

THIRTY-SECOND DAY

St. Paul, Minnesota, Thursday, April 8, 1993

The Senate met at 8:30 a.m. and was called to order by the President.

CALL OF THE SENATE

Mr. Benson, D.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. Patrick L. Hall.

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

Adkins	Dille	Krentz	Morse	Robertson
Anderson	Finn	Kroening	Murphy	Runbeck
Beckman	Flynn	Laidig	Neuville	Sams
Belanger	Frederickson	Langseth	Novak	Samuelson
Benson, D.D.	Hanson	Larson	Oliver	Solon
Benson, J.E.	Hottinger	Lesewski	Olson	Spear
Berg	Janezich	Lessard	Pappas	Stevens
Berglin	Johnson, D.E.	Luther	Pariseau	Stumpf
Bertram	Johnson, D.J.	Marty	Piper	Terwilliger
Betzold	Johnson, J.B.	McGowan	Pogemiller	Vickerman
Chandler	Johnston	Merriam	Price	Wiener
Chmielewski	Kelly	Metzen	Ranum	
Cohen	Kiscaden	Moe, R.D.	Reichgott	
Day	Knutson	Mondale	Riveness	

The President declared a quorum present.

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 215 and 729.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 7, 1993

Mr. President:

I have the honor to announce the passage by the House of the following

House Files, herewith transmitted: H.F. Nos. 449, 566, 1050, 1063, 732, 846, 976, 1274, 1423, 55, 94, 381, 801, 1018, 1296, 1454, 1039, 1089, 1311, 1420, 1527 and 163.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 7, 1993

FIRST READING OF HOUSE BILLS

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

H.F. No. 449: A bill for an act relating to education; independent school district No. 206, Alexandria; providing for the beginning of board terms.

Referred to the Committee on Education.

H.F. No. 566: A bill for an act relating to telecommunications; extending authority of public utilities commission to approve incentive regulation plans for certain telephone companies; amending Laws 1989, chapter 74, section 27.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 670, now on the Calendar.

H.F. No. 1050: A bill for an act relating to utilities; providing that primary fuel source determines whether power generating plant is a large energy facility for purposes of certificate of need process; amending Minnesota Statutes 1992, section 216B.2421, subdivision 2, and by adding a subdivision.

Referred to the Committee on Jobs, Energy and Community Development.

H.F. No. 1063: A bill for an act relating to commerce; currency exchanges; changing the date for submission of license renewal applications; amending Minnesota Statutes 1992, section 53A.03.

Referred to the Committee on Commerce and Consumer Protection.

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

Referred to the Committee on Crime Prevention.

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

Referred to the Committee on Judiciary.

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

Referred to the Committee on Rules and Administration for comparison with S.F. No. 821, now on the Calendar.

H.F. No. 1274: A bill for an act relating to veterans; authorizing the legislature to hear and determine claims by patients at the Minnesota veterans homes; amending Minnesota Statutes 1992, section 3.738, subdivision 1.

Referred to the Committee on Finance.

H.F. No. 1423: A bill for an act relating to unemployment compensation; modifying definitions; changing provisions relating to eligibility for and administration of unemployment compensation; amending Minnesota Statutes 1992, sections 268.04, subdivisions 4 and 12; 268.08, subdivisions 3 and 6; 268.09, subdivisions 1, 2, and 8; 268.10, subdivisions 2 and 6; 268.12, subdivision 12; 268.16, subdivision 4; and 268.161, subdivision 9.

Referred to the Committee on Jobs, Energy and Community Development.

H.F. No. 55: A bill for an act relating to retirement; authorizing a benefit increase for certain retired police officers, firefighters, and surviving spouses in the city of Eveleth; amending Laws 1977, chapter 61, section 6, as amended.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 86.

H.F. No. 94: A bill for an act relating to motor vehicles; exempting certain manufacturers of snowmobile trailers from being required to have a dealer's license to transport the trailers; amending Minnesota Statutes 1992, section 168.27, subdivision 22.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 35, now on General Orders.

H.F. No. 381: A bill for an act relating to education; revising the mailing requirement for notices of referendum revenue authorization elections; amending Minnesota Statutes 1992, section 124A.03, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 509.

H.F. No. 801: A bill for an act relating to traffic regulations; requiring operating procedures for hand-held traffic radar; amending Minnesota Statutes 1992, section 169.14, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 885, now on General Orders.

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

Referred to the Committee on Rules and Administration for comparison with S.F. No. 746.

H.F. No. 1296: A bill for an act relating to Pine county; permitting the county board to extend certain temporary land use controls.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 716, now on General Orders.

H.F. No. 1454: A bill for an act relating to the city of Hutchinson; permitting the city to erect certain signs.

Referred to the Committee on Metropolitan and Local Government.

H.F. No. 1039: A bill for an act relating to auctioneers; prohibiting certain cities and towns from requiring additional licenses of persons licensed as auctioneers by a county; proposing coding for new law in Minnesota Statutes, chapter 330.

Referred to the Committee on Commerce and Consumer Protection.

H.F. No. 1089: A bill for an act relating to elections; setting the date by which Hennepin county park reserve district redistricting must take place; amending Minnesota Statutes 1992, section 383B.68, subdivision 4.

Referred to the Committee on Ethics and Campaign Reform.

H.F. No. 1311: A bill for an act relating to local government; providing for the continuation of the Mississippi River parkway commission; amending Minnesota Statutes 1992, section 161.1419, subdivision 8.

Referred to the Committee on Finance.

H.F. No. 1420: A bill for an act relating to probate; providing for determination of reasonable compensation for certain guardians and conservators; changing provisions for guardians and conservators of certain institutionalized persons; amending Minnesota Statutes 1992, sections 525.54, subdivisions 1 and 3; 525.544, subdivision 2; 525.58, subdivision 4; and 525.703, subdivisions 2 and 3.

Referred to the Committee on Judiciary.

H.F. No. 1527: A bill for an act relating to education; providing for school district elections in independent school district Nos. 404, 408, and 583.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1431.

H.F. No. 163: A bill for an act relating to campaign reform; limiting noncampaign disbursements to items specified by law; requiring lobbyists and political committees and funds to include their registration number on contributions; prohibiting certain "friends of" committees; requiring reports by certain solicitors of campaign contributions; limiting use of contributions carried forward; requiring unused postage to be carried forward as an expenditure; requiring certain notices; changing contribution limits; limiting contributions by political parties; prohibiting transfers from one candidate to another, with certain exceptions; limiting contributions by certain political committees, funds, and individuals; eliminating public subsidies to unopposed candidates; providing for a public subsidy to match in-district contributions; clarifying filing requirements for candidate agreements and the duration of the agreements; requiring return of public subsidies under certain conditions; imposing contribution limits on candidates for local offices; prohibiting political contributions by certain nonprofit corporations and partnerships; requiring a report of candidates on whose behalf political contributions have been refunded by the state; defining certain terms; clarifying certain language; appropriating money; amending Minnesota Statutes 1992, sections 10A.01, subdivision 10c, and by adding a subdivision; 10A.04, by adding a subdivision; 10A.065, subdivision 1; 10A.14, subdivision 2; 10A.15, by adding subdivisions; 10A.19, subdivision 1; 10A.20, subdivision 3, and by adding a subdivision; 10A.25, by adding subdivisions; 10A.27, subdivisions 1, 2, 9, and by adding subdivisions; 10A.31, subdivi-

sions 6, 8, and by adding a subdivision; 10A.322, subdivisions 1 and 2; 10A.324, subdivisions 1 and 3; 211B.15; 290.06, subdivision 23; proposing coding for new law in Minnesota Statutes, chapters 10A; 211A; and 211B.

Referred to the Committee on Ethics and Campaign Reform.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

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

S.F. No. 952: A bill for an act relating to occupations and professions; requiring crane operators to be licensed by the state; requiring rulemaking; establishing a crane operators examining board; providing penalties; amending Minnesota Statutes 1992, section 214.01, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 326.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Governmental Operations and Reform. Report adopted.

Mr. Metzen from the Committee on Governmental Operations and Reform, to which was re-referred

S.F. No. 781: A bill for an act relating to human services; mental health; extending an exemption for case manager qualifications; changing a definition of mental illness; changing requirements for specialized residential treatment services; allowing additional flexibility in use of community residential treatment funding; delaying required rules revision; creating a task force to study the establishment of an integrated adult mental health fund; amending Minnesota Statutes 1992, sections 245.462, subdivisions 4 and 20; 245.484; 245.4871, subdivision 4; 245.4882, subdivision 5; 245.73, subdivisions 2, 3, and by adding a subdivision; and Laws 1991, chapter 292, article 6, section 54; repealing Minnesota Statutes 1992, sections 245.711; and 245.712.

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

Page 8, line 8, delete "INTEGRATED" and delete "FUND" and insert "SERVICES AND FUNDING"

Page 8, line 10, delete "the"

Page 8, line 11, delete everything before "adult" and insert "and make recommendations concerning" and delete "fund" and insert "services and funding"

Page 8, lines 12, 16, 33, and 36, delete "shall" and insert "must"

Page 8, line 19, delete "the mentally ill" and insert "persons with mental illness"

Page 8, line 23, after the period, insert "The task force must also include public employee representatives from each of the state regional treatment centers that treat adults with mental illness, the division of rehabilitative

services, and county public employee bargaining units whose members serve adults with mental illness. Public employee representatives must be selected by their exclusive representatives. The commissioner of human services shall contract with a facilitator-mediator chosen by agreement of the members of the task force."

Page 8, lines 25 and 26, delete "*designing an integrated adult mental health fund,*"

Page 8, line 34, after "*of*" insert "*services and*"

Page 9, line 3, delete "*will*" and insert "*shall*"

Page 9, line 11, delete "*cost-effective*" and insert "*effective*"

Page 9, line 13, before the period, insert "*and representatives of state and county public employee bargaining units*"

Page 9, line 15, delete "*driven by*" and insert "*adequately funded to meet*"

Page 9, line 16, delete everything after "*needs*"

Page 9, line 17, delete everything before the semicolon

Page 9, line 25, after the first "*of*" insert "*existing or proposed*"

Page 9, line 26, delete "*consolidating or pooling*" and insert "*service delivery and*"

Page 9, line 27, after "*allow*" insert "*, where feasible,*"

Page 9, line 35, delete "*shall*" and insert "*must*"

Page 10, line 2, delete "*provides*" and insert "*provide*"

Page 10, after line 4, insert:

"Sec. 11. [APPROPRIATION.]

\$..... is appropriated to the commissioner of human services to cover a contract with the facilitator-mediator and other costs of the task force established by section 10."

Page 10, line 9, delete "*and*" and insert a comma and after "*10*" insert "*, and 11,*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 10, after the semicolon, insert "*appropriating money;*"

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 Governmental Operations and Reform, to which was referred

S.F. No. 1013: A bill for an act relating to the capitol area architectural and planning board; clarifying certain duties and powers of the board; amending Minnesota Statutes 1992, section 15.50, subdivision 2, and by adding a subdivision.

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

Page 2, line 22, after "board" insert "by rule"

Page 3, lines 24 to 26, delete the new language

Page 5, line 22, strike "(f)" and insert "(h)"

Page 5, after line 25, insert:

"(f) Notwithstanding paragraph (e), an architectural competition is not required for the design of any light rail transit station and alignment within the capitol area. The board and its advisory committee shall select a preliminary design for any transit station in the capitol area. Each stage of any station's design through working drawings must be reviewed by the board's advisory committee and approved by the board to ensure that the station's design is compatible with the comprehensive plan for the capitol area and the board's design criteria. The guideway and track design of any light rail transit alignment within the capitol area must also be reviewed by the board's advisory committee and approved by the board.

(g) Of the amount available for the light rail transit design, adequate funds must be available to the board for design framework studies and review of preliminary plans for light rail transit alignment and stations in the capitol area."

Page 5, line 26, strike "(f)" and insert "(h)"

Page 6, line 21, strike "(g)" and insert "(i)"

Page 6, line 28, strike "(h)" and insert "(j)"

Page 7, line 4, strike "(i)" and insert "(k)"

Page 7, line 15, strike "(j)" and insert "(l)"

Page 7, line 23, strike "(k)" and insert "(m)"

Page 7, line 27, strike "(l)" and insert "(n)"

Page 7, line 29, strike "(m)" and insert "(o)"

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

Mr. Metzen from the Committee on Governmental Operations and Reform, to which was referred

S.F. No. 1260: A bill for an act relating to public employment; providing that the local government pay equity act does not limit the ability of public employees to strike; requiring the commissioner of employee relations to consider the effects of strikes in determining whether political subdivisions are in conformity with the act; amending Minnesota Statutes 1992, sections 471.992, subdivision 1; and 471.9981, subdivision 6.

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

Page 2, line 26, reinstate the stricken "and"

Page 2, lines 27 to 29, delete the new language

Page 2, line 31, after "any" insert "*financial*" and before the period, insert "*, such as recent strike settlements*"

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

Mr. Metzen from the Committee on Governmental Operations and Reform, to which was referred

S.F. No. 980: A bill for an act relating to the city of Columbia Heights; exclusions from salary in computing police relief association retirement benefits; permitting a contribution with interest by a member for past service with the city; amending Laws 1977, chapter 374, section 8, subdivision 1.

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

Page 1, after line 8, insert:

"ARTICLE 1

COLUMBIA HEIGHTS POLICE BENEFIT CHANGES"

Page 1, line 18, before the period, insert "*, including longevity pay and education incentive pay in an amount not to exceed \$235 per month*"

Page 2, line 5, strike "This"

Page 2, strike line 6

Page 2, line 11, after "contribute" insert "*to the relief association or to the consolidation account under Minnesota Statutes, chapter 353A, whichever applies,*"

Page 2, line 12, delete everything after "officer"

Page 2, line 13, delete everything before "from"

Page 2, line 16, before the period, insert "*, plus interest at the rate of 6.5 percent, compounded annually, from the date the member contribution would have been payable until the date that the equivalent amount is paid*"

Page 2, line 21, before the period, insert "*computed, in the event that the person selects benefit coverage under the public employee's police and fire fund benefit plan following a consolidation under Minnesota Statutes, chapter 353A*"

Page 2, line 30, delete "that" and insert "the" and before the period, insert "*of approval by the Columbia Heights city council*"

Page 2, after line 30, insert:

"ARTICLE 2

CONFORMING CHANGES

Section 1. Minnesota Statutes 1992, section 353B.02, subdivision 10, is amended to read:

Subd. 10. [SALARY.] (a) "Salary" for benefit computation and contribution purposes means the salary of a first class or first grade firefighter or patrol

officer, whichever applies, for the former members of the following consolidating relief associations:

- (1) Anoka police relief association;
- (2) Austin firefighters relief association;
- (3) Austin police relief association;
- (4) Columbia Heights fire department relief association, paid division;
- (5) ~~Columbia Heights police relief association;~~
- (6) Fairmont police benefit association;
- (7) (6) Faribault fire department relief association;
- (8) (7) Mankato fire department relief association;
- (9) (8) Minneapolis fire department relief association;
- (10) (9) Minneapolis police relief association;
- (11) (10) Richfield fire department relief association;
- (12) (11) Rochester fire department relief association;
- (13) (12) Rochester police relief association;
- (14) (13) St. Cloud fire department relief association;
- (15) (14) St. Cloud police relief association;
- (16) (15) St. Paul fire department relief association;
- (17) (16) South St. Paul firefighters relief association;
- (18) (17) West St. Paul firefighters relief association;
- (19) (18) West St. Paul police relief association; and
- (20) (19) Winona fire department relief association.

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

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

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

- (1) Albert Lea firefighters relief association;

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

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

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

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

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

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

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

(2) maximum pay of a firefighter, Duluth firefighters relief association;

~~(2)~~ (3) salary of a first class patrol officer with 16 years of service, Duluth police pension association;

~~(3)~~ (4) base salary for the rank currently held, plus longevity pay, pay for eligibility for next higher rank and pay for first aid care, Mankato police benefit association;

~~(4)~~ (5) average annual salary for highest three paid years for benefit computation purposes and current salary for contribution purposes, Red Wing fire department relief association;

~~(5)~~ (6) pay of the highest grade full-time firefighter, St. Louis Park fire department relief association;

~~(6)~~ (7) maximum monthly pay of a patrol officer, St. Paul police relief association;

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

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

Sec. 2. [EFFECTIVE DATE.]

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

Amend the title as follows:

Page 1, line 6, after "amending" insert "Minnesota Statutes 1992, section 353B.02, subdivision 10; and"

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

Mr. Metzen from the Committee on Governmental Operations and Reform, to which was referred

S.F. No. 937: A bill for an act relating to retirement; benefit computation for members of the Bloomington police relief association.

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

Page 1, after line 4, insert:

"ARTICLE 1

BLOOMINGTON POLICE BENEFIT COMPUTATION CHANGES"

Page 1, line 12, delete "performs" and insert "has performed"

Page 1, line 13, delete everything after the comma and insert "and who terminated active service as a Bloomington police officer before January 31, 1994"

Page 1, line 14, delete "from duty"

Page 1, line 15, before "pension" insert "service" and delete "37" and insert "38" and delete "1-1/4" and insert "one"

Page 1, line 16, delete "units" and insert "unit" and after "years" insert " , but not to exceed 45 units, except for members who retire after January 31, 1994, who must be paid monthly during the retiring members' lifetime a pension equal to 35 units, plus an additional one unit for each year of service in excess of 20 years, but not to exceed 42 units"

Page 1, line 17, delete "performs" and insert "performed"

Page 1, line 18, delete "retires" and insert "retired"

Page 1, line 22, delete "37" and insert "38" and delete "1-1/4 units" and insert "one unit"

Page 1, line 23, after "years" insert " , but not to exceed 42 units, except for members who retire after January 1, 1994, before attaining the age of 50

years, who must be paid monthly during the retiring member's lifetime a pension equal to 35 units plus an additional one unit for each year of service in excess of 20 years"

Page 2, line 8, delete "18" and insert "20-1/2"

Page 2, line 12, after "years" insert "or the age of 22 years if the surviving child is a full-time student"

Page 2, line 30, delete "4" and insert "3"

Page 2, line 36, delete everything after the period

Page 3, delete lines 1 and 2 and insert:

"ARTICLE 2

CONFORMING CHANGES

Section 1. Minnesota Statutes 1992, section 353B.07, subdivision 3, is amended to read:

Subd. 3. [FORMULA PERCENTAGE RATE.] (a) The formula percentage rate shall be 2.333 percent per year of allowable service for each of the first 20 years of allowable service, 1.333 percent per year of allowable service for each year of allowable service in excess of 20 years but not in excess of 27 years, and .5 percent for each year of allowable service in excess of 25 years for the former members of the following consolidating relief associations:

- (1) Rochester fire department relief association;
- (2) Rochester police relief association;
- (3) St. Cloud fire department relief association;
- (4) St. Cloud police relief association;
- (5) St. Louis Park police relief association; and
- (6) Winona police relief association.

(b) The formula percentage rate shall be 2.5 percent per year of allowable service for each of the first 20 years of allowable service for the former members of the following consolidating relief associations:

- (1) Albert Lea police relief association;
- (2) Anoka police relief association;
- (3) Faribault fire department relief association;
- (4) Faribault police benefit association;
- (5) Mankato police benefit association;
- (6) Red Wing police relief association; and
- (7) West St. Paul police relief association.

(c) The formula percentage rate shall be 2.5 percent per year of allowable service for each of the first 20 years of allowable service and .5 percent per year of allowable service for each year of service in excess of 25 years of

allowable service for the former members of the following consolidating relief associations:

- (1) Austin firefighters relief association;
- (2) Austin police relief association;
- (3) South St. Paul firefighters relief association;
- (4) South St. Paul police relief association; and
- (5) Virginia police relief association.

(d) The formula percentage rate shall be 2.1875 percent per year of allowable service for each of the first 20 years of allowable service and 1.25 percent per year of allowable service for each year of allowable service in excess of 20 years of allowable service but not in excess of 27 years of allowable service for the former members of the following consolidating relief associations:

- (1) ~~Bloomington police relief associations; and~~
- (2) ~~Columbia Heights police relief association.~~

(e) The formula percentage rate shall be 2.65 percent per year of allowable service for each of the first 20 years of allowable service and an additional annual benefit of \$120 per year of allowable service in excess of 20 years of allowable service but not in excess of 25 years of allowable service for the former members of the following consolidating relief associations:

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

(f) The formula percentage rate or rates shall be the following for the former members of the consolidating relief associations as indicated:

(1) 2.5 percent per year of allowable service for each of the first 20 years of allowable service, one percent per year of allowable service in excess of 20 years of allowable service but not more than 25 years of allowable service, and 1.5 percent per year of allowable service in excess of 25 years of allowable service, Albert Lea firefighters relief association;

(2) 2.5333 percent per year of allowable service for each of the first 20 years of allowable service and 1.3333 percent per year of allowable service in excess of 20 years of allowable service, but not in excess of 27 years of allowable service, if service as an active member terminated before January 31, 1994, and 2.3333 percent per year of allowable service for each of the first 20 years of allowable service and 1.3333 percent per year of allowable service for each year of allowable service in excess of 20 years of allowable service, but not in excess of 27 years of allowable service if service as an active member terminated on or after January 31, 1994, Bloomington police relief association;

(3) the greater of 2.5 percent per year of allowable service for each of the first 20 years of allowable service applied to the final salary base, or two percent per year of allowable service for each of the first 20 years of allowable service applied to top grade patrol officer's salary base, Brainerd police relief association;

(3) (4) 4.25 percent per year of allowable service for each of the first 20 years of allowable service and an additional benefit of \$10 per month per year of allowable service in excess of 20 years of allowable service but not more than 25 years of allowable service, Buhl police relief association;

(4) (5) 2.5 percent per year of allowable service for each of the first 20 years of allowable service and an additional benefit of \$5 per month per year of allowable service in excess of 20 years of allowable service but not more than 25 years of allowable service, Chisholm firefighters relief association;

(5) (6) 2.5 percent per year of allowable service for each of the first 20 years of allowable service and an additional benefit of \$5 per month per year of allowable service in excess of 20 years of allowable service but not more than 25 years of allowable service and .5 percent per year of allowable service in excess of 25 years of allowable service, Chisholm police relief association;

(6) (7) 2.1875 percent per year of allowable service for each year of the first 20 years of allowable service, 1.25 percent per year of allowable service in excess of 20 years of allowable service but not more than 25 years of allowable service and 1.75 percent per year of allowable service in excess of 25 years of allowable service, Columbia Heights fire department relief association, paid division;

(7) (8) 2.5 percent per year of allowable service for each year of the first 20 years of allowable service and 1.5 percent per year of allowable service rendered after attaining the age of 60 years, Crookston fire department relief association;

(8) (9) 2.5 percent per year of allowable service for each year of the first 30 years of allowable service, Crookston police relief association;

(9) (10) 2.25 percent per year of allowable service for each year of the first 20 years of allowable service and 1.25 percent per year of allowable service in excess of 20 years of allowable service, but not more than 27 years of service, Crystal police relief association;

(10) (11) 1.99063 percent per year of allowable service for each year of the first 20 years of allowable service, 1.25 percent for the 21st year of allowable service, and 2.5 percent per year of allowable service in excess of 21 years of allowable service but not more than 25 years of allowable service, Duluth firefighters relief association;

(11) (12) 1.9875 percent per year of allowable service for each year of the first 20 years of allowable service, 1.25 percent for the 21st year of allowable service, and 2.5 percent per year of allowable service in excess of 21 years of allowable service but not more than 25 years of allowable service, Duluth police relief association;

(12) (13) 2.5 percent per year of allowable service for each year of the first 20 years of allowable service, and two percent per year of allowable service in excess of 20 years but not more than 25 years of allowable service and not to include any year of allowable service rendered after attaining the age of 55 years, Fairmont police benefit association;

(13) (14) two percent per year of allowable service for each year of the first ten years of allowable service, 2.67 percent per year of allowable service in excess of ten years of allowable service but not more than 20 years of allowable service and 1.3333 percent per year of allowable service in excess

of 20 years of service but not more than 27 years of allowable service, Fridley police pension association;

(14) (15) 2.5 percent per year of allowable service for each year of the first 20 years of allowable service and an additional annual amount of \$30 per year of allowable service in excess of 20 years of allowable service but not more than 30 years of allowable service, Mankato fire department relief association;

(15) (16) 2.0625 percent per year of allowable service for each year of the first 20 years of allowable service, 1.25 percent per year of allowable service in excess of 20 years of allowable service but not more than 24 years of allowable service and five percent for the 25th year of allowable service, Minneapolis fire department relief association;

(16) (17) 2.125 percent per year of allowable service for each year of the first 20 years of allowable service, 1.25 percent per year of allowable service in excess of 20 years of allowable service but not more than 24 years of allowable service, and five percent for the 25th year of allowable service, Minneapolis police relief association;

(17) (18) the greater of 2.5 percent per year of allowable service for each of the first 20 years of allowable service applied to the final salary base, or two percent per year of allowable service for each of the first 20 years of allowable service applied to highest patrol officer's salary base plus .5 percent of the final salary base per year of allowable service for each of the first three years of allowable service in excess of 20 years of allowable service, New Ulm police relief association;

(18) (19) two percent per year of allowable service for each of the first 25 years of allowable service and 1.5 percent per year of allowable service in excess of 25 years of allowable service, Red Wing fire department relief association;

(19) (20) 2.55 percent per year of allowable service for each of the first 20 years of allowable service, Richfield fire department relief association;

(20) (21) 2.4 percent per year of allowable service for each of the first 20 years of allowable service and 1.3333 percent per year of allowable service in excess of 20 years of allowable service but not more than 27 years of allowable service, Richfield police relief association;

(21) (22) for a former member with less than 20 years of allowable service on June 16, 1985, 2.6 percent, and for a former member with 20 or more years of allowable service on June 16, 1985, 2.6175 percent for each of the first 20 years of allowable service and, for each former member, one percent for each year of allowable service in excess of 20 years, but no more than 30 years, St. Louis Park fire department relief association;

(22) (23) 1.9375 percent per year of allowable service for each of the first 20 years of allowable service, 2.25 percent per year of allowable service in excess of 20 years of allowable service but not more than 25 years of allowable service, and .5 percent per year of allowable service in excess of 25 years of allowable service, St. Paul fire department relief association;

(23) (24) two percent per year of allowable service for each of the first 25 years of allowable service and .5 percent per year of allowable service in excess of 25 years of allowable service, St. Paul police relief association;

~~(24)~~ (25) 2.25 percent per year of allowable service for each of the first 20 years of allowable service and one percent per year of allowable service in excess of 20 years but not more than 25 years of allowable service and .5 percent per year of allowable service in excess of 25 years, Virginia fire department relief association;

~~(25)~~ (26) two percent per year of allowable service for each of the first 20 years of allowable service, one percent per year of allowable service in excess of 20 years but not more than 24 years of allowable service, three percent for the 25th year of allowable service and one percent per year of allowable service in excess of 25 years of allowable service but not more than 30 years of allowable service, West St. Paul firefighters relief association; and

~~(26)~~ (27) 2.333 percent for each of the first 20 years of allowable service, 1.333 percent for each year of allowable service in excess of 20 years but no more than 28 years, and .5 percent for each year of allowable service in excess of 25 years, Winona fire department relief association.

Sec. 2. Minnesota Statutes 1992, section 353B.11, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY; SURVIVING CHILD BENEFIT.] (a) Except as specified in paragraph (b), (c), (d), (e), (f), or (g), the person who survives a deceased active, deferred, or retired member, who is the child of the deceased member and who is younger than age 18 at the time of the death of the deceased member shall be entitled to receive a surviving child benefit.

(b) The person who survives a deceased active, deferred, or retired member, who is the child of the deceased member, and who is younger than age 18 if the person is not a full-time student or age 22 if the person is a full-time student shall be entitled to receive a surviving child benefit in the case of former members of the following consolidating relief associations:

(1) *Bloomington police relief association;*

(2) *Buhl police relief association;*

~~(2)~~ (3) *Columbia Heights fire department relief association, paid division;*

~~(3)~~ (4) *Duluth firefighters relief association;*

(4) (5) *Duluth police pension association;*

~~(5)~~ (6) *Minneapolis fire department relief association;*

~~(6)~~ (7) *Minneapolis police relief association; and*

~~(7)~~ (8) *St. Paul fire department relief association.*

(c) The person who survives a deceased active, deferred, or retired member, who is the child of the deceased member and who is younger than age 16 shall be entitled to receive a surviving child benefit in the case of former members of the following consolidating relief associations:

(1) *Chisholm police relief association; and*

(2) *Hibbing police relief association.*

(d) The person who survives a deceased active, deferred, or retired member, who is the child of the deceased member and who is younger than

age 19 shall be entitled to receive a surviving child benefit in the case of former members of the Albert Lea firefighters relief association.

(e) The person who survives a deceased active, deferred, or retired member, who is the child of the deceased member and who is younger than age 18 if the person is not a full-time student or age 21 if the person is a full-time student shall be entitled to receive a surviving child benefit in the case of former members of the Crookston police relief association.

(f) The person who survives a deceased active, deferred, or retired member, who is the child of the deceased member, who was dependent on the deceased member and who is younger than age 18 shall be entitled to receive a surviving child benefit in the case of former members of the Red Wing police relief association.

(g) The person who survives a deceased active, deferred, or retired member, who is the child of the deceased member and who is younger than age 18 if the person is not a full-time student or age 23 if the person is a full-time student shall be entitled to receive a surviving child benefit in the case of former members of the St. Paul police relief association.

Sec. 3. Minnesota Statutes 1992, section 353B.11, subdivision 3, is amended to read:

Subd. 3. [AMOUNT; SURVIVING SPOUSE BENEFIT.] (a) The surviving spouse benefit shall be 30 percent of the salary base for the former members of the following consolidating relief associations:

- (1) Albert Lea firefighters relief association;
- (2) Albert Lea police relief association;
- (3) Anoka police relief association;
- (4) Austin firefighters relief association;
- (5) Austin police relief association;
- (6) Brainerd police benefit association;
- (7) Crookston police relief association;
- (8) Faribault fire department relief association; and
- (9) West St. Paul firefighters relief association.

(b) The surviving spouse benefit shall be 25 percent of the salary base for the former members of the following consolidating relief associations:

- (1) Chisholm police relief association;
- (2) Duluth firefighters relief association;
- (3) Duluth police pension association;
- (4) Fairmont police benefit association;
- (5) Red Wing fire department relief association;
- (6) South St. Paul police relief association; and
- (7) West St. Paul police relief association.

(c) The surviving spouse benefit shall be 24 percent of the salary base for the former members of the following consolidating relief associations:

- (1) Fridley police pension association;
- (2) Richfield police relief association;
- (3) Rochester fire department relief association;
- (4) Rochester police relief association;
- (5) Winona fire department relief association; and
- (6) Winona police relief association.

(d) The surviving spouse benefit shall be 40 percent of the salary base for the former members of the following consolidating relief associations:

- (1) Columbia Heights fire department relief association, paid division;
- (2) New Ulm police relief association; and
- (3) Richfield fire department relief association.

(e) The surviving spouse benefit shall be \$250 per month for the former members of the following consolidating relief associations:

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

(f) The surviving spouse benefit shall be 23.75 percent of the salary base for the former members of the following consolidating relief associations:

- (1) Crystal police relief associations; and
- (2) Minneapolis police relief association.

(g) The surviving spouse benefit shall be 32 percent of the salary base for the former members of the following consolidating relief associations:

- (1) St. Cloud fire department relief association; and
- (2) St. Cloud police relief association.

(h) The surviving spouse benefit shall be one-half of the service pension or disability benefit which the deceased member was receiving as of the date of death, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or of the service pension which the active member would have received based on the greater of the allowable service credit of the person as of the date of death or 20 years of allowable service credit if the person would have been eligible as of the date of death, for the former members of the following consolidating relief associations:

- (1) Virginia fire department relief association; and
- (2) Virginia police relief association.

(i) The surviving spouse benefit shall be the following for the former members of the consolidating relief associations as indicated:

- (1) ~~25.625~~ 27.333 percent of the salary base, or one half of the service

pension payable to or accrued by the deceased former member, whichever is greater, Bloomington police relief association;

(2) 72.25 percent of the salary base, Buhl police relief association;

(3) 50 percent of the service pension which the active member would have received based on allowable service credit to the date of death and prospective service from the date of death until the date on which the person would have attained the normal retirement age, 50 percent of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or \$175 per month if the deceased member was receiving a service pension or disability benefit as of the date of death, Chisholm firefighters relief association;

(4) two-thirds of the service pension or disability benefit which the deceased member was receiving as of the date of death, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or of the service pension which the active member would have received based on the greater of the allowable service credit of the person as of the date of death or 20 years of allowable service credit if the person would have been eligible as of the date of death, Columbia Heights police relief association;

(5) the greater of \$300 per month or one-half of the service pension or disability benefit which the deceased member was receiving as of the date of death, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or of the service pension which the active member would have received based on the allowable service credit of the person as of the date of death if the person would have been eligible as of the date of death, Crookston fire department relief association;

(6) \$100 per month, Faribault police benefit association;

(7) 60 percent of the service pension or disability benefit which the deceased member was receiving as of the date of death, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or of the service pension which the active member would have received based on the allowable service credit of the person as of the date of death if the person would have been eligible as of the date of death, Mankato fire department relief association;

(8) \$175 per month, Mankato police benefit association;

(9) 26.25 percent of the salary base, Minneapolis fire department relief association;

(10) equal to the service pension or disability benefit which the deceased member was receiving as of the date of death, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or of the service pension which the active member would have received based on the allowable service credit of the person as of the date of death if the person would have been eligible as of the date of death, Red Wing police relief association;

(11) 40 percent of the salary base for a surviving spouse of a deceased active member, disabled member, or retired or deferred member with at least 20 years of allowable service, or the prorated portion of 40 percent of the

salary base that bears the same relationship to 40 percent that the deceased member's years of allowable service bear to 20 years of allowable service for the surviving spouse of a deceased retired or deferred member with at least ten but less than 20 years of allowable service, St. Louis Park fire department relief association;

(12) 26.6667 percent of the salary base, St. Louis Park police relief association;

(13) 27.5 percent of the salary base, St. Paul fire department relief association;

(14) 20 percent of the salary base, St. Paul police relief association; and

(15) 27 percent of the salary base, South St. Paul firefighters relief association.

Sec. 4. Minnesota Statutes 1992, section 353B.11, subdivision 5, is amended to read:

Subd. 5. [SURVIVOR BENEFIT MAXIMUM.] (a) No surviving children or surviving family maximum shall be applicable to former members of the following consolidating relief associations:

(1) Buhl police relief association;

(2) Chisholm firefighters relief association;

(3) Chisholm police relief association;

(4) Hibbing firefighters relief association;

(5) Mankato police benefit association;

(6) New Ulm police relief association;

(7) Red Wing fire department relief association;

(8) Red Wing police relief association;

(9) St. Paul police relief association; and

(10) South St. Paul police relief association.

(b) The surviving children maximum shall be 24 percent of the salary base, if a surviving spouse benefit is also payable or 48 percent of the salary base, if no surviving spouse benefit is also payable, for the former members of the following consolidating relief associations:

(1) Fridley police pension association;

(2) Richfield police relief association;

(3) Rochester fire department relief association;

(4) Rochester police relief association;

(5) Winona fire department relief association; and

(6) Winona police relief association.

(c) The surviving family maximum shall be 50 percent of the salary base for the former members of the following consolidating relief associations:

- (1) Anoka police relief association;
- (2) Austin firefighters relief association;
- (3) Austin police relief association;
- (4) Duluth firefighters relief association;
- (5) Richfield fire department relief association; and
- (6) St. Louis Park fire department relief association.

(d) The surviving family maximum shall be an amount equal to the service pension which a retiring member would have received based on 20 years of allowable service credit if the member had attained the age of at least 50 years in the case of an active member, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death in the case of a deferred member, or of the service pension or disability benefit which the deceased member was receiving as of the date of death, for the former members of the following consolidating relief associations:

- (1) Columbia Heights police relief association;
- (2) Virginia fire department relief association; and
- (3) Virginia police relief association.

(e) The surviving children maximum shall be 25 percent of the salary base, if a surviving spouse benefit is also payable or 50 percent of the salary base, if no surviving spouse benefit is also payable, for the former members of the following consolidating relief associations:

- (1) Duluth police pension association; and
- (2) Fairmont police benefit association.

(f) The surviving children maximum shall be 22.5 percent of the salary base, if a surviving spouse benefit is also payable or 45 percent of the salary base, if no surviving spouse benefit is also payable, for the former members of the following consolidating relief associations:

- (1) Bloomington police relief association; and
- (2) Crystal police relief association.

(g) The surviving children maximum shall be 16 percent of the salary base, if a surviving spouse benefit is also payable or 48 percent of the salary base, if no surviving spouse benefit is also payable, for the former members of the following consolidating relief associations:

- (1) St. Cloud fire department relief association; and
- (2) St. Cloud police relief association.

(h) The surviving children maximum shall be 20 percent of the salary base, if a surviving spouse benefit is also payable or 50 percent of the salary base, if no surviving spouse benefit is also payable, for the former members of the following consolidating relief associations:

- (1) Albert Lea firefighters relief association;
- (2) Albert Lea police relief association; and

(3) Faribault fire department relief association.

(i) The surviving family maximum shall be the following for the former members of the consolidating relief associations:

(1) 60 percent of the salary base, Bloomington police relief association;

(2) \$450 per month, Crookston police relief association;

~~(2)~~ (3) 80 percent of the service pension or disability benefit which the deceased member was receiving as of the date of death, or of the service pension which the deferred member would have been receiving if the service pension had commenced as of the date of death or of the service pension which the active member would have received based on the greater of the allowable service credit of the person as of the date of death or 20 years of allowable service credit if the person would have been eligible as of the date of death, Mankato fire department relief association; and

~~(3)~~ (4) 57.5 percent of the salary base, St. Paul fire department relief association.

(j) The surviving child maximum shall be the following for the former members of the consolidating relief associations:

(1) 20 percent of the top salary payable to a patrol officer, Brainerd police benefit association;

(2) ten percent of the salary base, if a surviving spouse benefit is also payable or 15 percent of the salary base, if no surviving spouse benefit is also payable, Columbia Heights fire department relief association, paid division;

(3) \$105 per month if a surviving spouse benefit is also payable or \$90 per month if no surviving spouse benefit is also payable, Crookston fire department relief association;

(4) \$125 per month, Faribault police benefit association;

(5) \$30 per month if a surviving spouse benefit is also payable or \$180 per month if no surviving spouse benefit is also payable, Hibbing police relief association;

(6) 25 percent of the salary base, if a surviving spouse benefit is also payable or 51.25 percent of the salary base, if no surviving spouse benefit is also payable, Minneapolis fire department relief association;

(7) 17.5 percent of the salary base, if a surviving spouse benefit is also payable or 40 percent of the salary base, if no surviving spouse benefit is also payable, Minneapolis police relief association;

(8) 24 percent of the salary base, St. Louis Park police relief association;

(9) 23 percent of the salary base, if a surviving spouse benefit is also payable or 50 percent of the salary base, if no surviving spouse benefit is also payable, South St. Paul firefighters relief association;

(10) ten percent of the salary base, West St. Paul firefighters relief association; and

(11) \$30 per month if a surviving spouse benefit is also payable or \$75 per month if no surviving spouse benefit is also payable, West St. Paul police relief association.

Sec. 5. Minnesota Statutes 1992, section 353B.11, subdivision 6, is amended to read:

Subd. 6. [DISCONTINUATION; SURVIVING SPOUSE BENEFIT.] (a) Except as specified in paragraph (b) or (c), a surviving spouse benefit shall terminate upon the death or the subsequent marriage of the person entitled to receive or receiving a surviving spouse benefit.

(b) A surviving spouse benefit shall terminate upon the subsequent marriage of the person entitled to receive or receiving a surviving spouse benefit but shall recommence at the appropriate amount without any retroactive payments in the event of the termination of the subsequent marriage for any reason for the former members of the following consolidating relief associations:

- (1) Albert Lea firefighters relief association;
- (2) Albert Lea police relief association;
- (3) Duluth firefighters relief association;
- (4) Minneapolis fire department relief association;
- (5) St. Paul fire department relief association; and
- (6) St. Paul police relief association.

(c) A surviving spouse benefit shall terminate only upon the death of the person entitled to receive or receiving a surviving spouse benefit for the former members of the following consolidating relief associations:

- (1) Anoka police relief association;
- (2) *Bloomington police relief association;*
- (3) Buhl police relief association;
- ~~(3)~~ (4) Chisholm fire department relief association;
- ~~(4)~~ (5) Chisholm police relief association;
- ~~(5)~~ (6) Crookston fire department relief association;
- ~~(6)~~ (7) Duluth police relief association;
- ~~(7)~~ (8) Faribault fire department relief association;
- ~~(8)~~ (9) Hibbing firefighters relief association;
- ~~(9)~~ (10) Hibbing police relief association;
- ~~(10)~~ (11) Mankato fire department relief association;
- ~~(11)~~ (12) Red Wing fire department relief association;
- ~~(12)~~ (13) Red Wing police relief association;
- ~~(13)~~ (14) Rochester fire department relief association;
- ~~(14)~~ (15) Rochester police relief association;
- ~~(15)~~ (16) St. Cloud fire department relief association;
- ~~(16)~~ (17) St. Louis Park fire department relief association;

- (17) (18) St. Louis Park police relief association;
- (18) (19) South St. Paul firefighters relief association;
- (19) (20) South St. Paul police relief association;
- (20) (21) West St. Paul firefighters relief association;
- (21) (22) Winona fire department relief association; and
- (22) (23) Winona police relief association.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 5 are effective upon the effective date of article 1, section 3."

Amend the title as follows

Page 1, line 3, before the period, insert "; amending Minnesota Statutes 1992, sections 353B.07, subdivision 3; and 353B.11, subdivisions 2, 3, 5, and 6"

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

H.F. No. 661: A bill for an act relating to agriculture; regulating dairy trade practices; providing for fees; changing enforcement procedures; amending Minnesota Statutes 1992, sections 32A.01; 32A.02; 32A.04; 32A.05, subdivisions 1, 4, and by adding subdivisions; 32A.07; 32A.071; 32A.08; and 32A.09, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 32A; repealing Minnesota Statutes 1992, sections 32A.03; 32A.05, subdivision 3; and 32A.09, subdivisions 5 and 6.

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 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 8a. [DAIRY TRADE PRACTICES.] Certain information obtained by the commissioner of agriculture on dairy marketers or retailers is classified in section 9.

Sec. 2. Minnesota Statutes 1992, section 32A.01, is amended to read:

32A.01 [CITATION; DAIRY INDUSTRY UNFAIR TRADE PRACTICES ACT.]

~~Sections 32A.01 to 32A.09 shall~~ This chapter may be known cited as the "dairy industry unfair trade practices act."

Sec. 3. [32A.031] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to this chapter.

Subd. 2. [BASIC COST.] "Basic cost" for a processor means the actual

cost of processing, handling, and distributing a selected dairy product. "Basic cost" for a wholesaler or retailer means the net invoice cost of selected dairy products to the dairy marketer or retailer reflecting any discounts or rebates granted by the supplier without deducting cash discounts for timely payment plus any excise or sales tax imposed on the selected dairy products.

Subd. 3. [BONA FIDE CHARITY.] "Bona fide charity" means a corporation, trust, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or education purposes.

Subd. 4. [COMMISSIONER.] "Commissioner" means the commissioner of agriculture or a designated employee or authorized agent of the commissioner.

Subd. 5. [COMMODITY.] "Commodity" means a selected dairy product for use, consumption, or resale, in which a unit is identical in form, function, and content within each unit and among all units involved.

Subd. 6. [DAIRY MARKETER.] "Dairy marketer" means a processor, distributor, or wholesaler, including the officers, directors, stockholders, employees, partners, or agents thereof, and includes subsidiaries, affiliated corporations, and related corporations. A dairy marketer engaging in both retail sales and wholesale sales shall comply with the provisions of this chapter applicable to each class of sales.

Subd. 7. [DAIRY WHOLESALER PERMIT.] "Dairy wholesaler permit" means a permit issued by the commissioner to a dairy marketer under section 6.

Subd. 8. [DELIVERY DISCOUNT.] "Delivery discount" means a discount based on actual cost savings resulting from the differing methods in which selected dairy products are delivered to a specific location.

Subd. 9. [DEPARTMENT.] "Department" means the Minnesota department of agriculture.

Subd. 10. [DISTRIBUTOR.] "Distributor" means a person doing business in Minnesota including a jobber or other similar marketing operation engaged in selling at wholesale to a retailer a selected dairy product manufactured or processed by the distributor or jobber, by a processor, or by another distributor or jobber.

Subd. 11. [FEDERAL MILK MARKETING ORDER.] "Federal milk marketing order" means the Upper Midwest Milk Marketing Order, Code of Federal Regulations, title 7, part 1068, or successor order.

Subd. 12. [HANDLING.] "Handling" means the activities of a processor, wholesaler, or distributor in bottling, processing, packaging, or manufacturing selected dairy products, or in purchasing processed or manufactured selected dairy products for resale to another processor, wholesaler, distributor, or retailer.

Subd. 13. [MARKET.] "Market" means a relevant section of a municipality, county, or larger region in Minnesota, or two or more of those regions or parts of regions.

Subd. 14. [NONSTANDARD DAIRY PRODUCTS.] "Nonstandard dairy products" means a dairy product manufactured for human consumption for

which no federal or state composition standard or standard of identity has been established.

Subd. 15. [PROCESSOR.] "Processor" means a person doing business in Minnesota engaged in manufacturing or processing a selected dairy product in the person's own plant for sale in Minnesota.

Subd. 16. [PRODUCER.] "Producer" means a person who operates a dairy herd or herds in Minnesota producing milk or cream commercially and whose milk or cream is sold to, or received or handled by, a distributor or processor. "Producer" does not include any incorporated or unincorporated association of producers.

Subd. 17. [RELATED CORPORATION.] "Related corporation" of a dairy marketer includes, but is not limited to, a parent or subsidiary corporation of a dairy marketer, or another subsidiary of a parent corporation of a dairy marketer; including officers, directors, stockholders, employees, partners, agents, or representatives.

Subd. 18. [RETAIL COST.] "Retail cost" means the basic cost of selected dairy products purchased by a retailer for the purpose of resale to consumers.

Subd. 19. [RETAIL PRICE.] "Retail price" means the price at which a selected dairy product is purchased for a purpose other than resale or further processing or manufacturing.

Subd. 20. [RETAILER.] "Retailer" means a person in the business of making sales of selected dairy products at retail in Minnesota. In the case of a person in the business of making sales at both retail and wholesale, "retailer" applies only to the sales at retail.

Subd. 21. [SALE OF MERCHANDISE AT RETAIL.] "Sell at retail," "sales at retail," and "retail sales" mean any sale or offer for sale of a selected dairy product for consumption or use other than resale or further processing or manufacturing. Home delivery sales, sales by the use of vending machines, and sales direct to consumers through lease of all or a part of a retailer's premises are sales at retail.

Subd. 22. [SALE OF MERCHANDISE AT WHOLESALE.] "Sell at wholesale," "sale at wholesale," and "wholesale sales" mean sale or offer for sale of a selected dairy product for purposes of resale or further processing or manufacturing. A delivery of selected dairy products to a retailer in Minnesota is a sale at wholesale if an assessment required under section 32A.071 has not been paid.

Subd. 23. [SELECTED DAIRY PRODUCTS.] "Selected dairy products" means milk for human consumption in fluid form, "fluid milk products" as defined in section 32.391, cottage cheese, "frozen foods" as defined in section 32.55, subdivision 2, "mix" as defined in section 32.55, subdivision 4, and class I milk products and class II milk products as defined by the federal milk marketing order, and includes all nonstandard dairy products.

Subd. 24. [SUBSIDIARY OR AFFILIATE CORPORATION.] "Subsidiary" or "affiliate corporation" includes, but is not limited to, companies or corporations controlled by a dairy marketer, directly or indirectly, including officers, directors, stockholders, employees, partners, agents, or representatives.

Subd. 25. [VOLUME DISCOUNT.] "Volume discount" means a discount based on actual cost savings related to the volume or quantity of the type of selected dairy products sold or delivered at a specific location per delivery.

Subd. 26. [WHOLESALE COST.] "Wholesale cost" means the basic cost of selected dairy products plus the cost of doing business. In the absence of proof of a different cost, the cost of doing business is presumed to be two percent of the basic cost of the selected dairy product plus freight and fee. In the absence of proof of a different cost, freight and fee is presumed to be two percent of the basic cost of the selected dairy product. The basic cost plus cost of doing business must be stated as a percentage of the wholesale price for the purpose of resale.

Subd. 27. [WHOLESALE PRICE.] "Wholesale price" means the price charged by a dairy marketer to a customer for purposes of resale or further processing or manufacture.

Subd. 28. [WHOLESALE.] "Wholesaler" means a person with a valid dairy wholesaler permit in the business of making sales of selected dairy products at wholesale in Minnesota. In the case of a person in the business of making sales at both retail and wholesale, "wholesaler" applies only to the sales at wholesale.

Sec. 4. Minnesota Statutes 1992, section 32A.04, is amended to read:

32A.04 [UNFAIR TRADE PRACTICES.]

Subdivision 1. [RESTRAINT OF TRADE NOT PERMITTED.] No manufacturer, distributor or wholesaler, either directly or indirectly, or through a subsidiary or affiliate corporation, or by an officer, director, stockholder, employee, partner, agent or representative thereof, shall, for the purpose or with the effect of restraining, lessening or destroying competition or injuring one or more competitors or injuring one or more persons dealing in "selected dairy products" or to impair or prevent fair competition in the sale of selected dairy products to retailers in this state; A dairy marketer may not, either directly or indirectly, engage in or threaten to engage in any of the trade practices or methods of doing business described in prohibited by this section if the purpose or effect is restraining, lessening, or destroying competition or injuring, impairing, or preventing fair competition in the sale of selected dairy products in Minnesota. Proof that any a person has engaged in any of the trade practices or methods of doing business described in this section shall be is prima facie evidence of an intent to violate or that it has the effect of violating the provisions of this section.

a. (a) A dairy marketer may not own, control, or have any greater more than a five percent financial interest than five percent in any a retail business selling or offering for sale any a selected dairy product in this state Minnesota unless the business name, address, nature, and extent of ownership or control of such the retail business by such manufacturer, distributor, or wholesaler shall be are prominently displayed at all times at the main public entrance to the premises where such the business is being conducted. The information displayed must be in type not less than 24-point Gothic capitals.

b. (b) A dairy marketer may not purchase any real or personal property from a retailer and leaseback or resell such that property to the retailer under a deferred payment contract except as follows unless there is:

1- (1) a written lease signed by both parties ~~thereto~~ specifying (a) ~~the~~ (i) a rental ~~which shall be value that is~~ consistent with the value of like property in the ~~locality market~~ where the retailer is located ~~at the time when the lease is~~ executed, and (b) (ii) containing other terms and conditions consistent with leases of like property in that ~~locality market~~ made at or about the same time by persons not having the relationship existing between the retailer, as the purchaser, and the lessor, as the seller, of a selected dairy product; or

2- (2) a written contract for the sale of such property signed by both parties ~~thereto~~ specifying (a) ~~the~~ (i) a purchase price ~~which shall be that is~~ consistent with the fair market value of like property in the ~~locality market~~ where the retailer is located ~~at the time when the contract is~~ executed, (b) (ii) the down payment on ~~such the~~ purchase price, (c) (iii) the periodic payments on the unpaid balance ~~thereof of the purchase price~~, and (d) ~~containing~~ (iv) other terms and conditions consistent with ~~sale contracts of sale~~ of like property in that ~~locality market~~ made at or about the same time by persons not having the relationship existing between the retailer, as the purchaser, and the vendor, as the seller, of a selected dairy product.

No contract or agreement for the leaseback or resale to a retailer of any property purchased from ~~such the~~ retailer by the ~~wholesaler, manufacturer or distributor~~ shall contain any requirement ~~dairy marketer may require~~ that the retailer shall must purchase any selected dairy product from the ~~other party to the contract for sale or the lease, or from any manufacturer, wholesaler or distributor a specified dairy marketer.~~

e- (c) A dairy marketer may not give, lend, or advance any money, credit, or ~~other thing anything~~ of value to a retailer or to ~~any a~~ person for the benefit or relief of a retailer; ~~or. A dairy marketer may not furnish, give, lend, lease, or sell to a retailer any furniture, fixtures, fittings, or equipment, as an incentive or inducement to such for the retailer to purchase, handle, store, display, sell, or trade in; any one or more selected dairy products of any manufacturer, wholesaler, or distributor. Nothing herein shall prevent any sale of furniture, trade fixtures, or equipment to a retailer in accordance with section 32A.07, subdivision 1 (a) or the placing of refrigeration facilities on the premises of a retailer in accordance with section 32A.08, subdivision 2 a dairy marketer, except as permitted by this chapter.~~

e- (d) A dairy marketer may not (1) provide, pay for, guarantee, or in any other manner, directly or indirectly, assume, satisfy, or discharge the cost or obligation of a retailer for painting, decorating, improving, repairing, or rebuilding ~~any an~~ existing billboard, outdoor sign, display area, wall, fence, building, or structure, or any other type of outdoor display advertising having a fixed location; or (2) build, construct, erect, or purchase any a new billboard, outdoor sign, or other outdoor ~~display~~ advertising having a fixed location, or ~~any a~~ structure or facility for use as an outdoor display to advertise for the direct benefit of a retailer except that if no reference is made to ~~any retailer, a manufacturer, wholesaler, or distributor may engage in all forms of outdoor advertising to advertise one or more selected dairy products which that person manufactures, processes or distributes.~~

e- (e) A dairy marketer may not (1) have ~~any an~~ interest in or pay for any license for a retailer; or (2) advance, furnish, lend, or give money for the payment of ~~any a~~ license fee or expense related to obtaining a license for a retailer or any expense incident to the obtaining of any such license, except that a manufacturer, wholesaler, or distributor may purchase in that person's

own name any license required by law for the sale of that person's selected dairy products in this state or any municipality therein.

f. Become bound in any manner (f) A dairy marketer may not assume an obligation for the repayment of any a loan of money or the fulfillment of any a retailer's financial obligation of any retailer.

g. Extend or give any additional credit to a retailer at a time when there has been due from such retailer for more than 15 days from the end of the month of the day in which delivery was made, any indebtedness arising out of the delivery to the retailer of selected dairy products. (g) A dairy marketer may not offer, extend, or grant credit to another dairy marketer or a retailer if a debt attributable to the delivery of selected dairy products remains due. Extension of credit given by a dairy marketer must be paid monthly within 30 days following the delivery of selected dairy products to which credit applies.

h. (h) A dairy marketer may not furnish and maintain inside signs of a permanent nature unless such the signs are used only for advertising or promoting (1) one or more selected dairy products manufactured, distributed, or sold by the person furnishing such the sign, or (2) items of food made principally from a the selected dairy product so advertised or the brand name of the selected dairy product so advertised, or any combination thereof. The furnishing of "point of sale" advertising material made of paper or other like materials to a retailer free of charge for the sole purpose of promoting the sale of a selected dairy product of the person furnishing the same shall not constitute a violation of sections 32A.01 to 32A.09 A dairy marketer may furnish "point of sale" advertising material made of paper or other like material to a retailer without charge only to promote the sale of a selected dairy product of the person furnishing the material.

i. (i) A dairy marketer may not furnish, give, lend, finance, pay for, contribute to, or by any other means, scheme or device, participate in cooperative advertising using newspapers, radio, television, or any other advertising media medium if any a retailer selling, handling, or offering for sale any a selected dairy product of such manufacturer, wholesaler or distributor the dairy marketer is named or otherwise identified or referred to in such that advertising, except that a manufacturer, wholesaler or distributor. A dairy marketer may purchase and pay for such lineage the lines or space actually used in advertising one or more of that person's its selected dairy products in a newspaper advertisement, handbill, or other form of printed advertising put out by a retailer or for the time actually so used in any a radio or television program advertisement sponsored by a retailer for purposes of promoting the sale of a selected dairy product.

j. (j) A dairy marketer may not pay, loan, or give money, credit, compensation, or anything of value to a retailer (1) for the privilege of placing a sign, advertisement, or other sales promotion material in or upon on the premises of the retailer; or (2) for storing, advertising, or displaying any a selected dairy product in connection with its sale or promotion (except that a manufacturer, wholesaler or distributor. A dairy marketer may furnish paint and maintain an insulated truck body used exclusively in the sale and delivery of that person's the marketer's selected dairy products by the person making retail sales thereof).

k. No wholesaler, manufacturer, or distributor shall (k) A dairy marketer may not credit to the account of or pay any a retailer for any a selected dairy product which the retailer claims to have become stale, spoiled, or otherwise

unsalable unless the particular product for which such the credit or payment is sought is in fact spoiled or otherwise unsalable.

l. In connection with any sale to a distributor or retailer in this state of a selected dairy product, (1) A dairy marketer may not make or offer to make any gift of money, merchandise, trading stamps, coupons, service, supplies, or anything of value, except to a bona fide charity, or to grant or offer to grant any rebate, discount, or advertising allowance other than as expressly permitted by sections 32A.01 to 32A.09 in connection with any sale of a selected dairy product to another dairy marketer or retailer in Minnesota, except as permitted in this chapter.

m. (m) A dairy marketer may not charge a combined price for any a selected dairy product together with and another commodity or a service which is less or is represented to be less than the aggregate of the price of the particular selected dairy product and the price or value of such the other commodity or service when sold or offered for sale separately, or from otherwise applying or attempting to apply any method or device in the sale or distribution of a selected dairy product intending to defeat the policy of sections 32A.01 to 32A.09 or to defeat or evade any provision of sections 32A.01 to 32A.09 or any order, ruling or rule issued by the commissioner thereunder.

n. (n) A dairy marketer may not engage in the business of a processor, wholesaler, manufacturer, or distributor selling or offering for sale selected dairy products at wholesale to retailers while at the same time being engaged in the business of hauling, handling, or delivering selected dairy products to a retailer for a fee, for that or another wholesaler, manufacturer, or distributor, where said business results in a sale of a "selected dairy product" at wholesale to a retailer at a price lower than said retailer could legally obtain from the wholesaler, manufacturer or retailer first involved which results in a sale of a selected dairy product at wholesale to a retailer at a price lower than the regular delivered wholesale price.

o. The provisions of (o) Section 325D.04, shall apply to and include a manufacturer of any selected dairy product. No manufacturer, wholesaler, distributor or retailer of a selected dairy product engaged in business within this state shall sell, applies to a dairy marketer. A dairy marketer may not: (i) offer for sale or, advertise for sale any, or sell a selected dairy product below "cost" as that term is defined in section 325D.01; or give, (ii) offer to give, or advertise the intent to, or give away any a selected dairy product for the purpose or with the effect of violating this chapter or sections 32A.04, 32A.07, 325D.03, 325D.04, and 325D.06. This section does not apply to a sale complying with section 325D.06, clauses (1) to (4). The prima facie rule of evidence provisions of this section and section 325D.06 shall apply to any such a violation. And it is the legislative intent that the provisions for relief set forth in section 32A.09 shall apply to any legal action under this paragraph.

(p) A dairy marketer or retailer may not apply or attempt any method or device in the sale or distribution of a selected dairy product intended to defeat the policy of this chapter or to defeat or evade this chapter or an order, ruling, or rule adopted by the commissioner.

Subd. 2. [BUYER LIABILITY.] It shall be unlawful and is an unfair trade practice in violation of the dairy industry unfair trade practices act this chapter for any person, while doing business in this state in the course of such business Minnesota, knowingly to induce an act or knowingly to receive a

discrimination or benefit from an act prohibited by the dairy industry unfair trade practices act this chapter.

Subd. 3. [PROHIBITION OF SPECIAL PRICES OR SERVICES.] A dairy marketer may not offer, either directly or indirectly, special prices or services not offered to all persons in the same market purchasing selected dairy products in the same quantity and under the same terms and conditions for the purpose or with the effect of restraining, lessening, or destroying competition or to injure, impair, or prevent fair competition.

Subd. 4. [SALES BELOW RETAIL COST PROHIBITED; EXCEPTION.] A retailer may not sell or offer for sale a selected dairy product at a retail price lower than the retail cost paid. A retailer may not use any method or device in the sale or offer for sale of a selected dairy product which results in a violation of this section. This prohibition does not apply to a sale complying with section 325D.06, clauses (1) to (4). This restriction does not apply to giving away selected dairy products free provided that such offer does not require a purchase by the customer.

Sec. 5. Minnesota Statutes 1992, section 32A.05, is amended by adding a subdivision to read:

Subd. 2a. [INVESTIGATIVE POWERS.] The commissioner may:

(1) enter at all reasonable hours any place where a selected dairy product is being processed, bottled, stored, kept, or sold, or where the books, papers, records, or documents pertaining to any transaction that relates to any selected dairy product are kept;

(2) only inspect, audit, and make copies of books, papers, records, accounts, or other documents that are necessary to determine compliance with this chapter; and

(3) sign subpoenas, administer oaths and affirmations, examine witnesses, and receive evidence.

Sec. 6. Minnesota Statutes 1992, section 32A.05, is amended by adding a subdivision to read:

Subd. 2b. [DAIRY WHOLESALER PERMIT; APPLICATION; FEE.] Upon the filing of a properly completed application form and the payment of an annual \$40 permit fee, the commissioner shall issue to a dairy marketer who sells selected dairy products at wholesale in Minnesota a dairy wholesaler permit.

Sec. 7. Minnesota Statutes 1992, section 32A.05, subdivision 4, is amended to read:

Subd. 4. [FILING REQUIREMENTS; FORMS; FEE; MAXIMUM FEE.] For the purpose of administering and enforcing the provisions of sections 32A.01 to 32A.09, each first manufacturer subject to sections 32A.01 to 32A.09 The dairy marketer that makes the first sale of selected dairy products at wholesale in Minnesota shall file a fee report and pay to the commissioner a fee of. The filing of a fee report shall be on a form and in a manner prescribed by the commissioner.

The commissioner shall establish the fees for administering and enforcing this chapter. The maximum fees are:

(1) one cent per cwt. hundred pounds on all milk processed or used in the manufacture of a selected dairy product sold in this state or manufactured in this state for sale therein except frozen foods on which the fee shall be Minnesota, except an item listed in clause (2) or (3);

(2) three-quarters of a cent on each per gallon of frozen foods sold in this state or manufactured in this state for sale therein. For ice milk mix the fee shall be 1-1/20 of a cent on each gallon of mix. For ice cream mix the fee shall be Minnesota;

(3) 1-17/40 of a cent on each per gallon of mix sold in Minnesota.

Such fees shall be the maximum fees. The commissioner may fix such establish lower fees at a lesser amount and may adjust such fees from time to time whenever the commissioner finds that the cost of administering and enforcing the provisions of sections 32A.01 to 32A.09 can be defrayed with such below this chapter requires less than the maximum fees. The fees thus computed shall be paid by the manufacturer to the commissioner on or before the 15th day of the month following the month in which such frozen foods were sold in this state or a selected dairy product manufactured in this state from such milk was sold therein. Provided, however, that when the amount of the fees so computed does not exceed \$60 annually, these fees shall be paid within 30 days following the end of the calendar year. When fees are under \$240 annually, payment shall be made quarterly within 30 days following the end of the quarter. All fees over \$240 annually shall must be paid monthly within 30 days following the end of the month when due to which the fees apply.

A penalty amounting to 10 of ten percent of the delinquent fees then due shall be imposed by the commissioner for each month for which such fees are delinquent. The amounts so received by the commissioner may be charged for each month for which the fees are delinquent not to exceed a maximum penalty of 100 percent.

Fees and penalties collected under this chapter shall be deposited with the state treasurer and shall constitute a separate account to be known as the "dairy industry unfair trade practices account," which is hereby created, set aside, and appropriated as a revolving fund to be used to defray the cost of for administering and enforcing sections 32A.01 to 32A.09 this chapter.

Sec. 8. Minnesota Statutes 1992, section 32A.05, is amended by adding a subdivision to read:

Subd. 5. [ADDITIONAL INFORMATION.] The commissioner may require additional information from dairy marketers or retailers for the purpose of gathering data relating to the handling, processing, distribution, and selling of selected dairy products within Minnesota.

Sec. 9. Minnesota Statutes 1992, section 32A.05, is amended by adding a subdivision to read:

Subd. 6. [DATA PRIVACY.] Financial and production information received by the commissioner from dairy marketers and retailers including, but not limited to, financial statements, fee reports, price schedules, cost documentation, books, papers, records, or other documentation for the purpose of administration and enforcement of this chapter shall be classified private data or nonpublic data pursuant to chapter 13. That classification shall not limit

the use of the information in the preparation, institution, or conduct of a legal proceeding by the commissioner in enforcing this chapter.

Sec. 10. [32A.055] [DAIRY WHOLESALER PERMIT REQUIRED.]

A dairy marketer may not sell selected dairy products at wholesale to a Minnesota wholesaler or retailer unless the dairy marketer has a valid dairy wholesaler permit.

Sec. 11. [32A.065] [PRICE SCHEDULES; METHODS OF DELIVERY; MEETING COMPETITION.]

Subdivision 1. [PRICE SCHEDULES.] A dairy marketer selling selected dairy products in Minnesota shall maintain a current schedule of prices showing rebates, discounts, refunds, and price differentials for the selected dairy products offered for sale at wholesale by the dairy marketer to retailers or to any other person for sale at wholesale to a retailer.

Subd. 2. [PRICING TERMS AND CONDITIONS.] Price schedules setting forth the price of each selected dairy product sold by a dairy marketer must include all terms and conditions which are applicable in determining the net price available to the customer for each product purchased. The terms and conditions must be uniformly available.

Subd. 3. [DELIVERY DISCOUNTS.] A dairy marketer may offer to all its customers a discount based upon the method used to deliver selected dairy products to a customer at a specific location. The following types of delivery to a customer are acceptable:

- (1) delivery at processor's dock;*
- (2) delivery by drop service;*
- (3) delivery by limited service; and*
- (4) delivery by full service.*

Subd. 4. [VOLUME DISCOUNTS.] A dairy marketer may offer to all its customers a discount based upon the volume of selected dairy products sold per delivery at a specific location. Volume discounts must be available on proportionally equal terms to all customers competing in the distribution of selected dairy products.

Subd. 5. [MEETING COMPETITION BY A DAIRY MARKETER.] A sale to meet a current lawful competitive condition or current lawful competitive price, including terms and conditions, by a dairy marketer must not be less than the prices being met, and must be available to all persons in the same market that purchase selected dairy products of like quantity under the same terms and conditions. The burden of proving a good faith sale to meet a current lawful competitive condition or current lawful competitive price is on the dairy marketer.

Subd. 6. [REPORT OF DEVIATED SALE.] A dairy marketer making a sale under subdivision 5 shall retain a written report to ensure compliance with this chapter. The report of deviated sale must be in a manner prescribed by the commissioner.

Subd. 7. [REVIEW OF DAIRY MARKETER SALES.] All sales, discounts, and pricing terms and conditions and deviated sales under this section are subject to review by the commissioner and subject to cost justification by

the seller. Failure to provide documentation for review is prima facie evidence of a violation of this section.

Sec. 12. Minnesota Statutes 1992, section 32A.07, is amended to read:

32A.07 [UNFAIR PRACTICES BY WHOLESALERS, MANUFACTURERS OR DISTRIBUTORS DISPLAY AND SALES TYPE EQUIPMENT.]

Subdivision 1. [RESTRICTIONS ON SALES TO RETAILERS.] To carry out the purpose of sections 32A.01 to 32A.09 and to restore fair, open and free competition for the trade and custom of the retailers of this state purchasing a selected dairy product for resale in this state, no manufacturer, wholesaler or distributor of selected dairy products doing business in this state shall a dairy marketer may not sell or offer to sell to a retailer in this state purchasing any selected dairy product from such manufacturer, wholesaler or distributor any such furniture, trade fixtures, or equipment except as follows: permitted by this section.

Subd. 2. [TIME PAYMENT SALES.] a. No manufacturer, wholesaler or distributor shall (a) A dairy marketer may not sell any kind of furniture, trade fixtures, or equipment at less than the cost thereof to such seller a dairy marketer. Any A sale made by such seller a dairy marketer at less than 15 percent above such seller's the actual current invoice or replacement cost, less depreciation in the case of used furniture, trade fixtures, or equipment computed at the annual rate of 15 percent of the seller's cost, shall be prima facie evidence that such a sale was made below such seller's the dairy marketer's cost.

(b) If the full purchase price of any item so furniture, trade fixtures, or equipment sold to the retailer is not paid the seller by the retailer within 40 days from the delivery of the item or items comprising such sale after delivery, the retailer shall pay within said 40 days not less than 10 percent of the purchase price of the items comprising such sale computed as above specified and shall give the seller a conditional sales contract or a promissory note secured by a chattel mortgage specifically describing each item comprising such sale and the seller, within ten days of the execution thereof, shall file such conditional sales contract or chattel mortgage as required by law for a valid enforceable secured debt. Such conditional sales contract or chattel mortgage shall specify must pay at least ten percent of the purchase price within the 40 days and provide the dairy marketer a conditional sales contract or promissory note with a purchase money security interest in the furniture, trade fixtures, or equipment.

(c) The conditional sales contract or purchase money security interest must specifically describe each item of the sale. The dairy marketer, within ten days after the contract or security agreement is entered into, must file the conditional sales contract, or purchase money security agreement and financing statement, as required to enforce the purchased money secured debt. The conditional sales contract or purchase money security agreement must specify:

(1) the cash payment made by the retailer to the seller or the value of the trade-in accepted by the seller to apply on the purchase price, but such the trade-in credit shall must not exceed the depreciated value of the item or items representing such the trade-in credit as carried on the business records of the purchaser, but or if no such records are not available then, at an annual depreciation rate of 15 percent of the purchaser's cost; and

(2) that the amount of the unpaid purchase price shall must be paid by the retailer in 60 equal monthly installments with the last such installment of principal and interest maturing not later than 60 months from the execution of the conditional sales contract or chattel mortgage given to the seller by the retailer purchase money security agreement.

(d) The rate of interest on such purchases shall be no less than the low rate on "commercial paper sold through dealers: 30 to 270 days" as published on the day the conditional sales contract or chattel mortgage is signed provided that the rates of interest charged for may not be less than the prevailing market rate, and the rates of interest charged on various sales agreements on any given day shall be the same for all retailers. However, in no case shall the rate exceed the rate permitted in Minnesota Statutes 1974, section 334.01, when applicable.

b. Subd. 3. [SERVICING.] The mechanical, electrical, or other servicing of all items of furniture, trade fixtures, or equipment sold to a retailer by a manufacturer, wholesaler or distributor shall become and remain the sole dairy marketer is the responsibility of the retailer purchasing the same unless at the time of such the sale, the seller dairy marketer and the retailer agree in writing that the seller is to provide such servicing, but such dairy marketer is responsible for the servicing. The contract shall must require the seller dairy marketer to charge the retailer for the servicing of any item at the same price as is charged by third persons rendering such the service in the area or community market where the retailer is located. If any charge for such servicing (including the full cost of all repair and replacement parts) is not paid by the retailer to the seller within 40 days from the performance of the work, such failure shall be a violation of subparagraph (g) of section 32A.04. The charge for the servicing, including the full cost of all repair and replacement parts, must be paid by the retailer to the dairy marketer within 40 days after the performance of the work.

Subd. 4. [PAYMENT FOR SERVICE OR FACILITIES.] A person may not pay or contract for the payment of anything of value to or for the benefit of a customer as compensation or in consideration for any services or facilities furnished by or through the customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold or offered for sale by the person, unless the payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of the products or commodities.

Sec. 13. Minnesota Statutes 1992, section 32A.071, is amended to read:

32A.071 [CLASS I MILK PRICE ASSESSMENT AT WHOLESALE.]

Subdivision 1. [PURPOSE.] It is the intent of the legislature that establishing an over-order premium milk price will benefit the incomes of all Minnesota dairy farmers and improve the economies in rural communities.

Subd. 2. [MINIMUM CLASS I MILK PRICE.] The minimum price for class I milk as defined by the Upper Midwest federal milk marketing order, Code of Federal Regulations, title 7, part 1068, for milk purchased in Minnesota for class I use shall be not less than \$13.20 per hundredweight. Any amount by which this price exceeds the class I price specified in the applicable milk marketing order shall be paid by processors of class I milk directly to their suppliers of grade A milk or to the agents of the suppliers.

Suppliers or agents shall pass the entire over-order premium payment on to the dairy producers.

Subd. 2a. [ASSESSMENT FORMULA.] The commissioner shall assess the dairy marketer that makes the first sale of selected dairy products at wholesale for ultimate retail sale in Minnesota an amount determined as follows:

(a) For each hundred pounds of milk used in the manufacture of a selected dairy product sold at wholesale for ultimate retail sale in Minnesota, except an item listed in paragraph (b), the assessment is \$0.02 for each cent the announced price for class I milk as defined by the federal milk marketing order per hundred pounds falls below \$13.20.

(b) For each gallon of frozen foods, including mix, sold at wholesale for ultimate retail sale in Minnesota, the assessment is \$0.0008 for each cent the announced price for class I milk as defined in the federal milk marketing order per hundred pounds falls below \$13.20.

Subd. 2b. [EXEMPTION.] A processor that operates retail home delivery sales accounting for 50 percent or more of all sales of selected dairy products is exempt from the assessments under this section.

Subd. 3. [RULES.] The commissioner of agriculture shall adopt emergency and permanent rules to implement subdivision 2 this section in a manner that minimizes disruption to existing trade practices and commercial transactions, including pooling of the over-order premium payments among grade A milk all producers.

Subd. 4. [REPORT.] Not later than March 1 of 1993 and each year thereafter, the commissioner of agriculture shall report to the chairs of the committees in the senate agriculture and rural development committee and the house of representatives dealing with agriculture committee issues on the impacts and benefits to dairy farmers of the minimum class I milk price established under subdivision 2 this section. The report must also include a summary of processor and distributor information the commissioner has analyzed to determine compliance with sections 32A.04 to 32A.09 this chapter.

Sec. 14. Minnesota Statutes 1992, section 32A.08, is amended to read:

32A.08 [CERTAIN ACTS OF WHOLESALERS, MANUFACTURERS OR DISTRIBUTORS FORBIDDEN REFRIGERATION AND STORAGE EQUIPMENT.]

Subdivision 1. [RESTRICTIONS ON EQUIPMENT USE.] To carry out the purpose of sections 32A.01 to 32A.09 and to restore free, open and fair competition among wholesalers, manufacturers and distributors for the trade and custom of retailers in this state purchasing one or more selected dairy products at wholesale for resale to the consumer, and to eliminate trade practices that have the effect of restraining or destroying free competition in the sale of selected dairy products to such retailers:

If, at the time of the enactment of sections 32A.01 to 32A.09, a manufacturer, wholesaler or distributor of selected dairy products is furnishing a retailer free of charge or contrary to subparagraph (e) of subdivision 1 of section 32A.04, with ice cream cabinets, bulk milk dispensers, coin operated vending machines or cooling equipment or similar equipment which

are still in the possession or under the control of the retailer, the person furnishing the same free of charge shall within 18 months from the date of enactment, sell to the retailer all such items of equipment so furnished as the retailer may elect to purchase. The price of each item of such equipment so purchased by the retailer shall be the depreciated cost as carried on the business records of the seller or the depreciated value as determined by the formula set forth in section 32A.07, subdivision 1-a, whichever is the greater price. The price thus determined shall be paid in cash or within the period and upon the terms and conditions specified in section 32A.07, subdivision 1-a. If the retailer does not purchase all such items within said period of 18 months, the manufacturer, wholesaler or distributor originally furnishing the same shall properly repossess all items not so purchased and remove them from the premises of retailer; provided always that this provision shall not apply to or affect any bona fide written contract in force on the effective date of sections 32A.01 to 32A.09, which specifically describes each item of equipment to be furnished free of charge to the retailer, except that any provision of any such contract which, if performed, would constitute an unfair practice under sections 32A.01 to 32A.09 or result in unfair competition in the sale at retail of any selected dairy product shall not be enforceable by either party to the contract and if performance of any such provision of the contract is attempted, all civil remedies available under sections 32A.01 to 32A.09 or under any other applicable law can be asserted by any person claiming injury or threatened injury or damage by reason of the performance or threatened performance of such provision. *A dairy marketer may not place refrigeration or storage equipment on the premises of a retailer and maintain the equipment without payment or charge to the retailer except as permitted in this section. The marketer must file with the commissioner a report on equipment placed on the premises of a retailer.*

Subd. 2. [STORAGE FACILITIES.] *Nothing in this section or in sections 32A.01 to 32A.09 shall be construed to prohibit or prevent a manufacturer, wholesaler or distributor from placing refrigeration or storage facilities on the premises of any retailer and maintaining the same without payment or charge to the retailer so long as such refrigeration or Storage facilities are must be used exclusively for the storage and preservation of selected dairy products manufactured or sold by the manufacturer, wholesaler or distributor dairy marketer furnishing such the refrigeration or storage facilities and they are not used by the retailer or anyone else. Storage facilities may not be used to sell or offer for sale at retail any of the selected dairy products stored or placed therein.*

Subd. 3. [REFRIGERATION FACILITIES.] *Refrigeration facilities must be used exclusively for promotional purposes in the sale or offer for sale at retail of selected dairy products manufactured or sold by the dairy marketer furnishing the refrigeration facilities. Refrigeration facilities must be removed after the promotional use.*

Subd. 4. [FURNISHING SERVICES OR FACILITIES.] *A person may not discriminate in favor of one purchaser against another purchaser of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of any services or facilities connected with the processing, handling, sale, or offering for sale of the purchased commodity on terms not offered to all purchasers on proportionally equal terms.*

Sec. 15. [32A.085] [ADMINISTRATIVE PROCEDURES.]

Subdivision 1. [VOLUNTARY COMPLIANCE.] In the administration of this chapter, the commissioner may accept an assurance of voluntary compliance with respect to a method, act, or practice that is a violation of this chapter from any person who has engaged or was about to engage in the method, act, or practice. The assurance must be in writing and is not an admission of violation for any purpose. The commissioner may reopen a matter covered by an assurance of voluntary compliance.

Subd. 2. [ADMINISTRATIVE REMEDIAL ACTION.] If the commissioner has reason to believe any person is violating this chapter, the commissioner may seek to remedy the violation by a written notice or warning, cease and desist, stop-sale, or other special order, stipulation, or agreement to prohibit the person from engaging in an action which results in a violation of this chapter.

Subd. 3. [REQUEST FOR ADMINISTRATIVE MEETING.] A person adversely affected by administrative action under this section may request in writing within 72 hours an administrative meeting before the commissioner. A request for an administrative meeting does not stay the effect of an administrative order, unless a stay is ordered by the commissioner.

Subd. 4. [ADMINISTRATIVE MEETING.] Upon receipt of a request for an administrative meeting, the commissioner shall, within 72 hours, convene an administrative meeting with the person claiming to be adversely affected. At the meeting, the commissioner shall review the facts of the violation and, upon the presentation of additional evidence at the administrative meeting, the commissioner shall affirm, modify, or rescind the administrative action. If no agreement is reached, the commissioner may proceed with a contested case under chapter 14.

Subd. 5. [APPEAL.] A person adversely affected by an action, order, or ruling made pursuant to this section, or any rule adopted under this chapter, may seek an appeal pursuant to chapter 14.

Sec. 16. Minnesota Statutes 1992, section 32A.09, is amended by adding a subdivision to read:

Subd. 5a. [CEASE AND DESIST; APPEAL.] The commissioner may serve upon a person, whether or not licensed by the department, by certified mail or personal service a cease and desist order.

A person upon whom a cease and desist order is served may request an administrative meeting under section 32A.085. Upon receipt of a request for an administrative meeting, the commissioner shall proceed in accordance with section 32A.085.

Upon violation of a cease and desist order made pursuant to section 32A.085, or this section, the commissioner may bring an action in a court of appropriate jurisdiction. Each day of failure to obey a cease and desist order and each violation of a court order may be deemed a separate violation.

Sec. 17. Minnesota Statutes 1992, section 32A.09, is amended by adding a subdivision to read:

Subd. 6a. [PENALTY; APPEAL.] The commissioner may impose a penalty upon a person, whether or not licensed by the department, in any of its areas of jurisdiction which involve the handling, processing, distributing, and selling of selected dairy products. Each day of violation of this chapter may

be deemed a separate violation. The commissioner may serve upon a person by certified mail or personal service a notice of penalty.

A person upon whom a penalty notice is served may request an administrative meeting under section 32A.085. Upon receipt of a request for an administrative meeting, the commissioner shall proceed in accordance with section 32A.085.

The imposition of penalty shall become effective 30 days after receipt by certified mail or personal service. For a first violation of this chapter, or a rule adopted under this chapter, the commissioner may impose a civil penalty of not less than \$100 nor more than \$1,000 for each act in violation. For a person found guilty of a second or subsequent violation, the commissioner may impose a civil penalty of not less than \$500 nor more than \$5,000 for each act in violation. In determining the amount of the civil penalty to be assessed, the commissioner shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business.

Sec. 18. [SEVERABILITY.]

If any provision of Minnesota Statutes, section 32A.071, is held to be unconstitutional, then all of Minnesota Statutes, section 32A.071, is inoperative and of no effect. If Minnesota Statutes, section 32A.071, becomes inoperative and of no effect, the balance of this act is severable and remains in effect.

Sec. 19. [REPEALER.]

Minnesota Statutes 1992, sections 32A.03; 32A.05, subdivision 3; 32A.071, subdivisions 1 and 2; and 32A.09, subdivisions 5 and 6, are repealed.

Sec. 20. [EFFECTIVE DATE.]

This act is effective the day following final enactment except that the requirement for assessments under Minnesota Statutes, section 32A.071, is effective on the first day of the month following final enactment."

Delete the title and insert:

"A bill for an act relating to agriculture; regulating dairy trade practices; providing for fees; changing enforcement procedures; amending Minnesota Statutes 1992, sections 13.99, by adding a subdivision; 32A.01; 32A.04; 32A.05, subdivision 4, and by adding subdivisions; 32A.07; 32A.071; 32A.08; and 32A.09, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 32A; repealing Minnesota Statutes 1992, sections 32A.03; 32A.05, subdivision 3; 32A.071, subdivisions 1 and 2; and 32A.09, subdivisions 5 and 6."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Chmielewski from the Committee on Transportation and Public Transit, to which was referred

S.F. No. 902: A bill for an act relating to motor carriers; providing for expiration of certificates and permits used by any carrier for the purpose of armored carriage, and for their conversion to newly created "armored

carrier" permits; amending Minnesota Statutes 1992, sections 221.011, by adding a subdivision; 221.111; and 221.121, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 221.

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 1992, section 221.011, is amended by adding a subdivision to read:

Subd. 42. [ARMORED CARRIER SERVICE.] "Armored carrier service" means transportation of property in armored vehicles protected by at least one armed person other than the driver.

Sec. 2. Minnesota Statutes 1992, section 221.011, is amended by adding a subdivision to read:

Subd. 43. [ARMORED CARRIER.] "Armored carrier" is a motor carrier engaged in providing armored carrier service.

Sec. 3. Minnesota Statutes 1992, section 221.072, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] This section does not apply to any carrier listed in section 221.111, clauses (3) to ~~(9)~~ (10).

Sec. 4. Minnesota Statutes 1992, section 221.111, is amended to read:

221.111 [PERMITS TO OTHER MOTOR CARRIERS.]

Motor carriers other than certificated carriers and local cartage carriers shall obtain a permit in accordance with section 221.121. The board shall issue only the following kinds of permits:

- (1) class II-T permits;
- (2) class II-L permits;
- (3) livestock carrier permits;
- (4) contract carrier permits;
- (5) charter carrier permits;
- (6) courier service carrier permits;
- (7) local cartage carrier permits;
- (8) household goods mover permits; and
- (9) temperature-controlled commodities permits; and
- (10) armored carrier permits.

Sec. 5. Minnesota Statutes 1992, section 221.121, is amended by adding a subdivision to read:

Subd. 6g. [ARMORED CARRIERS.] A person who desires to hold out or to operate as an armored carrier must follow the procedure established in subdivision 1 and specifically request an armored carrier permit. No permit is required of a private carrier shipping its own items of extraordinary value.

The board shall issue the permit if it finds that the petitioner meets the criteria established in subdivision 1 and has provided evidence that:

(a) The carriers' personnel, security, and insurance standards and procedures render it fit and able to protect the property the petitioner will transport under the permit.

(b) The carrier has obtained a protective agent's or private detective's license under sections 326.338 and 326.3381, subdivision 1, and holds the license in good standing.

Sec. 6. Minnesota Statutes 1992, section 221.131, is amended by adding a subdivision to read:

Subd. 7. [ARMORED CARRIERS.] The commissioner shall issue distinct annual identification cards for vehicles that provide armored carrier service under a permit issued by the board. No card may be issued unless the armored carrier submits evidence that it holds in good standing a protective agent's or private detective's license under sections 326.338 and 326.3381, subdivision 1.

Sec. 7. Minnesota Statutes 1992, section 221.141, is amended by adding a subdivision to read:

Subd. 6. [ARMORED CARRIERS.] An armored carrier must maintain in effect cargo insurance, cargo bond, or moneys and securities insurance coverage in a minimum amount of \$300,000 per incident and must file, or its insurer must file, with the commissioner a cargo certificate of insurance, cargo bond, or certificate of moneys and securities coverage. A cargo certificate of insurance must conform to Form H, Uniform Motor Cargo Certificate of Insurance, described in Code of Federal Regulations, title 49, part 1023. A cargo bond must conform to Form J described in Code of Federal Regulations, title 49, part 1023. A certificate of moneys and securities coverage must conform to either Form H or Form J with such variances as the commissioner may allow to accommodate industry practice. Form H and Form J are incorporated by reference. The cargo certificate of insurance, cargo bond, or certificate of moneys and securities coverage must be issued in the full and correct name of the person, corporation, or partnership to whom the armored carrier permit was issued and whose operations are being insured.

Sec. 8. [221.153] [ARMORED CARRIERS; CONVERSION OF OPERATING AUTHORITY.]

Subdivision 1. [EXPIRATION OF OPERATING AUTHORITY.] All operating authority under certificates or permits granted by the board that authorizes armored carrier service expires on March 1, 1994. After February 28, 1994, no person may provide armored carrier service unless the person holds a valid armored carrier permit issued by the board. This subdivision does not require the expiration of any operating authority other than authority for armored carrier service. This subdivision does not limit the right of carriers to transport items of exceptional value in nonarmored vehicles that are not protected by at least one armed person exclusive of the driver.

Subd. 2. [CONVERSION.] A motor carrier holding operating authority that expires on March 1, 1994, under subdivision 1 who wishes to continue providing the service authorized by that operating authority must convert that operating authority into an armored carrier permit before that date.

Subd. 3. [ISSUANCE OF NEW PERMITS.] (a) By November 1, 1993, a motor carrier described in subdivision 2 must submit to the commissioner an application for conversion. The application must be on a form prescribed by the commissioner and must be accompanied by an application fee of \$50. The application must state: (1) the name and address of the applicant; (2) the identifying number of all certificates or permits that grant the operating authority the applicant wishes to convert; (3) evidence of armored carrier service that the motor carrier has actually and lawfully performed under a certificate or permit within the two years prior to the effective date of this section; and (4) evidence of a protective agent's or private detective's license in good standing under section 221.121, subdivision 6g, paragraph (b).

(b) The commissioner shall transmit to the board all applications that meet the requirements of paragraph (a). The board shall develop an expedited process for hearing and ruling on applications submitted under this subdivision. Within 60 days after receiving an application under this subdivision, the board shall issue an order approving or denying the issuance of an armored carrier permit. The board shall issue the permit requested in the application if it finds that the issuance is authorized under this section. An application submitted to the commissioner under this subdivision by November 1, 1993; is deemed approved by the board unless by January 1, 1994, the board has issued an order denying the application.

(c) A motor carrier whose actual and lawful provision of armored carrier service has within the two years immediately prior to the effective date of this section been limited exclusively to service to and from points within the local cartage zone shall only be issued an armored carrier permit that authorizes service as an armored carrier to and from points within that zone. A motor carrier whose actual and lawful provision of armored carrier service has within the two years immediately prior to the effective date of this section been limited exclusively to service to and from points outside the local cartage zone shall be issued only an armored carrier permit that authorizes service as an armored carrier to and from points outside that zone. A motor carrier whose actual and lawful provision of armored carrier service has within the two years immediately prior to the effective date of this section included service to and from points within and outside the local cartage zone shall be issued an armored carrier permit that authorizes armored carrier service to and from points anywhere in the state.

Sec. 9. Minnesota Statutes 1992, section 221.161, subdivision 1, is amended to read:

Subdivision 1. [FILING; HEARING UPON BOARD INITIATIVE.] (a) Except as provided in paragraph (b), a permit carrier, including a livestock carrier but not including a local cartage carrier, shall file and maintain with the commissioner a tariff showing rates and charges for transporting persons or property. Tariffs must be prepared and filed in accordance with the rules of the commissioner. When tariffs are filed in accordance with the rules and accepted by the commissioner, the filing constitutes notice to the public and interested parties of the contents of the tariffs. The commissioner shall not accept for filing tariffs that are unjust, unreasonable, unjustly discriminatory, unduly preferential or prejudicial, or otherwise in violation of this section or rules adopted under this section. If the tariffs appear to be unjust, unreasonable, unjustly discriminatory, unduly preferential or prejudicial, or otherwise in violation of this section or rules adopted under this section, after notification and investigation by the department, the board may suspend and

postpone the effective date of the tariffs and assign the tariffs for hearing upon notice to the permit carrier filing the proposed tariffs and to other interested parties, including users of the service and competitive carriers by motor vehicle and rail. At the hearing, the burden of proof is on the permit carrier filing the proposed tariff to sustain the validity of the proposed schedule of rates and charges. Tariffs for transporting livestock are not subject to rejection, suspension, or postponement by the board, except as provided in subdivisions 2 and 3. The tariffs and subsequent supplements to them or reissues of them must state the effective date, which may not be less than ten days following the date of filing, unless the period of time is reduced by special permission of the commissioner.

(b) A holder of an armored carrier permit is not required to file a tariff under this subdivision for the service authorized by the armored carrier permit.

Sec. 10. Minnesota Statutes 1992, section 221.185, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS FOR SUSPENSION.] Despite the provisions of section 221.021, authority to operate as a motor carrier under sections 221.011 to 221.296 is suspended without a hearing, by order of the commissioner, for a period not to exceed 45 days upon the occurrence of any of the following and upon notice of suspension as provided in subdivision 2:

(a) the motor carrier fails to maintain and file with the commissioner, the insurance or bond required by sections 221.141 and 221.296 and rules of the commissioner;

(b) the motor carrier fails to renew permits as required by section 221.131;
or

(c) the motor carrier fails to pay annual vehicle registration fees or renew permits as required by sections 221.071, 221.131, and 221.296; or

(d) the motor carrier fails to maintain in good standing a protective agent's or private detective's license required under section 221.121, subdivision 6g, paragraph (b), or section 221.153, subdivision 3.

Sec. 11. Minnesota Statutes 1992, section 221.185, subdivision 2, is amended to read:

Subd. 2. [NOTICE OF SUSPENSION.] (a) Failure to file and maintain insurance, renew permits under section 221.131, or to pay annual vehicle registration fees or renew permits under section 221.071, 221.131, or 221.296, *or to maintain in good standing a protective agent's or private detective's license required under section 221.121, subdivision 6g, or 221.153, subdivision 3*, suspends a motor carrier's permit or certificate two days after the commissioner sends notice of the suspension by certified mail, return receipt requested, to the last known address of the motor carrier.

(b) In order to avoid permanent cancellation of the permit or certificate, the motor carrier must do one of the following within 45 days from the date of suspension:

(1) comply with the law by filing insurance or bond, renewing permits, or paying vehicle registration fees; or

(2) request a hearing before the board regarding the failure to comply with the law.

Sec. 12. Minnesota Statutes 1992, section 221.185, subdivision 4, is amended to read:

Subd. 4. [FAILURE TO COMPLY.] Except as provided in subdivision 5a, failure to comply with the requirements of sections 221.141 and 221.296 relating to bonds and insurance, 221.131 relating to permit renewal, 221.071, 221.131, or 221.296 relating to annual vehicle registration or permit renewal, 221.121, subdivision 6g, or 221.153, subdivision 3, relating to protective agent or private detective licensure, or to request a hearing within 45 days of the date of suspension, is deemed an abandonment of the motor carrier's permit or certificate and the permit or certificate must be canceled by the commissioner.

Sec. 13. [NOTICE.]

By September 1, 1993, the commissioner of transportation shall send a notice by certified mail, return receipt requested, to all holders of operating authority that expires March 1, 1994, under Minnesota Statutes, section 221.153, subdivision 1. The notice must summarize the requirements for conversion of the operating authority and include an application form for conversion.

Sec. 14. [EFFECTIVE DATE.]

Sections 1 to 13 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to motor carriers; defining armored carrier service; requiring any person providing armored carrier service to obtain an armored carrier permit from the transportation regulation board; providing for conversion of existing operating authority; amending Minnesota Statutes 1992, sections 221.011, by adding subdivisions; 221.072, subdivision 2; 221.111; 221.121, by adding a subdivision; 221.131, by adding a subdivision; 221.141, by adding a subdivision; 221.161, subdivision 1; and 221.185, subdivisions 1, 2 and 4; proposing coding for new law in Minnesota Statutes, chapter 221."

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

Mr. Chmielewski from the Committee on Transportation and Public Transit, to which was referred

S.F. No. 76: A bill for an act relating to traffic regulations; increasing the fine for child passenger restraint system violations; amending Minnesota Statutes 1992, section 169.685, subdivision 5.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Chmielewski from the Committee on Transportation and Public Transit, to which was referred

H.F. No. 469: A bill for an act relating to drivers' licenses; providing that physical requirements to obtain school bus endorsement for driver's license

are satisfied by possession of medical examiner's certificate required for commercial vehicle drivers; amending Minnesota Statutes 1992, section 171.321, subdivision 2.

Reports the same back with the recommendation that the bill do pass.
Report adopted.

Mr. Chmielewski from the Committee on Transportation and Public Transit, to which was referred

H.F. No. 113: A bill for an act relating to traffic regulations; specifying that a pedestrian lawfully in a crosswalk with pedestrian control signals must be given the right-of-way by all vehicles; amending Minnesota Statutes 1992, section 169.06, subdivision 6.

Reports the same back with the recommendation that the bill do pass.
Report adopted.

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

S.F. No. 1368: A bill for an act relating to the environment; imposing criminal penalties for knowing violations of air pollution requirements; amending Minnesota Statutes 1992, section 609.671, subdivisions 9 and 12.

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

Page 2, line 22, delete "gross"

Page 2, line 23, after "violates" insert "

(1)"

Page 2, line 26, delete ". A" and insert ";

(2) *a condition of an air emission permit issued by the agency under chapter 116 or a rule adopted under that chapter; or*

(3) *a requirement to pay a fee based on air emissions under chapter 116 or a rule adopted under that chapter.*

A"

Page 2, line 27, delete "one year" and insert "90 days"

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. 1466: A bill for an act relating to state lands; releasing certain reversionary interests of the state to independent school district No. 911, Cambridge; amending Laws 1963, chapter 350, section 3.

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

Page 1, line 19, delete everything after the first comma

Page 1, line 20, delete everything before "shall" and insert "the commissioner of administration"

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

Ms. Reichgott from the Committee on Judiciary, to which was referred

S.F. No. 248: A bill for an act relating to government data practices; providing for the issuance of commissioner's opinions under the data practices act; proposing coding for new law in Minnesota Statutes, chapter 13.

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

Delete everything after the enacting clause and insert:

"Section 1. [13.072] [OPINIONS BY THE COMMISSIONER.]

Subdivision 1. [OPINION; WHEN REQUIRED.] (a) Upon request of a state agency, statewide system, or political subdivision, the commissioner may give a written opinion on any question relating to public access to government data, rights of subjects of data, or classification of data under chapter 13 or other Minnesota statutes governing government data practices. Upon request of any person who disagrees with a determination regarding data practices made by a state agency, statewide system, or political subdivision, the commissioner may give a written opinion regarding the person's rights as a subject of government data or right to have access to government data. If the commissioner determines that no opinion will be issued, the commissioner shall give the state agency, statewide system, political subdivision, or person requesting the opinion notice of the decision not to issue the opinion within five days of receipt of the request. If this notice is not given, the commissioner shall issue an opinion within 20 days of receipt of the request. For good cause and upon written notice to the person requesting the opinion, the commissioner may extend this deadline for one additional 30-day period. The notice must state the reason for extending the deadline. The state agency, statewide system, or political subdivision must be provided a reasonable opportunity to explain the reasons for its decision regarding the data. The commissioner or the state agency, statewide system, or political subdivision may choose to give notice to the subject of the data concerning the dispute regarding the data.

(b) This section does not apply to a question involving the exercise of a discretionary power specifically granted by statute to a responsible authority to withhold or grant access to government data in a manner different than the data's general statutory classification.

(c) A written opinion issued under section 8.07 by the attorney general shall take precedence over an opinion issued by the commissioner under this section.

Subd. 2. [EFFECT.] Opinions issued by the commissioner under this section are not binding on the state agency, statewide system, or political subdivision whose data is the subject of the opinion, but must be given deference by a court in a proceeding involving the data. The commissioner shall arrange for public dissemination of opinions issued under this section. This section does not preclude a person from bringing any other action under this chapter or other law in addition to or instead of requesting a written

opinion. A state agency, statewide system, political subdivision, or person that acts in conformity with a written opinion of the commissioner is not liable for compensatory or exemplary damages in actions under section 13.08 or for a penalty under section 13.09.

Subd. 3. [FEE.] A state agency, statewide system, or political subdivision that requests an opinion must pay a fee of \$200 for each request.

Sec. 2. [REPEALER.]

Section 1 is repealed effective August 1, 1995."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Ms. Reichgott from the Committee on Judiciary, to which was referred

S.F. No. 513: A bill for an act relating to marriage dissolution; maintenance; permitting delinquent maintenance payments to be withheld from certain tax refunds; amending Minnesota Statutes 1992, section 289A.50, 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 1992, section 214.101, subdivision 1, is amended to read:

Subdivision 1. [COURT ORDER; HEARING ON SUSPENSION.] If a licensing board receives an order from a court under section 518.551, subdivision 12, dealing with suspension of a license of a person found by the court to be in arrears in child support or maintenance payments, or both, the board shall, within 30 days of receipt of the court order, provide notice to the licensee and hold a hearing. If the board finds that the person is licensed by the board and evidence of full payment of arrearages found to be due by the court is not presented at the hearing, the board shall suspend the license unless it determines that probation is appropriate under subdivision 2. The only issues to be determined by the board are whether the person named in the court order is a licensee, whether the arrearages have been paid, and whether suspension or probation is appropriate. The board may not consider evidence with respect to the appropriateness of the court order or the ability of the person to comply with the order. The board may not lift the suspension until the licensee files with the board proof showing that the licensee is current in child support payments and maintenance.

Sec. 2. Minnesota Statutes 1992, section 214.101, subdivision 4, is amended to read:

Subd. 4. [VERIFICATION OF PAYMENTS.] Before a board may terminate probation, remove a suspension, issue, or renew a license of a person who has been suspended or placed on probation under this section, it shall contact the court that referred the matter to the board to determine that the applicant is not in arrears for child support or maintenance or both. The board may not issue or renew a license until the applicant proves to the board's satisfaction that the applicant is current in support payments and maintenance.

Sec. 3. Minnesota Statutes 1992, section 257.022, is amended by adding a subdivision to read:

Subd. 4. [ESTABLISHMENT OF INTERFERENCE WITH PARENT AND CHILD RELATIONSHIP.] *The court may not deny visitation rights under this section based on allegations that the visitation rights would interfere with the relationship between the custodial parent and the child unless after a hearing the court determines by a preponderance of the evidence that interference would occur.*

Sec. 4. Minnesota Statutes 1992, section 257.022, is amended by adding a subdivision to read:

Subd. 5. [VISITATION PROCEEDING MAY NOT BE COMBINED WITH PROCEEDING UNDER CHAPTER 518B.] *Proceedings under this section may not be combined with a proceeding under chapter 518B.*

Sec. 5. Minnesota Statutes 1992, section 289A.50, subdivision 5, is amended to read:

Subd. 5. [WITHHOLDING OF REFUNDS FROM CHILD SUPPORT AND MAINTENANCE DEBTORS.] (a) If a court of this state finds that a person obligated to pay child support or maintenance is delinquent in making payments, the amount of child support or maintenance unpaid and owing, including attorney fees and costs incurred in ascertaining or collecting child support or maintenance, must be withheld from a refund due the person under chapter 290. The public agency responsible for child support enforcement or the parent or guardian of a child for whom the support, attorney fees, and costs are owed or the party to whom maintenance, attorney fees, and costs are owed may petition the district or county court for an order providing for the withholding of the amount of child support, maintenance, attorney fees, and costs unpaid and owing as determined by court order. The person from whom the refund may be withheld must be notified of the petition under the rules of civil procedure before the issuance of an order under this subdivision. The order may be granted on a showing to the court that required support or maintenance payments, attorney fees, and costs have not been paid when they were due.

(b) On order of the court, the commissioner shall withhold the money from the refund due to the person obligated to pay the child support or maintenance. The amount withheld shall be remitted to the public agency responsible for child support enforcement or to the parent or guardian petitioning on behalf of the child, or the party to whom maintenance is owed, after any delinquent tax obligations of the taxpayer owed to the revenue department have been satisfied and after deduction of the fee prescribed in section 270A.07, subdivision 1. An amount received by the responsible public agency, or the petitioning parent or guardian, or the party to whom maintenance is owed, in excess of the amount of public assistance spent for the benefit of the child to be supported, or the amount of any support, maintenance, attorney fees, and costs that had been the subject of the claim under this subdivision that has been paid by the taxpayer before the diversion of the refund, must be paid to the person entitled to the money. If the refund is based on a joint return, the part of the refund that must be paid to the petitioner is the proportion of the total refund that equals the proportion of the total federal adjusted gross income of the spouses that is the federal adjusted gross income of the spouse who is delinquent in making the child support or maintenance payments.

(c) A petition filed under this subdivision remains in effect with respect to any refunds due under this section until the support ~~money or maintenance~~, attorney fees, and costs have been paid in full or the court orders the commissioner to discontinue withholding the money from the refund due the person obligated to pay the support ~~or maintenance~~, attorney fees, and costs. If a petition is filed under this subdivision *concerning child support* and a claim is made under chapter 270A with respect to the individual's refund and notices of both are received before the time when payment of the refund is made on either claim, the claim relating to the liability that accrued first in time must be paid first. The amount of the refund remaining must then be applied to the other claim.

Sec. 6. Minnesota Statutes 1992, section 518.17, subdivision 3, is amended to read:

Subd. 3. [CUSTODY ORDER.] (a) Upon adjudging the nullity of a marriage, or in a dissolution or separation proceeding, or in a child custody proceeding, the court shall make such further order as it deems just and proper concerning:

(1) the legal custody of the minor children of the parties which shall be sole or joint;

(2) their physical custody and residence; and

(3) their support. In determining custody, the court shall consider the best interests of each child and shall not prefer one parent over the other solely on the basis of the sex of the parent.

(b) The court shall grant the following rights to each of the parties, unless specific findings are made under paragraph (c); and every custody order must include the following notice to the parties:

NOTICE IS HEREBY GIVEN TO THE PARTIES:

Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

Each party shall keep the other party informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent-teacher conferences. The school is not required to hold a separate conference for each party.

In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

Each party has the right to reasonable access and telephone contact with the minor children.

(c) The court may waive all or part of the notice required under paragraph (b) if it finds that it is necessary to protect the welfare of a party or child section 518.68, subdivision 1. Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has

the right of access to information regarding health or dental insurance available to the minor children. Each party shall keep the other party informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent-teacher conferences. The school is not required to hold a separate conference for each party. In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment. Each party has the right to reasonable access and telephone contact with the minor children.

Sec. 7. Minnesota Statutes 1992, section 518.171, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] *Every child support order must expressly assign or reserve the responsibility for maintaining medical insurance for the minor children and the division of uninsured medical and dental costs. Unless the obligee has comparable or better group dependent health insurance coverage available at a more reasonable cost, the court shall order the obligor to name the minor child as beneficiary on any health and dental insurance plan that is available to the obligor on a group basis or through an employer or union. "Health insurance coverage" as used in this section does not include medical assistance provided under chapter 256, 256B, or 256D.*

If the court finds that dependent health or dental insurance is not available to the obligor on a group basis or through an employer or union, or that the group insurer is not accessible to the obligee, the court may require the obligor to obtain dependent health or dental insurance, or to be liable for reasonable and necessary medical or dental expenses of the child.

If the court finds that the dependent health or dental insurance required to be obtained by the obligor does not pay all the reasonable and necessary medical or dental expenses of the child, or that the dependent health or dental insurance available to the obligee does not pay all the reasonable and necessary medical or dental expenses of the child, and the court finds that the obligor has the financial ability to contribute to the payment of these medical or dental expenses, the court shall require the obligor to be liable for all or a portion of the medical or dental expenses of the child not covered by the required health or dental plan.

Sec. 8. Minnesota Statutes 1992, section 518.175, subdivision 6; is amended to read:

Subd. 6. [COMPENSATORY VISITATION.] *If the court finds that the ~~noncustodial parent~~ a person has been wrongfully deprived of the duly established right to visitation, the court shall order the custodial parent to permit additional visits to compensate for the visitation of which the ~~noncustodial parent~~ person was deprived. Additional visits must be:*

- (1) of the same type and duration as the wrongfully denied visit;*
- (2) taken within one year after the wrongfully denied visit; and*
- (3) at a time acceptable to the ~~noncustodial parent~~ person deprived of visitation.*

Sec. 9. Minnesota Statutes 1992, section 518.177, is amended to read:

518.177 [NOTIFICATION REGARDING DEPRIVATION OF PARENTAL RIGHTS LAW.]

Every court order and judgment and decree concerning custody of or visitation with a minor child shall ~~restate the provisions of section 609.26 contain the notice set out in section 518.68, subdivision 2.~~

Sec. 10. Minnesota Statutes 1992, section 518.55, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF ADDRESS OR RESIDENCE CHANGE.] Every obligor shall notify the obligee and the public authority responsible for collection, if applicable, of a change of address or residence within 60 days of the address or residence change. Every order for support or maintenance must contain a conspicuous notice ~~of the requirements of this subdivision complying with section 518.68, subdivision 2.~~ The court may waive or modify the requirements of this subdivision by order if necessary to protect the obligor from contact by the obligee.

Sec. 11. Minnesota Statutes 1992, section 518.551, subdivision 12, is amended to read:

Subd. 12. [OCCUPATIONAL LICENSE SUSPENSION.] Upon petition of an obligee or public agency responsible for child support enforcement, if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 and the obligor is in arrears in court-ordered child support ~~or maintenance payments or both,~~ the court may direct the licensing board to conduct a hearing under section 214.101 concerning suspension of the obligor's license. If the obligor is a licensed attorney, the court may report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.

Sec. 12. Minnesota Statutes 1992, section 518.552, is amended by adding a subdivision to read:

Subd. 6. [DETERMINATION OF INCOME.] (a) *If a party is seeking maintenance, the parties shall timely serve and file documentation of earnings and income. When there is a prehearing conference, the court must receive the documentation of income at least ten days prior to the prehearing conference. Documentation of earnings and income includes, but is not limited to, pay stubs for the most recent three months, employer statements, or statement of receipts and expenses if a party is self-employed. Documentation of earnings and income also includes a party's most recent federal tax returns, including W-2 forms, 1099 forms, unemployment compensation statements, workers' compensation statements, and other documents evidencing income as received that provide verification of income over a longer period.*

(b) *If a party from whom maintenance is sought, who is under the jurisdiction of the court, does not appear at a court hearing after proper notice of the time and place of the hearing, the court shall set income for that party based on credible evidence before the court or in accordance with paragraph (c). Credible evidence may include documentation of current or recent income, testimony of the other party concerning recent earnings and income levels, and the party's wage reports filed with the department of jobs and training under section 268.121.*

(c) If the court finds that a party from whom maintenance is sought is voluntarily unemployed or underemployed, a determination regarding maintenance may be made based on a determination of imputed income. A party is not considered voluntarily unemployed or underemployed upon a showing by the party that the unemployment or underemployment: (1) is temporary and will ultimately lead to an increase in income; or (2) represents a bona fide career change that outweighs the adverse effect of that party's diminished income. Imputed income means the estimated earning ability of a party based on the party's prior earnings history, education, and job skills, and on availability of jobs within the community for an individual with the party's qualifications. If the court is unable to determine or estimate the earning ability of a party from whom maintenance is sought, the court may make a determination regarding maintenance based on full-time employment of 40 hours per week at the federal minimum wage or the Minnesota minimum wage, whichever is higher. If a party is physically or mentally incapacitated, it is presumed that the party is not voluntarily unemployed or underemployed.

Sec. 13. Minnesota Statutes 1992, section 518.583, is amended to read:

518.583 [NOTICE OF TAX EFFECT ON CAPITAL GAIN ON SALE OF PRINCIPAL RESIDENCE.]

If the parties to an action for dissolution own a principal residence, the court must make express findings of fact that the parties who are represented by an attorney have been advised as to the income tax laws respecting the capital gain tax, or that parties who are not represented by an attorney have been notified that income tax laws regarding the capital gain tax may apply to the sale of the residence. This includes, but is not limited to, the exclusion available on the sale of a principal residence for those over a certain age under section 121 of the Internal Revenue Code of 1986, or other applicable law. The order must expressly provide for the use of that exclusion unless the court otherwise orders. All judgment judgments and decrees involving a principal residence must include a the following notice to the parties that income tax laws regarding the capital gain tax may apply to the sale of the residence and that the parties may wish to consult with an attorney concerning the applicable laws: as a finding of fact or as an attachment:

"CAPITAL GAIN ON SALE OF PRINCIPAL RESIDENCE

Income tax laws regarding the capital gain tax may apply to the sale of the parties' principal residence and the parties may wish to consult with an attorney or tax advisor concerning the applicable laws. These laws may include, but are not limited to, the exclusion available on the sale of a principal residence for those over a certain age under section 121 of the Internal Revenue Code of 1986, or other applicable law."

Sec. 14. Minnesota Statutes 1992, section 518.611, subdivision 2, is amended to read:

Subd. 2. [CONDITIONS OF INCOME WITHHOLDING.] (a) Withholding shall result whenever the obligor fails to make the maintenance or support payments, and the following conditions are met:

(1) the obligor is at least 30 days in arrears;

(2) the obligee or the public authority serves written notice of income withholding, showing arrearage, on the obligor at least 15 days before service

of the notice of income withholding and a copy of the court's order on the payor of funds;

(3) within the 15-day period, the obligor fails to move the court to deny withholding on the grounds that an arrearage of at least 30 days does not exist as of the date of the notice of income withholding, or on other grounds limited to mistakes of fact, and, ex parte, to stay service on the payor of funds until the motion to deny withholding is heard;

(4) the obligee or the public authority serves a copy of the notice of income withholding, a copy of the court's order, and the provisions of this section on the payor of funds; and

(5) the obligee serves on the public authority a copy of the notice of income withholding, a copy of the court's order, an application, and the fee to use the public authority's collection services.

(b) To pay the arrearage specified in the notice of income withholding, the employer or payor of funds shall withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support or maintenance obligation until the arrearage is paid.

(c) The obligor may, at any time, waive the written notice required by this subdivision.

(d) The obligor may move the court, under section 518.64, to modify the order respecting the amount of maintenance or support.

(e) Every order for support or maintenance shall provide for a conspicuous notice of the provisions of this subdivision *that complies with section 518.68, subdivision 2*. An order without this notice remains subject to this subdivision.

(f) Absent a court order to the contrary, if an arrearage exists at the time an order for ongoing support or maintenance would otherwise terminate, income withholding shall continue in effect in an amount equal to the former support or maintenance obligation plus an additional amount equal to 20 percent of the monthly child support obligation, until all arrears have been paid in full.

Sec. 15. Minnesota Statutes 1992, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party or the child or children that are the subject of these proceedings; (3) receipt of assistance under sections 256.72 to 256.87; or (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair.

(b) *It is presumed that there has been a substantial change of circumstances under paragraph (a), clause (1), (2), or (4), and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$50 per month higher or lower than the current support order.*

~~(b)~~ (c) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance

under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall apply section 518.551, subdivision 5, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(d) On a motion for modification of child support or maintenance, if the court finds that the obligor has unjustifiably self-limited the obligor's income, the court may impute income.

(e) (e) A modification of support or maintenance may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record. However, modification may be applied to an earlier period if the court makes express findings that the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court and that the party seeking modification, when no longer precluded, promptly served a motion.

(d) (f) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

(e) (g) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

(f) (h) Section 518.14 shall govern the award of attorney fees for motions brought under this subdivision.

Sec. 16. Minnesota Statutes 1992, section 518.641, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] An order for maintenance or child support shall provide for a biennial adjustment in the amount to be paid based on a change in the cost of living. An order that provides for a cost-of-living adjustment shall specify the cost-of-living index to be applied and the date on which the cost-of-living adjustment shall become effective. The court may use the consumer price index for all urban consumers, Minneapolis-St. Paul (CPI-U), the consumer price index for wage earners and clerical, Minneapolis-St. Paul (CPI-W), or another cost-of-living index published by the department of labor which it specifically finds is more appropriate. Cost-of-living increases under this section shall be compounded. The court may also increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings. The adjustment becomes effective on the first of May of the year in which it is made, for cases in which payment is made to the public authority. For cases in which payment is not made to the public authority, application for an adjustment may be made in any month but no application for an adjustment may be made sooner than two years after the date of the dissolution decree. A court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for cost-of-living adjustment or that the order for maintenance or child support has a provision such as a step increase that has the effect of a cost-of-living clause. The court may waive a cost-of-living adjustment in a maintenance order if the parties so agree in writing. The commissioner of human services may promulgate rules for child support adjustments under this section in accordance with the rulemaking provisions of chapter 14. *Notice of this statute must comply with section 518.68, subdivision 2.*

Sec. 17. [518.68] [REQUIRED NOTICES.]

Subdivision 1. [REQUIREMENT.] *Every court order for judgment and decree that provides for child support, spousal maintenance, custody, or visitation must contain certain notices as set out in subdivision 2. The information in the notices must be concisely stated in plain language. The notices must be in clearly legible print, but may not exceed two pages. An order or judgment and decree without the notice remains subject to all statutes. The court may waive all or part of the notice required under this section if it finds it is necessary to protect the welfare of a party or child.*

Subd. 2. [CONTENTS.] *The required notices must be substantially as follows:*

IMPORTANT NOTICE

1. PAYMENTS TO PUBLIC AGENCY

Pursuant to Minnesota Statutes, section 518.551, subdivision 1, payments ordered for maintenance and support must be paid to the public agency responsible for child support enforcement as long as the person entitled to receive the payments is receiving or has applied for public assistance or has

applied for support and maintenance collection services. MAIL PAYMENTS TO:

2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS—A FELONY

A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or visitation rights), pursuant to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

3. RULES OF SUPPORT, MAINTENANCE, VISITATION

(a) Payment of support or spousal maintenance is to be as ordered herein, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

(b) Payment of support must be made as it becomes due, and failure to secure or denial of rights of visitation is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.

(c) The payment of support or spousal maintenance takes priority over payment of debts and other obligations.

(d) A party who remarries after dissolution and accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

(e) Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

4. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3

Unless otherwise provided by the Court:

(a) Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

(b) Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

(c) In case of an accident or serious illness of a minor child, each party shall notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

(d) Each party has the right of reasonable access and telephone contact with the minor children.

5. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, sections 518.611 and 518.613, have been met. A copy of those sections is available from any district court clerk.

6. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, the person responsible to make support or maintenance payments shall notify the person entitled to receive the payment and the public authority responsible for collection, if applicable, of a change of address or residence within 60 days of the address or residence change.

7. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using Department of Labor Consumer Price Index, unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 518.641, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518.641, and forms necessary to request or contest a cost of living increase are available from any district court clerk.

8. JUDGMENTS FOR UNPAID SUPPORT

If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment WITHOUT NOTICE to the person responsible to make the payment under Minnesota Statutes, section 548.091.

9. JUDGMENTS FOR UNPAID MAINTENANCE

A judgment for unpaid spousal maintenance may be entered when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any district court clerk.

10. TAX REFUNDS

If a person fails to make child support payments and becomes in arrears, the public agency responsible for child support enforcement will intercept the person's tax refunds to pay the child support debt. The public agency will submit a claim against federal income tax refunds and state income tax, property tax, or renter's credit and lottery winnings.

11. MEDICAL INSURANCE AND EXPENSES

The person responsible to pay support and the person's employer or union are ordered to provide medical and dental insurance and pay for uncovered expenses under the conditions of Minnesota Statutes, section 518.171,

unless otherwise provided in this order or the statute. A copy of this statute is available from any district court clerk.

Subd. 3. [COPIES OF LAW AND FORMS.] The district court administrator shall make available at no charge copies of sections 518.17, 518.611, 518.613, 518.641, 548.091, and 609.26, and shall provide forms to request or contest a cost-of-living increase under section 518.641.

Sec. 18. Minnesota Statutes 1992, section 518B.01, subdivision 3, is amended to read:

Subd. 3. [COURT JURISDICTION.] An application for relief under this section may be filed in the court having jurisdiction over dissolution actions in the county of residence of either party, in the county which has a current or prior family court proceeding involving the parties or their minor children, or in the county in which the alleged domestic abuse occurred. In a jurisdiction which utilizes referees in dissolution actions, the court or judge may refer actions under this section to a referee to take and report the evidence therein in the same manner and subject to the same limitations as is provided in section 518.13. Actions under this section shall be given docket priorities by the court.

Sec. 19. Minnesota Statutes 1992, 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. Except for cases in which custody is contested, findings under section 257.025, 518.17, or 518.175 are not required. 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 decision on custody and visitation shall in no way delay the issuance of an order for protection granting other reliefs provided for in this section;
- (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;

(9) order the abusing party to pay restitution to the petitioner;

(10) *order the maintenance and continuance of all currently available insurance coverage without change in coverage or beneficiary designation; and*

(10) (11) 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 civil judgment.

Sec. 20. Minnesota Statutes 1992, section 518B.01, subdivision 7, is amended to read:

Subd. 7. [TEMPORARY ORDER.] (a) Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte temporary order for protection, pending a full hearing, and granting relief as the court deems proper, including an order:

(1) restraining the abusing party from committing acts of domestic abuse;

(2) excluding any party from the dwelling they share or from the residence of the other except by further order of the court; ~~and~~

(3) excluding the abusing party from the place of employment of the petitioner or otherwise limiting access to the petitioner by the abusing party at the petitioner's place of employment; ~~and~~

(4) *maintaining and continuing all currently available insurance coverage without change in coverage or beneficiary designation.*

(b) A finding by the court that there is a basis for issuing an ex parte temporary order for protection constitutes a finding that sufficient reasons exist not to require notice under applicable court rules governing applications for ex parte temporary relief.

(c) An ex parte temporary order for protection shall be effective for a fixed period not to exceed 14 days, except for good cause as provided under paragraph (d). A full hearing, as provided by this section, shall be set for not later than seven days from the issuance of the temporary order. The respondent shall be served forthwith a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(d) When service is made by published notice, as provided under subdivision 5, the petitioner may apply for an extension of the period of the ex parte order at the same time the petitioner files the affidavit required under that subdivision. The court may extend the ex parte temporary order for an additional period not to exceed 14 days. The respondent shall be served forthwith a copy of the modified ex parte order along with a copy of the notice of the new date set for the hearing.

Sec. 21. Minnesota Statutes 1992, section 518B.01, subdivision 9, is amended to read:

Subd. 9. [ASSISTANCE OF SHERIFF IN SERVICE OR EXECUTION.] When an order is issued under this section upon request of the petitioner, the court shall order the sheriff or constable to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in execution or service of the order of protection. *If the application for relief is brought in a county in which the respondent is not present, the sheriff shall forward the pleadings necessary for service upon the respondent to the sheriff of the county in which the respondent is present. This transmittal must be expedited to allow for timely service.*

Sec. 22. [REPEALER.]

Minnesota Statutes 1992, section 518.55, subdivisions 2 and 2a, are repealed."

Delete the title and insert:

"A bill for an act relating to the family; providing for suspension of a license for unpaid maintenance; clarifying certain language; modifying provisions for establishment of third-party visitation rights; permitting delinquent maintenance payments to be withheld from tax refunds; changing notices required in certain court orders; requiring certain terms in child support orders; providing for third-party compensatory visitation; requiring determination of income for maintenance; changing provisions relating to modification of maintenance or support; providing for jurisdiction of certain domestic abuse actions; providing for pleadings to be forwarded; authorizing additional relief; changing a deadline; amending Minnesota Statutes 1992, sections 214.101, subdivisions 1 and 4; 257.022, by adding subdivisions; 289A.50, subdivision 5; 518.17, subdivision 3; 518.171, subdivision 1; 518.175, subdivision 6; 518.177; 518.55, subdivision 3; 518.551, subdivision 12; 518.552, by adding a subdivision; 518.583; 518.611, subdivision 2; 518.64, subdivision 2; 518.641, subdivision 1; and 518B.01, subdivisions 3,

6, 7, and 9; proposing coding for new law in Minnesota Statutes, chapter 518; repealing Minnesota Statutes 1992, section 518.55, subdivisions 2 and 2a."

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 Governmental Operations and Reform, to which was referred

S.F. No. 1162: A bill for an act relating to state government; administrative rulemaking; changing the membership and duties of the LCRAR; transferring the rule review functions of the office of the attorney general to the office of administrative hearings; authorizing agencies to adopt substantially different rules in certain circumstances; regulating notices of intent to solicit outside opinion, statements of need and reasonableness, and public hearing requirements; authorizing the governor to disapprove rules adopted after public hearing; eliminating the requirement that agencies review their rules and consider methods to reduce their impact on small business; appropriating money; amending Minnesota Statutes 1992, sections 3.841; 3.842, subdivision 5; 14.05, subdivision 2, and by adding a subdivision; 14.08; 14.09; 14.10; 14.115, subdivision 5; 14.131; 14.15, subdivisions 3 and 4; 14.16, subdivision 1; 14.19; 14.22, subdivision 1; 14.23; 14.25; 14.26; 14.29, subdivisions 2 and 4; 14.30; 14.32; 14.33; 14.34; 14.365; 14.47, subdivision 6; 14.48; and 14.51; proposing coding for new law in Minnesota Statutes, chapters 3 and 14; repealing Minnesota Statutes 1992, sections 14.115, subdivision 6; and 14.225.

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 1992, section 3.841, is amended to read:

3.841 [LEGISLATIVE COMMISSION TO REVIEW ADMINISTRATIVE RULES; COMPOSITION; MEETINGS.]

A legislative commission ~~for~~ to review ~~of~~ administrative rules, consisting of five senators appointed by the committee on committees of the senate and five representatives appointed by the speaker of the house of representatives shall be appointed. *Its members must include the chair or vice-chair of the committees in each body having jurisdiction over administrative rules.* The commission shall meet at the call of its chair or upon a call signed by two of its members or signed by five members of the legislature. The office of chair of the legislative commission shall alternate between the two houses of the legislature every two years.

Sec. 2. [3.984] [RULE NOTES.]

Subdivision 1. [REQUIREMENT.] The head or chief administrative officer of an agency, as defined in section 14.02, subdivision 2, shall prepare a note containing the information required by subdivision 2 on every bill containing a grant of rulemaking authority to that agency. The chair of a standing committee receiving a bill on rereferral from another standing committee shall request that: (1) the rule note be amended to reflect any amendment of the grant of rulemaking authority made to the bill; or (2) a rule note be prepared by the agency if a grant of rulemaking authority has been added to the bill.

Subd. 2. [CONTENTS.] The note required by subdivision 1 must treat separately each grant of rulemaking authority contained in the bill and must include a detailed explanation of:

- (1) the reasons for the grant of rulemaking authority;*
- (2) the persons or groups the rules would impact;*
- (3) the estimated cost of the rule for the persons or groups specified pursuant to clause (2); and*
- (4) the areas of controversy anticipated by the agency.*

The note must be delivered to the chair of the standing committee to which the bill has been referred or rereferred, the chair of the legislative commission to review administrative rules, and the chairs of the committees in each body having jurisdiction over administrative rules.

Subd. 3. [ADMINISTRATION.] The commissioner of finance is responsible for coordinating this process, for assuring the accuracy and completeness of the note, and for assuring that rule notes are prepared, delivered, and updated as provided by this section.

The commissioner shall prescribe a uniform procedure to govern agencies in complying with this section.

Sec. 3. Minnesota Statutes 1992, section 14.05, subdivision 2, is amended to read:

Subd. 2. [AUTHORITY TO MODIFY PROPOSED RULE.] An agency may modify a proposed rule in accordance with the procedures of the administrative procedure act. However, an agency may not modify a proposed rule so that it is substantially different from the proposed rule in the notice of intent to adopt rules or notice of hearing. A rule is substantially different if it is determined to be so by the administrative law judge and the chief administrative law judge after considering the extent to which it: (1) affects classes of persons who could not have reasonably been expected to comment on the proposed rule during the comment period or at the rulemaking hearing; (2) goes to a new subject matter of significant substantive effect; (3) makes a major substantive change that was not raised by the original notice of intent to adopt or the notice of hearing in such a way as to invite reaction during the comment period or at the hearing; or (4) results in a rule fundamentally different in effect from that contained in the notice of intent to adopt or notice of hearing.

Sec. 4. Minnesota Statutes 1992, section 14.05, is amended by adding a subdivision to read:

Subd. 5. [REVIEW AND REPEAL OF RULES.] By December 1 of each year, an agency shall submit a list of all the rules of the agency to the governor and the legislative commission to review administrative rules. The list must identify any rules that are obsolete and should be repealed and must include the agency's timetable for repeal.

Sec. 5. Minnesota Statutes 1992, section 14.08, is amended to read:

14.08 [REVISOR OF STATUTES APPROVAL OF RULE AND RULE FORM; COSTS.]

(a) Two copies of a rule adopted pursuant to the provisions of section 14.26 or 14.32 shall be submitted by the agency to the ~~attorney general administrative law judge~~. The ~~attorney general administrative law judge~~ shall send one copy of the rule to the revisor on the same day as it is submitted by the agency under section 14.26 or 14.32. Within five days after receipt of the rule, excluding weekends and holidays, the revisor shall either return the rule with a certificate of approval of the form of the rule to the ~~attorney general administrative law judge~~ or notify the ~~attorney general administrative law judge~~ and the agency that the form of the rule will not be approved.

If the ~~attorney general administrative law judge~~ disapproves a rule, the agency may modify it and the agency shall submit two copies of the modified rule to the ~~attorney general administrative law judge~~ who shall send a copy to the revisor for approval as to form as described in this paragraph.

(b) One copy of a rule adopted after a public hearing shall be submitted by the agency to the revisor for approval of the form of the rule. Within five working days after receipt of the rule, the revisor shall either return the rule with a certificate of approval to the agency or notify the agency that the form of the rule will not be approved.

(c) If the revisor refuses to approve the form of the rule, the revisor's notice shall revise the rule so it is in the correct form.

(d) The ~~attorney general administrative law judge~~ shall assess an agency for the ~~attorney general's~~ actual cost of processing rules under this section. The agency shall pay the ~~attorney general's~~ assessments using the procedures of ~~section 8-15~~. Each agency shall include in its budget money to pay the ~~attorney general's~~ assessments. Receipts from the assessment must be deposited in the state treasury and credited to the ~~general fund administrative hearings account created in section 14.54~~.

Sec. 6. Minnesota Statutes 1992, section 14.09, is amended to read:

14.09 [PETITION FOR ADOPTION OF RULE.]

Any interested person may petition an agency requesting the adoption, suspension, amendment or repeal of any rule. The petition shall be specific as to what action is requested and the need for the action. Upon receiving a petition an agency shall have 60 days in which to make a specific and detailed reply in writing as to its planned disposition of the request. If the agency states its intention to hold a public hearing on the subject of the request, it shall proceed according to sections 14.05 to 14.36. The ~~attorney general administrative law judge~~ shall prescribe by rule the form for all petitions under this section and may prescribe further procedures for their submission, consideration, and disposition.

Sec. 7. Minnesota Statutes 1992, section 14.10, is amended to read:

14.10 [SOLICITATION OF OUTSIDE INFORMATION.]

When an agency seeks to obtain information or opinions in preparing to propose the adoption, amendment, suspension, or repeal of a rule from sources outside of the agency, the agency shall publish notice of its action in the State Register, *mail this notice to persons who have registered their names pursuant to section 14.14, subdivision 1a, 14.22, or 14.30, and shall* afford all interested persons an opportunity to submit data or views on the subject of concern in writing or orally. Such notice and any written material received by

the agency shall become a part of the rulemaking record to be submitted to the ~~attorney general or administrative law judge~~ under section 14.14, 14.26, or 14.32. This notice must contain a summary of issues that may be considered by the agency when the rule is proposed, a statement of the agency's intentions regarding the formation of an advisory task force on the subject, and, if a task force is to be formed, a list of the persons or associations the agency intends to invite to serve on the task force. The notice must also include a proposed timetable outlining when the agency intends to form the advisory task force, when it could be expected to complete its work, and how long the agency anticipates the rulemaking process taking.

Sec. 8. Minnesota Statutes 1992, section 14.115, subdivision 5, is amended to read:

Subd. 5. [COMPLIANCE.] If an administrative law judge ~~or the attorney general~~ finds that an agency has failed to comply with subdivisions 1 to 4, the rules shall not be adopted unless the failure to comply is considered a harmless error under section 14.15, subdivision 5; 14.26, subdivision 3; or 14.32, subdivision 2.

Sec. 9. [14.125] [TIME LIMIT ON AUTHORITY TO ADOPT, AMEND, OR REPEAL RULES.]

An agency shall adopt, amend, or repeal rules within 18 months of the effective date of the law authorizing or requiring rules to be adopted, amended, or repealed. If the rules are not adopted, amended, or repealed within the time limit imposed by this section, the authority for the rules expires. The agency shall not use other law in existence at the time of the expiration of rulemaking authority under this section as authority to adopt, amend, or repeal these rules. This time limit does not include any days for review by the governor under section 14.165 or the office of administrative hearings under sections 14.15 and 14.16; 14.26, subdivision 3; and 14.32.

An agency that adopts or amends rules within the time limit specified in this section may subsequently amend or repeal the rules without additional legislative authorization.

This section does not apply to emergency rules subject to the 180-day time limit in section 14.29, subdivision 2.

Sec. 10. Minnesota Statutes 1992, section 14.15, subdivision 3, is amended to read:

Subd. 3. [FINDING OF SUBSTANTIAL CHANGE DIFFERENCE.] If the report contains a finding that a rule has been modified in a way which makes it substantially different, as determined under section 14.05, subdivision 2, from that which was originally proposed, or that the agency has not met the requirements of sections 14.131 to 14.18, it shall be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves the finding of the administrative law judge, the chief administrative law judge shall advise the agency and the revisor of statutes of actions which will correct the defects. The agency shall not adopt the rule until the chief administrative law judge determines that the defects have been corrected and the requirements of section 14.165 have been satisfied.

Sec. 11. Minnesota Statutes 1992, section 14.15, subdivision 4, is amended to read:

Subd. 4. [NEED OR REASONABLENESS NOT ESTABLISHED.] If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not adopt the rule until it has received and considered the advice of the commission *and the requirements of section 14.165 have been satisfied*. However, the agency is not required to ~~delay adoption longer wait for the commission's advice for more than 30 days after the commission has received the agency's submission.~~ Advice of the commission shall not be binding on the agency.

Sec. 12. Minnesota Statutes 1992, section 14.16, subdivision 1, is amended to read:

Subdivision 1. [REVIEW OF MODIFICATIONS.] If the report of the administrative law judge finds no defects, the agency may proceed to adopt the rule *after the requirements of section 14.165 have been satisfied*. After receipt of the administrative law judge's report, if the agency makes any modifications to the rule other than those recommended by the administrative law judge, it must return the rule to the chief administrative law judge for a review on the issue of ~~substantial change whether the rule as modified is substantially different, as determined under section 14.05, subdivision 2, from the rule as originally proposed.~~ If the chief administrative law judge determines that the modified rule is substantially different from that which was originally proposed, the chief administrative law judge shall advise the agency of actions which will correct the defects. The agency shall not adopt the modified rule until the chief administrative law judge determines that the defects have been corrected *and the requirements of section 14.165 have been satisfied*.

The agency shall give notice to all persons who requested to be informed that the rule has been adopted and filed with the secretary of state. This notice shall be given on the same day that the rule is filed.

Sec. 13. [14.165] [APPROVAL BY GOVERNOR.]

Before proceeding to adopt a rule after complying with sections 14.15 and 14.16, the agency shall give written notice to the governor of its intent to adopt the rule. The governor has 30 days after receipt of this notice to review the proposed rule and its record and approve or disapprove the rule. The agency may not adopt the rule unless the governor approves.

Sec. 14. Minnesota Statutes 1992, section 14.19, is amended to read:

14.19 [DEADLINE TO COMPLETE RULEMAKING.]

The agency shall, within 180 days after issuance of the administrative law judge's report, submit its notice of adoption, amendment, suspension, or repeal to the State Register for publication. If the agency has not submitted its notice to the State Register within 180 days, the rule is automatically withdrawn. The agency shall not adopt the withdrawn rules without again following the procedures of sections 14.05 to 14.36. It shall report to the legislative commission to review administrative rules, other appropriate committees of the legislature, and the governor its failure to adopt rules and the reasons for that failure. The 180-day time limit of this section does not

include any days used for review by the chief administrative law judge, the attorney general, or the legislative commission to review administrative rules if the review is required by law.

Sec. 15. Minnesota Statutes 1992, section 14.22, subdivision 1, is amended to read:

Subdivision 1. [CONTENTS.] Unless an agency proceeds directly to a public hearing on a proposed rule and gives the notice prescribed in section 14.14, subdivision 1a, the agency shall give notice of its intention to adopt a rule without public hearing. The notice shall be given by publication in the State Register and by United States mail to persons who have registered their names with the agency pursuant to section 14.14, subdivision 1a. The mailed notice shall include either a copy of the proposed rule or a description of the nature and effect of the proposed rule and an announcement that a free copy of the proposed rule is available on request from the agency. The notice in the State Register shall include the proposed rule or the amended rule in the form required by the revisor under section 14.07, and a citation to the most specific statutory authority for the proposed rule. When an entire rule is proposed to be repealed, the notice need only state that fact, giving the citation to the rule to be repealed in the notice. The notice shall include a statement advising the public:

(1) that they have 30 days in which to submit comment in support of or in opposition to the proposed rule and that comment is encouraged;

(2) that each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed;

(3) that if 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held;

(4) of the manner in which persons shall request a public hearing on the proposed rule;

(5) ~~that the name and address of the person requesting a public hearing shall be stated of the requirements contained in section 14.25 relating to a written request for a public hearing, and that the requester is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and propose any change proposed desired;~~

(6) that the proposed rule may be modified if the modifications are supported by the data and views submitted; and

(7) that if a hearing is not required, notice of the date of submission of the proposed rule to the ~~attorney general~~ administrative law judge for review will be mailed to any person requesting to receive the notice.

In connection with the statements required in clauses (1) and (3), the notice must also include the date on which the 30-day comment period ends.

Sec. 16. Minnesota Statutes 1992, section 14.24, is amended to read:

14.24 [MODIFICATIONS OF PROPOSED RULE.]

The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a ~~substantial change substantially different rule, as determined under section 14.05, subdivision 2, from the rule as originally proposed.~~

Sec. 17. Minnesota Statutes 1992, section 14.25, is amended to read:

14.25 [PUBLIC HEARING REQUIRED.]

If, during the 30-day period allowed for comment, 25 or more persons submit to the agency a written request for a public hearing of the proposed rule, the agency shall proceed under the provisions of sections 14.14 to 14.20. *The written request must include: (1) the name and address of the person requesting the public hearing; and (2) the portion or portions of the rule to which the person objects.* A notice of the public hearing must be published in the State Register and mailed to those persons who submitted a written request for the public hearing. Unless the agency has modified the proposed rule, the notice need not include the text of the proposed rule but only a citation to the State Register pages where the text appears.

A written request for hearing that does not comply with the requirements of this section is invalid and must not be counted by the agency for purposes of determining whether a public hearing must be held.

Sec. 18. Minnesota Statutes 1992, section 14.26, is amended to read:

14.26 [ADOPTION OF PROPOSED RULE; SUBMISSION TO ~~ATTORNEY GENERAL~~ ADMINISTRATIVE LAW JUDGE.]

Subdivision 1. [SUBMISSION.] If no hearing is required, the agency shall submit to ~~the attorney general~~ *an administrative law judge assigned by the chief administrative law judge* the proposed rule and notice as published, the rule as proposed for adoption, any written comments received by the agency, and a statement of need and reasonableness for the rule. The agency shall give notice to all persons who requested to be informed that these materials have been submitted to ~~the attorney general~~ *administrative law judge*. This notice shall be given on the same day that the record is submitted. If the proposed rule has been modified, the notice shall state that fact, and shall state that a free copy of the proposed rule, as modified, is available upon request from the agency. The rule and these materials shall be submitted to ~~the attorney general~~ *administrative law judge* within 180 days of the day that the comment period for the rule is over or the rule is automatically withdrawn. The agency shall report its failure to adopt the rules and the reasons for that failure to the legislative commission to review administrative rules, other appropriate legislative committees, and the governor.

Subd. 2. [RESUBMISSION.] Even if the 180-day period expires while the ~~attorney general~~ *administrative law judge* reviews the rule, if the ~~attorney general~~ *administrative law judge* rejects the rule, the agency may resubmit it after taking corrective action. The resubmission must occur within 30 days of when the agency receives written notice of the disapproval. If the rule is again disapproved, the rule is withdrawn. An agency may resubmit at any time before the expiration of the 180-day period. If the agency withholds some of the proposed rule, it may not adopt the withheld portion without again following the procedures of sections 14.14 to 14.28, or 14.29 to 14.36.

Subd. 3. [REVIEW.] The ~~attorney general~~ *administrative law judge* shall approve or disapprove the rule as to its legality and its form to the extent the form relates to legality, including the issue of ~~substantial change~~ *whether the rule if modified is substantially different, as determined under section 14.05, subdivision 2, from the rule as originally proposed*, and determine whether the agency has the authority to adopt the rule and whether the record

demonstrates a rational basis for the need for and reasonableness of the proposed rule within 14 days. If the rule is approved, the ~~attorney general~~ *administrative law judge* shall promptly file two copies of it in the office of the secretary of state. The secretary of state shall forward one copy of each rule to the revisor of statutes. If the rule is disapproved, the ~~attorney general~~ *administrative law judge* shall state in writing the reasons and make recommendations to overcome the ~~deficiencies, and defects.~~ *The written disapproval must be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves of the findings of the administrative law judge, the chief administrative law judge shall send the statement of the reasons for disapproval of the rule to the agency, the legislative commission to review administrative rules, and the revisor of statutes and advise the agency and the revisor of statutes of actions that will correct the defects. The agency shall either withdraw the rule or take the actions required to correct the defects. If the agency decides to take action to correct the defects, the rule shall not be filed in the office of the secretary of state, nor published until the ~~deficiencies~~ agency resubmits it to the chief administrative law judge who will determine if the defects have been ~~overcome~~ corrected. The attorney general shall send a statement of reasons for disapproval of the rule to the agency, the chief administrative law judge, the legislative commission to review administrative rules, and to the revisor of statutes*

If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not adopt the rule until it has received and considered the advice of the commission. However, the agency is not required to delay adoption longer than 30 days after the commission has received the agency's submission. Advice of the commission is not binding on the agency.

The ~~attorney general~~ *administrative law judge* shall disregard any error or defect in the proceeding due to the agency's failure to satisfy any procedural requirements imposed by law or rule if the ~~attorney general~~ *administrative law judge* finds:

- (1) that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process; or
- (2) that the agency has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.

Subd. 4. [COSTS.] The ~~attorney general~~ *office of administrative hearings* shall assess an agency for the actual cost of processing rules under this section. ~~The agency shall pay the attorney general's assessments using the procedures of section 8.15.~~ *Each agency shall include in its budget money to pay the attorney general's assessment. Receipts from the assessment must be deposited in the state treasury and credited to the general fund administrative hearings account created in section 14.54.*

Sec. 19. Minnesota Statutes 1992, section 14.29, subdivision 2, is amended to read:

Subd. 2. [180-DAY TIME LIMIT.] Unless an agency is directed by federal law or court order to adopt, amend, suspend, or repeal a rule in a manner that does not allow for compliance with sections 14.14 to 14.28, no agency may adopt an emergency rule later than 180 days after the effective date of the statutory authority, except as provided in subdivisions 3 and 4. If emergency rules are not adopted within the time allowed, the authority for the rules expires. The time limit of this section does not include any days used for review by the ~~attorney general~~ *administrative law judge and the chief administrative law judge*. If the 180-day period expires while the ~~attorney general~~ *administrative law judge or the chief administrative law judge* is reviewing the rule and the ~~attorney general~~ *chief administrative law judge* disapproves the rule, the agency may resubmit the rule to the ~~attorney general~~ *chief administrative law judge* after taking corrective action. The resubmission must occur within five working days after the agency receives written notice of disapproval. If the rule is again disapproved by the ~~attorney general~~ *chief administrative law judge*, it is withdrawn.

Sec. 20. Minnesota Statutes 1992, section 14.29, subdivision 4, is amended to read:

Subd. 4. [GAME AND FISH RULES.] (a) The commissioner of natural resources may adopt rules under sections 14.29 to 14.36 and this subdivision that are authorized under:

(1) chapters 97A, 97B, and 97C to set open seasons and areas, to close seasons and areas, to select hunters for areas, to provide for tagging and registration of game, to prohibit or allow taking of wild animals to protect a species, and to prohibit or allow importation, transportation, or possession of a wild animal; and

(2) sections 84.093, 84.14, 84.15, and 84.152 to set seasons for harvesting wild ginseng roots and wild rice and to restrict or prohibit harvesting in designated areas.

Clause (2) does not limit or supersede the commissioner's authority to establish opening dates, days, and hours of the wild rice harvesting season under section 84.14, subdivision 3.

(b) If conditions exist that do not allow the commissioner to comply with sections 14.29 to 14.36, the commissioner may adopt a rule under this subdivision by submitting the rule to the ~~attorney general~~ *an administrative law judge assigned by the chief administrative law judge* for review under section 14.32, complying with sections 3.846, subdivision 2, and 14.36, and including a statement of the emergency conditions and a copy of the rule in the notice. The notice may be published after it is received from the ~~attorney general~~ *administrative law judge* or five business days after it is submitted to the ~~attorney general~~ *administrative law judge*, whichever is earlier.

(c) Rules adopted under paragraph (b) are effective upon publishing in the State Register and may be effective up to seven days before publishing and filing under section 3.846, subdivision 2, if:

(1) the commissioner of natural resources determines that an emergency exists;

(2) the ~~attorney general~~ *administrative law judge* approves the rule; and

(3) for a rule that affects more than three counties the commissioner publishes the rule once in a legal newspaper published in Minneapolis, St. Paul, and Duluth, or for a rule that affects three or fewer counties the commissioner publishes the rule once in a legal newspaper in each of the affected counties.

(d) Except as provided in paragraph (e), a rule published under paragraph (c), clause (3), may not be effective earlier than seven days after publication.

(e) A rule published under paragraph (c), clause (3), may be effective the day the rule is published if the commissioner gives notice and holds a public hearing on the rule within 15 days before publication.

(f) The commissioner shall attempt to notify persons or groups of persons affected by rules adopted under paragraphs (b) and (c) by public announcements, posting, and other appropriate means as determined by the commissioner.

(g) Notwithstanding section 14.35, a rule adopted under this subdivision is effective for the period stated in the notice but not longer than 18 months after the rule is adopted.

(h) A rule adopted under this subdivision is not subject to the 180-day time limit in subdivision 2.

Sec. 21. Minnesota Statutes 1992, section 14.30, is amended to read:

14.30 [NOTICE OF PROPOSED ADOPTION OF EMERGENCY RULE.]

The proposed emergency rule shall be published with a notice of intent to adopt emergency rules in the State Register, and the same notice shall be mailed to all persons registered with the agency to receive notice of any rulemaking proceedings. The notice shall include a statement advising the public that a free copy of the proposed rule is available on request from the agency and that notice of the date of submission of the proposed emergency rule to the ~~attorney general~~ *administrative law judge* will be mailed to any person requesting to receive the notice. For at least 25 days after publication the agency shall afford all interested persons an opportunity to submit data and views on the proposed emergency rule in writing. The notice must also include the date on which the 25-day comment period ends.

Sec. 22. Minnesota Statutes 1992, section 14.31, is amended to read:

14.31 [MODIFICATIONS OF PROPOSED EMERGENCY RULE.]

The proposed emergency rule may be modified if the modifications are supported by the data and views submitted to the agency *and do not result in a substantially different rule, as determined under section 14.05, subdivision 2, from the rule as originally proposed.*

Sec. 23. Minnesota Statutes 1992, section 14.32, is amended to read:

14.32. [SUBMISSION OF PROPOSED EMERGENCY RULE TO ~~ATTORNEY GENERAL~~ *ADMINISTRATIVE LAW JUDGE.*]

Subdivision 1. [SUBMISSION.] The agency shall submit to the ~~attorney general~~ *an administrative law judge assigned by the chief administrative law judge* the proposed emergency rule as published, with any modifications. On the same day that it is submitted, the agency shall mail notice of the submission to all persons who requested to be informed that the proposed

emergency rule has been submitted to the ~~attorney general~~ *administrative law judge*. If the proposed emergency rule has been modified, the notice shall state that fact, and shall state that a free copy of the proposed emergency rule, as modified, is available upon request from the agency.

Subd. 2. [REVIEW.] The ~~attorney general~~ *administrative law judge* shall review the proposed emergency rule as to its legality, review its form to the extent the form relates to legality, *including the issue of whether the emergency rule if modified is substantially different, as determined under section 14.05, subdivision 2, from the emergency rule as originally proposed,* determine whether the agency has authority to adopt the emergency rule, and shall approve or disapprove the proposed emergency rule and any modifications ~~on the tenth working day following the date of receipt of the proposed emergency rule from the agency.~~ The ~~attorney general~~ *administrative law judge* shall send a statement of reasons for disapproval of the rule to the agency, ~~the chief administrative law judge,~~ the legislative commission to review administrative rules, and ~~to the~~ *revisor of statutes*. *If the rule is disapproved, the administrative law judge shall state in writing the reasons and make recommendations to overcome the defects. The written disapproval must be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves of the findings of the administrative law judge, the chief administrative law judge shall send a statement of reasons for disapproval of the rule to the agency, the legislative commission to review administrative rules, and the revisor of statutes and advise the agency and the revisor of statutes of actions that will correct the defects. The agency shall either withdraw the rule or take the actions required to correct the defects. If the agency decides to take action to correct the defects, the rule shall not be filed in the office of the secretary of state, or published until the agency resubmits it to the chief administrative law judge who will determine if the defects have been corrected.*

The ~~attorney general~~ *administrative law judge* shall disregard any error or defect in the proceeding due to the agency's failure to satisfy any procedural requirement imposed by law or rule if the ~~attorney general~~ *administrative law judge* finds:

- (1) that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process; or
- (2) that the agency has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.

Subd. 3. [COSTS.] The ~~attorney general~~ *office of administrative hearings* shall assess an agency for the actual cost of processing rules under this section. Each agency shall include in its budget money to pay the ~~attorney general's~~ *assessment*. Receipts from the assessment must be deposited in the ~~state treasury and credited to the general fund~~ *administrative hearings account created in section 14.54.*

Sec. 24. Minnesota Statutes 1992, section 14.33, is amended to read:

14.33 [EFFECTIVE DATE OF EMERGENCY RULE.]

The emergency rule shall take effect five working days after approval by the ~~attorney general~~ *administrative law judge or chief administrative law judge*. The ~~attorney general~~ *administrative law judge or chief administrative law*

judge shall file two copies of the approved emergency rule with the secretary of state. The secretary of state shall forward one copy of each approved and filed emergency rule to the revisor of statutes. Failure of the ~~attorney general~~ administrative law judge or chief administrative law judge to approve or disapprove a proposed emergency rule within ten working days following the date of receipt of the proposed emergency rule and any modifications is approval.

Sec. 25. Minnesota Statutes 1992, section 14.34, is amended to read:

14.34 [PUBLICATION OF APPROVAL.]

As soon as practicable, notice of the ~~attorney general's~~ decision shall approval of the rule must be published in the State Register and the adopted rule shall be published in the same manner as provided for adopted rules in section 14.18.

Sec. 26. Minnesota Statutes 1992, section 14.365, is amended to read:

14.365 [OFFICIAL RULEMAKING RECORD.]

The agency shall maintain the official rulemaking record for every rule adopted pursuant to sections 14.05 to 14.36. The record shall be available for public inspection. The record required by this section constitutes the official and exclusive agency rulemaking record with respect to agency action on or judicial review of the rule. The record shall contain:

- (1) copies of all publications in the State Register pertaining to the rule;*
- (2) all written petitions, requests, submissions, or comments received by the agency, or the administrative law judge, or the ~~attorney general~~ pertaining to the rule;*
- (3) the statement of need and reasonableness for the rule, if any;*
- (4) the official transcript of the hearing if one was held, or the tape recording of the hearing if a transcript was not prepared;*
- (5) the report of the administrative law judge, if any;*
- (6) the rule in the form last submitted to the administrative law judge under sections 14.14 to 14.20 or first submitted to the ~~attorney general~~ administrative law judge under sections 14.22 to 14.28 or 14.29 to 14.36;*
- (7) the ~~attorney general's~~ administrative law judge's written statement of required modifications and of approval or disapproval by the chief administrative law judge, if any;*
- (8) any documents required by applicable rules of the office of administrative hearings or of the ~~attorney general~~;*
- (9) the agency's order adopting the rule;*
- (10) the revisor's certificate approving the form of the rule; and*
- (11) a copy of the adopted rule as filed with the secretary of state.*

Sec. 27. [14.366] [PUBLIC RULEMAKING DOCKET.]

- (a) Each agency shall maintain a current, public rulemaking docket.*

(b) The rulemaking docket must contain a listing of the precise subject matter of each possible proposed rule currently under active consideration within the agency for proposal, the name and address of agency personnel with whom persons may communicate with respect to the matter, and an indication of its present status within the agency.

(c) The rulemaking docket must list each pending rulemaking proceeding. A rulemaking proceeding is pending from the time it is begun, by publication of the notice of intent to solicit outside opinion, the notice of intent to adopt, or notice of hearing, to the time it is terminated, by publication of a notice of withdrawal or the rule becoming effective. For each rulemaking proceeding, the docket must indicate:

- (1) the subject matter of the proposed rule;*
- (2) a citation to all published notices relating to the proceeding;*
- (3) where written comments on the proposed rule may be inspected;*
- (4) the time during which written comments may be made;*
- (5) the names of persons who have made written requests for a public hearing, where those requests may be inspected, and where and when the hearing will be held;*
- (6) the current status of the proposed rule and any agency determinations with respect to the rule;*
- (7) any known timetable for agency decisions or other action in the proceeding;*
- (8) the date of the rule's adoption;*
- (9) the date the rule was filed with the secretary of state; and*
- (10) when the rule will become effective.*

Sec. 28. Minnesota Statutes 1992, section 14.48, is amended to read:

14.48 [CREATION OF OFFICE OF ADMINISTRATIVE HEARINGS; CHIEF ADMINISTRATIVE LAW JUDGE APPOINTED; OTHER ADMINISTRATIVE LAW JUDGES APPOINTED.]

A state office of administrative hearings is created. The office shall be under the direction of a chief administrative law judge who shall be learned in the law and appointed by the governor, with the advice and consent of the senate, for a term ending on June 30 of the sixth calendar year after appointment. Senate confirmation of the chief administrative law judge shall be as provided by section 15.066. The chief administrative law judge may hear cases and shall appoint additional administrative law judges and compensation judges to serve in the office as necessary to fulfill the duties prescribed in ~~sections 14.48 to 14.56~~ *chapters 14 and chapter 176*. The chief administrative law judge may delegate to a subordinate employee the exercise of a specified statutory power or duty as deemed advisable, subject to the control of the chief administrative law judge. Every delegation must be by written order filed with the secretary of state. All administrative law judges and compensation judges shall be in the classified service except that the chief administrative law judge shall be in the unclassified service, but may be removed only for cause. All administrative law judges shall have demonstrated knowledge of administrative procedures and shall be free of any political or economic

association that would impair their ability to function officially in a fair and objective manner. All workers' compensation judges shall be learned in the law, shall have demonstrated knowledge of workers' compensation laws and shall be free of any political or economic association that would impair their ability to function officially in a fair and objective manner.

Sec. 29. Minnesota Statutes 1992, section 14.51, is amended to read:

14.51 [PROCEDURAL RULES FOR HEARINGS.]

The chief administrative law judge shall adopt rules to govern: (1) the procedural conduct of all hearings, relating to both rule adoption, amendment, suspension or repeal hearings, contested case hearings, and workers' compensation hearings, and to govern the conduct of voluntary mediation sessions for rulemaking and contested cases other than those within the jurisdiction of the bureau of mediation services. ~~Temporary rulemaking authority is granted to the chief administrative law judge for the purpose of implementing Laws 1981, chapter 346, sections 2 to 6, 103 to 122, 127 to 135, and 141; and~~ (2) ~~the review of rules adopted without a public hearing and emergency rules.~~ The procedural rules for hearings shall be binding upon all agencies and shall supersede any other agency procedural rules with which they may be in conflict. The procedural rules for hearings shall include in addition to normal procedural matters provisions relating to ~~recessing and reconvening new hearings~~ the procedure to be followed when the proposed final rule of an agency is substantially different, as determined under section 14.05, subdivision 2, from that which was proposed at the public hearing. The procedural rules shall establish a procedure whereby the proposed final rule of an agency shall be reviewed by the chief administrative law judge to ~~determine whether or not a new hearing is required because on the issue of substantial changes whether the proposed final rule of the agency is~~ substantially different than that which was proposed or failure of the agency to meet the requirements of ~~sections 14.131 to 14.18 chapter 14.~~ The rules must also provide an expedited procedure, consistent with section 14.001, clauses (1) to (5), for the adoption of substantially different rules by agencies. Upon the chief administrative law judge's own initiative or upon written request of an interested party, the chief administrative law judge may issue a subpoena for the attendance of a witness or the production of books, papers, records or other documents as are material to the matter being heard. The subpoenas shall be enforceable through the district court in the district in which the subpoena is issued.

Sec. 30. [OFFICE OF ADMINISTRATIVE HEARINGS; REPORTS TO LCRAR.]

(a) The office of administrative hearings shall examine and report on current agency efforts and the existing requirements of the rulemaking provisions of Minnesota Statutes, chapter 14, to determine whether all interested persons are provided with timely and appropriate notice of agency rulemaking actions. The report must include recommendations for correcting any deficiencies found.

(b) The office of administrative hearings shall review and report on the agency practice of negotiating withdrawal of requests for a public hearing. The report must include recommendations for correcting any deficiencies found.

(c) In carrying out its duties under paragraphs (a) and (b), the office of administrative hearings shall consider whether current practice and procedure is consistent with Minnesota Statutes, section 14.001, clauses (1) to (5).

(d) The reports required under this section must be received by the legislative commission to review administrative rules by January 1, 1995.

Sec. 31. [LCRAR RULEMAKING REPORT.]

No later than February 15, 1994, the legislative commission to review administrative rules shall submit a report including its recommendations to the governmental operations and gaming committee of the house of representatives and the governmental operations and reform committee of the senate on the following topics:

(1) the standards and procedures for the review of proposed rules by the executive and legislative branches;

(2) the use of regulatory analyses in rules, including those in Minnesota Statutes, sections 14.11 and 14.115;

(3) criteria to be used by legislative committees for the granting of exemptions to the rulemaking requirements of chapter 14;

(4) the use and policy implications of broad delegations of rulemaking authority, including those to quasi-independent boards and commissions; and

(5) methods to improve the coordination of rulemaking in the executive branch.

The revisor of statutes, house research, and senate counsel and research shall provide any assistance requested by the legislative commission to review administrative rules.

Sec. 32. [ATTORNEY GENERAL RULEMAKING TRAINING PROGRAM.]

The office of the attorney general shall develop a comprehensive education and training program for its staff to assist them in advising agencies on administrative rulemaking issues. The office of the attorney general shall submit a report containing the details of this program to the legislative commission to review administrative rules by January 1, 1994.

Sec. 33. [APPROPRIATION.]

(a) \$100,000 is appropriated from the general fund to the legislative commission to review administrative rules to prepare the report required by section 31. This appropriation is available until spent and may be used to employ additional staff on a temporary basis to assist in the preparation of the report.

(b) \$50,000 is appropriated from the general fund to the administrative hearings account in Minnesota Statutes, section 14.51, for the purposes of section 34. The appropriation is available until spent. The approved complement of the office of administrative hearings is increased by three positions in the classified service.

Sec. 34. [TRANSFER OF RULE REVIEW AUTHORITY; REVISOR INSTRUCTION.]

(a) *The rule review duties of the office of the attorney general are transferred to the office of administrative hearings on January 1, 1994. Minnesota Statutes, section 15.039, does not apply to this transfer.*

(b) *Proposed rules for which a notice under Minnesota Statutes, section 14.22 or 14.30, has been published in the State Register before January 1, 1994, shall continue to be reviewed by the attorney general under the rule review authority transferred by this act and are governed by Minnesota Statutes 1992, chapter 14, and Minnesota Rules, chapter 2010.*

(c) *Except as otherwise provided in paragraph (b), Minnesota Rules, chapter 2010, shall be enforced by the office of administrative hearings until it is amended or repealed by that office.*

(d) *The revisor of statutes shall change the terms "office of attorney general," "attorney general," or similar terms to "office of administrative hearings," "chief administrative law judge," "administrative law judge," or similar terms in Minnesota Rules, chapter 2010, to reflect the intent of the legislature to transfer the attorney general's rule review functions in the manner provided in this act.*

Sec. 35. [REPEALER.]

Minnesota Statutes 1992, sections 14.115, subdivision 6; and 14.225, are repealed.

Sec. 36. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1995. Section 9 applies to laws authorizing or requiring rulemaking that are enacted after January 1, 1994. The rulemaking authority granted in section 29 is effective the day following final enactment. Sections 30 to 33 are effective July 1, 1993. The remainder of the act is effective January 1, 1994."

Delete the title and insert:

"A bill for an act relating to state government; administrative rulemaking; changing the membership and duties of the LCRAR; transferring the rule review functions of the office of the attorney general to the office of administrative hearings; requiring rule notes; regulating grants of rulemaking authority, notices of intent to solicit outside opinion, and public hearing requirements; authorizing the governor to disapprove rules adopted after public hearing; eliminating the requirement that agencies review their rules and consider methods to reduce their impact on small business; making technical changes; requiring reports; appropriating money; amending Minnesota Statutes 1992, sections 3.841; 14.05, subdivision 2, and by adding a subdivision; 14.08; 14.09; 14.10; 14.115, subdivision 5; 14.15, subdivisions 3 and 4; 14.16, subdivision 1; 14.19; 14.22, subdivision 1; 14.24; 14.25; 14.26; 14.29, subdivisions 2 and 4; 14.30; 14.31; 14.32; 14.33; 14.34; 14.365; 14.48; and 14.51; proposing coding for new law in Minnesota Statutes, chapters 3; and 14; repealing Minnesota Statutes 1992, sections 14.115, subdivision 6; and 14.225."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 1325 for comparison with companion Senate File, reports the following House File was found not identical with 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.
1325	1387				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1325 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1325 and insert the language after the enacting clause of S.F. No. 1387, the first engrossment; further, delete the title of H.F. No. 1325 and insert the title of S.F. No. 1387, the first engrossment.

And when so amended H.F. No. 1325 will be identical to S.F. No. 1387, and further recommends that H.F. No. 1325 be given its second reading and substituted for S.F. No. 1387, and that the 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. Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 1650 for comparison with companion Senate File, reports the following House File was found not identical with 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.
1650	1557				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1650 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1650 and insert the language after the enacting clause of S.F. No. 1557; further, delete the title of H.F. No. 1650 and insert the title of S.F. No. 1557.

And when so amended H.F. No. 1650 will be identical to S.F. No. 1557, and further recommends that H.F. No. 1650 be given its second reading and substituted for S.F. No. 1557, and that the 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. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 1013, 1260, 980, 937, 902, 76, 1368 and 1466 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 469, 113, 1325 and 1650 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Betzold moved that the name of Mr. Solon be added as a co-author to S.F. No. 840. The motion prevailed.

Mr. Riveness moved that the name of Mr. Belanger be added as a co-author to S.F. No. 937. The motion prevailed.

Mr. Morse moved that the name of Mr. Price be added as a co-author to S.F. No. 1570. The motion prevailed.

Mr. Mondale moved that S.F. No. 1169 be withdrawn from the Committee on Environment and Natural Resources and re-referred to the Committee on Metropolitan and Local Government. The motion prevailed.

Ms. Berglin moved that S.F. No. 781 be withdrawn from the Committee on Finance and re-referred to the Committee on Health Care. The motion prevailed.

CALENDAR

S.F. No. 270: A bill for an act relating to elections; changing certain margins requiring automatic recounts; amending Minnesota Statutes 1992, section 204C.35, subdivision 1.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Kelly	McGowan	Reichgott
Anderson	Day	Kiscaden	Metzen	Riveness
Beckman	Dille	Knutson	Moe, R. D.	Robertson
Belanger	Finn	Krentz	Mondale	Runbeck
Benson, D.D.	Flynn	Kroening	Morse	Sams
Benson, J.E.	Frederickson	Laidig	Neuville	Samuelson
Berg	Hanson	Langseth	Oliver	Solon
Berglin	Hottinger	Larson	Pariseau	Spear
Bertram	Johnson, D.E.	Lesewski	Piper	Stevens
Betzold	Johnson, D.J.	Lessard	Pogemiller	Stumpf
Chandler	Johnson, J.B.	Luther	Price	Terwilliger
Chmielewski	Johnston	Marty	Ranum	Vickerman

So the bill passed and its title was agreed to.

S.F. No. 431: A bill for an act relating to public administration; providing that government records may be stored on optical imaging systems and retained in that format only; amending Minnesota Statutes 1992, sections 15.17, subdivision 1; and 138.17, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Kiscaden	Moe, R.D.	Riveness
Anderson	Dille	Knutson	Mondale	Robertson
Beckman	Finn	Krentz	Morse	Runbeck
Belanger	Flynn	Kroening	Neuville	Sams
Benson, D.D.	Frederickson	Laidig	Oliver	Samuelson
Benson, J.E.	Hanson	Langseth	Olson	Solon
Berg	Hottinger	Larson	Pappas	Spear
Berglin	Janezich	Lesewski	Pariseau	Stevens
Bertram	Johnson, D.E.	Lessard	Piper	Stumpf
Betzold	Johnson, D.J.	Luther	Pogemiller	Terwilliger
Chandler	Johnson, J.B.	Marty	Price	Vickerman
Chmielewski	Johnston	McGowan	Ranum	Wiener
Cohen	Kelly	Metzen	Reichgott	

So the bill passed and its title was agreed to.

S.F. No. 700: A bill for an act relating to horse racing; permitting two class A licenses within the seven-county metropolitan area; permitting the state fair to apply for a pari-mutuel horse racing license; permitting distributions from the breeders' fund for Minnesota-bred horses racing in other racing jurisdictions; amending Minnesota Statutes 1992, sections 240.06, subdivisions 5 and 5a; 240.09, subdivision 1; and 240.18, subdivision 1.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 40 and nays 25, as follows:

Those who voted in the affirmative were:

Adkins	Day	Knutson	Metzen	Runbeck
Beckman	Dille	Kroening	Morse	Samuelson
Belanger	Flynn	Laidig	Novak	Solon
Benson, D.D.	Hanson	Langseth	Oliver	Stevens
Berg	Hottinger	Larson	Olson	Stumpf
Berglin	Janezich	Lesewski	Pariseau	Terwilliger
Bertram	Johnson, D.E.	Lessard	Piper	Vickerman
Cohen	Kelly	McGowan	Price	Wiener

Those who voted in the negative were:

Anderson	Frederickson	Krentz	Murphy	Reichgott
Benson, J.E.	Johnson, D.J.	Luther	Neuville	Riveness
Betzold	Johnson, J.B.	Marty	Pappas	Robertson
Chandler	Johnston	Moe, R.D.	Pogemiller	Sams
Finn	Kiscaden	Mondale	Ranum	Spear

So the bill passed and its title was agreed to.

S.F. No. 250: A bill for an act relating to cities; limiting the service of charter commission members; fixing procedures for charter amendments; amending Minnesota Statutes 1992, sections 410.05, subdivision 2; and 410.12, subdivision 3.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Kiscaden	Moe, R.D.	Ranum
Anderson	Dille	Knutson	Mondale	Reichgott
Beckman	Finn	Krentz	Morse	Riveness
Belanger	Flynn	Kroening	Murphy	Robertson
Benson, D.D.	Frederickson	Laidig	Neuville	Runbeck
Benson, J.E.	Hanson	Langseth	Novak	Sams
Berg	Hottinger	Larson	Oliver	Samuelson
Berglin	Janezich	Lesewski	Olson	Spear
Bertram	Johnson, D.E.	Lessard	Pappas	Stevens
Betzold	Johnson, D.J.	Luther	Pariseau	Stumpf
Chandler	Johnson, J.B.	Marty	Piper	Terwilliger
Chmielewski	Johnston	McGowan	Pogemiller	Vickerman
Cohen	Kelly	Metzen	Price	Wiener

So the bill passed and its title was agreed to.

H.F. No. 111: A bill for an act relating to highways; designating the B. E. Grotum memorial highway in Jackson county; amending Minnesota Statutes 1992, section 161.14, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 5, as follows:

Those who voted in the affirmative were:

Adkins	Day	Krentz	Murphy	Sams
Anderson	Dille	Kroening	Neuville	Samuelson
Beckman	Finn	Laidig	Novak	Sofon
Belanger	Frederickson	Langseth	Oliver	Spear
Benson, D.D.	Hanson	Larson	Olson	Stevens
Benson, J.E.	Janezich	Lesewski	Pappas	Stumpf
Berg	Johnson, D.E.	Lessard	Pariseau	Terwilliger
Berglin	Johnson, D.J.	Luther	Piper	Vickerman
Bertram	Johnson, J.B.	McGowan	Pogemiller	Wiener
Betzold	Johnston	Metzen	Price	
Chandler	Kelly	Moe, R.D.	Riveness	
Chmielewski	Kiscaden	Mondale	Robertson	
Cohen	Knutson	Morse	Runbeck	

Those who voted in the negative were:

Flynn	Hottinger	Marty	Ranum	Reichgott
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So the bill passed and its title was agreed to.

H.F. No. 399: A bill for an act relating to commerce; unclaimed property; regulating certain notices and reports; amending Minnesota Statutes 1992, sections 345.41; and 345.42, subdivisions 2 and 3.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Krentz	Murphy	Runbeck
Anderson	Finn	Kroening	Neuville	Sams
Beckman	Flynn	Laidig	Novak	Samuelson
Belanger	Frederickson	Langseth	Oliver	Solon
Benson, D.D.	Hanson	Larson	Olson	Spear
Benson, J.E.	Hottinger	Lesewski	Pappas	Stevens
Berg	Janezich	Lessard	Pariseau	Stumpf
Berglin	Johnson, D.E.	Luther	Piper	Terwilliger
Bertram	Johnson, D.J.	Marty	Pogemiller	Vickerman
Betzold	Johnson, J.B.	McGowan	Price	Wiener
Chandler	Johnston	Metzen	Ranum	
Chmielewski	Kelly	Moe, R.D.	Reichgott	
Cohen	Kiscaden	Mondale	Riveness	
Day	Knutson	Morse	Robertson	

So the bill passed and its title was agreed to.

S.F. No. 174: A bill for an act relating to commerce; regulating facsimile transmission of unsolicited advertising materials; providing penalties and remedies; proposing coding for new law in Minnesota Statutes, chapter 325E.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Kiscaden	Moe, R.D.	Ranum
Anderson	Dille	Knutson	Mondale	Reichgott
Beckman	Finn	Krentz	Morse	Riveness
Belanger	Flynn	Kroening	Murphy	Robertson
Benson, D.D.	Frederickson	Laidig	Neuville	Runbeck
Benson, J.E.	Hanson	Langseth	Novak	Sams
Berg	Hottinger	Larson	Oliver	Solon
Berglin	Janezich	Lesewski	Olson	Spear
Bertram	Johnson, D.E.	Lessard	Pappas	Stevens
Betzold	Johnson, D.J.	Luther	Pariseau	Stumpf
Chandler	Johnson, J.B.	Marty	Piper	Terwilliger
Chmielewski	Johnston	McGowan	Pogemiller	Vickerman
Cohen	Kelly	Metzen	Price	Wiener

So the bill passed and its title was agreed to.

S.F. No. 748: A bill for an act relating to human services; clarifying day training and habilitation transportation exemptions; clarifying that counties may contract with hospitals to provide outpatient mental health services; clarifying the definition of crisis assistance; increasing the allowable duration of unlicensed, single-family respite care; clarifying the definition of related condition and application procedures for family support grants; correcting references to case management and hospital appeals; clarifying eligibility for case management services; clarifying nursing facility rate adjustments; clarifying the calculation and allowing 12-month plans for special needs exceptions; clarifying requirements for health care provider participation; clarifying voluntary spend-down procedures; amending Minnesota Statutes 1992, sections 174.30, subdivision 1; 245.470, subdivision 1; 245.4871, subdivision 9a; 245.4876, subdivision 2; 245.488, subdivision 1; 245A.03, subdivision 2; 252.27, subdivisions 1 and 1a; 252.32, subdivision 1a; 256.045, subdivision 4a; 256.9686, subdivision 6; 256.9695, subdivisions 1 and 3; 256B.056, subdivision 5; 256B.0644; 256B.092, subdivisions 1, 1b,

lg. 7, and 8a; 256B.431, subdivision 10; 256B.48, subdivision 3a; 256B.501, subdivision 8; and 609.115, subdivision 9; repealing Minnesota Statutes 1992, section 256B.0629.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Krentz	Murphy	Runbeck
Anderson	Finn	Kroening	Neuville	Sams
Beckman	Flynn	Laidig	Novak	Samuelson
Belanger	Frederickson	Langseth	Oliver	Solon
Benson, D.D.	Hanson	Larson	Olson	Spear
Benson, J.E.	Hottinger	Lesewski	Pappas	Stevens
Berg	Janezich	Lessard	Pariseau	Stumpf
Berglin	Johnson, D.E.	Luther	Piper	Terwilliger
Bertram	Johnson, D.J.	Marty	Pogemiller	Vickerman
Betzold	Johnson, J.B.	McGowan	Price	Wiener
Chandler	Johnston	Metzen	Ranum	
Chmielewski	Kelly	Moe, R.D.	Reichgott	
Cohen	Kiscaden	Mondale	Riveness	
Day	Knutson	Morse	Robertson	

So the bill passed and its title was agreed to.

S.F. No. 498: A bill for an act relating to agriculture; repealing the hazardous substance labeling act; amending Minnesota Statutes 1992, section 325F.19, subdivision 7; repealing Minnesota Statutes 1992, sections 24.32; 24.33; 24.34; 24.35; 24.36; 24.37; 24.38; 24.39; 24.40; 24.41; and 24.42.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Day	Knutson	Mondale	Riveness
Anderson	Dille	Krentz	Morse	Robertson
Beckman	Finn	Kroening	Murphy	Runbeck
Belanger	Frederickson	Laidig	Neuville	Sams
Benson, D.D.	Hanson	Langseth	Novak	Samuelson
Benson, J.E.	Hottinger	Larson	Oliver	Solon
Berg	Janezich	Lesewski	Olson	Spear
Berglin	Johnson, D.E.	Lessard	Pariseau	Stevens
Bertram	Johnson, D.J.	Luther	Piper	Stumpf
Betzold	Johnson, J.B.	Marty	Pogemiller	Terwilliger
Chandler	Johnston	McGowan	Price	Vickerman
Chmielewski	Kelly	Metzen	Ranum	Wiener
Cohen	Kiscaden	Moe, R.D.	Reichgott	

Ms. Flynn voted in the negative.

So the bill passed and its title was agreed to.

S.F. No. 512: A bill for an act relating to telecommunications; providing for regulation of telecommunications carriers; limiting discriminatory practices, services, rates, and pricing; providing for investigation, hearings, and appeals regarding telecommunications services; delineating telecommunications practices allowed; providing penalties and remedies; amending Minnesota Statutes

1992, sections 237.01, subdivision 2, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 237; repealing Minnesota Statutes 1992, section 237.59, subdivision 7.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Knutson	Mondale	Reichgott
Anderson	Dille	Krentz	Morse	Riveness
Beckman	Finn	Kroening	Murphy	Robertson
Belanger	Flynn	Laidig	Neuville	Runbeck
Benson, D.D.	Frederickson	Langseth	Novak	Sams
Benson, J.E.	Hottinger	Larson	Oliver	Samuelson
Berg	Janezich	Lesewski	Olson	Solon
Berglin	Johnson, D.E.	Lessard	Pappas	Spear
Bertram	Johnson, D.J.	Luther	Pariseau	Stevens
Betzold	Johnson, J.B.	Marty	Piper	Stumpf
Chandler	Johnston	McGowan	Pogemiller	Terwilliger
Chmielewski	Kelly	Metzen	Price	Vickerman
Cohen	Kiscaden	Moe, R.D.	Ranum	Wiener

So the bill passed and its title was agreed to.

H.F. No. 254: A bill for an act relating to public bodies; providing for the place of residence of members; amending Minnesota Statutes 1992, section 375.025, subdivision 4.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Kroening	Murphy	Runbeck
Anderson	Finn	Laidig	Neuville	Sams
Beckman	Flynn	Langseth	Novak	Samuelson
Belanger	Frederickson	Larson	Oliver	Solon
Benson, D.D.	Hanson	Lesewski	Olson	Spear
Benson, J.E.	Hottinger	Lessard	Pappas	Stevens
Berg	Janezich	Luther	Pariseau	Stumpf
Berglin	Johnson, D.E.	Marty	Piper	Terwilliger
Bertram	Johnson, D.J.	McGowan	Pogemiller	Vickerman
Betzold	Johnson, J.B.	Merriam	Price	Wiener
Chandler	Johnston	Metzen	Ranum	
Chmielewski	Kelly	Moe, R.D.	Reichgott	
Cohen	Knutson	Mondale	Riveness	
Day	Krentz	Morse	Robertson	

So the bill passed and its title was agreed to.

S.F. No. 589: A bill for an act relating to the St. Anthony Falls heritage board; permitting the mayor of Minneapolis and the chair of the Hennepin board of commissioners to designate a representative to the board; amending Minnesota Statutes 1992, section 138.763, subdivision 1.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Finn	Kroening	Murphy	Runbeck
Anderson	Flynn	Laidig	Neuville	Sams
Beckman	Frederickson	Langseth	Novak	Samuelson
Belanger	Hanson	Larson	Oliver	Solon
Benson, D.D.	Hottinger	Lesewski	Olson	Spear
Benson, J.E.	Janezich	Lessard	Pappas	Stevens
Berglin	Johnson, D.E.	Luther	Pariseau	Stumpf
Bertram	Johnson, D.J.	Marty	Piper	Terwilliger
Betzold	Johnson, J.B.	McGowan	Pogemiller	Vickerman
Chandler	Johnston	Merriam	Price	Wiener
Chmielewski	Kelly	Metzen	Ranum	
Cohen	Kiscaden	Moe, R.D.	Reichgott	
Day	Knutson	Mondale	Riveness	
Dille	Krentz	Morse	Robertson	

So the bill passed and its title was agreed to.

S.F. No. 485: A bill for an act relating to the city of Faribault; providing for the civil service status of certain officers.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Krentz	Murphy	Runbeck
Anderson	Finn	Kroening	Neuville	Sams
Beckman	Flynn	Laidig	Novak	Samuelson
Belanger	Frederickson	Langseth	Oliver	Solon
Benson, D.D.	Hanson	Larson	Olson	Spear
Benson, J.E.	Hottinger	Lesewski	Pappas	Stevens
Berg	Janezich	Lessard	Pariseau	Stumpf
Berglin	Johnson, D.E.	Luther	Piper	Terwilliger
Bertram	Johnson, D.J.	Marty	Pogemiller	Vickerman
Betzold	Johnson, J.B.	McGowan	Price	Wiener
Chandler	Johnston	Metzen	Ranum	
Chmielewski	Kelly	Moe, R.D.	Reichgott	
Cohen	Kiscaden	Mondale	Riveness	
Day	Knutson	Morse	Robertson	

Mr. Merriam voted in the negative.

So the bill passed and its title was agreed to.

S.F. No. 394: A bill for an act relating to financial institutions; permitting contracts between financial institutions to accept deposits and honor withdrawals; proposing coding for new law in Minnesota Statutes, chapter 47.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Krentz	Morse	Robertson
Anderson	Finn	Kroening	Murphy	Runbeck
Beckman	Flynn	Laidig	Neuville	Sams
Belanger	Frederickson	Langseth	Novak	Samuelson
Benson, D.D.	Hanson	Larson	Oliver	Solon
Benson, J.E.	Hottinger	Lesewski	Olson	Spear
Berg	Janezich	Lessard	Pappas	Stevens
Berglin	Johnson, D.E.	Luther	Pariseau	Stumpf
Bertram	Johnson, D.J.	Marty	Piper	Terwilliger
Betzold	Johnson, J.B.	McGowan	Pogemiller	Vickerman
Chandler	Johnston	Merriam	Price	Wiener
Chmielewski	Kelly	Metzen	Ranum	
Cohen	Kiscaden	Moe, R.D.	Reichgott	
Day	Knutson	Mondale	Riveness	

So the bill passed and its title was agreed to.

S.F. No. 663: A bill for an act relating to elections; authorizing the filing officer to keep from the ballot the name of a person who is a convicted felon, under guardianship, or found incompetent; amending Minnesota Statutes 1992, section 204B.10, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Krentz	Morse	Robertson
Anderson	Finn	Kroening	Murphy	Runbeck
Beckman	Flynn	Laidig	Neuville	Sams
Belanger	Frederickson	Langseth	Novak	Samuelson
Benson, D.D.	Hanson	Larson	Oliver	Solon
Benson, J.E.	Hottinger	Lesewski	Olson	Spear
Berg	Janezich	Lessard	Pappas	Stevens
Berglin	Johnson, D.E.	Luther	Pariseau	Stumpf
Bertram	Johnson, D.J.	Marty	Piper	Terwilliger
Betzold	Johnson, J.B.	McGowan	Pogemiller	Vickerman
Chandler	Johnston	Merriam	Price	Wiener
Chmielewski	Kelly	Metzen	Ranum	
Cohen	Kiscaden	Moe, R.D.	Reichgott	
Day	Knutson	Mondale	Riveness	

So the bill passed and its title was agreed to.

S.F. No. 582: A bill for an act relating to motor vehicles; extending validity period of nonresident temporary vehicle permits; amending Minnesota Statutes 1992, section 168.091, subdivision 1.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Betzold	Frederickson	Kelly	Lessard
Anderson	Chandler	Hanson	Kiscaden	Luther
Beckman	Chmielewski	Hottinger	Knutson	Marty
Belanger	Cohen	Janezich	Krentz	McGowan
Benson, D.D.	Day	Johnson, D.E.	Kroening	Merriam
Benson, J.E.	Dille	Johnson, D.J.	Laidig	Metzen
Berglin	Finn	Johnson, J.B.	Larson	Moe, R.D.
Bertram	Flynn	Johnston	Lesewski	Mondale

Morse	Olson	Price	Runbeck	Stevens
Murphy	Pappas	Ranum	Sams	Stumpf
Neuville	Pariseau	Reichgott	Samuelson	Terwilliger
Novak	Piper	Riveness	Solon	Vickerman
Oliver	Pogemiller	Robertson	Spear	Wiener

So the bill passed and its title was agreed to.

S.F. No. 361: A bill for an act relating to public safety; extending existence of Minnesota advisory council on fire protection systems; amending Minnesota Statutes 1992, section 299M.02, subdivision 1.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Krentz	Morse	Robertson
Anderson	Finn	Kroening	Murphy	Runbeck
Beckman	Flynn	Laidig	Neuville	Sams
Belanger	Frederickson	Langseth	Novak	Samuelson
Benson, D.D.	Hanson	Larson	Oliver	Solon
Benson, J.E.	Hottinger	Lesewski	Olson	Spear
Berg	Janezich	Lessard	Pappas	Stevens
Berglin	Johnson, D.E.	Luther	Pariseau	Stumpf
Bertram	Johnson, D.J.	Marty	Piper	Terwilliger
Betzold	Johnson, J.B.	McGowan	Pogemiller	Vickerman
Chandler	Johnston	Merriam	Price	Wiener
Chmielewski	Kelly	Metzen	Ranum	
Cohen	Kiscaden	Moe, R.D.	Reichgott	
Day	Knutson	Mondale	Riveness	

So the bill passed and its title was agreed to.

S.F. No. 409: A bill for an act relating to retirement; Minneapolis employees retirement fund; amending Minnesota Statutes 1992, sections 422A.05, subdivisions 1 and 2a; 422A.08, subdivision 5, and by adding a subdivision; and 422A.101, subdivision 1.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Krentz	Morse	Robertson
Anderson	Finn	Kroening	Murphy	Runbeck
Beckman	Flynn	Laidig	Neuville	Sams
Belanger	Frederickson	Langseth	Novak	Solon
Benson, D.D.	Hanson	Larson	Oliver	Spear
Benson, J.E.	Hottinger	Lesewski	Olson	Stevens
Berg	Janezich	Lessard	Pappas	Stumpf
Berglin	Johnson, D.E.	Luther	Pariseau	Terwilliger
Bertram	Johnson, D.J.	Marty	Piper	Vickerman
Betzold	Johnson, J.B.	McGowan	Pogemiller	Wiener
Chandler	Johnston	Merriam	Price	
Chmielewski	Kelly	Metzen	Ranum	
Cohen	Kiscaden	Moe, R.D.	Reichgott	
Day	Knutson	Mondale	Riveness	

So the bill passed and its title was agreed to.

S.F. No. 629: A bill for an act relating to public employment; permitting interest arbitration on retired public employee group insurance coverage for units of essential employees; amending Minnesota Statutes 1992, section 179A.16, subdivision 9.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Krentz	Murphy	Runbeck
Anderson	Finn	Kroening	Neuville	Sams
Beckman	Flynn	Laidig	Novak	Samuelson
Belanger	Frederickson	Larson	Oliver	Solon
Benson, D.D.	Hanson	Lesewski	Olson	Spear
Benson, J.E.	Hottinger	Lessard	Pappas	Stevens
Berg	Janezich	Luther	Pariseau	Stumpf
Berglin	Johnson, D.E.	Marty	Piper	Terwilliger
Bertram	Johnson, D.J.	McGowan	Pogemiller	Vickerman
Betzold	Johnson, J.B.	Merriam	Price	Wiener
Chandler	Johnston	Metzen	Ranum	
Chmielewski	Kelly	Moe, R.D.	Reichgott	
Cohen	Kiscaden	Mondale	Riveness	
Day	Knutson	Morse	Robertson	

So the bill passed and its title was agreed to.

S.F. No. 406: A bill for an act relating to local government; authorizing a local unit of government which self-insures health benefits for employees to enroll employees of the exclusive representative of its employees in those plans; amending Minnesota Statutes 1992, section 471.617, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Finn	Kroening	Murphy	Runbeck
Anderson	Flynn	Laidig	Neuville	Sams
Beckman	Frederickson	Langseth	Novak	Samuelson
Benson, D.D.	Hanson	Larson	Oliver	Solon
Benson, J.E.	Hottinger	Lesewski	Olson	Spear
Berg	Janezich	Lessard	Pappas	Stevens
Berglin	Johnson, D.E.	Luther	Pariseau	Stumpf
Bertram	Johnson, D.J.	Marty	Piper	Terwilliger
Betzold	Johnson, J.B.	McGowan	Pogemiller	Vickerman
Chandler	Johnston	Merriam	Price	Wiener
Chmielewski	Kelly	Metzen	Ranum	
Cohen	Kiscaden	Moe, R.D.	Reichgott	
Day	Knutson	Mondale	Riveness	
Dille	Krentz	Morse	Robertson	

So the bill passed and its title was agreed to.

H.F. No. 552: A bill for an act relating to real estate; modifying provisions for voluntary foreclosure of mortgages; amending Minnesota Statutes 1992, sections 580.23, subdivision 1; and 582.32, subdivisions 1, 2, 3, 5, 6, 9, and by adding a subdivision; repealing Minnesota Statutes 1992, section 582.32, subdivisions 4, 7, and 8.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 67 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Krentz	Morse	Robertson
Anderson	Finn	Kroening	Murphy	Runbeck
Beckman	Flynn	Laidig	Neuville	Sams
Belanger	Frederickson	Langseth	Novak	Samuelson
Benson, D.D.	Hanson	Larson	Oliver	Solon
Benson, J.E.	Hottinger	Lesewski	Olson	Spear
Berg	Janezich	Lessard	Pappas	Stevens
Berglin	Johnson, D.E.	Luther	Pariseau	Stumpf
Bertram	Johnson, D.J.	Marty	Piper	Terwilliger
Betzold	Johnson, J.B.	McGowan	Pogemiller	Vickerman
Chandler	Johnston	Merriam	Price	Wiener
Chmielewski	Kelly	Metzen	Ranum	
Cohen	Kiscaden	Moe, R.D.	Reichgott	
Day	Knutson	Mondale	Riveness	

So the bill passed and its title was agreed to.

S.F. No. 452: A bill for an act relating to civil commitment; clarifying time limitations for appeal under the civil commitment act; amending Minnesota Statutes 1992, section 253B.23, subdivision 7.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Kroening	Murphy	Runbeck
Anderson	Finn	Laidig	Neuville	Sams
Beckman	Flynn	Langseth	Novak	Samuelson
Belanger	Frederickson	Larson	Oliver	Solon
Benson, D.D.	Hanson	Lesewski	Olson	Spear
Benson, J.E.	Hottinger	Lessard	Pappas	Stevens
Berg	Janezich	Luther	Pariseau	Stumpf
Berglin	Johnson, D.E.	Marty	Piper	Terwilliger
Bertram	Johnson, D.J.	McGowan	Pogemiller	Vickerman
Betzold	Johnson, J.B.	Merriam	Price	Wiener
Chandler	Johnston	Metzen	Ranum	
Chmielewski	Kelly	Moe, R.D.	Reichgott	
Cohen	Knutson	Mondale	Riveness	
Day	Krentz	Morse	Robertson	

So the bill passed and its title was agreed to.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Mr. Kelly in the chair.

After some time spent therein, the committee arose, and Mr. Kelly reported that the committee had considered the following:

S.F. Nos. 64, 490, 702, 483 and H.F. No. 421, which the committee recommends to pass.

S.F. No. 334 which the committee reports progress, subject to the following motion:

Mr. Vickerman moved to amend S.F. No. 334 as follows:

Page 1, line 23, after "(2)" insert "*the owner presents written evidence that*" and delete "was" and insert "*had been reported to a law enforcement agency as*"

The motion prevailed. So the amendment was adopted.

On motion of Mr. Moe, R.D., the report of the Committee of the Whole, as kept by the Secretary, was adopted.

Without objection, the Senate reverted to the Order of Business of Motions and Resolutions.

MOTIONS AND RESOLUTIONS

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 605 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 605: A bill for an act relating to the veterans homes board; requiring the board to apply for certain federal funding.

Mr. Samuelson moved to amend S.F. No. 605 as follows:

Page 1, line 6, delete "1" and insert "15"

Page 1, after line 10, insert:

"Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

The motion prevailed. So the amendment was adopted.

S.F. No. 605 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Krentz	Murphy	Runbeck
Anderson	Finn	Kroening	Neuville	Sams
Beckman	Flynn	Laidig	Oliver	Samuelson
Belanger	Frederickson	Langseth	Olson	Spear
Benson, J.E.	Hanson	Larson	Pappas	Stevens
Berg	Hottinger	Lesewski	Pariseau	Stumpf
Berglin	Janczich	Luther	Piper	Terwilliger
Bertram	Johnson, D.E.	Marty	Pogemiller	Vickerman
Betzold	Johnson, J.B.	McGowan	Price	Wiener
Chandler	Johnston	Merriam	Ranum	
Chmielewski	Kelly	Moe, R.D.	Reichgott	
Cohen	Kiscaden	Mondale	Riveness	
Day	Knutson	Morse	Robertson	

So the bill, as amended, was passed and its title was agreed to.

Without objection, the Senate reverted to the Orders of Business of Reports of Committees, Second Reading of Senate Bills and Second Reading of House Bills.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

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

S.F. No. 848: A bill for an act relating to natural resources; mineral leasing; environmental research and protection; exploratory mineral borings and data; lean ore stockpile removal; oil and gas well spacing, pooling, and unitization; amending Minnesota Statutes 1992, sections 92.50, subdivision 1; 93.001; 93.002, subdivisions 1 and 3; 93.25; 93.46, by adding a subdivision; 93.481, subdivisions 1 and 2; 103I.113; 103I.601, subdivision 1; 103I.605, subdivision 4; and 282.04, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 93:

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

Page 3, delete line 3 and insert:

“Subd. 2. [~~LEASES~~ *LEASE REQUIREMENTS.*] At any time prior to the expiration of”

Page 3, line 20, reinstate the stricken “3” and delete “2”

Page 8, line 35, delete “, *except that*” and insert a period

Pages 12 and 13, delete section 4

Amend the title as follows:

Page 1, delete line 5

Page 1, line 10, delete the third semicolon and insert a period

Page 1, delete lines 11 and 12

And when so amended the bill do pass and be re-referred to the Committee on Judiciary. Amendments adopted. Report adopted.

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

S.F. No. 1: A bill for an act relating to state government; abolishing the pollution control agency, the department of natural resources, the environmental quality board, the board of water and soil resources, the office of waste management, the harmful substances compensation board, the petroleum tank release compensation board, the agricultural chemical response compensation board; abolishing certain powers and duties of the departments of agriculture, health, public service, trade and economic development, and transportation and the metropolitan council; establishing a task force; requiring establishment of an employee participation committee before agency restructuring.

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

Page 1, line 30, delete "Reorganization must" and insert "The governmental structure recommended by the task force established in section 3 must be designed to"

Page 2, line 33, delete "three" and insert "four" in both places

Page 3, line 5, delete "and" and insert:

"(3) a group consisting of 15 persons representing local and regional governmental units, including cities, counties, metropolitan and regional agencies, soil and water conservation districts, watershed districts, and watershed management organizations, appointed in equal numbers by the governor, the majority leader of the senate, and the speaker of the house; and"

Page 3, lines 6 and 23, delete "(3)" and insert "(4)"

Page 3, line 9, after "of" insert "rural"

Page 3, line 30, delete "changing" and insert "recommending changes in"

Page 3, line 35, delete "affected by" and insert "listed in"

Page 3, line 36, before "Each" insert "The facilitators shall meet periodically with a joint committee consisting of five members of the senate selected by the majority leader of the senate and five members of the house of representatives selected by the speaker of the house. At the meetings, the facilitators shall update the members of the joint committee on the progress of the groups' discussions and emerging proposals."

Page 4, line 7, delete "and" and insert:

"(3) two representatives from the group established by subdivision 1, clause (3); and"

Page 4, lines 8 and 9, delete "(3)" and insert "(4)"

Page 4, line 13, delete "affected by" and insert "listed in"

Page 4, line 15, delete everything after the period

Page 4, delete lines 16 to 20

Page 4, line 29, delete "in"

Page 4, line 30, delete everything before the comma

Page 5, line 14, delete "ABOLITION OF" and after "DUTIES" insert "TO BE STUDIED BY TASK FORCE"

Page 5, line 15, before "The" insert "The governmental structure recommended by the task force established in section 3 must provide for the performance of the functions and services currently performed by the following agencies:"

Page 5, lines 20 and 22, delete "are abolished"

Page 5, line 21, delete "(a)" and insert "The governmental structure recommended by the task force established in section 3 must provide for the performance of:

(1)"

Page 5, line 23, delete "(1)" and insert "(i)"

Page 5, line 26, delete "(2)" and insert "(ii)"

Page 5, line 28, delete "(3)" and insert "(iii)"

Page 5, line 30, delete "(4)" and insert "(iv)"

Page 5, line 32, delete "(5)" and insert "(v)"

Page 5, line 34, delete "(6)" and insert "(vi)"

Page 5, line 36, delete "(7)" and insert "(vii)"

Page 6, line 1, delete "and"

Page 6, line 2, delete "(8)" and insert "(viii)"

Page 6, line 3, delete the period and insert "; and

(ix) conservation of wildflowers under Minnesota Statutes, section 17.23;"

Page 6, line 4, delete "(b)" and insert "(2)"

Page 6, lines 5 and 29, delete "are abolished"

Page 6, line 6, delete "(1)" and insert "(i)"

Page 6, line 8, delete "(2)" and insert "(ii)"

Page 6, line 10, delete "(3)" and insert "(iii)"

Page 6, line 12, delete "(4)" and insert "(iv)"

Page 6, line 14, delete "(5)" and insert "(v)"

Page 6, line 16, delete "(6)" and insert "(vi)"

Page 6, line 18, delete "(7)" and insert "(vii)"

Page 6, line 20, delete "(8)" and insert "(viii)"

Page 6, line 22, delete "(9)" and insert "(ix)"

Page 6, line 24, delete "(10)" and insert "(x)"

Page 6, line 26, delete "(11)" and insert "(xi)"

Page 6, line 27, delete the period and insert a semicolon

Page 6, line 28, delete "(c)" and insert "(3)"

Page 6, line 30, delete "(1)" and insert "(i)"

Page 6, line 32, delete "(2)" and insert "(ii)"

Page 6, line 33, delete "and"

Page 6, line 34, delete "(3)" and insert "(iii)"

Page 6, line 35, delete the period and insert "; and

(iv) the public facilities authority under Minnesota Statutes, chapter 446A;"

Page 6, line 36, delete "(d)" and insert "(4)"

Page 7, lines 1 and 5, delete "*are abolished*"

Page 7, line 3, delete the period and insert a semicolon

Page 7, line 4, delete "(e)" and insert "(5)"

Page 7, line 6, delete "(1)" and insert "(i)"

Page 7, line 8, delete "(2)" and insert "(ii)"

Page 7, line 9, delete the period and insert "; and"

Page 7, line 10, delete "(f)" and insert "(6)"

Page 7, line 12, delete ", *are abolished*"

Page 7, delete lines 13 to 16

Pages 7 and 8, delete section 6 and insert:

"Sec. 6. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, delete lines 3 to 11

Page 1, line 12, delete everything before "establishing" and after "force" insert "to recommend a governmental structure for environmental and natural resource functions and services"

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

Ms. Berglin from the Committee on Health Care, to which was referred

H.F. No. 9: A bill for an act relating to insurance; health; requiring coverage for elimination or treatment of port-wine stains; proposing coding for new law in Minnesota Statutes, chapter 62A.

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

Page 1, line 10, after "62A.011" insert "*that provide coverage to a Minnesota resident*"

Page 1, line 13, after "*person*" insert "*who is a Minnesota resident*" and after the period, insert "*No health carrier may reduce or eliminate coverage due to this requirement.*"

Subd. 3. [RATE INCREASES PROHIBITED.] The commissioner of commerce shall not approve any rate increases due to coverage required under subdivision 2. No health maintenance organization, as defined in chapter 62D, shall increase coverage required under subdivision 2."

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

Ms. Berglin from the Committee on Health Care, to which was referred

S.F. No. 240: A bill for an act relating to health; changing the membership requirements of the board of nursing; amending Minnesota Statutes 1992, section 148.181, subdivision 1.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Governmental Operations and Reform. Report adopted.

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

S.F. No. 975: A bill for an act relating to pollution control; exempting certain storage tanks from notification, environmental protection, and tank installer training and certification requirements; amending Minnesota Statutes 1992, section 116.47.

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 1992, section 115.03, is amended by adding a subdivision to read:

Subd. 8. [EXEMPTIONS FOR ABOVEGROUND STORAGE TANKS.] The commissioner may not adopt rules under this section that regulate the use of the following aboveground storage tanks:

(1) farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) tanks of 1,100 gallons or less capacity used for storing heating oil for consumptive use on the premises where stored;

(3) tanks used for storing liquids that are gaseous at atmospheric temperature and pressure; or

(4) tanks used for storing agricultural chemicals regulated under chapter 18B, 18C, or 18D.

Sec. 2. Minnesota Statutes 1992, section 116.47, is amended to read:

116.47 [EXEMPTIONS.]

Sections 116.48, 116.49, and 116.491 do not apply to:

(1) farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) tanks of 1,100 gallons or less capacity used for storing heating oil for consumptive use on the premises where stored;

(2) (3) pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, United States Code, title 49, chapter 24, or the Hazardous Liquid Pipeline Safety Act of 1979, United States Code, title 49, chapter 29;

(3) (4) surface impoundments, pits, ponds, or lagoons;

(4) (5) storm water or waste water collection systems;

(5) (6) flow-through process tanks;

(6) (7) tanks located in an underground area, including basements, cellars, mineworkings, drifts, shafts, or tunnels, if the storage tank is located upon or above the surface of the floor; or

(7) (8) septic tanks;

(9) tanks used for storing liquids that are gaseous at atmospheric temperature and pressure; or

(10) tanks used for storing agricultural chemicals regulated under chapter 18B, 18C, or 18D.

Sec. 3. [EXEMPTION FROM EXISTING RULES.]

Tanks described in section 1 are exempt from existing rules adopted under Minnesota Statutes, section 115.03, that regulate the use of aboveground storage tanks.

Sec. 4. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to pollution control; exempting certain storage tanks from notification, environmental protection, tank installer training and certification, and other requirements; amending Minnesota Statutes 1992, sections 115.03, by adding a subdivision; and 116.47."

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. 886: A bill for an act relating to natural resources; regulating timber sales; increasing the value of sales requiring executive council approval and maximum lot value on auction sales; permitting the modification of timber permits damaged by natural cause; amending Minnesota Statutes 1992, section 90.031, subdivision 4; 90.041, by adding a subdivision; 90.101, subdivision 1; 90.121; and 90.201, by adding subdivisions.

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

Page 1, line 22, delete "*Notwithstanding any law to the contrary,*"

Page 1, line 23, delete "*timber*" and delete "*which*" and insert "*timber that*"

Page 1, line 24, delete "*the*"

Page 1, line 25, after "*notice*" insert "*that*" and after "*when*" insert "*there is a high risk that*"

Page 1, line 26, delete "*is at high risk*" and insert "*would be lost*"

Page 4, line 7, delete "*When trust lands are involved,*"

Page 4, line 8, delete "*include provisions that*" and after "*ensure*" insert "*that*"

Page 4, line 9, before "*trust*" insert "*state and the*"

Page 4, line 10, delete everything after "6." and insert "[MODIFICATION OF TIMBER PERMITS.]"

Page 4, delete lines 11 to 13 and insert:

"The commissioner may modify a"

Amend the title as follows:

Page 1, line 9, delete "subdivisions" and insert "a subdivision"

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

Mr. Spear from the Committee on Crime Prevention, to which was referred

S.F. No. 1262: A bill for an act relating to the metropolitan transit commission; authorizing the commission to appoint peace officers and establish a law enforcement agency; amending Minnesota Statutes 1992, sections 473.405, by adding subdivisions; and 626.84, subdivision 1; repealing Minnesota Statutes 1992, section 629.40, 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. [473.407] [METROPOLITAN TRANSIT COMMISSION POLICE.]

Subdivision 1. [AUTHORIZATION.] The transit commission may appoint peace officers, as defined in section 626.84, subdivision 1, paragraph (c), and establish a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (h), known as the metropolitan transit commission police, to police its property and routes and to make arrests under sections 629.30 and 629.34. The jurisdiction of the law enforcement agency is limited to offenses relating to metropolitan transit commission property, equipment, employees, and passengers.

Subd. 2. [LIMITATIONS.] The initial processing of a person arrested by the transit commission police for an offense within the agency's jurisdiction is the responsibility of the metropolitan transit commission police unless otherwise directed by the law enforcement agency with primary jurisdiction. A subsequent investigation is the responsibility of the law enforcement agency of the jurisdiction in which the crime was committed. The transit commission police are not authorized to apply for a search warrant as prescribed in section 626.05.

Subd. 3. [POLICIES.] Before the metropolitan transit commission begins to operate its law enforcement agency within a city or county with an existing law enforcement agency, the metropolitan transit commission police shall develop, in conjunction with the law enforcement agencies, written policies that describe how the issues of joint jurisdiction will be resolved. The policies must also address the operation of emergency vehicles by transit commission police responding to commission emergencies. These policies must be filed with the board of peace officer standards and training by August 1, 1993. Revisions of any of these policies must be filed with the board within ten days

of the effective date of the revision. The metropolitan transit commission shall train all of its peace officers regarding the application of these policies.

Subd. 4. [CHIEF LAW ENFORCEMENT OFFICER.] The commission shall appoint a peace officer employed full time to be the chief law enforcement officer and to be responsible for the management of the law enforcement agency. The person shall possess the necessary police and management experience and have the title of chief of metropolitan transit commission police services. All other police management and supervisory personnel must be employed full time by the commission. Supervisory personnel must be on duty and available any time transit commission police are on duty. The commission may not hire part-time peace officers as defined in section 626.84, subdivision 1, paragraph (f), except that the commission may appoint peace officers to work on a part-time basis not to exceed 30 full-time equivalents.

Subd. 5. [EMERGENCIES.] (a) The commission shall ensure that all emergency vehicles used by transit commission police are equipped with radios capable of receiving and transmitting on the same frequencies utilized by the law enforcement agencies that have primary jurisdiction.

(b) When the transit commission police receive an emergency call they shall notify the public safety agency with primary jurisdiction and coordinate the appropriate response.

(c) Transit commission police officers shall notify the primary jurisdictions of their response to any emergency.

Subd. 6. [COMPLIANCE.] Except as otherwise provided in this section, the transit commission police shall comply with all statutes and administrative rules relating to the operation and management of a law enforcement agency.

Sec. 2. [INSTRUCTION TO REVISOR.]

The revisor shall substitute the reference "473.407" for the reference "629.40, subdivision 5" in section 352.01, subdivision 2b, clause (34).

Sec. 3. [REPEALER.]

Minnesota Statutes 1992, section 629.40, subdivision 5, is repealed.

Sec. 4. [APPLICATION.]

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

Amend the title as follows:

Page 1, line 4, delete everything after the semicolon

Page 1, delete line 5

Page 1, line 6, delete everything before the semicolon and insert "proposing coding for new law in Minnesota Statutes, chapter 473"

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

Mr. Spear from the Committee on Crime Prevention, to which was referred

S.F. No. 827: A bill for an act relating to racketeering; expanding the RICO law to include gambling crimes; authorizing the division of gambling enforcement to seize and forfeit property under the criminal forfeiture law;

expanding the definition of criminal racketeering acts and of a pattern of racketeering activity; amending Minnesota Statutes 1992, sections 609.531, subdivision 1; 609.76; and 609.902, subdivisions 4 and 5.

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

Page 3, line 5, reinstate the stricken language

Page 3, line 6, reinstate the stricken "sells, offers for sale, or otherwise provides, in whole or"

Page 3, delete line 7 and insert "*in part thereof, any fewer than five gambling device including those devices as defined in*"

Page 3, line 8, reinstate the stricken language

Page 3, line 9, reinstate the stricken "(6)"

Page 3, line 12, reinstate the stricken "(7)" and delete "(6)"

Page 3, line 18, delete "*manufacturers*" and insert "*manufactures*"

Page 3, line 20, delete "*any*" and insert "*five or more*" and delete "*device*" and insert "*devices*" and delete "*sections*" and insert "*section*"

Page 3, line 21, delete everything before "609.75" and before the period, insert "*, more than one video game of chance*"

Page 3, line 35, after the second semicolon, insert "609.76;"

Page 4, delete section 4

Page 4, line 19, delete "5" and insert "4"

Page 4, line 20, delete "4" and insert "3" and delete "*August*" and insert "*October*"

Amend the title as follows:

Page 1, line 6, delete everything after "acts"

Page 1, line 7, delete everything before the semicolon

Page 1, line 9, delete "subdivisions 4 and 5" and insert "subdivision 4"

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

Mr. Spear from the Committee on Crime Prevention, to which was referred

S.F. No. 253: A bill for an act relating to occupations and professions; clarifying the training requirements of private detectives and security guards; amending Minnesota Statutes 1992, sections 326.336, subdivision 2; and 326.3361, subdivisions 1, 2, and 3.

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

Page 1, delete section 1

Page 2, line 17, after "certified" insert "*as having completed training*"

Page 2, line 29, strike "standards for" and after "certification" insert "by the board" and before "a" insert "completion of certified training for"

Page 2, line 31, strike ", by the board,"

Page 3, line 1, strike "employees" and insert "individuals"

Page 3, line 2, strike "employee" and insert "individual"

Page 3, line 7, strike "CERTIFICATION" and insert "CERTIFIED TRAINING"

Page 3, line 12, strike "The"

Page 3, line 13, strike "identification card"

Page 3, line 14, delete the new language

Page 3, lines 15 to 18, delete the new language and strike the old language

Page 3, line 19, strike "employee shall have the card in" and strike "possession while"

Page 3, lines 20 and 21, delete the new language

Page 3, line 22, delete "defined in section 326.338" and strike the period

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, delete "of" and insert "for"

Page 1, line 5, delete "sections 326.336, subdivision 2; and" and insert "section"

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

Mr. Spear from the Committee on Crime Prevention, to which was re-referred

S.F. No. 1036: A bill for an act relating to commerce; trade practices; regulating transfers and sales of recordings; prescribing penalties; amending Minnesota Statutes 1992, sections 325E.17; 325E.18; and 325E.19; proposing coding for new law in Minnesota Statutes, chapter 325E; repealing Minnesota Statutes 1992, section 325E.20.

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

Page 1, line 11, delete "325E.203" and insert "325E.201"

Page 2, line 7, reinstate the stricken "sounds"

Page 2, line 10, delete "recordings" and insert "or images from one recording to another recording"

Page 2, line 36, delete "325E.203" and insert "325E.201"

Page 3, line 9, delete "sections 325E.169 to 325E.203" and insert "section 325E.17 or 325E.18"

Pages 3 and 4, delete sections 6 and 7 and insert:

"Sec. 6. Minnesota Statutes 1992, section 609.531, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purpose of sections 609.531 to 609.5317, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a weapon used in the furtherance of a crime and defined as a dangerous weapon under section 609.02, subdivision 6.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the bureau of criminal apprehension, the Minnesota state patrol, a county sheriff's department, the suburban Hennepin regional park district park rangers, the department of natural resources division of enforcement, the University of Minnesota police department, or a city or airport police department.

(f) "Designated offense" includes:

(1) for weapons used: any violation of this chapter;

(2) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 609.893; 617.246; or a gross misdemeanor or felony violation of section 609.891.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4."

Page 4, line 3, delete "8" and insert "7"

Page 4, after line 4, insert:

"Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective October 1, 1993, and apply to crimes committed on or after that date."

Amend the title as follows:

Page 1, line 5, delete "and" and after "325E.19;" insert "and 609.531, subdivision 1;"

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

SECOND READING OF SENATE BILLS

S.F. Nos. 1, 975, 886, 1262, 827, 253 and 1036 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. No. 9 was read the second time.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Janezich introduced—

S.F. No. 1573: A bill for an act relating to the attorney general; directing the attorney general to initiate an action in federal court to determine the validity of a federal law relating to wagering on sports events.

Referred to the Committee on Governmental Operations and Reform.

Mr. Chmielewski introduced—

S.F. No. 1574: A bill for an act relating to state forests; granting counties a 50 percent share of state forest income; appropriating funds for payment; affirming counties rescission of agreements for forest land management; amending Minnesota Statutes 1992, section 89.035; proposing coding for new law in Minnesota Statutes, chapter 89.

Referred to the Committee on Environment and Natural Resources.

Mr. Lessard introduced—

S.F. No. 1575: A bill for an act relating to state lands; authorizing a sale and conveyance in Itasca county to resolve an inadvertent trespass.

Referred to the Committee on Environment and Natural Resources.

Mr. Stumpf introduced—

S.F. No. 1576: A bill for an act relating to civil actions; regulating the award of attorneys' fees; amending Minnesota Statutes 1992, section 549.01; proposing coding for new law in Minnesota Statutes, chapter 549.

Referred to the Committee on Judiciary.

Mr. Price introduced—

S.F. No. 1577: A bill for an act relating to the environment; regulating packaging; setting mandatory recycled content for certain products and packaging; listing preferences for use of packaging; regulating transport packaging; regulating disposable packaging; requiring use of reusable packaging for certain percentages of beverages sold or, in the alternative, refundable recycling deposits on nonreusable beverage packaging; requiring a

wood waste and wood products residue marketing plan; providing penalties; amending Minnesota Statutes 1992, sections 16B.122, by adding a subdivision; 18B.135, by adding a subdivision; 115A.03, by adding a subdivision; 115A.072, subdivision 4; and 297A.25, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 115A; and 116F; repealing Minnesota Statutes 1992, sections 116F.01; 116F.02; 116F.05; 116F.06; and 116F.08.

Referred to the Committee on Environment and Natural Resources.

Mr. Johnson, D.J. introduced—

S.F. No. 1578: A bill for an act relating to taxation; extending the date by which property qualifies for homestead treatment; amending Minnesota Statutes 1992, section 273.124, subdivision 9; repealing Minnesota Statutes 1992, section 273.124, subdivision 16.

Referred to the Committee on Taxes and Tax Laws.

Mr. Luther introduced—

S.F. No. 1579: A bill for an act relating to state government; creating an advisory council on youth athletics; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 240A.

Referred to the Committee on Governmental Operations and Reform.

Ms. Runbeck introduced—

S.F. No. 1580: A bill for an act relating to insurance; Medicare supplement; eliminating community rating; amending Minnesota Statutes 1992, section 62A.31, subdivision 1, as amended.

Referred to the Committee on Commerce and Consumer Protection.

Mr. Kelly and Ms. Ranum introduced—

S.F. No. 1581: A bill for an act relating to corrections; probation; creating a probation task force; requiring a report.

Referred to the Committee on Crime Prevention.

Mr. Price introduced—

S.F. No. 1582: A bill for an act relating to water law; making miscellaneous technical corrections to water law; amending Minnesota Statutes 1992, sections 103F.215, subdivision 1; 103F.221, subdivision 1; 103G.005, subdivisions 14, 15, and 18; 103G.105; 103G.111, subdivision 1; 103G.121, subdivision 1; 103G.135; 103G.261; 103G.271, subdivision 2; 103G.275, subdivision 1; 103G.295, subdivision 4; 103G.315, subdivisions 12 and 15; and 103G.611, subdivision 3.

Referred to the Committee on Environment and Natural Resources.

Mr. Price introduced—

S.F. No. 1583: A bill for an act relating to child labor standards; setting minimum age, maximum hour, curfew, permit, and other standards; appro-

priating money; amending Minnesota Statutes 1992, sections 181.85, subdivision 3; 181A.03, by adding a subdivision; 181A.06, subdivision 1; 181A.07; 181A.08, subdivision 1; 181A.09, subdivisions 1 and 2; 181A.12; proposing coding for new law in Minnesota Statutes, chapter 181A; repealing Minnesota Statutes 1992, sections 181A.04; 181A.05; 181A.09, subdivision 3; and 181A.11.

Referred to the Committee on Jobs, Energy and Community Development.

Mr. Hottinger introduced—

S.F. No. 1584: A bill for an act relating to state government; revising procedures dealing with professional and technical service contracts; appropriating money; amending Minnesota Statutes 1992, sections 15.061; 16A.11, by adding a subdivision; 16B.17; and 16B.19, subdivisions 2 and 10; proposing coding for new law in Minnesota Statutes, chapter 16B.

Referred to the Committee on Governmental Operations and Reform.

MEMBERS EXCUSED

Mr. Benson, D.D. was excused from the Session of today at 9:25 a.m. Mr. Merriam was excused from the Session of today from 8:30 to 9:20 a.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 1:30 p.m., Monday, April 12, 1993. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate