.4987] [STOCKING PRIVATE AQUATIC LIFE.]

(a) A person may not release private aquatic life into public waters that are not licensed as part of an aquatic farm without first obtaining a transportation permit from the commissioner or having a completed bill of lading in possession. The commissioner may deny issuance of a permit if releasing the private aquatic life is not consistent with a management plan for the public waters. The commissioner shall make management plans available to the public.

(b) If a permit is denied, the commissioner must provide reasons for the denial in writing.

Sec. 8. [17.4989] [LICENSE AND INSPECTION FEES.]

Subdivision 1. [REQUIREMENT FOR ISSUANCE.] A permit or license must be issued by the commissioner when the requirements of law are met and the license and permit fees specified in this section are paid.

Subd. 2. [AQUATIC FARMING LICENSE.] (a) The annual fee for an aquatic farming license is \$350.

(b) The aquatic farm license shall contain endorsements for the rights and privileges of the following licenses under the game and fish laws. The endorsement shall be made upon payment of the license fee prescribed in section 97A.475 for the following licenses:

(1) minnow dealer license;

(2) minnow retailer license for sale of minnows as bait;

(3) minnow exporting license;

(4) minnow dealer helper license;

(5) aquatic farm vehicle endorsement, which includes a minnow dealer vehicle license, a minnow retailer vehicle license, an exporting minnow hauler vehicle license, a fish vendor vehicle license;

(6) sucker egg taking license; and

(7) game fish packers license.

Subd. 3. [INSPECTION FEES.] The fees for the following inspections must be paid as prescribed by the commissioner:

(1) inspection of waters to be licensed for initial inspection, \$50 per year;

(2) fish health inspection and certification, \$80 per lot; and

(3) protective classification initial inspection for standard, containment, and quarantine facility inspections, \$50.

Subd. 4. [AQUARIUM FACILITY.] (a) A person may not operate an

aquarium facility without an aquarium facility license issued by the commissioner. The fee for an aquarium facility license is \$15.

(b) Game fish sold by an aquarium facility must be accompanied by a receipt.

Sec. 9. [17.4991] [DISEASE TRANSMISSION.]

Subdivision 1. [FACILITY DESIGNATION.] (a) The licensee may apply to the commissioner for designation of all or a portion of a facility as a standard, containment, or quarantine facility on forms prescribed by the commissioner as part of the license application or separately.

(b) By 15 days after an application is submitted, the commissioner must notify the applicant if there are any deficiencies in the application. By 30 days after a complete application is submitted, the commissioner must approve or deny the designation requested. A denial must include an assessment of the actual risk to wildlife population at the particular site. A designation must be approved if the facility meets the disinfection requirements of subdivision 2.

Subd. 2. [DISINFECTION.] (a) Containment and quarantine facilities must disinfect effluent prior to discharge to public waters. The effluent required to be disinfected includes water used by a containment or quarantine facility in the production of the aquatic life of concern, waste or mortalities from the aquatic life of concern, and live forage or commercial feed discarded from the containment or quarantine facilities. Runoff from precipitation and excess water from natural springs, wells, or other sources that is not used in the production of aquatic life is not effluent to be disinfected.

(b) The disinfection must minimize the potential release of disease pathogens to wildlife susceptible to the pathogens based on a reasonable risk assessment. Disinfection treatment processes may include chlorination, heat, or other processes. If chlorine disinfection is utilized, a measurable residual level of 1.0 parts per million of active chlorine in the effluent must be maintained for one hour of retention time. The effluent must be sufficiently dechlorinated to prevent toxic adverse impacts to wildlife after discharge to public waters.

(c) A disinfection treatment process must ensure uninterrupted effluent treatment of ten or more minutes prior to release in the event of electrical power failure, a primary system failure, or other similar events that would cause treatment interruptions.

(d) The effluent disinfection process must be sited, designated, and operated in a manner that allows inspection by the commissioner at all times to determine whether adequate effluent disinfection is maintained.

(e) The commissioner may prescribe reasonable documentation of daily monitoring of treatment system performance to be included in the licensee's annual report. The records must be available for daily inspection by the commissioner during normal business hours and maintained for three years.

Subd. 3. [FISH HEALTH INSPECTION.] (a) An aquatic farm propagating trout, salmon, or catfish and having an effluent discharge from the aquatic farm into public waters must have an annual fish health inspection conducted by the commissioner. The commissioner shall inspect other facilities if disease occurs. Testing must be conducted according to approved laboratory methods.

(b) A health inspection fee must be charged based on each lot of fish sampled. The fee by check or money order payable to the department of natural resources must be prepaid or paid at the time a bill or notice is received from the commissioner that the inspection and processing of samples is completed.

(c) Upon receipt of payment and completion of inspection, the commissioner shall notify the operator and issue a fish health certificate. The certification must be made according to the Fish Health Blue Book by a person certified as a fish health inspector.

(d) All aquatic life in transit pursuant to this order or held at transfer stations within the state may be inspected by the commissioner. This inspection may include the collection of stock for purposes of pathological analysis. Sample size necessary for analysis will follow guidelines listed in the Fish Health Blue Book.

Subd. 4. [EMERGENCY DISEASE DETERMINATION.] If emergency diseases exist, the commissioner may order the fish in the facility to be impounded, confiscated, sold, or destroyed or the facility decontaminated. The commissioner shall make every effort to allow disposed fish to be sold for market if there is no imminent danger of a significant adverse impact on natural fish populations or human health or of escape of the pathogen to public waters.

Sec. 10. [17.4992] [GAME FISH.]

Subdivision 1. [ACQUISITION AND PURCHASE.] Game fish sperm, viable game fish eggs, or live game fish may not be taken from public waters for aquaculture purposes, but may be purchased from the state or acquired from private fish hatcheries or aquatic farms.

Subd. 2. [RESTRICTION ON THE SALE OF GAME FISH.] Species of the family salmonidae or ictaluridae, except bullheads, must be free of certifiable diseases if sold for stocking or transfer to another private hatchery or aquatic farm, except that eggs with enteric redmouth or furunculosis can be transferred or stocked following treatment approved by the commissioner, and fish with bacterial kidney disease can be transferred or stocked to areas where the disease has been previously introduced.

Subd. 3. [ACQUISITION OF ADULT FISH FOR BROOD STOCK.] Game fish eggs, fry, and brood stock may be sold to private fish hatcheries or fish farms by the state at fair market value. As a one-time purchase for brood stock development, up to 20 pair of adults may be provided, if available, by the state through normal operations.

Subd. 4. [SALE OF EGGS BY THE STATE.] The commissioner may offer for sale as eggs or fry up to two percent of the department's annual game fish egg harvest. Additional eggs or fry may be sold if they are surplus to state program needs.

Subd. 5. [PURCHASE OF EGGS DEPENDENT UPON FACILITY.] Licensees may purchase game fish eggs or fry from the state at a rate based on the capacity of their facility to hatch and rear fish. Licensees may purchase walleye at a rate of no more than one-half quart of eggs or 5,000 fry for each acre or fraction of licensed surface water. This limitation may be waived if an aquatic farm is an intensive culture facility. The allowable purchase of trout or salmon eggs will be based on capacity of rearing tanks and flow of water through the private fish hatchery or fish farm facility.

Subd. 6. [STOCKING WALLEYES NORTH OF MINNESOTA HIGHWAY NO. 210.] Walleyes from outside of the area of the state north of Minnesota highway No. 210 may not be stocked in waters of the state north of Minnesota highway No. 210 without approval by the commissioner.

Sec. 11. [17.4993] [MINNOWS.]

Subdivision 1. [TAKING FROM PUBLIC WATERS.] A licensee may take minnow sperm, minnow eggs, and live minnows from public waters for aquatic farm purposes under an aquatic farm license.

Subd. 2. [IMPORTATION OF LIVE MINNOWS.] Minnows from outside the state may not be imported live by a licensee for purposes other than processing or feeding aquatic farm fish.

Sec. 12. [17.4994] [SUCKER EGGS.]

Sucker eggs may be taken from public waters with a sucker egg license endorsement. The license authorizes sucker eggs to be taken at a rate of one quart of eggs for each 1-1/2 acres of licensed surface waters, except that for intensive culture systems, sucker eggs may be taken at a rate of two quarts per 1,000 muskellunge fry being reared. The taking of sucker eggs from public waters is subject to chapter 97C and may be supervised by the commissioner.

Sec. 13. [17.4995] [RECEIPTS TO THE GAME AND FISH FUND.]

All money received by the state under sections 1 to 15 shall be deposited in the state treasury and credited to the game and fish fund.

Sec. 14. [17.4996] [WHITE EARTH INDIAN RESERVATION.]

Until the commissioner reaches an agreement with the White Earth Indian reservation regarding the acquisition and sale of aquatic life from public waters, an aquatic farm licensee may acquire and transport rough fish as defined under Minnesota Statutes, section 97A.015, subdivision 43, and yellow perch lawfully acquired and possessed by a tribal member for sale under tribal laws and regulations on the White Earth reservation. Transportation of yellow perch off the reservation must be accompanied by documentation showing the source, number, and species of the yellow perch or rough fish.

Sec. 15. [17.4997] [RULES.]

The commissioner may adopt rules that are not inconsistent with sections 1 to 14. The commissioner must notify the Minnesota aquaculture commission prior to publication of the proposed rule.

Sec. 16. Minnesota Statutes 1990, section 97C.203, is amended to read:

97C.203 [DISPOSAL OF STATE HATCHERY EGGS OR FRY.]

(a) The commissioner shall dispose of game fish eggs and fry according to the following order of priorities:

(1) distribution of fish eggs and fry to state hatcheries to hatch fry or raise fingerlings for stocking waters of the state for recreational fishing;

(2) sale of fish eggs and fry to private fish hatcheries or licensed aquatic farms to hatch fry or raise fingerlings to stock waters of this state with fingerlings for recreational fishing at a price not less than the fair market value, established as the average price charged at the state's private hatcheries and contiguous states per volume rates; and

(3) sale at a ~~price not less than the~~ fair market value, established as the average price charged at the state's private ~~hatcheries~~ *sources and contiguous states per volume rates of fish eggs and fry to private fish hatcheries and fish aquatic farms to hatch fry or raise fingerlings for sale.*

~~(b) Until July 1, 1990, The commissioner must make at least two percent of the game fish eggs collected available to private hatcheries.~~

Sec. 17. Minnesota Statutes 1990, section 97C.301, is amended by adding a subdivision to read:

Subd. 5. [AQUATIC FARMS.] An aquatic farm licensee may take fish authorized under the aquatic farm license and its endorsements without other licenses under the game and fish laws.

Sec. 18. Minnesota Statutes 1990, section 97C.345, subdivision 4, is amended to read:

Subd. 4. [EXCEPTIONS.] This section does not apply to:

- (1) nets used to take rainbow smelt during the open season;
- (2) nets used to land game fish taken by angling;
- (3) seines or traps used for the taking of minnows for bait; ~~and~~
- (4) nets, seines, or traps possessed and used under an aquatic farm license; and*
- (4) (5) angling equipment.*

Sec. 19. Minnesota Statutes 1990, section 97C.391, is amended to read:
97C.391 [BUYING AND SELLING FISH.]

Subdivision 1. [GENERAL RESTRICTIONS.] A person may not buy or sell fish taken from the waters of this state, except:

- (1) minnows;
- (2) rough fish excluding ciscoes;
- (3) fish taken under licensed commercial fishing operations;
- ~~(4) fish raised in a fish farm that are identified as prescribed by the commissioner that are private aquatic life; and~~
- ~~(5) fish raised in a private hatchery that are tagged or labeled or otherwise identified as prescribed by the commissioner; and~~
- ~~(6) fish lawfully taken and subject to sale from other states and countries.~~

Subd. 2. [RESTRICTIONS ON CERTAIN GAME FISH.] Largemouth bass, smallmouth bass, rock bass, muskellunge, and sunfish may not be bought or sold, unless bought or sold by a private hatchery or ~~fish aquatic~~ farm to stock waters for recreational fishing, or as prescribed by the commissioner.

Sec. 20. Minnesota Statutes 1990, section 97C.505, subdivision 6, is amended to read:

Subd. 6. [APPROVED EQUIPMENT REQUIRED.] A person must use equipment approved by the commissioner to possess or transport minnows for sale. *This subdivision does not apply to licensed aquatic farms.*

Sec. 21. [REPEALER.]

Minnesota Statutes 1990, sections 97A.475, subdivision 29a; and 97C.209, are repealed."

Delete the title and insert:

"A bill for an act relating to agriculture; regulating aquatic farming; protecting certain wildlife populations; amending Minnesota Statutes 1990, sections 97C.203; 97C.301, by adding a subdivision; 97C.345, subdivision 4; 97C.391; and 97C.505, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 17; repealing Minnesota Statutes 1990, sections 97A.475, subdivision 29a; and 97C.209."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Commerce, to which was referred

S.F. No. 2602: A bill for an act relating to health care; providing health coverage for low-income uninsured persons; establishing statewide and regional cost containment programs; reforming requirements for health insurance companies; establishing rural health system initiatives; creating quality of care and data collection programs; revising malpractice laws; creating a health care access account; imposing taxes; appropriating money; amending Minnesota Statutes 1990, sections 43A.316, by adding a subdivision; 62A.02, subdivisions 1, 2, 3, and by adding subdivisions; 62E.11, by adding a subdivision; 62H.01; 136A.1355, subdivisions 2 and 3; 145.682, subdivision 4; 256.936, subdivisions 1, 2, 3, 4, and by adding subdivisions; and 290.01, subdivision 19b; Minnesota Statutes 1991 Supplement, sections 62A.31, subdivision 1; 145.61, subdivision 5; 145.64, subdivision 2; 256.936, subdivision 5; and 297.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 16A; 62A; 62E; 62J; 136A; 137; 144; 144A; 256; 256B; 295; and 604; proposing coding for new law as Minnesota Statutes, chapter 62L; repealing Minnesota Statutes 1990, sections 62A.02, subdivisions 4 and 5.

Reports the same back with the recommendation that the bill be amended as follows:

Page 53, delete section 1 and insert:

"Section 1. Minnesota Statutes 1990, section 43A.316, is amended by adding a subdivision to read:

Subd. 11. [NAME.] Effective July 1, 1993, the name of the public employees insurance plan shall be the pooled employers insurance program. The pooled employers insurance program, as described in section 43A.317, is a continuation and expansion of the public employees insurance plan.

Sec. 2. Minnesota Statutes 1990, section 43A.316, is amended by adding a subdivision to read:

Subd. 12. [ELIGIBILITY AND COVERAGE.] Notwithstanding any contrary provision of section 43A.317, any group enrolled in the public employees insurance plan for a term extending beyond June 30, 1993, will become covered by the pooled employers insurance program pursuant to the terms of their participation agreement with the public employees insurance plan. The commissioner of employee relations may provide such a group the option to convert to alternative coverage if available through the pooled employers insurance program. Upon the expiration of their participating agreement

with the public employees insurance plan, the group may enroll in the pooled employers insurance program under section 43A.317, provided the group continues to meet the eligibility criteria that existed on June 30, 1993.

Sec. 3. Minnesota Statutes 1990, section 43A.316, is amended by adding a subdivision to read:

Subd. 13. [TRUST FUND.] Effective July 1, 1993, all assets and obligations of the public employees insurance trust fund are transferred to the pooled employers insurance trust fund, as described in section 43A.317, subdivision 9.

Sec. 4. [43A.317] [POOLED EMPLOYERS INSURANCE PROGRAM.]

Subdivision 1. [INTENT.] The legislature finds that the creation of a statewide program to provide employers with the advantages of a large pool for insurance purchasing would advance the welfare of the citizens of the state.

Subd. 2. [DEFINITIONS.] (a) [SCOPE.] For the purposes of this section, the terms defined have the meaning given them.

(b) [COMMISSIONER.] "Commissioner" means the commissioner of employee relations.

(c) [ELIGIBLE EMPLOYEE.] "Eligible employee" means an employee eligible to participate in the program under the terms described in subdivision 6.

(d) [ELIGIBLE EMPLOYER.] "Eligible employer" means an employer eligible to participate in the program under the terms described in subdivision 5.

(e) [ELIGIBLE INDIVIDUAL.] "Eligible individual" means a person eligible to participate in the program under the terms described in subdivision 6.

(f) [EMPLOYEE.] "Employee" means a common law employee of an eligible employer.

(g) [EMPLOYER.] "Employer" means a public or private person, firm, corporation, partnership, association, unit of local government, or other entity actively engaged in business or public services. "Employer" includes both for-profit and nonprofit entities.

(h) [PROGRAM.] "Program" means the pooled employers insurance program created by this section.

Subd. 3. [ADMINISTRATION.] The commissioner shall, consistent with the provisions of this section, administer the program and determine its coverage options, funding and premium arrangements, contractual arrangements, and all other matters necessary to administer the program. The commissioner's contracting authority for the program shall be governed by section 43A.23. The commissioner is not subject to the rulemaking requirements of chapter 14 in administering this program.

Subd. 4. [ADVISORY COMMITTEE.] The commissioner shall establish a ten-member advisory committee that includes five members who represent eligible employers and five members who represent eligible individuals. The committee shall advise the commissioner on issues related to administration of the program. The committee shall be governed by sections 15.014 and 15.059, and shall continue to exist while the program remains in operation.

Subd. 5. [EMPLOYER ELIGIBILITY.] (a) [PROCEDURES.] All employers are eligible for coverage through the program subject to the terms of this subdivision. The commissioner shall establish procedures for an employer to apply for coverage through the program.

(b) [TERM.] The initial term of an employer's coverage will be two years from the effective date of the employer's application. After that, coverage will be automatically renewed for additional two-year terms unless the employer gives notice of withdrawal from the program according to procedures established by the commissioner. The commissioner may establish conditions under which an employer may withdraw from the program prior to the expiration of a two-year term, including by reason of a midyear increase in health coverage premiums of 50 percent or more. An employer that withdraws from the program may not reapply for coverage for a period of two years from its date of withdrawal.

(c) [MINNESOTA WORK FORCE.] An employer is not eligible for coverage through the program if five percent or more of its eligible employees work primarily outside Minnesota, except that an employer may apply to the program on behalf of only those employees who work primarily in Minnesota. Private entities that are eligible to file a combined tax return for purposes of state tax laws are considered a single employer, except as otherwise approved by the commissioner.

(d) [EMPLOYEE PARTICIPATION; AGGREGATION OF GROUPS.] An employer is not eligible for coverage through the program unless its application includes all eligible employees who work primarily in Minnesota, except employees who waive coverage as permitted by subdivision 6. Private entities that are eligible to file a combined tax return for purposes of state tax laws are considered a single employer, except as otherwise approved by the commissioner.

(e) [PRIVATE EMPLOYER.] A private employer is not eligible for coverage unless it has two or more eligible employees in the state of Minnesota. If an employer has only two eligible employees, one employee must not be the spouse, child, sibling, parent, or grandparent of the other.

(f) [MINIMUM PARTICIPATION.] The commissioner may require as a condition of employer eligibility that: (1) a minimum percentage of eligible employees are covered through the program; and (2) the employer makes a minimum level of contribution toward the cost of coverage.

(g) [EMPLOYER CONTRIBUTION.] The commissioner may require as a condition of employer eligibility that the employer contribution toward the cost of coverage is structured in a way that promotes price competition among the coverage options available through the program.

(h) [ENROLLMENT CAP.] The commissioner may limit employer enrollment in the program if necessary to avoid exceeding the program's reserve capacity.

Subd. 6. [INDIVIDUAL ELIGIBILITY.] (a) [PROCEDURES.] The commissioner shall establish procedures for eligible employees and other eligible individuals to apply for coverage through the program.

(b) [EMPLOYEES.] An employer shall determine when it applies to the program the criteria its employees must meet to be eligible for coverage under its plan. An employer may change the criteria annually thereafter, or at other times with approval of the commissioner. The criteria must provide

that new employees become eligible for coverage after a probationary period of at least 30 days, but no more than 90 days.

(c) [OTHER INDIVIDUALS.] An employer may elect to cover under its plan:

(1) the spouse, dependent children, and dependent grandchildren of a covered employee;

(2) a retiree who is eligible to receive a pension or annuity from the employer, and a covered retiree's spouse, dependent children, and dependent grandchildren;

(3) the surviving spouse, dependent children, and dependent grandchildren of a deceased employee or retiree, if the spouse, children, or grandchildren were covered at the time of the death;

(4) a covered employee who becomes disabled, as provided in sections 62A.147 and 62A.148; or

(5) any other categories of individuals for whom group coverage is required by state or federal law.

An employer shall determine when it applies to the program the criteria individuals in these categories must meet to be eligible for coverage. An employer may change the criteria annually thereafter, or at other times with approval of the commissioner. The criteria must provide that new employees become eligible for coverage after a probationary period of at least 30 days, but no more than 90 days. The criteria for dependent children and dependent grandchildren may be no more inclusive than the criteria in section 43A.18, subdivision 2.

(d) [WAIVER AND LATE ENTRANCE.] An eligible individual may waive coverage at the time the employer joins the program or when coverage first becomes available. The commissioner may establish a preexisting condition exclusion of not more than 18 months for late entrants as defined in section 62L.02, subdivision 20.

(e) [CONTINUATION COVERAGE.] Continuation coverage will be available through the program for all qualified beneficiaries as may be required by state and federal law.

Subd. 7. [COVERAGE.] To the extent feasible as determined by the commissioner and in the best interests of the program, the commissioner shall model coverage after the plan established in section 43A.18, subdivision 2. Coverage shall be available through the program beginning on July 1, 1993.

(a) [HEALTH COVERAGE.] Health coverage shall be available to all employers in the program. The commissioner shall attempt to establish health coverage options that have strong care management features to control costs and promote quality and shall attempt to make a choice of health coverage options available. Health coverage for a retiree who is eligible for the federal Medicare program shall be administered as though the retiree is enrolled in Medicare parts A and B.

(b) [OPTIONAL COVERAGES.] In addition to offering health coverage, the commissioner may arrange to offer life, dental, and disability coverage through the program. Employers with health coverage may choose to offer one or more of these optional coverages according to the terms established by the commissioner.

(c) [OPEN ENROLLMENT.] *The program shall provide periodic open enrollments for eligible individuals for those coverages where a choice exists.*

(d) [TECHNICAL ASSISTANCE.] *The commissioner may arrange for technical assistance and referrals for eligible employers in areas such as health promotion and wellness, employee benefits structure, tax planning, and health care analysis services as described in section 62J.33.*

Subd. 8. [PREMIUMS.] (a) [PAYMENTS.] *Employers enrolled in the program shall pay premiums according to terms established by the commissioner. If an employer fails to make the required payments, the commissioner may cancel coverage and pursue other civil remedies.*

(b) [RATING METHOD.] *The commissioner shall determine the premium rates and rating method for the program. The rating method for eligible small employers shall meet or exceed the requirements of chapter 62L. The rating methods may exclude from premiums all or part of the costs for state administration and for maintenance of a premium stability and claim fluctuation reserve, provided that the commissioner shall incorporate these costs into premium as permitted by the size and stability of the program.*

(c) [TAX STATUS.] *Premiums paid to or by the program are exempt from the tax imposed by sections 60A.15 and 60A.198.*

Subd. 9. [POOLED EMPLOYERS INSURANCE TRUST FUND.] (a) [CREATION.] *The pooled employer insurance trust fund is created in the state treasury and consists of deposits received from eligible employers and individuals, contractual settlements or rebates relating to the program, investment income or losses, and direct appropriations.*

(b) [APPROPRIATION.] *All money in the fund is appropriated to the commissioner to pay insurance premiums, approved claims, refunds, administrative costs, and other costs necessary to administer the program.*

(c) [RESERVES.] *For any coverages for which the program does not contract to transfer full financial responsibility, the commissioner shall establish and maintain reserves: (1) for claims in process, incomplete and unreported claims, premiums received but not yet earned, and all other accrued liabilities; and (2) to ensure premium stability and the timely payment of claims in the event of adverse claims experience. The reserve for premium stability and claim fluctuations shall be established according to the standards of section 62C.09, subdivision 3, except that the reserve may exceed the upper limit under this standard until July 1, 1997.*

(d) [INVESTMENTS.] *The state board of investment shall invest money in the fund according to section 11A.24. Investment income and losses attributable to the fund must be credited to the fund.*

Subd. 10. [PROGRAM STATUS.] *The pooled employers insurance program is a state program to provide the advantages of a large pool for purchasing health coverage, other coverages, and related services from insurance companies, health maintenance organizations, and other organizations. The program and, where applicable, the employers enrolled in it shall not constitute insurance within the meaning of state law and are not subject to chapters 60A, 62A, 62C, 62D, 62E, 62H, and 62L, section 471.617, subdivisions 2 and 3, and the bidding requirements of section 471.6161.*

Subd. 11. [EVALUATION.] *The commissioner shall report to the legislature on December 15, 1995, concerning the success of the program in*

fulfilling the intent of the legislature."

Page 59, after line 11, insert:

"Sec. 12. [62A.022] [UNIFORM CLAIMS FORMS AND BILLING PRACTICES.]

By January 1, 1993, the commissioner of commerce, in consultation with the commissioners of health and human services, shall establish and require uniform claims forms and uniform billing and record keeping practices applicable to all policies of accident and health insurance, group subscriber contracts offered by nonprofit health service plan corporations regulated under chapter 62C, health maintenance contracts regulated under chapter 62D, and health benefit certificates offered through a fraternal beneficiary association regulated under chapter 64B, if issued or renewed to provide coverage to Minnesota residents."

Page 67, line 3, before "*Minnesota*" insert "(a)"

Page 67, after line 4, insert:

"(b) Minnesota Statutes 1990, section 43A.316, subdivisions 1, 2, 3, 4, 5, 6, 7, and 10; and Minnesota Statutes 1991 Supplement, section 43A.316, subdivisions 8 and 9, are repealed effective July 1, 1993."

Page 67, line 6, delete "9" and insert "13" and delete "2 to 8, 10" and insert "5 to 11, 14"

Page 67, line 7, delete "13, and 18" and insert "17, and 22" and delete "11, 15, 16" and insert "15, 19, 20"

Page 67, line 8, delete "17" and insert "21"

ReNUMBER the sections of article 3 in sequence

Amend the title as follows:

Page 1, lines 10 and 11, delete "a subdivision" and insert "subdivisions"

Page 1, line 20, after the first semicolon, insert "43A.;"

Page 1, line 23, after "sections" insert "43A.316, subdivisions 1, 2, 3, 4, 5, 6, 7, and 10;"

Page 1, line 24, before the period, insert "; Minnesota Statutes 1991 Supplement, section 43A.316, subdivisions 8 and 9"

And when so amended the bill do pass and be re-referred to the Committee on Governmental Operations. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health and Human Services, to which was referred

S.F. No. 2523: A bill for an act relating to human services; providing for HIV minimum standards; providing for HIV training in chemical dependency treatment programs; expanding exclusion from licensure; providing for integration of residential programs; delegating authority to enforce uniform fire code; setting adult foster care license capacity; amending Minnesota Statutes 1990, sections 245A.02, by adding a subdivision; 245A.07, subdivisions 2 and 3; 245A.11; and 299F.011, subdivision 4a; Minnesota Statutes 1991 Supplement, sections 245A.03, subdivision 2; 245A.04, subdivision 3; and 245A.16, subdivision 1; proposing coding for new law in

Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 1990, sections 245A.11, subdivision 5; 245A.14, subdivision 5; and 245A.17.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1990, section 245A.02, is amended by adding a subdivision to read:

Subd. 7a. [HIV MINIMUM STANDARDS.] “HIV minimum standards” means those items approved by the department and contained in the HIV-1 Guidelines for chemical dependency treatment and care programs in Minnesota including HIV education to clients, completion of HIV training by all new and existing staff, provision for referral to individual HIV counseling and services for all clients, and the implementation of written policies and procedures for working with HIV-infected clients.

Sec. 2. Minnesota Statutes 1991 Supplement, section 245A.03, subdivision 2, is amended to read:

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

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

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

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

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

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

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

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

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

(9) homes providing programs for persons placed there by a licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

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

(12) programs whose primary purpose is to provide, for adults or school-age children, including children who will be eligible to enter kindergarten within not more than four months, social and recreational activities, such as scouting, boys clubs, girls clubs, sports, or the arts; except that a program operating in a school building is not excluded unless it is approved by the district's school board;

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

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

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

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

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

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

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

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

(21) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17.

For purposes of clause (5), the department of education, after consulting with the department of human services, shall adopt standards applicable to preschool programs ~~administered by public schools~~ that are similar to Minnesota Rules, parts 9503.005 to 9503.0175. These standards are exempt from rulemaking under chapter 14.

Sec. 3. Minnesota Statutes 1991 Supplement, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [STUDY OF THE APPLICANT.] (a) Before the commissioner issues a license, the commissioner shall conduct a study of the individuals specified in clauses (1) to (4) according to rules of the commissioner. The applicant, license holder, the bureau of criminal apprehension, and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about abuse or neglect of adults in licensed programs substantiated under section 626.557 and the maltreatment of minors in licensed programs substantiated under section 626.556. The individuals to be studied shall include:

- (1) the applicant;
- (2) persons over the age of 13 living in the household where the licensed program will be provided;
- (3) current employees or contractors of the applicant who will have direct contact with persons served by the program; and
- (4) volunteers who have direct contact with persons served by the program to provide program services, if the contact is not directly supervised by the individuals listed in clause (1) or (3).

The juvenile courts shall also help with the study by giving the commissioner existing juvenile court records on individuals described in clause (2) relating to delinquency proceedings held within either the five years immediately preceding the application or the five years immediately preceding the individual's 18th birthday, whichever time period is longer. The commissioner shall destroy juvenile records obtained pursuant to this subdivision when the subject of the records reaches age 23.

For purposes of this subdivision, "direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by a program. For purposes of this subdivision, "directly supervised" means an individual listed in clause (1) or (3) is within sight or hearing of a volunteer to the extent that the individual listed in clause (1) or (3) is capable at all times of intervening to protect the health and safety of the persons served by the program who have direct contact with the volunteer.

A study of an individual in clauses (1) to (4) shall be conducted on at least an annual basis. No applicant, license holder, or individual who is the subject of the study shall pay any fees required to conduct the study.

(b) The individual who is the subject of the study must provide the applicant or license holder with sufficient information to ensure an accurate study including the individual's first, middle, and last name; home address, city, county, and state of residence; zip code; sex; date of birth; and driver's license number. The applicant or license holder shall provide this information about an individual in paragraph (a), clauses (1) to (4), on forms prescribed by the commissioner. The commissioner may request additional information of the individual, which shall be optional for the individual to provide, such as the individual's social security number or race.

(c) Except for child foster care, adult foster care, and family day care homes, a study must include information from the county agency's record of substantiated abuse or neglect of adults in licensed programs, and the maltreatment of minors in licensed programs, information from juvenile courts as required in paragraph (a) for persons listed in paragraph (a), clause (2), and information from the bureau of criminal apprehension. For child foster care, adult foster care, and family day care homes, the study must include information from the county agency's record of substantiated abuse or neglect of adults, and the maltreatment of minors, information from juvenile courts as required in paragraph (a) for persons listed in paragraph (a), clause (2), and information from the bureau of criminal apprehension. The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or a national criminal record repository if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual

listed in paragraph (a), clauses (1) to (4).

(d) An applicant's or license holder's failure or refusal to cooperate with the commissioner is reasonable cause to deny an application or immediately suspend, suspend, or revoke a license. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended, suspended, or revoked.

(e) The commissioner shall not consider an application to be complete until all of the information required to be provided under this subdivision has been received.

(f) No person in paragraph (a), clause (1), (2), (3), or (4) who is disqualified as a result of this section may be retained by the agency in a position involving direct contact with persons served by the program.

~~(g) The commissioner shall not implement the procedures contained in this subdivision until appropriate rules have been adopted, except for the applicants and license holders for child foster care, adult foster care, and family day care homes.~~

~~(h)~~ Termination of persons in paragraph (a), clause (1), (2), (3), or (4) made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.

~~(i)~~ (h) The commissioner may establish records to fulfill the requirements of this section. The information contained in the records is only available to the commissioner for the purpose authorized in this section.

~~(j)~~ (i) The commissioner may not disqualify an individual subject to a study under this section because that person has, or has had, a mental illness as defined in section 245.462, subdivision 20.

Sec. 4. Minnesota Statutes 1990, section 245A.07, subdivision 2, is amended to read:

Subd. 2. [IMMEDIATE SUSPENSION IN CASES OF IMMINENT DANGER TO HEALTH, SAFETY, OR RIGHTS.] If the license holder's failure to comply with applicable law or rule has placed the health, safety, or rights of persons served by the program in imminent danger, the commissioner shall act immediately to suspend the license. No state funds shall be made available or be expended by any agency or department of state, county, or municipal government for use by a license holder regulated under sections 245A.01 to 245A.16 while a license is under immediate suspension. A notice stating the reasons for the immediate suspension and informing the license holder of the right to a contested case hearing under chapter 14 must be delivered by personal service to the address shown on the application or the last known address of the license holder. The license holder may appeal an order immediately suspending a license ~~by notifying the commissioner. The appeal of an order immediately suspending a license must be made in writing by certified mail and must be received by the commissioner within five calendar days after receiving the license holder receives~~ notice that the license has been immediately suspended. A license holder and any controlling individual shall discontinue operation of the program upon receipt of the commissioner's order to immediately suspend the license.

Sec. 5. Minnesota Statutes 1990, section 245A.07, subdivision 3, is

amended to read:

Subd. 3. [SUSPENSION, REVOCATION, PROBATION.] The commissioner may suspend, revoke, or make probationary a license if a license holder fails to comply fully with applicable laws or rules. A license holder who has had a license suspended, revoked, or made probationary must be given notice of the action by certified mail. The notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the license was suspended, revoked, or made probationary.

(a) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14. The license holder may appeal an order suspending or revoking a license ~~by notifying the commissioner. The appeal of an order suspending or revoking a license must be made in writing by certified mail and must be received by the commissioner within ten calendar days after receiving the license holder receives notice that the license has been suspended or revoked.~~

(b) If the license was made probationary, the notice must inform the license holder of the right to request a reconsideration by the commissioner. The request for reconsideration must be made in writing by certified mail ~~and must be received by the commissioner within ten calendar days after receiving the license holder receives notice that the license has been made probationary.~~ The license holder may submit with the request for reconsideration written argument or evidence in support of the request for reconsideration. The commissioner's disposition of a request for reconsideration is final and is not subject to appeal under chapter 14.

Sec. 6. Minnesota Statutes 1990, section 245A.11, subdivision 2, is amended to read:

Subd. 2. [PERMITTED SINGLE-FAMILY RESIDENTIAL USE.] Residential programs with a licensed capacity of six or fewer persons shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations. *Programs otherwise allowed under this subdivision shall not be prohibited by operation of restrictive covenants or similar restrictions, regardless of when entered into, which cannot be met because of the nature of the licensed program, including provisions which require the home's occupants be related, and that the home must be occupied by the owner, or similar provisions.*

Sec. 7. Minnesota Statutes 1990, section 245A.11, is amended by adding a subdivision to read:

Subd. 2a. [ADULT FOSTER CARE LICENSE CAPACITY.] *An adult foster care license holder may have a maximum license capacity of five if all persons in care are age 60 or over and do not have a serious and persistent mental illness or a developmental disability. A license holder who is incorporated as a business may operate a maximum of two programs with a licensed capacity of five in each program.*

Sec. 8. Minnesota Statutes 1990, section 245A.11, is amended by adding a subdivision to read:

Subd. 2b. [ADULT FOSTER CARE; FAMILY ADULT DAY CARE.] *An adult foster care license holder licensed under the conditions in subdivision 2a may also provide family adult day care for adults age 60 or over if no persons in the adult foster or adult family day care program have a serious*

and persistent mental illness or a developmental disability. The maximum combined capacity for adult foster care and family adult day care is five adults. A separate license is not required to provide family adult day care under this subdivision. Adult foster care homes providing services to five adults under this section shall not be subject to licensure by the commissioner of health under the provisions of chapter 144, 144A, 157, or any other law requiring facility licensure by the commissioner of health.

Sec. 9. Minnesota Statutes 1990, section 245A.11, subdivision 3, is amended to read:

Subd. 3. [PERMITTED MULTIFAMILY RESIDENTIAL USE.] Unless otherwise provided in any town, municipal, or county zoning regulation, a licensed residential program with a licensed capacity of seven to 16 ~~adults or children~~ persons shall be considered a permitted multifamily residential use of property for the purposes of zoning and other land use regulations. A town, municipal, or county zoning authority may require a conditional use or special use permit to assure proper maintenance and operation of a residential program. Conditions imposed on the residential program must not be more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the ~~adults or children~~ persons being served by the program. Nothing in sections 245A.01 to 245A.16 shall be construed to exclude or prohibit residential programs from single-family zones if otherwise permitted by local zoning regulations.

Sec. 10. Minnesota Statutes 1990, section 245A.11, subdivision 4, is amended to read:

Subd. 4. [LOCATION OF RESIDENTIAL PROGRAMS.] In determining whether to grant a license, the commissioner shall specifically consider the population, size, land use plan, availability of community services, and the number and size of existing licensed residential programs in the town, municipality, or county in which the applicant seeks to operate a residential program. The commissioner shall not grant an initial license to any residential program if the residential program will be within 1,320 feet of an existing residential program unless one of the following conditions apply: (1) the existing residential program is located in a hospital licensed by the commissioner of health; ~~or~~ (2) the town, municipality, or county zoning authority grants the residential program a conditional use or special use permit; ~~In cities of the first class, this subdivision applies even if a residential program is considered a permitted single-family residential use of property under subdivision 2. Foster care homes are exempt from this subdivision;~~ (3) the program serves six or fewer persons and is not located in a city of the first class; or (4) the program is foster care.

Sec. 11. Minnesota Statutes 1990, section 245A.11, is amended by adding a subdivision to read:

Subd. 5a. [INTEGRATION OF RESIDENTIAL PROGRAMS.] *The commissioner of human services shall seek input from counties and municipalities on methods for integrating all residential programs into the community.*

Sec. 12. Minnesota Statutes 1991 Supplement, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. [DELEGATION OF AUTHORITY TO AGENCIES.] (a) County agencies and private agencies that have been designated or licensed

by the commissioner to perform licensing functions and activities under section 245A.04, to recommend denial of applicants under section 245A.05, to issue correction orders, *to issue variances*, and recommend fines under section 245A.06, or to recommend suspending, revoking, and making licenses probationary under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section.

~~(b) By January 1, 1991, the commissioner shall study and make recommendations to the legislature regarding the licensing and provision of support services to child foster homes. In developing the recommendations, the commissioner shall consult licensed private agencies, county agencies, and licensed foster home providers.~~

~~(c) For family day care programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.~~

Sec. 13. [245A.19] [HIV TRAINING IN CHEMICAL DEPENDENCY TREATMENT PROGRAM.]

(a) Applicants and license holders for chemical dependency residential and nonresidential programs must demonstrate compliance with HIV minimum standards prior to their application being complete. The HIV minimum standards contained in the HIV-1 Guidelines for chemical dependency treatment and care programs in Minnesota are not subject to rulemaking.

(b) Ninety days after enactment of this section, the applicant or license holder shall orient all chemical dependency treatment staff and clients to the HIV minimum standards. Thereafter, orientation shall be provided to all staff and clients, within 72 hours of employment or admission to the program. In-service training shall be provided to all staff on at least an annual basis and the license holder shall maintain records of training and attendance.

(c) The license holder shall maintain a list of referral sources for the purpose of making necessary referrals of clients to HIV-related services. The list of referral services shall be updated at least annually.

(d) Written policies and procedures, consistent with HIV minimum standards, shall be developed and followed by the license holder. All policies and procedures concerning HIV minimum standards shall be approved by the commissioner. The commissioner shall provide training on HIV minimum standards to applicants.

(e) The commissioner may permit variances from the requirements in this section. License holders seeking variances must follow the procedures in section 245A.04, subdivision 9.

(f) The HIV-1 Guidelines for chemical dependency treatment and care programs in Minnesota are not subject to rulemaking.

Sec. 14. Minnesota Statutes 1990, section 299F.011, subdivision 4a, is amended to read:

Subd. 4a. [FAMILY OR GROUP FAMILY DAY CARE HOME REGULATION.] *(a) Notwithstanding any contrary provision of this section, the fire marshal shall not adopt or enforce a rule:*

(1) establishing staff ratios, age distribution requirements, and limitations on the number of children in care;

(2) regulating the means of egress from family or group family day care homes in addition to the egress rules that apply to the home as a single family dwelling; or

(3) confining family or group family day care home activities to the floor of exit discharge.

(b) For purposes of this subdivision, "family or group family day care home" means a dwelling unit in which the day care provider provides the services referred to in section 245A.02, subdivision 10, to one or more persons.

(c) Nothing in this subdivision prohibits the department of human services from adopting or enforcing rules regulating day care, including the subjects in subdivision 4a, clauses (1) and (3). The department may not, however, adopt or enforce a rule stricter than subdivision 4a, clause (2).

(d) The department of human services may by rule adopt procedures for requesting the state fire marshal or a local fire marshal to conduct an inspection of day care homes to ensure compliance with state or local fire codes.

(e) The commissioners of public safety and human services may enter into an agreement for the commissioner of human services to perform follow-up inspections of programs subject to licensure under section 245A, to determine whether certain violations cited by the state fire marshal have been corrected. The agreement shall identify specific items the commissioner of human services is permitted to inspect. The list of items is not subject to rulemaking and may be changed by mutual agreement between the state fire marshal and the commissioner. The agreement shall provide for training of individuals who will conduct follow-up inspections. The agreement shall contain procedures for the commissioner of human services to follow when the commissioner requires assistance from the state fire marshal to carry out the duties of the agreement.

(f) No tort liability is transferred to the commissioner of human services as a result of the commissioner of human services performing activities within the limits of the agreement.

Sec. 15. [REPEALER.]

Minnesota Statutes 1990, sections 245A.11, subdivision 5; 245A.14, subdivision 5; and 245A.17, are repealed."

Delete the title and insert:

"A bill for an act relating to human services; providing for HIV minimum standards; providing for HIV training in chemical dependency treatment programs; expanding exclusion from licensure; providing for integration of residential programs; delegating authority to enforce uniform fire code; setting adult foster care license capacity; amending Minnesota Statutes 1990, sections 245A.02, by adding a subdivision; 245A.07, subdivisions 2 and 3; 245A.11, subdivisions 2, 3, 4, and by adding subdivisions; 299F.011, subdivision 4a; Minnesota Statutes 1991 Supplement, sections 245A.03, subdivision 2; 245A.04, subdivision 3; 245A.16, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 1990, sections 245A.11, subdivision 5; 245A.14, subdivision 5; and 245A.17."

And when so amended the bill do pass and be re-referred to the Committee

on Governmental Operations. Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

S.F. No. 2668: A resolution memorializing the President and Congress to recognize Labor Day 1992 as "Help Yourself, Buy American Day."

Reports the same back with the recommendation that the resolution do pass. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 1876: A bill for an act relating to occupations and professions; board of medical practice; clarifying requirements for granting medical licenses and for investigating physicians; amending Minnesota Statutes 1990, sections 147.131; and 147.161, subdivision 3; Minnesota Statutes 1991 Supplement, section 147.03.

Reports the same back with the recommendation that the report from the Committee on Health and Human Services, shown in the Journal for March 16, 1992, be adopted; that committee recommendation being:

"the bill do pass". Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 2314: A bill for an act relating to cities; requiring an equitable distribution of state and local funds in neighborhood revitalization programs; amending Minnesota Statutes 1990, section 469.203, by adding a subdivision.

Reports the same back with the recommendation that the report from the Committee on Economic Development and Housing, shown in the Journal for March 10, 1992, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 1914: A bill for an act relating to transportation; authorizing nonoperating assistance for public transit service; amending Minnesota Statutes 1990, section 174.24, subdivisions 3, 5, and by adding subdivisions; repealing Minnesota Statutes 1990, section 174.245.

Reports the same back with the recommendation that the report from the Committee on Transportation, shown in the Journal for March 10, 1992, be adopted; that committee recommendation being:

"the bill do pass". Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 1725: A bill for an act relating to public investments; providing that certain debt is not approved for investment; amending Minnesota Statutes 1990, section 473.666.

Reports the same back with the recommendation that the report from the Committee on Metropolitan Affairs, shown in the Journal for March 16, 1992, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 2323: A bill for an act relating to cultural resources; reorganizing the nature of a Saint Paul tourism and cultural district; appropriating money.

Reports the same back with the recommendation that the report from the Committee on Economic Development and Housing, shown in the Journal for March 10, 1992, be amended to read:

"the bill be amended and when so amended the bill do pass and be re-referred to the Committee on Governmental Operations". Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 1986: A bill for an act relating to disabled persons; reducing fee for Minnesota identification card for physically disabled person; amending Minnesota Statutes 1991 Supplement, section 171.07, subdivision 3.

Reports the same back with the recommendation that the report from the Committee on Transportation, shown in the Journal for March 16, 1992, be amended to read:

"the bill do pass and be re-referred to the Committee on Finance". Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 2497: A bill for an act relating to commerce; defining the responsibilities of ski area operators and skiers; defining the rights and liabilities between skiers and between a skier and a ski area operator; proposing coding for new law as Minnesota Statutes, chapter 86C.

Reports the same back with the recommendation that the report from the Committee on Commerce, shown in the Journal for March 16, 1992, be amended to read:

"the bill be amended and when so amended the bill do pass and be re-referred to the Committee on Judiciary". Amendments adopted. Report

adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 1165: A bill for an act relating to animals; changing disposition of certain seized animals; amending Minnesota Statutes 1990, section 35.71, subdivision 3.

Reports the same back with the recommendation that the report from the Committee on Veterans and General Legislation, shown in the Journal for March 16, 1992, be amended to read:

“the bill do pass and be re-referred to the Committee on Health and Human Services”. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 2511, 2001, 2499, 304, 2271, 1877, 2382, 2236, 2182, 2115, 2023, 1819, 2389, 2662, 2233, 1900, 1319, 2637, 1997, 2428, 2383, 2229, 2399, 2337, 2531, 2547, 1970, 2412, 2483, 2088, 2002, 1968, 2668, 1876, 2314, 1914 and 1725 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 1957, 1852, 1567 and 1013 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Cohen moved that the name of Ms. Traub be added as a co-author to S.F. No. 2000. The motion prevailed.

Mr. DeCramer moved that the name of Mr. Mondale be added as a co-author to S.F. No. 2001. The motion prevailed.

Mr. Morse moved that the name of Mr. Laidig be added as a co-author to S.F. No. 2299. The motion prevailed.

Mr. Pogemiller moved that the name of Ms. Ranum be added as a co-author to S.F. No. 2382. The motion prevailed.

Mr. Sams moved that the name of Mr. Mondale be added as a co-author to S.F. No. 2430. The motion prevailed.

Mr. Chmielewski moved that the name of Mr. Frank be added as a co-author to S.F. No. 2529. The motion prevailed.

Mr. Johnson, D.J. moved that the name of Mr. Metzen be added as a co-author to S.F. No. 2605. The motion prevailed.

Mr. DeCramer moved that the names of Messrs. Beckman and Larson be added as co-authors to S.F. No. 2687. The motion prevailed.

Mr. Spear moved that S.F. No. 651 be withdrawn from the Committee on Finance and re-referred to the Committee on Commerce. The motion prevailed.

Mr. Morse moved that S.F. No. 2095 be withdrawn from the Committee on Environment and Natural Resources and re-referred to the Committee on Governmental Operations. The motion prevailed.

Ms. Johnson, J.B. moved that S.F. No. 2688 be withdrawn from the Committee on Environment and Natural Resources and re-referred to the Committee on Energy and Public Utilities. The motion prevailed.

Mr. Bernhagen introduced—

Senate Resolution No. 128: A Senate resolution congratulating the Hutchinson High School Bicentennial Team for their efforts and achievements in the National Bicentennial Competition on the Constitution and Bill of Rights.

Referred to the Committee on Rules and Administration.

Mr. Hughes introduced—

Senate Resolution No. 129: A Senate resolution commemorating the tenth anniversary of the dedication of the Vietnam Veterans Memorial.

Referred to the Committee on Rules and Administration.

Mr. Laidig introduced—

Senate Resolution No. 130: A Senate resolution congratulating Mindy Myhre of Mahtomedi High School on winning the Class A all-around gymnastics individual championship.

Referred to the Committee on Rules and Administration.

Mr. Berg moved that the names of Messrs. McGowan and Johnson, D.E. be added as co-authors to S.F. No. 1605. The motion prevailed.

Mr. DeCramer moved that S.F. No. 2474 be withdrawn from the Committee on Environment and Natural Resources and re-referred to the Committee on Finance. The motion prevailed.

Mr. Neuville moved that S.F. No. 2380 be withdrawn from the Committee on Rules and Administration and re-referred to the Committee on Economic Development and Housing. The motion prevailed.

Mr. Renneke moved that S.F. No. 1563 be withdrawn from the Committee on Veterans and General Legislation and re-referred to the Committee on Environment and Natural Resources. The motion prevailed.

Mr. Metzen moved that S.F. No. 2451 be withdrawn from the Committee on Transportation and re-referred to the Committee on Metropolitan Affairs. The motion prevailed.

Ms. Johnson, J.B. moved that S.F. No. 2428 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Ms. Flynn moved that S.F. No. 2337 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Ms. Pappas moved that S.F. No. 2662 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Mrs. Pariseau, Messrs. Belanger, Neuville and Ms. Ranum introduced—

S.F. No. 2737: A bill for an act relating to state government; imposing certain requirements on state contracts for advertising, public relations, and marketing services; imposing requirements on certain recipients of state grants, aids, and appropriations; requiring a study; proposing coding for new law in Minnesota Statutes, chapter 16B.

Referred to the Committee on Governmental Operations.

Mr. Frederickson, D.J. introduced—

S.F. No. 2738: A bill for an act relating to education; appropriating money for, and authorizing levies by, the Lac Qui Parle valley joint school district.

Referred to the Committee on Education.

Mr. Mehrkens introduced—

S.F. No. 2739: A bill for an act relating to capital improvements; changing recipient and use of previous appropriation; amending Laws 1988, chapter 703, article 2, section 2, subdivision 2.

Referred to the Committee on Finance.

Mr. Merriam introduced—

S.F. No. 2740: A bill for an act relating to state lands; exempting certain lakeshore lots from sale requirements; amending Minnesota Statutes 1990, section 92.67, by adding a subdivision.

Referred to the Committee on Environment and Natural Resources.

Mmes. Benson, J.E.; Pariseau; Messrs. Renneke and Larson introduced—

S.F. No. 2741: A resolution memorializing the television networks to actively reduce the amount of violence-laden, sexually explicit material on television programs and to produce television material that promotes wholesome family values and helps to strengthen the family.

Referred to the Committee on Education.

Mr. Knaak introduced—

S.F. No. 2742: A bill for an act relating to education; appropriating money to match a grant from the National Science Foundation for a systemic initiative in science and math education.

Referred to the Committee on Education.

Messrs. Hottinger, Luther and Solon introduced—

S.F. No. 2743: A bill for an act relating to insurance; Minnesota comprehensive health association; increasing the maximum lifetime benefit amounts of certain state plan coverages; extending the effective date of the authorization of use of experimental delivery methods; amending Minnesota Statutes 1991 Supplement, sections 62E.10, subdivision 9; and 62E.12.

Referred to the Committee on Commerce.

Ms. Reichgott, Messrs. Riveness, Mondale, Pogemiller and Ms. Olson introduced—

S.F. No. 2744: A bill for an act relating to education; converting the tax capacity rate on existing referendums; amending Minnesota Statutes 1991 Supplement, section 124A.03, by adding a subdivision.

Referred to the Committee on Education.

Messrs. Stumpf; Morse; Merriam; Benson, D.D. and Moe, R.D. introduced—

S.F. No. 2745: A bill for an act relating to administrative procedures; providing for legislative oversight of rules; eliminating general grants of rulemaking authority; providing an efficient method to amend or repeal certain rules; amending Minnesota Statutes 1990, section 14.05, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 3; and 14.

Referred to the Committee on Governmental Operations.

Mr. Luther introduced—

S.F. No. 2746: A bill for an act relating to occupations and professions; board of accountancy; establishing procedures for the board to carry out disciplinary proceedings; providing penalties; amending Minnesota Statutes 1990, section 326.211, subdivision 9; proposing coding for new law in Minnesota Statutes, chapter 326; repealing Minnesota Statutes 1990, sections 326.23; and 326.231.

Referred to the Committee on Commerce.

Mr. Marty introduced—

S.F. No. 2747: A bill for an act relating to crimes; lowering maximum allowable alcohol concentration to 0.08 for crimes involving driving motor vehicles while intoxicated and operating snowmobiles, all-terrain vehicles, or boats while intoxicated; amending Minnesota Statutes 1990, sections 84.911, subdivision 1; 86B.335, subdivision 1; 169.121, subdivisions 1 and 2; 169.123, subdivisions 4, 5a, and 6; 192A.555; and 609.21, subdivisions 1, 2, 2a, 3, and 4; Minnesota Statutes 1991 Supplement, section 169.123, subdivision 2.

Referred to the Committee on Judiciary.

Mr. Beckman introduced—

S.F. No. 2748: A bill for an act relating to education; transferring responsibility for disbursement of federal vocational funds from the state board of technical colleges to the state board of education; proposing coding for new law in Minnesota Statutes, chapter 121; repealing Minnesota Statutes 1990, section 136C.06.

Referred to the Committee on Education.

Mr. Frank introduced—

S.F. No. 2749: A bill for an act relating to the city of Columbia Heights; exclusions from salary in computing police relief association retirement benefits; amending Laws 1977, chapter 374, section 8, subdivision 1.

Referred to the Committee on Governmental Operations.

Messrs. Kelly and Cohen introduced—

S.F. No. 2750: A bill for an act relating to retirement; St. Paul fire department relief association; increasing service pension amounts; substituting a revised longevity benefit; limiting future benefit reductions; amending Laws 1955, chapter 375, sections 21 and 22, as amended.

Referred to the Committee on Governmental Operations.

Without objection, the Senate reverted to the Order of Business of Motions and Resolutions.

MOTIONS AND RESOLUTIONS

Mr. Sams moved that S.F. No. 2079 be withdrawn from the Committee on Agriculture and Rural Development and re-referred to the Committee on Finance. The motion prevailed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 720: Messrs. Metzen, Kelly and Bernhagen.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 2:00 p.m., Thursday, March 19, 1992. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate