

NINETY-SEVENTH DAY

St. Paul, Minnesota, Monday, April 25, 1994

The Senate met at 10:30 a.m. and was called to order by the President.

CALL OF THE SENATE

Mr. Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rabbi Howard Siegel.

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

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 Junge	
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.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

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

April 14, 1994

The Honorable Allan H. Spear
President of the Senate

Dear Sir:

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

MINNESOTA HIGHER EDUCATION COORDINATING BOARD

Donald M. Sudor, 612 – 15th Ave. S.W., Rochester, Olmsted County, has been appointed by me, effective April 18, 1994, for a term expiring on the first Monday in January, 2000.

(Referred to the Committee on Education.)

Warmest regards,
Arne H. Carlson, Governor

April 21, 1994

The Honorable Allan H. Spear
President of the Senate

Dear President Spear:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. No. 2081.

Warmest regards,
Arne H. Carlson, Governor

April 21, 1994

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

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

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1994	Date Filed 1994
	3091	465	11:52 a.m. April 21	April 21
2066		466	1:44 p.m. April 20	April 20
1741		467	1:45 p.m. April 20	April 20
2491		468	1:45 p.m. April 20	April 20
2422		469	1:46 p.m. April 20	April 20
1806		470	1:47 p.m. April 20	April 20
2551		471	1:50 p.m. April 20	April 20
	1659	472	1:40 p.m. April 20	April 20
	2666	473	1:42 p.m. April 20	April 20
	2299	474	1:43 p.m. April 20	April 20
1794		475	1:52 p.m. April 20	April 20
2255		476	1:54 p.m. April 20	April 20
2579		477	1:55 p.m. April 20	April 20
1774		478	1:58 p.m. April 20	April 20
2081		480	12:07 p.m. April 21	April 21

2248	482	11:53 a.m. April 21	April 21
936	483	11:55 a.m. April 21	April 21
1914	484	11:55 a.m. April 21	April 21
524	486	11:57 a.m. April 21	April 21
1909	491	11:58 a.m. April 21	April 21
2626	494	12:00 p.m. April 21	April 21
2426	495	12:02 p.m. April 21	April 21
1496	497	12:04 p.m. April 21	April 21

Sincerely,
Joan Anderson Growe
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2028:

H.F. No. 2028: A bill for an act relating to data practices; classifying data as private, confidential, or nonpublic; providing for access to certain law enforcement and court services data on juveniles; providing law enforcement access to certain welfare and patient directory information; providing for treatment of customer data by videotape sellers and service providers; providing for data access to conduct fetal, infant, and maternal death studies; extending a provision for conduct of medical research absent prior patient consent; amending Minnesota Statutes 1992, sections 13.03, subdivision 4; 13.38, by adding a subdivision; 13.39, by adding a subdivision; 13.41, subdivision 2, and by adding a subdivision; 13.57; 13.71, by adding subdivisions; 13.76, by adding a subdivision; 13.82, by adding a subdivision; 13.99, subdivisions 7, 39, 45, 53, 60, 71, 79, and by adding subdivisions; 144.581, subdivision 5; 171.12, subdivision 7; 260.161, by adding a subdivision; 471.705; Minnesota Statutes 1993 Supplement, sections 13.43, subdivision 2; 13.46, subdivision 2; 13.643, by adding a subdivision; 13.82, subdivision 4; 121.8355, by adding a subdivision; 144.335, subdivision 3a; 144.651, subdivisions 2, 21, and 26; 168.346; 245.493, by adding a subdivision; 253B.03, subdivisions 3 and 4; 260.161, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapters 144; 145; proposing coding for new law as Minnesota Statutes, chapter 325I.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

McGuire, Skoglund, Perlt, Macklin and Swenson have been appointed as such committee on the part of the House.

House File No. 2028 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 22, 1994

Mr. Finn moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2028, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part

of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2624:

H.F. No. 2624: A bill for an act relating to employee relations; ratifying labor agreements; making certain positions unclassified; changing duties of the legislative commission on employee relations; revising a salary range for a certain position in the judicial branch; modifying duties of the commissioner of employee relations; amending Minnesota Statutes 1992, sections 3.855, subdivisions 2, 3, and by adding a subdivision; 15A.081, subdivisions 7 and 7b; 43A.05, subdivision 5; 43A.08, subdivisions 1 and 1a; 43A.18, subdivisions 2, 3, and 5; 179A.10, subdivision 3; 179A.18, subdivision 1; and 179A.22, subdivision 4; Minnesota Statutes 1993 Supplement, sections 15A.081, subdivision 1; 15A.083, subdivision 4; and 43A.18, subdivision 4.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Reding, Solberg and Knickerbocker have been appointed as such committee on the part of the House.

House File No. 2624 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 25, 1994

Ms. Flynn moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2624, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2485:

H.F. No. 2485: A bill for an act relating to water; providing for duties of the legislative water commission; providing for a sustainable agriculture advisory committee; requiring plans relating to sustainable agriculture and integrated pest management; regulating acceptance of empty pesticide containers; changing disclosures and fees related to dewatering wells; establishing groundwater policy and education; changing water well permit requirements; requiring reports to the legislature; amending Minnesota Statutes 1992, sections 3.887, subdivisions 5, 6, and 8; 17.114, subdivisions 1, 3, 4, and by adding a subdivision; 18B.045, subdivision 1; 103A.43; 103B.151, subdivision 1; 103G.271, subdivision 5; 103H.175, by adding a subdivision; 103H.201, subdivisions 1 and 4; 103I.101, subdivision 5; 103I.205, subdivision 1; 103I.208; and 103I.331, subdivision 6; Minnesota Statutes 1993 Supplement, sections 18B.135, subdivision 1; 18E.06; and 115B.20, subdivi-

sion 6; proposing coding for new law in Minnesota Statutes, chapters 103A; and 103F; repealing Minnesota Statutes 1992, section 103F.460.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Munger, Trimble and Johnson, V., have been appointed as such committee on the part of the House.

House File No. 2485 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 25, 1994

Mr. Price moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2485, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2410:

H.F. No. 2410: A bill for an act relating to natural resources; sale of native tree seed and tree planting stock; terms and conditions governing the leasing of state timber lands; amending Minnesota Statutes 1992, sections 89.36, subdivision 3; 89.37, by adding a subdivision; 90.101, subdivision 2; 90.151, subdivision 1; 90.161, subdivisions 1 and 2; 90.191, subdivision 2; and 90.193; Minnesota Statutes 1993 Supplement, sections 90.101, subdivision 1; and 90.121; repealing Minnesota Statutes 1992, section 90.151, subdivisions 13 and 14.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Rukavina, Trimble and Sekhon have been appointed as such committee on the part of the House.

House File No. 2410 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 25, 1994

Mr. Moe, R.D., for Mr. Lessard, moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2410, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 2171 and 1899.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 22, 1994

FIRST READING OF HOUSE BILLS

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

H.F. No. 2171: A bill for an act relating to metropolitan government; requiring the metropolitan council to adopt guidelines allocating comprehensive choice housing among cities and towns in the metropolitan area; requiring metropolitan council review of efforts of cities and towns to comply with the allocation; proposing coding for new law in Minnesota Statutes, chapter 473.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1991, now on General Orders.

H.F. No. 1899: A bill for an act relating to state government; revising procedures used for adoption and review of administrative rules; correcting erroneous, ambiguous, obsolete, and omitted text and obsolete references; eliminating redundant, conflicting, and superseded provisions in Minnesota Rules; making various technical changes; amending Minnesota Statutes 1992, sections 10A.02, by adding a subdivision; 14.05, subdivision 1; 14.12; 14.38, subdivisions 1, 7, 8, and 9; 14.46; subdivisions 1 and 3; 14.47, subdivisions 1, 2, and 6; 14.50; 14.51; 17.84; 84.027, by adding a subdivision; and 128C.02, by adding a subdivision; Minnesota Statutes 1993 Supplement, sections 3.841; and 3.984, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 3; and 14; correcting Minnesota Rules, parts 1200.0300; 1400.0500; 3530.0200; 3530.1500; 3530.2614; 3530.2642; 4685.0100; 4685.3000; 4685.3200; 4692.0020; 5000.0400; 7045.0075; 7411.7100; 7411.7400; 7411.7700; 7883.0100; 8130.3500; 8130.6500; 8800.1200; 8800.1400; 8800.3100; 8820.0600; 8820.2300; 9050.1070; and 9505.2175; repealing Minnesota Statutes 1992, sections 3.842; 3.843; 3.844; 3.845; 3.846; 14.03, subdivision 3; 14.05, subdivisions 2 and 3; 14.06; 14.08; 14.09; 14.11; 14.115; 14.131; 14.1311; 14.14; 14.15; 14.16; 14.18, subdivision 1; 14.19; 14.20; 14.22; 14.225; 14.23; 14.235; 14.24; 14.25; 14.26; 14.27; 14.28; 14.29; 14.30; 14.305; 14.31; 14.32; 14.33; 14.34; 14.35; 14.36; 14.365; 14.38, subdivisions 4, 5, and 6; and 17.83; Minnesota Statutes 1993 Supplement, sections 3.984; and 14.10; Minnesota Rules, parts 1300.0100; 1300.0200; 1300.0300; 1300.0400; 1300.0500; 1300.0600; 1300.0700; 1300.0800; 1300.0900; 1300.0940; 1300.0942; 1300.0944; 1300.0946; 1300.0948; 1300.1000; 1300.1100; 1300.1200; 1300.1300; 1300.1400; 1300.1500; 1300.1600; 1300.1700; 1300.1800; 1300.1900; 1300.2000; 4685.2600; 4692.0020, subpart 2; 4692.0045; 7856.1000, subpart 5; 8017.5000; 8130.9500, subpart 6; 8130.9912; 8130.9913; 8130.9916; 8130.9920; 8130.9930; 8130.9956; 8130.9958; 8130.9968; 8130.9972; 8130.9980; 8130.9992; and 8130.9996.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1969, now on General Orders.

REPORTS OF COMMITTEES

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

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

H.F. No. 3179 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.
3179	2724				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 3179 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3179 and insert the language after the enacting clause of S.F. No. 2724, the second engrossment; further, delete the title of H.F. No. 3179 and insert the title of S.F. No. 2724, the second engrossment.

And when so amended H.F. No. 3179 will be identical to S.F. No. 2724, and further recommends that H.F. No. 3179 be given its second reading and substituted for S.F. No. 2724, 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. 2158 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.
2158	1909				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2158 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2158 and insert the language after the enacting clause of S.F. No. 1909, the second engrossment; further, delete the title of H.F. No. 2158 and insert the title of S.F. No. 1909, the second engrossment.

And when so amended H.F. No. 2158 will be identical to S.F. No. 1909, and further recommends that H.F. No. 2158 be given its second reading and substituted for S.F. No. 1909, 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. 3079 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.
3079	2757				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 3079 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3079 and insert the language after the enacting clause of S.F. No. 2757, the second engrossment; further, delete the title of H.F. No. 3079 and insert the title of S.F. No. 2757, the second engrossment.

And when so amended H.F. No. 3079 will be identical to S.F. No. 2757, and further recommends that H.F. No. 3079 be given its second reading and substituted for S.F. No. 2757, 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. 2227 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.
2227	1609				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2227 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2227 and insert the language after the enacting clause of S.F. No. 1609, the third engrossment; further, delete the title of H.F. No. 2227 and insert the title of S.F. No. 1609, the third engrossment.

And when so amended H.F. No. 2227 will be identical to S.F. No. 1609, and further recommends that H.F. No. 2227 be given its second reading and substituted for S.F. No. 1609, 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. 2658 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.
2658	2357				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2658 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2658 and insert the language after the enacting clause of S.F. No. 2357, the second engrossment; further, delete the title of H.F. No. 2658 and insert the title of S.F. No. 2357, the second engrossment.

And when so amended H.F. No. 2658 will be identical to S.F. No. 2357, and further recommends that H.F. No. 2658 be given its second reading and substituted for S.F. No. 2357, 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 HOUSE BILLS

H.F. Nos. 3179, 2158, 3079, 2227 and 2658 were read the second time.

MOTIONS AND RESOLUTIONS

S.F. No. 2900 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2900

A bill for an act relating to education; appropriating money for education and related purposes to the state board of technical colleges, higher education board, state university board, and board of regents of the University of Minnesota, with certain conditions; modifying the award of grants for faculty exchange and temporary assignment programs; designating community colleges; establishing the mission of Fond du Lac campus; changing certain financial aid grants; modifying the child care grant program; clarifying an exemption to private, business, trade, and correspondence school licensing; providing for appointments; permitting rulemaking; adopting a post-secondary funding formula; permitting the higher education board to establish tuition rates for the 1995-1996 academic year; postponing mandated planning; amending Minnesota Statutes 1992, sections 135A.01; 135A.03, subdivisions 1a, and by adding subdivisions; 135A.04; 136.60, subdivisions 1 and 3;

136A.101, subdivision 5; 136A.121, subdivisions 5, 17, and by adding subdivisions; 136A.125, subdivisions 2, 4, and by adding a subdivision; 136A.15, subdivision 6; and 141.35; Minnesota Statutes 1993 Supplement, sections 125.138, subdivisions 1, 6, and 8; and 135A.05; 136A.121, subdivision 6; Laws 1993, First Special Session chapter 2, article 5, section 2; proposing coding for new law in Minnesota Statutes, chapters 135A; and 136; repealing Minnesota Statutes 1992, sections 135A.02; 135A.03, subdivisions 1, 2, 3, 4, 5, and 6; 136.60, subdivision 4; and 136C.36.

April 22, 1994

The Honorable Allan H. Spear
President of the Senate

The Honorable Irv Anderson
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2900, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 2900 be further amended as follows:

Delete everything after the enacting clause and insert:

“ARTICLE 1

APPROPRIATION

Section 1. [HIGHER EDUCATION APPROPRIATIONS.]

The dollar amounts in the columns under “APPROPRIATIONS” are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 1993, First Special Session chapter 2, article 1, or other law to the specified agencies. The appropriations are from the general fund or other named fund and are available for the fiscal years indicated for each purpose. The figure 1994 or 1995 means that the addition to or subtraction from the appropriations listed under the figure are for the fiscal year ending June 30, 1994, or June 30, 1995, respectively. If only one figure is shown in the text for a specified purpose, the addition or subtraction is for 1995 unless the context intends another fiscal year.

SUMMARY BY FUND

	1994	1995	TOTAL
General	\$(7,000,000)	\$18,300,000	\$11,300,000

SUMMARY BY AGENCY – ALL FUNDS

	1994	1995	TOTAL
Higher Education Coordinating Board	\$(7,000,000)	\$1,400,000	\$(5,600,000)
State Board of Technical Colleges	-0-	1,250,000	1,250,000

Higher Education Board	-0-	1,255,000	1,255,000
State Board for Community Colleges	-0-	450,000	450,000
State University Board	-0-	1,800,000	1,800,000
Board of Regents of the University of Minnesota	-0-	9,145,000	9,145,000
Department of Finance	-0-	3,000,000	3,000,000

APPROPRIATIONS

Available for the Year

Ending June 30

1994

1995

Sec. 2. HIGHER EDUCATION COORDINATING BOARD

Subdivision 1. Total Appropriation Changes

(7,000,000) 1,400,000

Subd. 2. Agency Administration

This appropriation includes money to develop a process to award grants to Upward Bound programs in Minnesota. The board shall provide the money to the Minnesota Minority Education Partnership under contract.

Subd. 3. State Grants

(4,000,000)

The higher education coordinating board shall delay the implementation of the new private college cap.

For fiscal year 1995, a child care grant under Minnesota Statutes, section 136A.125, shall not cover more than 40 hours per week of child care costs.

Subd. 4. Interstate Tuition Reciprocity

(3,000,000)

Subd. 5. State Work Study

This appropriation includes money for the state work study program.

Sec. 3. STATE BOARD OF TECHNICAL COLLEGES

Total Appropriation Changes

1,250,000

This appropriation includes money for a pilot program at the Northwest Technical College Center for International Training

and for automating the technical college libraries.

Sec. 4. HIGHER EDUCATION BOARD

Total Appropriation Changes 1,255,000

This appropriation is for developing a student records system, office space costs, staff training, and labor relations.

Sec. 5. STATE BOARD FOR COMMUNITY COLLEGES

Total Appropriation Changes 450,000

This appropriation is for the transition of Fond du Lac from a center to full campus status.

In making Fond du Lac a full campus, the legislature intends to enhance the programs, enrollment, and efficiency of the campus. As part of this action, the state board for community colleges shall report on its plans to accomplish these goals to the higher education finance divisions by January 15, 1995.

Sec. 6. STATE UNIVERSITY BOARD

Total Appropriation Changes 1,800,000

This appropriation is for academic programs, the urban teacher preparation program, interactive television, and library resources at Metro State University, and for improving safety on the state university campuses.

Sec. 7. BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA

Total Appropriation Changes 9,145,000

The legislature supports the direction that the University of Minnesota is taking to improve the academic experiences and learning environment of its students through its U2000 planning. This appropriation is to further the University's efforts in student services, educational equipment, library resources, and indigent patient dental care. The legislature directs the board of regents to use this appropriation consistent with the priority order of its request to the legislature.

The legislature intends that its support of U2000 will result in the improvement of

undergraduate education on the Twin Cities campus. Specifically, the legislature intends that the University focus on improving the actual classroom instruction and experience of undergraduates, particularly as the number of traditional undergraduate students in the state grows over the next several years. This focus includes changing the reward structure for faculty to encourage better undergraduate instruction. As part of its 1995 biennial budget request to support its U2000 efforts, the University shall report on its plans to accomplish changes in faculty efforts in teaching and advising that will improve undergraduate education.

The board of regents is requested to report to the higher education finance divisions of the house of representatives and the senate by January 15, 1995, on the policies and practices it has planned or implemented to comply with Title VII, Title IX, and the Equal Pay Act as they relate to coaches of men's and women's athletics.

Sec. 8. DEPARTMENT OF FINANCE

Total Appropriation Changes

3,000,000

This appropriation is for the higher education board and the commissioner of finance to jointly develop an accounting system to accommodate the specific needs of higher education, and to jointly plan for the expenditure of this appropriation. When requested, the commissioner shall provide the board with detailed information on the expenditure of this appropriation.

ARTICLE 2

ASSOCIATED PROVISIONS

Section 1. Minnesota Statutes 1993 Supplement, section 125.138, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] A program of faculty collaboration shall be established to allow *Minnesota* school districts and post-secondary institutions to arrange temporary placements in each other's institutions. These arrangements must be made on a voluntary cooperative basis between a school district and post-secondary institution, or between post-secondary institutions. Exchanges between post-secondary institutions may occur among campuses in the same system or in different systems.

Sec. 2. Minnesota Statutes 1993 Supplement, section 125.138, subdivision 6, is amended to read:

Subd. 6. [GRANTS.] The department of education shall award grants to public post-secondary teacher preparation programs and school districts that collaborate on staff exchanges or temporary placements. One institution must be identified as the fiscal agent for the grant.

Sec. 3. Minnesota Statutes 1993 Supplement, section 125.138, subdivision 8, is amended to read:

Subd. 8. [APPLICATION PROCESS.] The department of education shall develop and publicize the process by which school districts, ~~the University of Minnesota and its campuses, and the state universities and post-secondary institutions~~ which have teacher and administrator preparation programs may apply for grants.

Sec. 4. [136.6011] [FOND DU LAC CAMPUS.]

The Fond du Lac campus of the Minnesota community college system has a unique mission among the community colleges to serve both the general education needs for lower division work in the Carlton county - south St. Louis county region, as well as serving the education needs of Native Americans throughout the state and especially in northern Minnesota. Accordingly, while the college is governed by the state board for community colleges and administered through Arrowhead community colleges, its governance is accomplished in conjunction with tribal authorities, particularly in the areas of academic programming and student services. The state board, the Arrowhead community college administration, and the Fond du Lac tribal college board shall determine the mechanisms necessary to accomplish the sharing of authority while ensuring accountability for college actions.

Sec. 5. Minnesota Statutes 1992, section 136A.121, subdivision 17, is amended to read:

Subd. 17. [INDEPENDENT STUDENT INFORMATION.] The board shall inform students, in writing, ~~as part of the application process,~~ its financial aid publications about the definition of independent student status and appeals to the financial aid administrator relating to the declaration of the status.

Sec. 6. Minnesota Statutes 1992, section 136A.125, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE STUDENTS.] An applicant is eligible for a child care grant if the applicant:

- (1) is a resident of the state of Minnesota;
- (2) has a child 12 years of age or younger, or 14 years of age or younger who is handicapped as defined in section 120.03, and who is receiving or will receive care on a regular basis from a licensed or legal, nonlicensed caregiver;
- (3) ~~is within the sliding fee scale income guidelines set under section 256H.10, subdivision 2, income eligible as determined by a standardized financial aid needs analysis in accordance with the board's policies and rules,~~ but is not a recipient of aid to families with dependent children;
- (4) has not earned a baccalaureate degree and has been enrolled full time less than eight semesters, 12 quarters, or the equivalent;

(5) is pursuing a nonsectarian program or course of study that applies to an undergraduate degree, diploma, or certificate;

(6) is enrolled at least half time in an eligible institution; and

(7) is in good academic standing and making satisfactory academic progress.

Sec. 7. Minnesota Statutes 1992, section 136A.125, subdivision 3, is amended to read:

Subd. 3. [ELIGIBLE INSTITUTION.] A Minnesota public post-secondary institution ~~or, a Minnesota private, baccalaureate degree granting college or university located in Minnesota, or a Minnesota nonprofit two-year vocational technical school granting associate degrees~~ is eligible to receive child care funds from the board and disburse them to eligible students.

Sec. 8. Minnesota Statutes 1992, section 136A.125, subdivision 4, is amended to read:

Subd. 4. [AMOUNT AND LENGTH OF GRANTS.] The amount of a child care grant must be based on:

(1) ~~the financial need~~ *income* of the applicant *and the applicant's spouse, if any;*

(2) ~~the number of~~ *in the applicant's children family, as defined by the board;* and

(3) ~~the cost of the child care,~~

~~as determined by the institution in accordance with board policies and rules. The amount of the grant must cover the cost of child care for all eligible children for the full number of hours of education per week and may cover up to 20 hours per week of employment for which child care is needed. The grant must be awarded for one academic year. The minimum financial stipend is \$100 the number of eligible children in the applicant's family.~~

The maximum award to the applicant shall be \$1,500 for each eligible child per academic year. The board shall prepare a chart to show the amount of a grant that will be awarded per child based on the factors in this subdivision. The chart shall include a range of income and family size.

Sec. 9. Minnesota Statutes 1992, section 136A.125, is amended by adding a subdivision to read:

Subd. 4b. [ADDITIONAL GRANTS.] *An additional child care grant may be awarded to an applicant attending classes outside of the regular academic year who meets the requirements in subdivisions 2 and 4.*

Sec. 10. Minnesota Statutes 1992, section 136A.15, subdivision 6, is amended to read:

Subd. 6. "Eligible institution" means ~~any public a post-secondary educational institution and any private educational institution, in any state which is approved by the United States commissioner of education in accordance with requirements set forth in the Higher Education Act of 1965, as amended that either (1) is operated or regulated by this state, or (2) is operated publicly or privately in another state, is approved by the United States Secretary of Education, and, as determined by the board, maintains academic standards~~

substantially equal to those of comparable institutions operated in this state. It also includes any institution chartered in a province.

Sec. 11. Minnesota Statutes 1993 Supplement, section 136A.233, subdivision 1, is amended to read:

Subdivision 1. [ALLOCATION TO INSTITUTIONS.] The higher education coordinating board shall allocate work-study money to eligible post-secondary institutions according to the resident full-time equivalent enrollment of all eligible post-secondary institutions that apply to participate in the program, *and the amount of the allocation that an institution spent during the previous academic year.* Each institution wishing to participate in the work-study program must submit, in accordance with policies and procedures established by the board, an estimate of the amount of funds needed by the institution. Any funds allocated to an institution that exceed the actual need of the institution ~~may~~ *shall* be reallocated by the board to other institutions. *An institution may carry forward or backward the same percentage of its initial allocation that is authorized under federal work-study provisions.*

Sec. 12. Minnesota Statutes 1993 Supplement, section 136A.233, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For purposes of sections 136A.231 to 136A.233, the words defined in this subdivision have the meanings ascribed to them.

(a) "Eligible student" means a Minnesota resident enrolled or intending to enroll at least half time ~~as defined in section 136A.101, subdivision 7b,~~ in a degree, diploma, or certificate program in a Minnesota post-secondary institution.

(b) "Minnesota resident" means a student who meets the conditions in section 136A.101, subdivision 8.

(c) "Financial need" means the need for financial assistance in order to attend a post-secondary institution as determined by a post-secondary institution according to guidelines established by the higher education coordinating board.

(d) "Eligible employer" means any eligible post-secondary institution and any nonprofit, nonsectarian agency or state institution located in the state of Minnesota, including state hospitals, and also includes a handicapped person or a person over 65 who employs a student to provide personal services in or about the residence of the handicapped person or the person over 65.

(e) "Eligible post-secondary institution" means any post-secondary institution eligible for participation in the Minnesota state grant program as specified in section 136A.101, subdivision 4.

(f) "Independent student" has the meaning given it in the Higher Education Act of 1965, United States Code, title 20, section 1070a-6, and applicable regulations.

(g) "*Half-time*" for undergraduates has the meaning given in section 136A.101, subdivision 7b, and for graduate students is defined by the institution.

Sec. 13. Laws 1993, First Special Session chapter 2, article 5, section 2, is amended to read:

Sec. 2. [TELECOMMUNICATIONS COUNCIL.] ~~An instructional~~ A 19-member telecommunications council shall be established and composed of: two representatives selected by each public higher education system, a representative of the higher education board, a regional telecommunications coordinator, one member of the senate appointed by the subcommittee on committees of the committee on rules and administration, one member of the house of representatives appointed by the speaker, one private college representative selected by the Minnesota private college council, a representative of the information policy office of the department of administration, *four members appointed by the commissioner of education or designee to represent K-12 education of whom at least two shall be representatives of school districts or K-12 telecommunications networks*, and one higher education coordinating board representative. The council shall:

(1) develop a statewide vision and plans for the use of distance learning technologies and provide leadership in implementing the use of such technologies;

(2) develop educational policy relating to telecommunications;

(3) determine priorities for use;

(4) oversee coordination with campuses, K-12 education, and regional educational telecommunications;

(5) require the use of the ~~statewide telecommunications access and routing system~~ *Minnesota Network* where operationally, technically, and economically feasible in order to maximize the state's telecommunication resources; and

(6) determine priorities for grant funding proposals.

The council shall consult with representatives of the telecommunication industry in implementing this subdivision.

Sec. 14. Laws 1993, chapter 224, article 12, section 39, is amended to read:

Sec. 39. [REPEALER.]

(a) Minnesota Rules, parts 3500.0500; 3500.0600, subparts 1 and 2; 3500.0605; 3500.0800; 3500.1090; 3500.1800; 3500.2950; 3500.3100, subparts 1 to 3; 3500.3500; 3500.3600; 3500.4400; 3510.2200; 3510.2300; 3510.2400; 3510.2500; 3510.2600; 3510.6200; 3520.0200; 3520.0300; 3520.0600; 3520.1000; 3520.1200; 3520.1300; 3520.1800; 3520.2700; 3520.3802; 3520.3900; 3520.4500; 3520.4620; 3520.4630; 3520.4640; 3520.4680; 3520.4750; 3520.4761; 3520.4811; 3520.4831; 3520.4910; 3520.5330; 3520.5340; 3520.5370; 3520.5461; 3525.2850; 3530.0300; 3530.0600; 3530.0700; 3530.0800; 3530.1100; 3530.1300; 3530.1400; 3530.1600; 3530.1700; 3530.1800; 3530.1900; 3530.2000; 3530.2100; 3530.2800; 3530.2900; 3530.3100, subparts 2 to 4; 3530.3200, subparts 1 to 5; 3530.3400, subparts 1, 2, and 4 to 7; 3530.3500; 3530.3600; 3530.3900; 3530.4000; 3530.4100; 3530.5500; 3530.5700; 3530.6100; 3535.0800; 3535.1000; 3535.1400; 3535.1600; 3535.1800; 3535.1900; 3535.2100; 3535.2200; 3535.2600; 3535.2900; 3535.3100; 3535.3500; 3535.9930; 3535.9940; 3535.9950; 3540.0600; 3540.0700; 3540.0800; 3540.0900; 3540.1000; 3540.1100; 3540.1200; 3540.1300; 3540.1700; 3540.1800; 3540.1900; 3540.2000; 3540.2100; 3540.2200; 3540.2300; 3540.2400; 3540.2800; 3540.2900; 3540.3000; 3540.3100; 3540.3200; 3540.3300;

3540.3400; 3545.1000; 3545.1100; 3545.1200; 3545.2300; 3545.2700; 3545.3000; 3545.3002; 3545.3004; 3545.3005; 3545.3014; 3545.3022; 3545.3024; 8700.4200; 8700.6410; 8700.6800; 8700.7100; 8700.9000; 8700.9010; 8700.9020; and 8700.9030, are repealed.

(b) Minnesota Rules, parts 3520.1600; 3520.2400; 3520.2500; 3520.2600; 3520.2800; 3520.2900; 3520.3000; 3520.3100; 3520.3200; 3520.3400; 3520.3500; 3520.3680; 3520.3701; 3520.3801; 3520.4001; 3520.4100; 3520.4201; 3520.4301; 3520.4400; 3520.4510; 3520.4531; 3520.4540; 3520.4550; 3520.4560; 3520.4570; 3520.4600; 3520.4610; 3520.4650; 3520.4670; 3520.4701; 3520.4711; 3520.4720; 3520.4731; 3520.4741; 3520.4801; 3520.4840; 3520.4850; 3520.4900; 3520.4930; 3520.4980; 3520.5000; 3520.5010; 3520.5111; 3520.5120; 3520.5141; 3520.5151; 3520.5160; 3520.5171; 3520.5180; 3520.5190; 3520.5200; 3520.5220; 3520.5230; 3520.5300; 3520.5310; 3520.5361; 3520.5380; 3520.5401; 3520.5450; 3520.5471; 3520.5481; 3520.5490; 3520.5500; 3520.5510; 3520.5520; 3520.5531; 3520.5551; 3520.5560; 3520.5570; 3520.5580; 3520.5600; 3520.5611; 3520.5700; 3520.5710; 3520.5900; 3520.5910; and 3520.5920; ~~3530.6500; 3530.6600; 3530.6700; 3530.6800; 3530.6900; 3530.7000; 3530.7100; 3530.7200; 3530.7300; 3530.7400; 3530.7500; 3530.7600; 3530.7700; and 3530.7800,~~ are repealed.

(c) Minnesota Rules, parts 3500.1400; 3500.3700; 3510.0100; 3510.0200; 3510.0300; 3510.0400; 3510.0500; 3510.0600; 3510.0800; 3510.1100; 3510.1200; 3510.1300; 3510.1400; 3510.1500; 3510.1600; 3510.2800; 3510.2900; 3510.3000; 3510.3200; 3510.3400; 3510.3500; 3510.3600; 3510.3700; 3510.3800; 3510.7200; 3510.7300; 3510.7400; 3510.7500; 3510.7600; 3510.7700; 3510.7900; 3510.8000; 3510.8100; 3510.8200; 3510.8300; 3510.8400; 3510.8500; 3510.8600; 3510.8700; 3510.9000; 3510.9100; ~~chapters 3515, 3515.0100, subparts 2, 5, 6, and 26; 3515.0500, subpart 4, option two, items D and E; 3515.0700, subpart 4, options 4, 6, 7, and 8; 3515.1100; 3515.1500, subparts 2 and 3, item C; 3515.2100, subparts 2 and 3; 3515.3300; 3515.3400; 3515.3500; 3515.3600; 3515.3700; 3515.3800; 3515.3900; 3515.4000; 3515.4500; 3515.4600; 3515.4621; 3515.4700; 3515.4800; 3515.5000, subpart 2; 3515.5050; 3515.5500, subparts 3, 4, 5, 6, 7, 9, 10, and 11; 3515.5600; 3515.6005, subparts 2 and 3; 3515.6100; 3515.8300; 3515.8900; 3515.9910; 3515.9911; 3515.9912; 3515.9913; 3515.9920; 3515.9942; 3517.0100; 3517.0120; 3517.3150; 3517.3170; 3517.3420; 3517.3450; 3517.3500; 3517.3650; 3517.4000; 3517.4100; 3517.4200; 3517.8500; 3517.8600;~~ and chapter 3560, are repealed.

(d) Minnesota Rules, parts 3500.0710; 3500.1060; 3500.1075; 3500.1100; 3500.1150; 3500.1200; 3500.1500; 3500.1600; 3500.1900; 3500.2000; 3500.2020; 3500.2100; 3500.2900; 3500.5010; 3500.5020; 3500.5030; 3500.5040; 3500.5050; 3500.5060; 3500.5070; 3505.2700; 3505.2800; 3505.2900; 3505.3000; 3505.3100; 3505.3200; 3505.3300; 3505.3400; 3505.3500; 3505.3600; 3505.3700; 3505.3800; 3505.3900; 3505.4000; 3505.4100; 3505.4200; 3505.4400; 3505.4500; 3505.4600; 3505.4700; 3505.5100; 8700.2900; 8700.3000; 8700.3110; 8700.3120; 8700.3200; 8700.3300; 8700.3400; 8700.3500; 8700.3510; 8700.3600; 8700.3700; 8700.3810; 8700.3900; 8700.4000; 8700.4100; 8700.4300; 8700.4400; 8700.4500; 8700.4600; 8700.4710; 8700.4800; 8700.4901; 8700.4902; 8700.5100; 8700.5200; 8700.5300; 8700.5310; 8700.5311; 8700.5500; 8700.5501; 8700.5502; 8700.5503; 8700.5504; 8700.5505; 8700.5506;

8700.5507; 8700.5508; 8700.5509; 8700.5510; 8700.5511; 8700.5512;
8700.5800; 8700.6310; 8700.6900; 8700.7010; 8700.7700; 8700.7710;
8700.8000; 8700.8010; 8700.8020; 8700.8030; 8700.8040; 8700.8050;
8700.8060; 8700.8070; 8700.8080; 8700.8090; 8700.8110; 8700.8120;
8700.8130; 8700.8140; 8700.8150; 8700.8160; 8700.8170; 8700.8180;
8700.8190; 8750.0200; 8750.0220; 8750.0240; 8750.0260; 8750.0300;
8750.0320; 8750.0330; 8750.0350; 8750.0370; 8750.0390; 8750.0410;
8750.0430; 8750.0460; 8750.0500; 8750.0520; 8750.0600; 8750.0620;
8750.0700; 8750.0720; 8750.0740; 8750.0760; 8750.0780; 8750.0800;
8750.0820; 8750.0840; 8750.0860; 8750.0880; 8750.0890; 8750.0900;
8750.0920; 8750.1000; 8750.1100; 8750.1120; 8750.1200; 8750.1220;
8750.1240; 8750.1260; 8750.1280; 8750.1300; 8750.1320; 8750.1340;
8750.1360; 8750.1380; 8750.1400; 8750.1420; 8750.1440; 8750.1500;
8750.1520; 8750.1540; 8750.1560; 8750.1580; 8750.1600; 8750.1700;
8750.1800; 8750.1820; 8750.1840; 8750.1860; 8750.1880; 8750.1900;
8750.1920; 8750.1930; 8750.1940; 8750.1960; 8750.1980; 8750.2000;
8750.2020; 8750.2040; 8750.2060; 8750.2080; 8750.2100; 8750.2120;
8750.2140; 8750.4000; 8750.4100; 8750.4200; 8750.9000; 8750.9100;
8750.9200; 8750.9300; 8750.9400; 8750.9500; 8750.9600; and 8750.9700,
are repealed.

Sec. 15. [PEACE OFFICERS STANDARDS AND TRAINING BOARD.]

The association of police chiefs is requested to convene a committee to discuss and make recommendations to the legislature on current programs of professional peace officer education. The committee shall consist of three POST board members or their designees, one member appointed by the Minnesota chiefs of police association, one member appointed by the Minnesota sheriffs association, one member appointed by the Minnesota police and peace officers association, three representatives of the higher education systems, and three representatives of post-secondary campuses offering professional peace officer education to be appointed by the appropriate higher education governing boards for technical colleges, community colleges, and state universities. The committee shall make recommendations regarding programmatic and funding issues related to professional peace officer education. The committee also shall develop a plan for a cooperative process whereby the higher education systems and campuses and the POST board consult on any proposed changes in policy, rule, or statute which may significantly affect professional peace officer education. The committee shall report its findings and recommendations to the higher education and judiciary finance divisions by January 15, 1995. Prior to June 30, 1995, the board of peace officer standards and training may not take any action to change or modify professional peace officer education that is offered by a technical college, community college, or state university unless it is agreed to by both parties.

Nothing in this section shall prohibit the POST board from taking action against a certified school for failure to comply with an existing board rule.

POST board certified schools shall not provide a nondegree professional peace officer education program for any state agency or local law enforcement agency after December 31, 1994, without affirmative legislative approval.

Sec. 16. [RECOMMENDATIONS.]

By January 1, 1995, the higher education coordinating board shall provide recommendations to the higher education finance divisions of the legislature on the board's future functions, roles, and responsibilities following the July 1, 1995, merger of the community colleges, technical colleges, and state universities.

Sec. 17. [TRANSITION.]

The transition from center to full campus status for the Fond du Lac Community College Center at Cloquet shall occur no sooner than July 1, 1994. The transition from center to full campus status for Duluth and Cambridge centers shall occur no sooner than July 1, 1995. Full campus status is contingent upon approval of the higher education board. The higher education board shall make recommendations on funding levels for Cambridge, Cloquet, and Duluth.

Sec. 18. [RESERVE ACCOUNTS.]

The technical college, community college, state university, and higher education boards shall develop policies for fund balances and the creation and use of reserve accounts. The commissioner of finance shall review the policies. The technical college, community college, state university, and higher education boards shall submit the policies to the higher education finance divisions of the legislature by January 1, 1995. Beginning January 1, 1995, the technical college, community college, state university, and higher education boards shall report annually to the commissioner of finance the amounts, intended and actual use, and remaining balance in their respective fund balances and reserve accounts.

Sec. 19. [REPEALER.]

(a) Minnesota Statutes 1992, sections 135A.06, subdivisions 2, 3, 4, 5, and 6; and Minnesota Statutes 1993 Supplement, section 135A.061, are repealed.

(b) Minnesota Statutes 1992, section 136C.36, is repealed.

Sec. 20. [EFFECTIVE DATE.]

Section 11 is effective the day following final enactment.

Section 19, paragraph (b), is effective August 1, 1994.

ARTICLE 3

POST-SECONDARY FUNDING

Section 1. Minnesota Statutes 1992, section 135A.01, is amended to read:

135A.01 [FUNDING POLICY.]

It is the policy of the legislature ~~that direct state appropriations, exclusive of tuition, to provide stable funding, including recognition of the effects of inflation, for the instructional services at public post-secondary institutions reflect a portion of the estimated cost of providing the instructional~~ and that the state and students share the cost of those services. The legislature intends to provide at least 67 percent of the instructional services costs for each post-secondary system. It is also the policy of the legislature that the budgetary process serves to support high quality public post-secondary education.

Sec. 2. [135A.031] [APPROPRIATIONS FOR INSTRUCTIONAL SERVICES.]

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

Subd. 2. [APPROPRIATIONS FOR CERTAIN ENROLLMENTS.] The state share of the estimated expenditures for instruction shall vary for some categories of students, as designated in this subdivision.

(a) The state must provide at least 67 percent of the estimated expenditures for:

(1) students who resided in the state for at least one calendar year prior to applying for admission or dependent students whose parent or legal guardian resides in Minnesota at the time the student applies;

(2) Minnesota residents who can demonstrate that they were temporarily absent from the state without establishing residency elsewhere;

(3) residents of other states or provinces who are attending a Minnesota institution under a tuition reciprocity agreement; and

(4) students who have been in Minnesota as migrant farmworkers, as defined in the Code of Federal Regulations, title 20, section 633.104, over a period of at least two years immediately before admission or readmission to a Minnesota public post-secondary institution, or students who are dependents of such migrant farmworkers.

(b) The state must provide 32 percent of the estimated expenditures for:

(1) students who are concurrently enrolled in a public secondary school and for whom the institution is receiving any compensation under the post-secondary enrollment options act; and

(2) students enrolled under the student exchange program of the Midwest Compact.

(c) The state may not provide any of the estimated expenditures for undergraduate students who do not meet the residency criteria under paragraph (a).

Subd. 3. [DETERMINATION OF INSTRUCTIONAL SERVICES BASE.] The instructional services base for each public post-secondary system is the sum of: (1) the state share; and (2) the legislatively estimated tuition for the second year of the most recent biennium; and (3) adjustments for inflation, enrollment changes as calculated in subdivision 4, and performance as calculated in subdivision 5.

Subd. 4. [ADJUSTMENT FOR ENROLLMENTS.] (a) Each public post-secondary system's instructional services base shall be adjusted for estimated changes in enrollments. For each two percent change in estimated full-year equivalent enrollment, an adjustment shall be made to 65 percent of the instructional services base. The remaining 35 percent of the instructional services base is not subject to the adjustment in this subdivision.

(b) For all purposes where student enrollment is used for budgeting purposes, student enrollment shall be measured in full-year equivalents and shall include only enrollments in courses that award credit or otherwise satisfy any of the requirements of an academic or vocational program.

(c) The enrollment adjustment shall be made for each year of the subsequent biennium. The base enrollment year is the 1995 fiscal year enrollment. The base enrollment shall be updated for each two percent change in estimated full year equivalent enrollment. If the actual enrollment differs from the estimated enrollment, an adjustment shall be made in the next biennium.

Subd. 5. [ADJUSTMENT FOR PERFORMANCE.] Each public post-secondary system's instructional services base shall be adjusted, up to one percent, if the system meets the performance standards established by the system's governing board as part of the biennial budget document.

Subd. 6. [ADJUSTMENT FOR CHANGE ITEMS.] The instructional services base may be adjusted for change items as determined by the governor and the legislature after adjustments for inflation, enrollments, and performance.

Subd. 7. [REPORTS.] Instructional expenditure and enrollment data for each instructional category shall be submitted in the biennial budget document.

Sec. 3. [135A.032] [APPROPRIATIONS FOR NONINSTRUCTIONAL SERVICES.]

Subdivision 1. [DETERMINATION OF NONINSTRUCTIONAL APPROPRIATIONS BASE.] The noninstructional services base for each public post-secondary system is the state share for the second year of the most recent biennium plus adjustments for inflation and for performance as specified in subdivision 2. The cost of technical college extension programs shall be included in noninstructional services.

Subd. 2. [ADJUSTMENT FOR PERFORMANCE.] The noninstructional services base shall be increased, up to one percent, if the system meets the performance standards established by the system's governing board as part of the biennial budget document.

Subd. 3. [ADJUSTMENT FOR CHANGE ITEMS.] The noninstructional services base may be adjusted for change items as determined by the governor and the legislature after noninstructional base adjustments for inflation and performance.

Sec. 4. [135A.033] [PERFORMANCE FUNDING.]

The governing boards of the University of Minnesota, the state universities, the community colleges, and the technical colleges, in conjunction with their respective campuses, shall each specify performance categories and indicators to be used for policy and appropriations decisions, as well as allocations for rewarding campuses that achieve performance levels and assisting campuses that are unable to achieve these levels. Because the mission of each system and type of campus varies, categories and indicators shall vary accordingly.

Sec. 5. [135A.034] [BUDGET PRIORITIES.]

The governing boards of the University of Minnesota, the state universities, the community colleges, and the technical colleges shall each develop, for legislative and executive branch acceptance, its highest budget priorities in accordance with statewide objectives for higher education. It is the intent of the legislature to appropriate at least 67 percent of the total cost of instruction after adjusting for inflation and enrollment changes. However, in the event of a budget shortfall, or if funding of inflation is not possible, available funding shall first be applied to the agreed upon budget priorities.

Sec. 6. Minnesota Statutes 1992, section 135A.04, is amended to read:

135A.04 [VARIABLE TUITION.]

The board of regents of the University of Minnesota, ~~state university board, state board for community colleges, and state board for vocational education~~ and the higher education board shall each establish tuition. Tuition may vary by program, level of instruction, cost of instruction, or other classifications determined by each board. Tuition may be set at any percentage of instructional cost established by the respective boards.

Sec. 7. [PHASE-IN OF FORMULA.]

Each higher education system shall calculate its respective base for the 1996-1997 biennium for submission to the governor and legislature using the method in this article. Each system that experienced enrollment increases since 1993 shall adjust its instructional services base by the same percentage as the enrollment increased.

Sec. 8. [TASK FORCE.]

The chief financial officers, or their designees, of the University of Minnesota, state universities, technical colleges, community colleges, higher education board, and the commissioner of finance shall form a task force. The task force shall define terms, ensure uniform application of the formula, and other functions determined necessary by the task force. The higher education coordinating board shall convene the initial meeting. The task force expires June 30, 1997.

Sec. 9. [REPEALER.]

Minnesota Statutes 1992, sections 135A.02; and 135A.03, subdivisions 1, 1a, 2, 3, 3a, 4, 5, and 6; Minnesota Statutes 1993 Supplement, sections 135A.03, subdivision 7; and 135A.05, are repealed.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 3, 6, and 9 are effective July 1, 1995.

ARTICLE 4

EMPLOYER DESIGNATION AND BARGAINING

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

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

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

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

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

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

- (1) chosen by election or appointed to fill an elective office;
- (2) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;
- (3) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a and in the office of strategic and long-range planning;
- (4) the confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;
- (5) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;
- (6) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the office of the adjutant general;
- (7) employees of the Washington, D.C., office of the state of Minnesota;
- (8) employees of the legislature and of legislative committees or commissions; provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;
- (9) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal economic opportunity act work study program in the school and resource center for the arts, state universities and community colleges, *and the higher education board*, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;
- (10) officers and enlisted persons in the national guard;

(11) attorneys, legal assistants, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;

(12) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

(13) members of the state patrol; provided that selection and appointment of state patrol troopers must be made in accordance with applicable laws governing the classified service;

(14) chaplains employed by the state;

(15) examination monitors and intermittent training instructors employed by the departments of employee relations and commerce and by professional examining boards;

(16) student workers;

(17) executive directors or executive secretaries appointed by and reporting to any policy-making board or commission established by statute;

(18) employees unclassified pursuant to other statutory authority;

(19) intermittent help employed by the commissioner of agriculture to perform duties relating to pesticides, fertilizer, and seed regulation; and

(20) the administrators and the deputy administrators at the state academies for the deaf and the blind.

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

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

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

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

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

~~(d) (c)~~ Total compensation for unclassified positions not covered by a collective bargaining agreement in the higher education coordinating board

and in the state board of technical colleges must be determined by the higher education coordinating board and the state board of technical colleges, respectively.

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

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

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

Sec. 5. [136E.35] [ASSIGNMENT TO BARGAINING UNITS.]

Actions by the higher education board to merge or redesignate institutions or to promote collaborative efforts between institutions must not unilaterally change faculty assignments to bargaining units provided in section 179A.10, subdivision 2.

Sec. 6. Minnesota Statutes 1992, section 179A.10, subdivision 1, is amended to read:

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

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

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

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

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

(5) positions in the bureau;

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

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

(8) positions of all confidential employees.

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

Sec. 7. [REIMBURSEMENT.]

In fiscal year 1995, the higher education board shall reimburse the commissioner of employee relations for staffing and other costs of services associated with negotiating the 1995-1997 collective bargaining agreements for the state university, community college, and technical college instructional units, and the state university administrative unit. The amounts reimbursed are appropriated to the commissioner of employee relations to pay for these costs. Before July 1, 1994, the higher education board and the commissioner of employee relations shall confer and agree on the costs and services to be reimbursed. In the absence of an agreement, the higher education board and the commissioner of employee relations shall report to the higher education finance divisions of the legislature by July 1, 1994.

Sec. 8. [EFFECTIVE DATE.]

Sections 2 and 7 are effective the day following final enactment. Sections 1 and 3 to 6 are effective July 1, 1995.

ARTICLE 5

TRANSITION PROVISIONS

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

Sec. 9. [TRANSFER OF ~~POWERS~~ PROVISIONS.]

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

Effective July 1, 1995, school boards, intermediate school boards, and joint vocational technical boards shall transfer to the higher education board all real property, personal property, and improvements and attachments thereto related to technical colleges as determined by the higher education board, and shall convey all interests in the property. The school boards, intermediate school boards, and joint vocational technical boards shall not receive compensation for the conveyance of the interests. All debt service payments on the transferred property that have a due date on or after July 1, 1995, become the responsibility of the higher education board.

On July 1, 1995, all other obligations incurred on behalf of a technical college by a school board, a joint vocational district under Minnesota Statutes, section 136C.60, or an intermediate school district under Minnesota

Statutes, chapter 136D, which will not be satisfied on or before June 30, 1995, transfer to the higher education board subject to limits identified in state law or in plans or policies of the higher education board subject to legislative approval.

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

Subd. 1a. [MEMORANDUM OF UNDERSTANDING APPROVED.] The memorandum of understanding dated March 29, 1994, and signed by the chancellor of the higher education board, the state negotiator, and the bargaining representatives of state employees concerning employee security during the merger of the state universities, the community colleges, and the state technical colleges is ratified.

Subd. 2. [PERSONNEL TRANSFER.] The commissioner of employee relations shall allocate positions and incumbent employees who are primarily employed in post-secondary or extension vocational education positions in an intermediate, joint, or school district on June 30, 1995, to appropriate classes in the state classification plan under Minnesota Statutes, section 43A.07, without loss of pay, or place the positions and incumbent employees in the unclassified service under Minnesota Statutes, section 43A.08, subdivision 1, clause (9). The commissioner shall also assign positions and incumbent employees to an appropriate state unit under Minnesota Statutes, section 179A.10, subject to challenge or petition of such unit assignment to the bureau of mediation services. Positions transferred with their incumbents do not create vacancies in state service.

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

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

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

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

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

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

Subdivision 1. [GENERALLY.] (a) The terms and conditions of a collective bargaining agreement agreements, compensation plans, personnel policies, or other salary and benefit provisions covering an employee employees trans-

ferred to the higher education board ~~remains~~ remain in effect until a successor agreement becomes effective. This ~~section~~ paragraph applies to all employees transferred to the board except as modified by paragraph (b) and section 3.

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

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

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

Sec. 13. [TRANSITIONAL PERIOD COLLECTIVE BARGAINING.]

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

Subd. 2. [DATE OF EMPLOYMENT.] The date of first employment by the higher education board is the date on which services were first performed by

the employee for the employer from which the employee is being transferred. For employees whose transfer is from a joint technical college district under Minnesota Statutes, sections 136C.60 to 136C.69, the date on which services were first performed by the employee is the date on which services were first performed by the employee in the member school district from which the employee was assigned to the joint technical college district.

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

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

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

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

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

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

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

Sec. 4. [EFFECTIVE DATE.]

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

ARTICLE 6

REVENUE BONDING AUTHORITY

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

136.31 [STATE UNIVERSITY HIGHER EDUCATION BOARD, DUTIES.]

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

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

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

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

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

(e) (5) borrow money and issue and sell bonds in such an amount or amounts as the legislature shall authorize authorizes for the purpose of acquiring, constructing, completing, remodeling, or equipping any such buildings or structures, and acquiring sites therefor, and refund and refinance the same from time to time the bonds by the issuance and sale of refunding bonds as often as it shall in when the board's judgment be advantageous to board finds that it is in the public interest so to do. All such The bonds shall be sold and issued by said the board in the manner and upon the terms and conditions provided by chapter 475, except as otherwise provided in this section. Such The bonds shall be are payable solely only from and secured by

an irrevocable pledge of the revenues to be derived from the operation of any ~~such~~ buildings or structures acquired, constructed, completed, remodeled, or equipped in whole or in part with the proceeds of ~~such~~ the bonds and in addition thereto from ~~such~~ other income and revenues described in section ~~136.33~~ 136E.82, clause (a) (1), as ~~said~~ the board by resolution shall specify, and notwithstanding this limitation all bonds issued ~~hereunder~~ under sections 136E.80 to 136E.88 shall have the qualities of negotiable instruments under the laws of this state. The legislature ~~intends~~ shall not to appropriate money from the general fund to pay for these bonds.

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

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

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

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

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

sales, must be credited to and made a part of the fund and account for which the investment is made.

Subd. 6. In any case where the board determines to issue and sell refunding revenue bonds six months or more before the earliest date on which all bonds of the series to be refunded thereby will have matured or will have been redeemed upon call as hereinafter provided, the proceeds of the refunding revenue bonds shall be deposited, together with any revenues available and designated by the board for the purpose, in escrow with a suitable banking institution within or without the state, whose deposits are insured by the Federal Deposit Insurance Corporation and whose combined capital and surplus is not less than one million dollars, and shall be invested, simultaneously with the delivery of the bonds, in securities maturing or callable at the option of the holder on such dates and bearing interest at such rates as shall be required to provide funds sufficient, with any cash retained in the escrow account, to pay when due the interest to accrue on each bond of the series refunded to its maturity or, if prepayable, to an earlier designated date on which it may be called for redemption; and to pay the principal amount of each such bond at maturity or, if prepayable, at its designated earlier redemption date, and to pay any premium required for redemption on such date; and before the refunding revenue bonds are delivered, the board shall by resolution irrevocably appropriate for these purposes, and for the payment of the reasonable charges of banks designated as escrow and paying agents, the escrow account and all payments of principal and interest on the securities held therein, and shall provide for the call of all prepayable bonds of such series, in accordance with their terms, on the redemption date or dates designated. The board may place in escrow pursuant to this subdivision any funds previously pledged and appropriated for the payment of principal and interest on bonds to be refunded; and it may, when deemed necessary in the public interest, issue refunding revenue bonds in the amount necessary to place in escrow the funds required to pay any premium for redemption of refunded bonds before their stated maturities. Investments of the escrow account shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following agencies of the United States: Banks for Cooperatives, Federal Home Loan Banks, Federal Intermediate Credit Banks, Federal Land Banks, and the Federal National Mortgage Association. No refunding revenue bonds shall be issued more than ten years before the last date on which all revenue bonds of the series to be refunded thereby will mature or are directed to be prepaid in accordance with their terms.

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

appropriation or use of board money to secure outstanding revenue bonds contrary to a board resolution authorizing the issuance and providing for the security of the bonds, or the use of other board money contrary to the terms of a contract, specific legislative appropriation, or law.

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

136.32 [BONDS, INVESTMENTS.]

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

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

136.33 [RESOLUTION OF BOARD.]

Upon the determination by ~~said university~~ *the higher education board* or its successor to acquire, construct, complete, remodel, or equip any student residence halls, dormitories, dining halls, student union buildings, *parking facilities*, or other similar revenue-producing building or buildings, ~~said the~~ board or its successor shall adopt a resolution describing generally the contemplated project, the estimated cost ~~thereof~~, including legal, engineering and financial expenses and interest on the bonds during the period of constructing the project and for six months thereafter, fixing the amount of *the* bonds, the maturity or maturities, the interest rate, and all details in respect ~~thereof of the bonds~~. ~~Such~~ The resolution shall contain ~~such~~ covenants as may be determined by ~~said the~~ board or its successor as to:

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

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

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

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

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

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

(g) ~~such~~ (7) other covenants as may be deemed necessary or desirable to assure the prompt and punctual payment of all bonds issued under sections ~~136.34 136E.80 to 136.38 136E.88.~~

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

136.34 [STUDENT ACTIVITIES, FEES CHARGED.]

Whenever bonds are issued as provided in sections ~~136.34 136E.80 to 136.38 136E.88~~; it shall be the duty of ~~said the~~ higher education board to establish charges or fees, including without limitation fees for student activities and fees for student facilities, for the use of any buildings or structures sufficient at all times to pay the principal of and interest on ~~such the~~ bonds and to create and maintain suitable reserves ~~therefor for them~~ and the necessary expenses of ~~the their~~ operation and maintenance ~~thereof~~; and All revenues derived from ~~the their~~ operation ~~thereof~~ shall be set aside in a separate fund and accounts as ~~hereinafter provided~~ and shall be irrevocably pledged for and used only in paying to pay the principal of and interest upon the bonds issued for the purpose or purposes set forth and described in the resolution authorizing the issuance of ~~said the~~ bonds, and the necessary expenses of the operation and maintenance ~~thereof of the buildings and structures~~; and ~~such the~~ charges and fees shall be sufficient at all times for ~~such these~~ purposes.

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

136.35 [SPECIAL REVENUE FUND.]

(a) The gross total income derived from the sale of bonds, and receipts and income derived from charges or fees, rentals, and all other revenue established for the use and service of any ~~such~~ buildings or structures shall, within three days after their receipt ~~thereof~~, be paid to and held by the treasurer of the higher education board as a special fund known as, "The University Higher Education Board of the State of Minnesota Universities Revenue Fund." The treasurer shall be custodian of ~~such the~~ special fund, which fund shall be held and disbursed for the purposes provided in sections ~~136.34 136E.80 to 136.38 136E.88~~. The ~~said~~ special fund shall be protected by a corporate surety bond executed by the treasurer of the board with a surety authorized to do business under the laws of the state of Minnesota. The amount of ~~such the~~ bond shall be fixed by resolution of ~~said university the~~ board or its successor and may be increased or diminished at any time. The premiums of ~~such the~~ bonds shall be payable from "The University Higher Education Board of the State of Minnesota Universities Revenue Fund" and charged as an item of maintenance expense.

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

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

136.36 [ALLOCATION OF RECEIPTS.]

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

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

136.37 [ADMINISTRATION.]

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

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

136.38 [CONTRACTS OF BOARD, PERFORMANCE COMPELLED.]

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

the principal of and interest on ~~such~~ the bonds issued as provided for in sections ~~136.31~~ 136E.80 to ~~136.38~~ 136E.88, and for the necessary expenses of operation and maintenance.

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

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

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

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

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

Sec. 11. [REPEALER.]

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

Sec. 12. [REVISOR INSTRUCTION.]

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

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

Sec. 13. [EFFECTIVE DATE.]

Sections 1 to 12 are effective July 1, 1995.

ARTICLE 7

ADMINISTRATION AND FINANCE

Section 1. Minnesota Statutes 1992, section 136C.06, is amended to read:

136C.06 [SOLE STATE AGENCY.]

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

Sec. 2. Minnesota Statutes 1992, section 136E.01, subdivision 1, is amended to read:

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

Sec. 3. Minnesota Statutes 1992, section 136E.01, subdivision 2, is amended to read:

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

Sec. 4. Minnesota Statutes 1992, section 136E.02, subdivision 1, is amended to read:

Subdivision 1. [PURPOSE.] A higher education board candidate advisory council shall assist the governor in determining criteria for, and identifying and recruiting qualified candidates for, *nonstudent* membership on the higher education board.

Sec. 5. [136E.021] [STUDENT BOARD MEMBER SELECTION.]

Subdivision 1. [RESPONSIBILITY.] *Notwithstanding section 136E.02, the statewide community college student association, state university student association, and technical college student association shall each have the responsibility for recruiting, screening, and recommending qualified candidates for its student member of the board.*

Subd. 2. [CRITERIA.] *After consulting with the higher education board candidate advisory council, the student associations shall jointly develop a statement of the selection criteria to be applied to potential candidates.*

Subd. 3. [RECRUITING AND SCREENING.] *Each student association shall develop processes for identifying and recruiting qualified candidates and for screening those candidates.*

Subd. 4. [RECOMMENDATIONS.] Each student association shall recommend at least two and not more than four candidates for its student member. By January 2 of the year in which its members' term expires, each student association shall submit its recommendations to the governor. The governor is not bound by these recommendations.

Sec. 6. Minnesota Statutes 1993 Supplement, section 136E.03, is amended to read:

136E.03 [MISSION MISSIONS.]

The mission of the board is to provide programs of study that meet the needs of students for occupational, general, baccalaureate, and graduate education. The state universities, community colleges, and technical colleges shall have distinct missions as provided in section 135A.052, subdivision 1. Within that statutory definition and subject to the approval of the board, each community college, state university, and technical college may develop its own distinct campus mission. The board shall develop administrative arrangements that make possible the efficient use of the facilities and staff of the technical colleges, community colleges, and state universities for providing these several different programs of study, so that students may have the benefit of improved and broader course offerings, ease of transfer among schools and programs, integrated course credit, coordinated degree programs, and coordinated financial aid. In carrying out the merger of the three separate systems, the board shall control administrative costs by eliminating duplicative administrative positions and course offerings.

Sec. 7. [136E.50] [STUDENT ASSOCIATIONS.]

Subdivision 1. [STATEWIDE.] The board shall recognize one statewide student association for the community colleges, one for the state universities, and one for the technical colleges. Each statewide student association shall be affiliated with its campus student associations but all students enrolled on those campuses shall be members of their respective statewide association.

Subd. 2. [FEES.] Each statewide association shall set its fees to be collected by the board and shall submit any changes in its fees to the board for review. The board may revise or reject the fee change. Fees must be collected by each community college, state university, and technical college and shall be credited to each association's account to be spent as determined by that association.

Subd. 3. [CONSOLIDATION.] No changes may be made to student associations located on community college, state university, technical college, or consolidated colocated campuses without the approval of each affected campus association in consultation with its state student association.

Sec. 8. [136E.65] [CONSTRUCTION, IMPROVEMENT, AND REPAIR OF FACILITIES.]

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

plans and specifications, approve estimates for payment, and accept the improvements when completed according to the plans and specifications.

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

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

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

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

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

Sec. 10. [INITIAL TERMS.]

Notwithstanding Minnesota Statutes, section 136E.01, the terms of the initial permanent student members of the board shall be as follows: the technical college student shall serve one year, the community college student shall serve one year, and the state university student shall serve two years.

Sec. 11. [REVISOR INSTRUCTION.]

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

Sec. 12. [EFFECTIVE DATE.]

Sections 1 to 3, 7, 8, 10 and 11 are effective July 1, 1995."

Delete the title and insert:

"A bill for an act relating to education; appropriating money for education and related purposes to the higher education coordinating board, state board of

technical colleges, higher education board, state board for community colleges, state university board, board of regents of the University of Minnesota, and the finance department, with certain conditions; modifying the award of grants for faculty exchange and temporary assignment programs; changing community college designations; prescribing changes to certain financial aid programs; reinstating rules pertaining to private business, trade, and correspondence schools and technical colleges personnel licensing; modifying POST board authority; adopting a post-secondary funding formula; providing for appointments; defining authority for bargaining with certain employees; designating certain higher education board employees as unclassified; clarifying transfer provisions for the merger of community colleges, state universities, and technical colleges; transferring bonding authority for the state universities to the higher education board; establishing the higher education board as the sole state agency for federal funding for vocational education; providing for appointments of additional student members on the higher education board; establishing the student board member selection process; authorizing the higher education board to supervise and control construction, improvement, and repair of its facilities; preserving distinct post-secondary missions; recognizing separate student associations; amending Minnesota Statutes 1992, sections 43A.06, subdivision 1; 43A.08, subdivision 1; 43A.18, by adding a subdivision; 135A.01; 135A.04; 136.31; 136.32; 136.33; 136.34; 136.35; 136.36; 136.37; 136.38; 136.41, by adding a subdivision; 136A.121, subdivision 17; 136A.125, subdivisions 2, 3, 4, and by adding a subdivision; 136A.15, subdivision 6; 136C.06; 136E.01, subdivisions 1 and 2; 136E.02, subdivision 1; and 179A.10, subdivision 1; Minnesota Statutes 1993 Supplement, sections 43A.18, subdivision 4; 125.138, subdivisions 1, 6, and 8; 136.41, subdivision 8; 136A.233, subdivisions 1 and 2; and 136E.03; Laws 1991, chapter 356, article 9, sections 8, subdivision 1; 9, 12, and 13; Laws 1993, chapter 224, article 12, section 39; Laws 1993, First Special Session chapter 2, article 5, section 2; proposing coding for new law in Minnesota Statutes, chapters 135A; 136; and 136E; repealing Minnesota Statutes 1992, sections 135A.02; 135A.03, subdivisions 1, 1a, 2, 3, 3a, 4, 5, and 6; 135A.06, subdivisions 2, 3, 4, 5, and 6; 136.31, subdivision 6; 136.40; 136.41, subdivisions 1, 2, 3, 4, 5, 6, and 7; 136.42; and 136C.36; Minnesota Statutes 1993 Supplement, sections 135A.03, subdivision 7; 135A.05; and 135A.061."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) LeRoy A. Stumpf, Leonard R. Price, Sam G. Solon, Deanna Wiener, Cal Larson

House Conferees: (Signed) Gene Pelowski, Jr., Lyndon R. Carlson, Anthony G. "Tony" Kinkel, John Dorn, Connie Morrison

Mr. Stumpf moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2900 be now adopted; and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2900 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2246 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2246

A bill for an act relating to natural resources; authorizing the exchange of certain state lands in Wabasha and Fillmore counties under certain conditions.

April 20, 1994

The Honorable Allan H. Spear
President of the Senate

The Honorable Irv Anderson
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2246, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 2246 be further amended as follows:

Page 2, after line 15, insert:

"Sec. 2. [PRIVATE SALE OF TAX-FORFEITED LAND; GOODHUE COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Goodhue county may convey by private sale the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The land described in paragraph (c) may be sold by private sale to Veterans of Foreign Wars Post No. 5727 of Zumbrota, Minnesota. The conveyance must be in a form approved by the attorney general.

(c) The land that may be conveyed is located in Goodhue county and is described as:

(1) City of Zumbrota, Original plat, tax parcel No. 72-100-1410; and

(2) City of Zumbrota, Original plat, tax parcel No. 72-100-1440.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 3. [WATER SUPPLY TO WABASHA COUNTY FAIRGROUNDS.]

(a) Except as provided in paragraph (b), that portion of the water supply system at the Wabasha county fairgrounds that is covered under department of health plan number 930051 need not comply with the following provisions of the Minnesota plumbing code:

(1) Minnesota Rules, part 4715.3130, requiring prior approval of plans for plumbing systems;

(2) Minnesota Rules, parts 4715.0420, subpart 3, item VI, and 4715.0510, item G, requiring plastic water service pipe to have a working pressure rating of at least 150 pounds per square inch and imposing other requirements on the use of plastic water service pipe;

(3) Minnesota Rules, part 4715.1710, subpart 2, requiring prior approval and imposing other conditions for placing a water service pipe and building sewer in the same trench;

(4) Minnesota Rules, parts 4715.2120 and 4715.2280, requiring that backflow preventing devices and water meters be installed at least 12 inches above the floor; and

(5) Minnesota Rules, parts 4715.2800 to 4715.2830, requiring that plumbing systems be inspected, tested, and approved before being covered.

(b) If the use of the Wabasha county fairgrounds exceeds 20 days per year, the entire water supply system must be brought into compliance with all applicable requirements of law."

Page 2, line 16, delete "2" and insert "4"

Amend the title as follows:

Page 1, line 4, before the period, insert "; authorizing private sale of certain tax-forfeited land that borders public water in Goodhue county; exempting from certain provisions of the plumbing code a portion of the water supply system at the Wabasha county fairgrounds"

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Steve L. Murphy, Steven Morse, Steve Dille

House Conferees: (Signed) Bob Waltman, Steven A. Sviggum, Virgil J. Johnson

Mr. Murphy moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2246 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2246 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

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

Those who voted in the affirmative were:

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

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1898 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1898

A bill for an act relating to insurance; health; requiring coverage for equipment and supplies for the management and treatment of diabetes; proposing coding for new law in Minnesota Statutes, chapter 62A.

April 12, 1994

The Honorable Allan H. Spear
President of the Senate

The Honorable Irv Anderson
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1898, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment adopted April 6, 1994, and the Senate concur in the House amendment adopted April 4, 1994.

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Deanna Wiener, Pat Piper, Dennis R. Frederickson

House Conferees: (Signed) Thomas Pugh, Gregory M. Davids

Ms. Wiener moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1898 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1898 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 60 and nays 7, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Benson, D.D.	Merriam	Pariseau	Robertson	Samuelson
Kiscaden	Oliver			

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 2429: A bill for an act relating to natural resources; modifying the list of protected game birds; authorizing nonresident multiple zone antlered deer licenses; purchase of archery deer licenses after the firearms season opens; administration of contraceptive chemicals to wild animals; taking big game by handgun in a shotgun deer zone; possession of firearms in muzzle-loader only deer zones; modifying restrictions on operation of snowmobiles by minors; providing for free small game licenses for disabled veterans; undesirable exotic aquatic plants and wild animals; Eurasian wild pigs; clarifying the requirement to wear blaze orange clothing during deer season; allowing local road authorities to remove beaver dams and lodges near public roads; allowing released game birds to be recaptured without a license; allowing use of retractable broadhead arrows in taking big game; defining tip-up to include certain mechanical devices for hooking fish; allowing nonresidents to take rough fish by harpooning; requiring the department of natural resources to share in the expense of partition fences; allowing the taking of two deer in designated counties during the 1994 and 1995 hunting seasons; abolishing the nonresident bear guide license; amending Minnesota Statutes 1992, sections 18.317, subdivisions 1, 1a, 2, 3, 4, and 5; 84.966,

subdivision 1; 84.967; 84.968, subdivision 2; 84.9691; 86B.401, subdivision 11; 97A.015, subdivisions 24, 45, and 52; 97A.105, subdivision 6; 97A.115, subdivision 2; 97A.441, by adding a subdivision; 97A.475, subdivision 3; 97A.485, subdivision 9; 97A.501, by adding a subdivision; 97B.031, subdivision 2; 97B.211, subdivision 2; 97B.601, subdivision 3; 97B.605; 97B.631; 97B.655, subdivision 1; 97B.701, by adding a subdivision; 97B.711, subdivision 1; 97C.321, subdivision 2; and 344.03, subdivision 1; Minnesota Statutes 1993 Supplement, sections 18.317, subdivision 3a; 84.872; 84.9692, subdivisions 1 and 2; 84.9695, subdivisions 1, 8, and 10; 97B.041; 97B.071; and 97B.711, subdivision 2; Laws 1993, chapters 129, section 4, subdivision 4; and 273, section 1; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 1992, section 97A.475, subdivision 17.

Senate File No. 2429 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 25, 1994

Mr. Lessard moved that the Senate do not concur in the amendments by the House to S.F. No. 2429, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2309 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2309: A bill for an act relating to civil actions; consolidating and recodifying statutes providing limitations on private personal injury liability; providing immunity for certain volunteer athletic physicians and trainers; limiting liability for certain injuries arising out of nonprofit livestock activities; modifying provisions dealing with recreational land use liability; amending Minnesota Statutes 1992, section 144.761, subdivision 5; proposing coding for new law as Minnesota Statutes, chapter 604A; repealing Minnesota Statutes 1992, sections 31.50; 87.021; 87.0221; 87.023; 87.024; 87.025; 87.026; 87.03; 604.05; 604.08; 604.09; and 609.662, subdivision 5.

Ms. Reichgott Junge moved that S.F. No. 2309 be laid on the table. The motion prevailed.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 3032 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 3032: A bill for an act relating to game and fish; clarifying the purposes for which various game and fish revenues may be spent; abolishing the angling license refund for senior citizens; changing certain deer hunting

provisions; amending Minnesota Statutes 1992, sections 97A.071, subdivision 3; 97A.075, subdivisions 2, 3, and 4; 97A.475, subdivisions 6, 7, 8, and 13; and 97A.485, subdivision 7; and 97B.055, subdivision 3; Minnesota Statutes 1993 Supplement, sections 97A.055, subdivision 4; 97A.091, subdivision 2; 97A.475, subdivision 12; and 97A.485, subdivision 6; repealing Minnesota Statutes 1992, sections 97A.065, subdivision 3; and 97A.475, subdivision 9.

Mr. Merriam moved to amend H.F. No. 3032, as amended pursuant to Rule 49, adopted by the Senate April 20, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 2445)

Page 11, line 24, after the semicolon, insert "and"

Page 11, line 26, delete " ; and" and insert a period

Page 11, line 27, delete "(4)" and insert "(c)" and delete " appropriation" and insert "appropriations made in Laws 1993, chapter 172, section 5, subdivision 7,"

Page 11, line 29, delete "is" and insert "are" and before the period, insert "in fiscal year 1994 and \$874,000 in fiscal year 1995"

Page 11, line 30, delete "(c)" and insert "(d)"

Page 12, after line 9, insert:

"Sections 3, 4, and 22; paragraph (c), are effective the day following final enactment."

The motion prevailed. So the amendment was adopted.

Mr. Merriam then moved to amend H.F. No. 3032, as amended pursuant to Rule 49, adopted by the Senate April 20, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 2445.)

Page 7, after line 18, insert:

"Sec. 12. Minnesota Statutes 1993 Supplement, section 97A.091, subdivision 2, is amended to read:

Subd. 2. [WHEN HUNTING ALLOWED.] (a) The commissioner may allow hunting of a protected wild animal species within any portion of a state game refuge, including a state park. Hunting may be allowed under this paragraph only if the commissioner finds:

- (1) the population of the species exceeds the refuge's carrying capacity;
 - (2) the species is causing substantial damage to agricultural or forest crops in the vicinity;
 - (3) the species or other protected wild animals are threatened by the species population; or
 - (4) a harvestable surplus of the species exists.
- (b) The commissioner may allow hunting of unprotected wild animals in a game refuge.
- (c) The commissioner may prescribe rules for any hunting allowed within a refuge.

(d) In any selection process for permits to take deer within a game refuge, the commissioner may designate a certain number of permits that are available only to applicants who are age 70 or over or are qualified for a special permit under section 97B.055, subdivision 3, or 97B.106."

Page 10, after line 26, insert:

"Sec. 21. Minnesota Statutes 1992, section 97B.055, subdivision 3, is amended to read:

Subd. 3. [HUNTING FROM VEHICLE BY DISABLED HUNTERS.] The commissioner may issue a special permit, without a fee, to discharge a firearm or bow and arrow from a stationary motor vehicle to a licensed hunter that is temporarily or permanently physically unable to walk without crutches, braces, or other mechanical support, or who has a physical disability which substantially limits the person's ability to walk. The physical disability and the substantial inability to walk must be established by medical evidence verified in writing by a licensed physician. A person with a temporary disability may be issued an annual permit and a person with a permanent disability may be issued a permanent permit. *A person issued a special permit under this subdivision and hunting deer may take a deer of either sex."*

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Berg moved to amend H.F. No. 3032, as amended pursuant to Rule 49, adopted by the Senate April 20, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 2445.)

Page 1, after line 22, insert:

"Section 1. [17.4999] [STORAGE, HANDLING, AND DISPOSAL OF FISH MANURE.]

Fish manure from aquatic farm operations:

(1) is subject to the same requirements under state law and rules as other animal manures; and

(2) if managed in a pond system, may be applied as a manipulated manure under chapter 18C if certified by the commissioner."

Page 7, after line 18, insert:

"Sec. 13. Minnesota Statutes 1992, section 97A.135, subdivision 3, is amended to read:

Subd. 3. [COOPERATIVE FARMING AGREEMENTS.] On any public hunting, game refuge, ~~or wildlife management area, or scientific and natural area~~ lands, the commissioner may enter into written cooperative farming agreements ~~with nearby farmers~~ on a sharecrop basis, without competitive bidding, for the purpose of ~~establishing or maintaining wildlife food or cover for habitat purposes and plant management~~. Cooperative farming agreements may also be used to allow pasturing of livestock. The agreements may provide for the bartering of a share of any crop, ~~not exceeding \$1,500 in value and produced from these lands, for services such as weed control, planting, cultivation, or other wildlife habitat practices or products that will enhance or~~

benefit the management of state lands for plant and animal species. Cooperative farming agreements pursuant to this section shall not be considered leases for tax purposes under section 272.01, subdivision 2, or 273.19."

Page 12, after line 9, insert:

"Section 1 is effective the day following final enactment and applies to licensed aquatic farms in operation on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Benson, D.D. moved to amend H.F. No. 3032, as amended pursuant to Rule 49, adopted by the Senate April 20, 1994, as follows:

(The text of the amended House File is identical to S.F. No. 2445.)

Page 2, lines 21 and 26, delete "*commissioner*" and insert "*legislative commission on Minnesota resources*"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 23 and nays 42, as follows:

Those who voted in the affirmative were:

Beckman	Day	Kiscaden	Neuville	Runbeck
Belanger	Dille	Knutson	Oliver	Stevens
Benson, D.D.	Frederickson	Larson	Olson	Vickerman
Benson, J.E.	Johnson, D.E.	Lesewski	Pariseau	
Chmielewski	Johnston	McGowan	Robertson	

Those who voted in the negative were:

Adkins	Flynn	Laidig	Morse	Riveness
Anderson	Hanson	Langseth	Murphy	Sams
Berg	Hottinger	Lessard	Novak	Solon
Berglin	Janezich	Luther	Pappas	Spear
Bertram	Johnson, D.J.	Marty	Piper	Stumpf
Betzold	Johnson, J.B.	Merriam	Pogemiller	Wiener
Chandler	Kelly	Metzen	Price	
Cohen	Krentz	Moe, R.D.	Ranum	
Finn	Kroening	Mondale	Reichgott Junge	

The motion did not prevail. So the amendment was not adopted.

H.F. No. 3032 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 51 and nays 14, as follows:

Those who voted in the affirmative were:

Adkins	Flynn	Kroening	Morse	Reichgott Junge
Anderson	Frederickson	Laidig	Neuville	Robertson
Belanger	Hanson	Langseth	Novak	Runbeck
Benson, D.D.	Hottinger	Larson	Oliver	Spear
Benson, J.E.	Johnson, D.E.	Lesewski	Olson	Stevens
Berg	Johnson, J.B.	Lessard	Pappas	Stumpf
Betzold	Johnston	Luther	Pariseau	Wiener
Chandler	Kelly	Marty	Piper	
Cohen	Kiscaden	McGowan	Pogemiller	
Day	Knutson	Merriam	Price	
Dille	Krentz	Moe, R.D.	Ranum	

Those who voted in the negative were:

Beckman	Chmielewski	Johnson, D.J.	Murphy	Solon
Berglin	Finn	Metzen	Riveness	Vickerman
Bertram	Janezich	Mondale	Sams	

So the bill, as amended, was passed and its title was agreed to.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2475 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2475: A bill for an act relating to workers' compensation; regulating insurance; limiting long-term benefits; adjusting supplemental benefits; providing coverage for independent contractors; strengthening fraud prevention; adjusting permanent partial benefits; providing for safety programs; appropriating money; amending Minnesota Statutes 1992, sections 79.085; 176.041, subdivision 1; 176.101, subdivisions 3b and 5; 176.132, subdivisions 2 and 3; 176.178; 176.185, subdivision 1; and 176.232; Minnesota Statutes 1993 Supplement, section 176.041, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapters 79; 176; and 182; repealing Minnesota Statutes 1992, sections 79.01, subdivisions 7 and 8; 79.074, subdivision 2; 79.50; 79.51, as amended; 79.52; 79.53; 79.54; 79.55; 79.56; 79.57; 79.58; 79.59; 79.60; 79.61; and 79.62; Minnesota Statutes 1993 Supplement, section 79.211, subdivision 1.

CALL OF THE SENATE

Mr. Moe, R.D. imposed a call of the Senate for the balance of the proceedings on S.F. No. 2475. The Sergeant at Arms was instructed to bring in the absent members.

Mr. Novak moved to amend S.F. No. 2475 as follows:

Page 2, after line 16, insert:

"Sec. 3. Minnesota Statutes 1992, section 176.011, subdivision 15, is amended to read:

Subd. 15. [OCCUPATIONAL DISEASE.] (a) "Occupational disease" means a disease arising out of and in the course of employment peculiar to the occupation in which the employee is engaged and due to causes in excess of the hazards ordinary of employment and shall include undulant fever. Ordinary diseases of life to which the general public is equally exposed outside of employment are not compensable, except where the diseases follow as an incident of an occupational disease, or where the exposure peculiar to the occupation makes the disease an occupational disease hazard. A disease arises out of the employment only if there be a direct causal connection between the conditions under which the work is performed and if the occupational disease follows as a natural incident of the work as a result of the exposure occasioned by the nature of the employment. An employer is not liable for compensation for any occupational disease which cannot be traced to the employment as a direct and proximate cause and is not recognized as a hazard characteristic of and peculiar to the trade, occupation, process, or employment or which results from a hazard to which the worker would have been equally exposed outside of the employment.

(b) If immediately preceding the date of disablement or death, an employee was employed on active duty with an organized fire or police department of any municipality, as a member of the Minnesota state patrol, conservation officer service, state crime bureau, as a forest officer by the department of natural resources, ~~or~~ sheriff or full-time deputy sheriff of any county, *or emergency medical services personnel as defined in section 144.761, subdivision 5, clauses (1) and (3)*, and the disease is that of myocarditis, coronary sclerosis, pneumonia or its sequel, and at the time of employment such employee was given a thorough physical examination by a licensed doctor of medicine, and a written report thereof has been made and filed with such organized fire or police department, with the Minnesota state patrol, conservation officer service, state crime bureau, department of natural resources, ~~or~~ sheriff's department of any county, *or the employer of the emergency medical services personnel as defined in section 144.761, subdivision 5, clauses (1) and (3)*, which examination and report negated any evidence of myocarditis, coronary sclerosis, pneumonia or its sequel, the disease is presumptively an occupational disease and shall be presumed to have been due to the nature of employment. If immediately preceding the date of disablement or death, any individual who by nature of their position provides emergency medical care, or an employee who was employed as a licensed police officer under section 626.84, subdivision 1; firefighter; paramedic; emergency medical technician; or licensed nurse providing emergency medical care; and who contracts an infectious or communicable disease to which the employee was exposed in the course of employment outside of a hospital, then the disease is presumptively an occupational disease and shall be presumed to have been due to the nature of employment and the presumption may be rebutted by substantial factors brought by the employer or insurer.

(c) A firefighter on active duty with an organized fire department who is unable to perform duties in the department by reason of a disabling cancer of a type caused by exposure to heat, radiation, or a known or suspected carcinogen, as defined by the International Agency for Research on Cancer, and the carcinogen is reasonably linked to the disabling cancer, is presumed to have an occupational disease under paragraph (a). If a firefighter who enters the service after August 1, 1988, is examined by a physician prior to being hired and the examination discloses the existence of a cancer of a type described in this paragraph, the firefighter is not entitled to the presumption unless a subsequent medical determination is made that the firefighter no longer has the cancer."

Renumber the sections of article 1 in sequence and correct the internal references

Page 12, after line 9, insert:

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

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

Sec. 2. Minnesota Statutes 1993 Supplement, section 79.211, subdivision 1, is amended to read:

Subdivision 1. [CERTAIN WAGES EXCLUDED FOR RATEMAKING.]
The rating association or an insurer shall not include wages paid for a

~~vacation; holiday; or sick leave in the determination of a workers' compensation insurance premium.~~

An insurer, including the assigned risk plan, shall not include wages paid for work performed in an adjacent state in the determination of a workers' compensation premium if the employer paid a workers' compensation insurance premium to the exclusive state fund of the adjacent state on the wages earned in the adjacent state."

Page 22, line 9, delete "; Minnesota Statutes" and insert ", are repealed."

Page 22, delete line 10

Renumber the sections of article 2 in sequence and correct the internal references

Page 23, after line 15, insert:

"ARTICLE 4

SELF-INSURANCE

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

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

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

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

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

Subd. 2. [ADVICE TO COMMISSIONER.] At the request of the commissioner, the committee shall meet and shall advise the commissioner with respect to whether or not an applicant to become a private self-insurer in the state of Minnesota has met the statutory requirements to self-insure. *The department of commerce may furnish the committee with any financial data which it has, but a member of the advisory committee who may have a conflict*

of interest in reviewing the financial data shall not have access to the data nor participate in the discussions concerning the applicant. All members of the advisory committee shall treat financial data received from the commissioner as nonpublic data. The committee shall advise the commissioner if it has any information that any private self-insurer may become insolvent. Disclosure of this data other than for the purposes of this subdivision is a misdemeanor.

Sec. 4. Minnesota Statutes 1993 Supplement, section 79A.04, subdivision 2, is amended to read:

Subd. 2. [MINIMUM DEPOSIT.] The minimum deposit is 110 percent of the private self-insurer's estimated future liability. Up to ten percent of that deposit may be used to secure payment of all administrative and legal costs, and unpaid assessments required by section 79A.12, subdivision 2, relating to or arising from the employer's self-insuring. As used in this section, "private self-insurer" includes both current and former members of the self-insurers' security fund; and "private self-insurers' estimated future liability" means the private self-insurers' total of estimated future liability as determined by an Associate or Fellow of the Casualty Actuarial Society every year for group member private self-insurers and, for a nongroup member private self-insurer's authority to self-insure, every year for the first five years. After the first five years, the nongroup member's total shall be as determined by an Associate or Fellow of the Casualty Actuarial Society at least every two years, and each such actuarial study shall include a projection of future losses during the ~~two-year~~ period until the next scheduled actuarial study, less payments anticipated to be made during that time.

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

Estimated future liability is determined by first taking the total amount of the self-insured's future liability of workers' compensation claims and then deducting the total amount which is estimated to be returned to the self-insurer from any specific excess insurance coverage, aggregate excess insurance

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

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

Sec. 5. Minnesota Statutes 1992, section 79A.04, subdivision 9, is amended to read:

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

Sec. 6. Minnesota Statutes 1992, section 79A.15, is amended to read:

79A.15 [SURETY BOND FORM.]

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

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

IN THE MATTER OF THE CERTIFICATE OF)
)
) SURETY BOND
) NO.
) PREMIUM:
)
Employer, Certificate No:)

KNOW ALL PERSONS BY THESE PRESENTS:

That
(Employer)

whose address is
as Principal, and
(Surety)

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

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

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

FURTHERMORE, it is understood and agreed that:

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

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

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

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

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

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

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

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

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

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

9. If any part or provision of this bond shall be declared unenforceable or held to be invalid by a court of proper jurisdiction, such determination shall

not affect the validity or enforceability of the other provisions or parts of this bond.

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

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

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

.....
Name of Surety

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

.....
Address

.....
City, State, Zip

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

.....
Name of Principal

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

.....
Address

.....
City, State, Zip

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

.....
Name of Surety

.....
Address

.....
City, State, Zip

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

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

.....
Date

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

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

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

Sec. 7. [MUTUAL SELF-INSURANCE POOL STUDY.]

The department of commerce shall study the creation of mutual self-insurance pools, separate from the application of Minnesota Statutes, chapter 79A, the self-insurers' security fund. The purpose of mutual self-insurance pools shall be to cover their members against liability arising under Minnesota Statutes, chapter 176. The study must include, but not be limited to, the following elements:

(1) a mutual self-insurance pool advisory committee to advise the commissioner of commerce;

(2) a mutual self-insurance guaranty fund and board of trustees, and other excess insurance, reinsurance, or other similar requirements;

(3) a minimum premium volume necessary for creation of a pool;

(4) the financial and actuarial requirements of a pool;

(5) the requirements of the bylaws and plan of operation of a pool and the mutual self-insurance pool guaranty fund;

(6) the assessment powers of the pool and of the pool guaranty fund;

(7) the requirement that a pool be a workers' compensation reinsurance association member and specify the workers' compensation reinsurance association's retention level of a pool;

(8) the powers of the commissioner of commerce with respect to regulation and oversight of the pools and their guaranty fund;

(9) the amount of security deposits requirement and types of security allowable;

(10) the requirement of joint and several liability among the members, and the mechanics of establishing joint and several liability;

(11) the requirement of a perfected security interest in the security deposit;

(12) the amount of application fees and renewal fees for a pool;

(13) the requirement that all pools have a third party administrator and a fiscal agent; and

(14) the type and extent of educational programs required for employers before becoming pool members and for employers who are pool members, and for other professionals involved in the creation and maintenance of pools.

The department of commerce shall seek input from interested parties. The intent of the legislature in requiring this study is to allow the creation of mutual self-insurance pools, including small- and medium-sized employers as members, in a financially and actuarially sound basis so as to: (1) continue the appropriate payment of workers' compensation benefits to all injured employees of pool members; (2) do so in accordance with reasonable standards of financial and actuarial soundness which will ensure successful operation of mutual self-insurance pools for the benefit of their members; and (3) make available the benefits of group self-insurance to small- and medium-sized employers. The department shall by February 15, 1995, submit specific recommendations concerning mutual self-insurance pools to the committees of the house of representatives and senate having jurisdiction over workers' compensation self-insurance legislation."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Hottinger moved to amend S.F. No. 2475 as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. Minnesota Statutes 1992, section 79.50, is amended to read:

79.50 [PURPOSES.]

The purposes of chapter 79 are to:

(a) Promote public welfare by regulating insurance rates so that premiums are not excessive, inadequate, or unfairly discriminatory;

(b) Promote quality and integrity in the data bases used in workers' compensation insurance ratemaking;

(c) Prohibit price fixing agreements and anticompetitive behavior by insurers;

(d) Promote price competition and provide rates that are responsive to competitive market conditions;

(c) Provide a means of establishment of proper rates if competition is not effective;

(f) Define the function and scope of activities of data service organizations; and

(g) Provide for an orderly transition from regulated rates to competitive market conditions; and

(h) (e) Encourage insurers to provide alternative innovative methods whereby employers can meet the requirements imposed by section 176.181.

Sec. 2. Minnesota Statutes 1992, section 79.51, subdivision 1, is amended to read:

Subdivision 1. [ADOPTION; WHEN.] The commissioner shall adopt rules to implement provisions of this chapter. ~~The rules shall be finally adopted after May 1, 1982. By January 15, 1982, the commissioner shall provide the legislature a description and explanation of the intent and anticipated effect of the rules on the various factors of the rating system.~~

Sec. 3. Minnesota Statutes 1992, section 79.51, subdivision 3, is amended to read:

Subd. 3. [RULES; SUBJECT MATTER.] (a) The commissioner in issuing rules shall consider:

(1) data reporting requirements, including types of data reported, such as loss and expense data;

(2) experience rating plans;

(3) retrospective rating plans;

(4) general expenses and related expense provisions;

(5) minimum premiums;

(6) classification systems and assignment of risks to classifications;

(7) loss development and trend factors;

(8) the workers' compensation reinsurance association;

(9) requiring substantial compliance with the rules mandated by this section as a condition of workers' compensation carrier licensure;

(10) imposing limitations on the functions of workers' compensation data service organizations consistent with the introduction of competition;

(11) the rules contained in the workers' compensation rating manual adopted by ~~the workers' compensation insurers rating association licensed data service organizations; and~~

(12) *the supporting data and information required in filings under section 79.56, including but not limited to the experience of the filing insurer and the extent to which the filing insurer relies upon data service organization loss information, descriptions of the actuarial and statistical methods employed in setting rates, and the filing insurers interpretation of any statistical data relied upon; and*

(13) any other factors that the commissioner deems relevant to achieve the purposes of this chapter.

(b) The rules shall provide for the following:

(1) ~~competition in workers' compensation insurance rates in such a way that the advantages of competition are introduced with a minimum of employer hardship;~~

(2) adequate safeguards against excessive or discriminatory rates in workers' compensation;

(3) (2) encouragement of workers' compensation insurance rates which are as low as reasonably necessary, but shall make provision against inadequate rates, insolvencies and unpaid benefits;

(4) (3) assurances that employers are not unfairly relegated to the assigned risk pool;

(5) (4) requiring all appropriate data and other information from insurers for the purpose of issuing rules, making legislative recommendations pursuant to this section ~~and monitoring the effectiveness of competition;~~ and

(6) (5) preserving a framework for risk classification, data collection, and other appropriate joint insurer services ~~where these will not impede the introduction of competition in premium rates.~~

Sec. 4. Minnesota Statutes 1992, section 79.53, subdivision 1, is amended to read:

Subdivision 1. [METHOD OF CALCULATION.] Each insurer shall establish premiums to be paid by an employer according to its filed rates and rating plan as follows:

Rates shall be applied to an exposure base to yield a base premium which may be further ~~modified~~ *increased up to 25 percent or decreased without restriction* by merit rating, premium discounts, and other appropriate factors contained in the rating plan of an insurer to produce premium *if the increase or decrease is not unfairly discriminatory*. Nothing in this chapter shall be deemed to prohibit the use of any premium, provided the premium is not excessive, inadequate or unfairly discriminatory.

Sec. 5. Minnesota Statutes 1992, section 79.55, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVENESS.] ~~No premium is excessive in a competitive market. In the absence of a competitive market, premiums~~ *Rates and rating plans* are excessive if the expected underwriting profit, together with expected income from invested reserves ~~for the market in question~~, that would accrue to an insurer *under the rates and rating plans* would be unreasonably high in relation to the risk undertaken by the insurer in transacting the business. *The burden is on the insurer to establish that profit is not unreasonably high.*

Sec. 6. Minnesota Statutes 1992, section 79.55, subdivision 5, is amended to read:

Subd. 5. [DISCOUNTS PERMITTED.] An insurer may offer a ~~discount from scheduled credit or debit~~ to a manual premium *calculated pursuant to section 79.53, subdivision 1*, if the premium otherwise complies with this section. ~~The commissioner shall not by rule, or otherwise, prohibit a credit or~~

discount from a manual premium solely because it is greater than a certain fixed percentage of the premium.

Sec. 7. Minnesota Statutes 1992, section 79.55, is amended by adding a subdivision to read:

Subd. 6. [RATING FACTORS.] In determining whether a rate filing complies with this section, separate consideration shall be given to: (i) past and prospective loss experience within this state and outside this state to the extent necessary to develop credible rates; (ii) dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers; and (iii) a reasonable allowance for expense and profit. An allowance for expense shall be presumed reasonable if it reflects expenses that are 22.5 percent greater or less than the average expense for all insurers writing workers' compensation insurance in this state. An allowance for after-tax profit shall consider anticipated investment income from premium receipts net of disbursements and from allocated surplus, based on the current five-year United States Treasury note yield and an assumed premium to surplus ratio of 2.25 to one. The allowance for after-tax profit shall be presumed reasonable if the corresponding return on equity target is equal to or less than the sum of: (i) the current yield on five-year United States Treasury securities; and (ii) an appropriate equity risk premium that reflects the risks of writing workers' compensation insurance. The risk premium shall not be less than the average, since 1926, of the differences in return between: (i) the annual return, including dividend income, for the Standard and Poor's 500 common stock index or predecessor index for each year; and (ii) the five-year United States Treasury note yield as of the start of the corresponding year. Profit and expense allowances not presumed reasonable under this subdivision, are reasonable if the circumstances of an insurer, the market, or other factors justify them.

Sec. 8. Minnesota Statutes 1992, section 79.55, is amended by adding a subdivision to read:

Subd. 7. [EXTERNAL FACTORS.] That portion of a rate or rating plan related to assessments from the assigned risk plan, reinsurance association, guarantee fund, special compensation fund, agent commission, premium tax and any other state-mandated surcharges shall not cause the rate or rating plan to be considered excessive, inadequate, or unfairly discriminatory.

Sec. 9. Minnesota Statutes 1992, section 79.56, subdivision 1, is amended to read:

Subdivision 1. [AFTER EFFECTIVE DATE PREFILING OF RATES.] Each insurer shall file with the commissioner a complete copy of its rates and rating plan, and all changes and amendments thereto, **within 15 days after their** and such supporting data and information that the commissioner may by rule require, at least 60 days prior to its effective dates date. **An insurer need not file a rating plan if it uses a rating plan filed by a data service organization. If an insurer uses a rating plan of a data service organization but deviates from it, then all deviations must be filed by the insurer.** The commissioner shall advise an insurer within 30 days of the filing if its submission is not accompanied with such supporting data and information that the commissioner by rule may require. The commissioner may extend the filing review period and effective date for an additional 30 days if an insurer, after having been advised of what supporting data and information is necessary to complete its filing, does not provide such information within 15 days of having

been so notified. If any rate or rating plan filing or amendment thereto is not disapproved by the commissioner within the filing review period, the insurer may implement it. For the period January 1, 1994, to December 31, 1994, the filing shall be made at least 90 days prior to the effective date and the department shall advise an insurer within 60 days of such filing if the filing is insufficient under this section.

Sec. 10. Minnesota Statutes 1992, section 79.56, subdivision 3, is amended to read:

Subd. 3. [PENALTIES.] Any insurer using a rate or a rating plan which has not been filed shall be subject to a fine of up to \$100 for each day the failure to file continues. The commissioner may, after a hearing on the record, find that the failure is willful. A willful failure to meet filing requirements shall be punishable by a fine of up to \$500 for each day during which a willful failure continues. These penalties shall be in addition to any other penalties provided by law. Notwithstanding this subdivision, an employer that generates \$500,000 in annual written workers' compensation premium under the rates and rating plan of an insurer before the application of any large deductible rating plans, may be written by that insurer using rates or rating plans that are not subject to disapproval but which have been filed. The \$500,000 threshold shall be increased on January 1, 1995, and on each January 1 thereafter by the percentage increase in the statewide average weekly wage, to the nearest \$1,000. The commissioner shall advise insurers licensed to write workers' compensation insurance in this state of the annual threshold adjustment.

Sec. 11. [79.561] [DISAPPROVAL OF RATES OR RATING PLANS.]

Subdivision 1. [DISAPPROVAL; TIME PERIOD.] The commissioner may disapprove a rate and rating plan or amendment thereto prior to its effective date, as provided under section 79.56, subdivision 1, if the commissioner determines that it is excessive, inadequate, or unfairly discriminatory. If the commissioner disapproves any rate or rating plan filing or amendment thereto, the commissioner shall advise the filing insurer what rate and rating plan the commissioner has reason to believe would be in compliance with section 79.55, and the reasons for that determination. An insurer may not implement a rate and rating plan or amendment thereto which has been disapproved under this subdivision. If the commissioner disapproves any rate and rating plan filing or amendment thereto, an insurer may use its current rate and rating plan for writing any workers' compensation insurance in this state. Following any disapproval, the commissioner and insurer may reach agreement on a rate or rating plan filing or amendment thereto. Notwithstanding any law to the contrary, in such cases, the rate or rating plan filing or amendment thereto may be implemented by the insurer immediately.

Subd. 2. [HEARING.] If an insurer's rate or rating plan filing or amendment thereto is disapproved under subdivision 1, the insurer may request a contested case hearing under chapter 14. The insurer shall have the burden of proof to justify that its rate and rating plan or amendment thereto is in compliance with section 79.55. The hearing must be scheduled promptly and in no case later than three months from the date of disapproval or else the rate and rating plan or amendment thereto shall be considered effective and may be implemented by the insurer. A determination pursuant to chapter 14 must be made within 90 days following the closing of the hearing record.

Subd. 3. [CONSULTANTS AND COSTS.] The commissioner may retain consultants, including a consulting actuary or other experts, that the commissioner determines necessary for purposes of this chapter. The salary limit set by section 43A.17 does not apply to a consulting actuary retained under this subdivision. A consulting actuary shall be a fellow in the casualty actuarial society and shall have demonstrated experience in workers' compensation insurance ratemaking. Any individual not so qualified shall not render an opinion or testify on actuarial aspects of a filing, including but not limited to, data quality, loss development, and trending. The costs incurred in retaining any consulting actuaries and experts shall be reimbursed by the special compensation fund.

Sec. 12. [APPROPRIATION.]

\$900,000 is appropriated from the special compensation fund for the biennium ending June 30, 1995, to the department of commerce for the purposes of this article. The complement of the department of commerce is increased by 13 positions for the purposes of this article.

Sec. 13. [REPEALER.]

Minnesota Statutes 1992, sections 79.53, subdivision 2; 79.54; 79.56, subdivision 2; 79.57; and 79.58, are repealed.

Sec. 14. [EFFECTIVE DATE: TRANSITION.]

This article is effective on January 1, 1995. Rates and rating plans in use as of January 1, 1995, may continue to be used until such time as an amendment thereto or a new rate or rating plan is filed, at which time such submission shall be subject to this article.

ARTICLE 2

Section 1. Minnesota Statutes 1992, section 176.011, subdivision 25, is amended to read:

Subd. 25. [MAXIMUM MEDICAL IMPROVEMENT.] "Maximum medical improvement" means the date after which no further significant recovery from or significant lasting improvement to a personal injury can reasonably be anticipated, based upon reasonable medical probability. Once the date of maximum medical improvement has been determined, no further determinations of other dates of maximum medical improvement for that personal injury is permitted. The determination that an employee has reached maximum medical improvement shall not be rendered ineffective by the worsening of the employee's medical condition and recovery therefrom.

Sec. 2. Minnesota Statutes 1992, section 176.101, subdivision 4, is amended to read:

Subd. 4. [PERMANENT TOTAL DISABILITY.] For permanent total disability, as defined in subdivision 5, the compensation shall be 66-2/3 percent of the daily wage at the time of the injury, subject to a maximum weekly compensation equal to the maximum weekly compensation for a temporary total disability and a minimum weekly compensation equal to the minimum weekly compensation for a temporary total disability 65 percent of the statewide average weekly wage. This compensation shall be paid during the permanent total disability of the injured employee but after a total of \$25,000 of weekly compensation has been paid, the amount of the weekly

compensation benefits being paid by the employer shall be reduced by the amount of any disability benefits being paid by any government disability benefit program if the disability benefits are occasioned by the same injury or injuries which give rise to payments under this subdivision. This reduction shall also apply to any old age and survivor insurance benefits. Payments shall be made at the intervals when the wage was payable, as nearly as may be. In case an employee who is permanently and totally disabled becomes an inmate of a public institution, no compensation shall be payable during the period of confinement in the institution, unless there is wholly dependent on the employee for support some person named in section 176.111, subdivision 1, 2 or 3, in which case the compensation provided for in section 176.111, during the period of confinement, shall be paid for the benefit of the dependent person during dependency. The dependency of this person shall be determined as though the employee were deceased.

Sec. 3. Minnesota Statutes 1992, section 176.101, subdivision 5, is amended to read:

Subd. 5. [DEFINITION.] (a) For purposes of subdivision 4, permanent total disability means only:

(1) the total and permanent loss of the sight of both eyes, the loss of both arms at the shoulder, the loss of both legs so close to the hips that no effective artificial members can be used, complete and permanent paralysis, total and permanent loss of mental faculties; or

(2) any other injury that results in a disability rating under this chapter of at least 15 percent of the whole body which totally and permanently incapacitates the employee from working at an occupation which brings the employee an income.

(b) For purposes of paragraph (a), clause (2), "totally and permanently incapacitated" means that the employee's physical disability, in combination with the employee's age, education, training, and experience, causes the employee to be unable to secure anything more than sporadic employment resulting in an insubstantial income.

Sec. 4. Minnesota Statutes 1992, section 176.101, subdivision 8, is amended to read:

Subd. 8. [RETIRED CESSATION OF BENEFITS.] Temporary total disability payments shall cease at retirement. "Retirement" means that a preponderance of the evidence supports a conclusion that an employee has retired. The subjective statement of an employee that the employee is not retired is not sufficient in itself to rebut objective evidence of retirement but may be considered along with other evidence.

For injuries occurring after January 1, 1984, an employee who receives social security old age and survivors insurance retirement benefits is presumed retired from the labor market. This presumption is rebuttable by a preponderance of the evidence. *Permanent total disability benefits shall cease at age 67; provided that the employee is eligible to receive disability benefits being paid by a government disability benefit program if the disability benefits are occasioned by the same injury or injuries which gave rise to payments under this chapter, or if the employee is eligible to receive any old age and survivor insurance benefits. If the employee is not eligible, then permanent total disability benefits may continue after age 67.*

Sec. 5. Minnesota Statutes 1992, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2 and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, of the year previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on or after October 1, 1977, but prior to October 1, 1992, under this section shall exceed six percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be six percent. No adjustment increase made on or after October 1, 1992, under this section shall exceed four percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be four percent. *No adjustment increase shall be made under this section on or after October 1, 1994, for any injuries occurring after October 1, 1975. The workers' compensation advisory council may consider adjustment increases and make recommendations to the legislature.*

Sec. 6. Minnesota Statutes 1992, section 176.66, subdivision 11, is amended to read:

Subd. 11. [AMOUNT OF COMPENSATION.] The compensation for an occupational disease is 66-2/3 percent of the employee's weekly wage on the date of injury subject to a maximum compensation equal to the maximum compensation in effect on the date of last exposure. ~~The employee shall be eligible for supplementary benefits notwithstanding the provisions of section 176.132, after four years have elapsed since the date of last significant exposure to the hazard of the occupational disease if that employee's weekly compensation rate is less than the current supplementary benefit rate.~~

Sec. 7. [REPEALER.]

Minnesota Statutes 1992, section 176.132, is repealed.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective October 1, 1994. Sections 2, 6, and 7 apply to a personal injury, as defined under Minnesota Statutes, section 176.011, subdivision 16, occurring on or after October 1, 1994.

ARTICLE 3

Section 1. Minnesota Statutes 1992, section 175.16, is amended to read:

175.16 [DIVISIONS.]

Subdivision 1. [ESTABLISHED.] The department of labor and industry shall consist of the following divisions: division of workers' compensation, division of boiler inspection, division of occupational safety and health, division of statistics, division of steamfitting standards, division of voluntary apprenticeship, division of labor standards, and such other divisions as the commissioner of the department of labor and industry may deem necessary and establish. Each division of the department and persons in charge thereof shall be subject to the supervision of the commissioner of the department of labor and industry and, in addition to such duties as are or may be imposed on them by statute, shall perform such other duties as may be assigned to them by said commissioner.

Subd. 2. [FRAUD INVESTIGATION UNIT.] The department of labor and industry shall contain a fraud investigation unit for the purposes of investigating fraudulent or other illegal practices of health care providers, employers, insurers, attorneys, employees, and others related to workers' compensation and to investigate other matters under the jurisdiction of the department.

Sec. 2. Minnesota Statutes 1992, section 176.178, is amended to read:

176.178 [FRAUD.]

Subdivision 1. [INTENT.] Any person who, with intent to defraud, receives workers' compensation benefits to which the person is not entitled by knowingly misrepresenting, misstating, or failing to disclose any material fact is guilty of theft and shall be sentenced pursuant to section 609.52, subdivision 3.

Subd. 2. [FORMS.] The text of subdivision 1 shall be placed on all forms prescribed by the commissioner for claims or responses to claims for workers' compensation benefits under this chapter. The absence of the text does not constitute a defense against prosecution under subdivision 1.

Sec. 3. [176.861] [DISCLOSURE OF INFORMATION.]

Subdivision 1. [INSURANCE INFORMATION.] The commissioner may, in writing, require an insurance company to release to the commissioner any or all relevant information or evidence the commissioner deems important which the company may have in its possession relating to a workers' compensation claim including material relating to the investigation of the claim, statements of any person, and any other evidence relevant to the investigation.

Subd. 2. [INFORMATION RELEASED TO AUTHORIZED PERSONS.] If an insurance company has reason to believe that a claim may be suspicious, fraudulent, or illegal, the company shall, in writing, notify the commissioner and provide the commissioner with all relevant material related to the company's inquiry into the claim.

Subd. 3. [GOOD FAITH IMMUNITY.] An insurance company or its agent acting in its behalf and in good faith who releases oral or written information under subdivisions 1 and 2 is immune from civil or criminal liability that might otherwise be incurred or imposed.

Subd. 4. [SELF-INSURER; ASSIGNED RISK PLAN.] For the purposes of this section "insurance company" includes a self-insurer and the assigned risk plan and their agents.

Sec. 4. [APPROPRIATION.]

\$200,000 is appropriated to the department of labor and industry from the special compensation fund for fiscal year 1995 for the purpose of section 1. The complement of the department is increased by three positions for the purpose of section 1.

ARTICLE 4

Section 1. Minnesota Statutes 1992, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of compensation at the time and in the manner prescribed by this chapter without the necessity of any agreement or any order of the division. Except for medical, burial, and other nonperiodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by section 176.101. If doubt exists as to the eventual permanent partial disability, payment for the economic recovery compensation or impairment compensation, whichever is due, pursuant to section 176.101, shall be then made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. Prior to or at the time of commencement of the payment of economic recovery compensation or lump sum or periodic payment of impairment permanent partial compensation, the employee and employer shall be furnished with a copy of the medical report upon which the payment is based and all other medical reports which the insurer has that indicate a permanent partial disability rating, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. Economic recovery compensation or impairment Permanent partial compensation pursuant to section 176.101 is payable in addition to but not concurrently with compensation for temporary total disability but is payable pursuant to section 176.101. Impairment Permanent partial compensation is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101. Economic recovery compensation or impairment compensation Permanent partial compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total disability, and no credit shall be taken for payment of economic recovery compensation or impairment permanent partial compensation against liability for temporary total or future permanent total disability. Liability on the part of an employer or the insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and compensation is payable accordingly, subject to section 176.101. Economic recovery compensation or impairment Permanent partial compensation is payable for functional loss of use or impairment of function, permanent in nature, and payment therefore shall be separate, distinct, and in addition to payment for any other compensation, subject to section 176.101. The right to receive temporary total, temporary partial, or permanent total disability payments vests in the injured employee or the employee's dependents under this chapter or, if none, in the

employee's legal heirs at the time the disability can be ascertained and the right is not abrogated by the employee's death prior to the making of the payment.

The right to receive ~~economic recovery~~ *permanent partial compensation or impairment compensation* vests in an injured employee at the time the disability can be ascertained provided that the employee lives for at least 30 days beyond the date of the injury. Upon the death of an employee who is receiving economic recovery compensation or impairment compensation, further compensation is payable pursuant to section 176.101. Impairment compensation is payable under this paragraph if vesting has occurred, the employee dies prior to reaching maximum medical improvement, and the requirements and conditions under section 176.101, subdivision 3e, are not met.

Disability ratings for permanent partial disability shall be based on objective medical evidence.

Sec. 2. Minnesota Statutes 1992, section 176.021, subdivision 3a, is amended to read:

Subd. 3a. [PERMANENT PARTIAL BENEFITS, PAYMENT.] Payments for permanent partial disability as provided in section 176.101, subdivision 3 2a, shall be made in the following manner:

(a) If the employee returns to work, payment shall be made ~~by lump sum~~ *at the same intervals as temporary total payments were made;*

(b) If temporary total payments have ceased, but the employee has not returned to work, payment shall be made at the same intervals as temporary total payments were made;

(c) If temporary total disability payments cease because the employee is receiving payments for permanent total disability or because the employee is retiring or has retired from the work force, then payment shall be made ~~by lump sum~~ *at the same intervals as temporary total payments were made;*

(d) If the employee completes a rehabilitation plan pursuant to section 176.102, but the employer does not furnish the employee with work the employee can do in a permanently partially disabled condition, and the employee is unable to procure such work with another employer, then payment shall be made ~~by lump sum~~ *at the same intervals as temporary total payments were made.*

Sec. 3. Minnesota Statutes 1992, section 176.061, subdivision 10, is amended to read:

Subd. 10. [INDEMNITY.] Notwithstanding the provisions of chapter 65B or any other law to the contrary, an employer has a right of indemnity for any compensation paid or payable pursuant to this chapter, including temporary total compensation, temporary partial compensation, permanent partial ~~disability, economic recovery compensation, impairment~~ compensation, medical compensation, rehabilitation, death, and permanent total compensation.

Sec. 4. Minnesota Statutes 1992, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] (a) For injury

producing temporary total disability, the compensation is 66-2/3 percent of the weekly wage at the time of injury.

(b) *On and after October 1, 1993, the maximum weekly compensation payable shall be as follows:*

(1) *During the year commencing on October 1, 1992 1993, and each year thereafter, the maximum weekly compensation payable is 105 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.*

(2) *During the year commencing on October 1, 1994, the maximum weekly compensation payable is 106 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.*

(3) *During the year commencing on October 1, 1995, the maximum weekly compensation payable is 107 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.*

(4) *During the year commencing on October 1, 1996, the maximum weekly compensation payable is 108 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.*

(5) *During the year commencing on October 1, 1997, the maximum weekly compensation payable is 109 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.*

(6) *During the year commencing on October 1, 1998, and each year thereafter, the maximum weekly compensation payable is 110 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.*

(c) *The minimum weekly compensation payable is 20 percent of the statewide average weekly wage for the period ending December 31 of the preceding year or the injured employee's actual weekly wage, whichever is less.*

(d) ~~Subject to subdivisions 3a to 3u this Temporary total compensation shall be paid during the period of disability; payment to be made at the intervals when the wage was payable, as nearly as may be, and shall cease whenever any one of the following occurs:~~

(1) *the employee returns to work;*

(2) *the employee withdraws from the labor market;*

(3) *the disability ends and the employee fails to diligently search for appropriate work;*

(4) *the employee refuses an offer of work that is consistent with a plan of rehabilitation filed with the commissioner which meets the requirements of section 176.102, subdivision 4, or, if no plan has been filed, the employee refuses an offer of suitable gainful employment that the employee can do in the employee's physical condition; or*

(5) *90 days pass after the employee has reached maximum medical improvement, except as provided in section 176.102, subdivision 11, paragraph (b).*

(e) For purposes of this subdivision, the 90-day period after maximum medical improvement commences on the earlier of:

(1) the date that the employee receives a written medical report indicating that the employee has reached maximum medical improvement; or

(2) the date that the employer or insurer serves the report on the employee and the employee's attorney, if any.

(f) Once temporary total disability compensation has ceased under paragraph (d), clause (1), (2), or (3), it may only be recommenced prior to 90 days after maximum medical improvement and only as follows:

(1) if temporary total disability compensation ceased under paragraph (d), clause (1), it may be recommenced if the employee is laid off or terminated within one year of employment for reasons other than misconduct or is medically unable to continue at the job;

(2) if temporary total disability compensation ceased under paragraph (d), clause (2), but the employee subsequently returned to work, it may be recommenced in accordance with clause (1); or

(3) if temporary total disability compensation ceased under paragraph (d), clause (3), it may be recommenced if the employee begins diligently searching for appropriate work. Temporary total disability compensation recommenced under this paragraph is subject to cessation under paragraph (d).

Recommenced temporary total disability compensation may not be paid beyond 90 days after the employee reaches maximum medical improvement, except as provided under section 176.102, subdivision 11, paragraph (b).

(g) Once temporary total disability compensation has ceased under paragraph (d), clauses (4) and (5), it may not be recommenced at a later date except as provided under section 176.102, subdivision 11, paragraph (b).

Sec. 5. Minnesota Statutes 1992, section 176.101, subdivision 2, is amended to read:

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

(b) Except as provided under subdivision 3k, Temporary partial compensation may be paid only while the employee is employed, earning less than the employee's weekly wage at the time of the injury, and the reduced wage the employee is able to earn in the employee's partially disabled condition is due to the injury. Except as provided in section 176.102, subdivision 11, paragraph (b), temporary partial compensation may not be paid for more than 225 weeks, or after 450 weeks after the date of injury, whichever occurs first.

(c) Temporary partial compensation must be reduced to the extent that the wage the employee is able to earn in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable

under this subdivision exceeds 500 percent of the statewide average weekly wage.

Sec. 6. Minnesota Statutes 1992, section 176.101, is amended by adding a subdivision to read:

Subd. 2a. [PERMANENT PARTIAL DISABILITY.] (a) Compensation for permanent partial disability is as provided in this subdivision. Permanent partial disability must be rated as a percentage of the whole body in accordance with rules adopted by the commissioner under section 176.105. The percentage determined pursuant to the rules must be multiplied by the corresponding amount in the following table:

<i>Percent of disability</i>	<i>Amount</i>
0-25	\$ 75,000
26-30	80,000
31-35	85,000
36-40	90,000
41-45	95,000
46-50	100,000
51-55	120,000
56-60	140,000
61-65	160,000
66-70	180,000
71-75	200,000
76-80	240,000
81-85	280,000
86-90	320,000
91-95	360,000
96-100	400,000

An employee may not receive compensation for more than a 100 percent disability of the whole body, even if the employee sustains disability to two or more body parts.

(b) Permanent partial disability is payable upon cessation of temporary total disability under subdivision 1. The compensation is payable in installments at the same intervals and in the same amount as the employee's temporary total disability rate on the date of injury. Permanent partial disability is not payable while temporary total compensation is being paid. Permanent partial disability is payable to permanently totally disabled employees in installments at the same intervals and the same amount as the employee's permanent total disability rate on the date of injury commencing at the time the disability can be ascertained.

Sec. 7. Minnesota Statutes 1992, section 176.101, subdivision 6, is amended to read:

Subd. 6. [MINORS; APPRENTICES.] (a) If any employee entitled to the benefits of this chapter is an apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total or a compensable permanent partial disability, for the purpose of computing the compensation to which the employee is entitled for the injury, the compensation rate for temporary total, temporary partial, a or permanent

total disability or economic recovery compensation shall be the maximum rate for temporary total disability under subdivision 1.

(b) If any employee entitled to the benefits of this chapter is a minor and sustains a personal injury arising out of and in the course of employment resulting in permanent total disability, for the purpose of computing the compensation to which the employee is entitled for the injury, the compensation rate for a permanent total disability shall be the maximum rate for temporary total disability under subdivision 1.

Sec. 8. Minnesota Statutes 1992, section 176.105, subdivision 4, is amended to read:

Subd. 4. [LEGISLATIVE INTENT; RULES; LOSS OF MORE THAN ONE BODY PART.] (a) For the purpose of establishing a disability schedule pursuant to clause (b), the legislature declares its intent that the commissioner establish a disability schedule which, assuming the same number and distribution of severity of injuries, the aggregate total of impairment compensation and economic recovery compensation benefits under section 176.101, subdivisions 3a to 3u be approximately equal to the total aggregate amount payable for permanent partial disabilities under section 176.101, subdivision 3, provided, however, that awards for specific injuries under the proposed schedule need not be the same as they were for the same injuries under the schedule pursuant to section 176.101, subdivision 3. The schedule shall be determined by sound actuarial evaluation and shall be based on the benefit level which exists on January 1, 1983.

(b) The commissioner shall by rulemaking adopt procedures setting forth rules for the evaluation and rating of functional disability and the schedule for permanent partial disability and to determine the percentage of loss of function of a part of the body based on the body as a whole, including internal organs, described in section 176.101, subdivision 3, and any other body part not listed in section 176.101, subdivision 3, which the commissioner deems appropriate.

The rules shall promote objectivity and consistency in the evaluation of permanent functional impairment due to personal injury and in the assignment of a numerical rating to the functional impairment.

Prior to adoption of rules the commissioner shall conduct an analysis of the current permanent partial disability schedule for the purpose of determining the number and distribution of permanent partial disabilities and the average compensation for various permanent partial disabilities. The commissioner shall consider setting the compensation under the proposed schedule for the most serious conditions higher in comparison to the current schedule and shall consider decreasing awards for minor conditions in comparison to the current schedule.

The commissioner may consider, among other factors, and shall not be limited to the following factors in developing rules for the evaluation and rating of functional disability and the schedule for permanent partial disability benefits:

(1) the workability and simplicity of the procedures with respect to the evaluation of functional disability;

(2) the consistency of the procedures with accepted medical standards;

(3) rules, guidelines, and schedules that exist in other states that are related to the evaluation of permanent partial disability or to a schedule of benefits for functional disability provided that the commissioner is not bound by the degree of disability in these sources but shall adjust the relative degree of disability to conform to the expressed intent of clause (a);

(4) rules, guidelines, and schedules that have been developed by associations of health care providers or organizations provided that the commissioner is not bound by the degree of disability in these sources but shall adjust the relative degree of disability to conform to the expressed intent of clause (a);

(5) the effect the rules may have on reducing litigation;

(6) the treatment of preexisting disabilities with respect to the evaluation of permanent functional disability provided that any preexisting disabilities must be objectively determined by medical evidence; and

(7) symptomatology and loss of function and use of the injured member.

The factors in paragraphs (1) to (7) shall not be used in any individual or specific workers' compensation claim under this chapter but shall be used only in the adoption of rules pursuant to this section.

Nothing listed in paragraphs (1) to (7) shall be used to dispute or challenge a disability rating given to a part of the body so long as the whole schedule conforms with the expressed intent of clause (a).

(c) If an employee suffers a permanent functional disability of more than one body part due to a personal injury incurred in a single occurrence, the percent of the whole body which is permanently partially disabled shall be determined by the following formula so as to ensure that the percentage for all functional disability combined does not exceed the total for the whole body:

$$A + B(1 - A)$$

where: A is the greater percentage whole body loss of the first body part; and B is the lesser percentage whole body loss otherwise payable for the second body part. $A + B(1 - A)$ is equivalent to $A + B - AB$.

For permanent partial disabilities to three body parts due to a single occurrence or as the result of an occupational disease, the above formula shall be applied, providing that A equals the result obtained from application of the formula to the first two body parts and B equals the percentage for the third body part. For permanent partial disability to four or more body parts incurred as described above, A equals the result obtained from the prior application of the formula, and B equals the percentage for the fourth body part or more in arithmetic progressions.

Sec. 9. Minnesota Statutes 1992, section 176.179, is amended to read:

176.179 [RECOVERY OF OVERPAYMENTS.]

Notwithstanding section 176.521, subdivision 3, or any other provision of this chapter to the contrary, except as provided in this section, no lump sum or weekly payment, or settlement, which is voluntarily paid to an injured employee or the survivors of a deceased employee in apparent or seeming accordance with the provisions of this chapter by an employer or insurer, or is paid pursuant to an order of the workers' compensation division, a compensation judge, or court of appeals relative to a claim by an injured

employee or the employee's survivors, and received in good faith by the employee or the employee's survivors shall be refunded to the paying employer or insurer in the event that it is subsequently determined that the payment was made under a mistake in fact or law by the employer or insurer. When the payments have been made to a person who is entitled to receive further payments of compensation for the same injury, the mistaken compensation may be taken as a ~~full credit against future lump sum benefit entitlement~~ and as a partial credit against future ~~weekly periodic~~ benefits. The credit applied against further payments of temporary total disability, temporary partial disability, *permanent partial disability*, permanent total disability, retraining benefits, death benefits, or weekly payments of economic recovery or impairment compensation shall not exceed 20 percent of the amount that would otherwise be payable.

A credit may not be applied against medical expenses due or payable.

Where the commissioner or compensation judge determines that the mistaken compensation was not received in good faith, the commissioner or compensation judge may order reimbursement of the compensation. For purposes of this section, a payment is not received in good faith if it is obtained through fraud, or if the employee knew that the compensation was paid under mistake of fact or law, and the employee has not refunded the mistaken compensation.

Sec. 10. Minnesota Statutes 1992, section 176.221, subdivision 6a, is amended to read:

Subd. 6a. ~~[MEDICAL, REHABILITATION, ECONOMIC RECOVERY, AND IMPAIRMENT AND PERMANENT PARTIAL COMPENSATION.]~~ The penalties provided by this section apply in cases where payment for treatment under section 176.135, rehabilitation expenses under section 176.102, subdivisions 9 and 11, ~~economic recovery compensation or impairment compensation or permanent partial compensation~~ are not made in a timely manner as required by law or by rule adopted by the commissioner.

Sec. 11. Minnesota Statutes 1992, section 176.82, is amended to read:

176.82 ~~[ACTION FOR CIVIL DAMAGES FOR OBSTRUCTING EMPLOYEE SEEKING BENEFITS.]~~

Subdivision 1. [RETALIATORY DISCHARGE.] Any person discharging or threatening to discharge an employee for seeking workers' compensation benefits or in any manner intentionally obstructing an employee seeking workers' compensation benefits is liable in a civil action for damages incurred by the employee including any diminution in workers' compensation benefits caused by a violation of this section including costs and reasonable attorney fees, and for punitive damages not to exceed three times the amount of any compensation benefit to which the employee is entitled. Damages awarded under this section shall not be offset by any workers' compensation benefits to which the employee is entitled.

Subd. 2. [REFUSAL TO REHIRE.] An employer who, without reasonable cause, refuses to rehire its employee when employment is available within the employee's physical limitations, shall be liable for one year's wages. The wages are payable from the date of the refusal to rehire, and at the same time and at the same rate as the employee's preinjury wage, to continue during the period of the refusal up to a maximum of \$15,000. These payments shall be in

addition to any other payments provided by this chapter. In determining the availability of employment, the continuance in business of the employer shall be considered and written rules promulgated by the employer with respect to seniority or the provisions or any collective bargaining agreement with respect to seniority shall govern.

Sec. 12. Minnesota Statutes 1993 Supplement, section 268.08, subdivision 3, is amended to read:

Subd. 3. [NOT ELIGIBLE.] An individual shall not be eligible to receive benefits for any week with respect to which the individual is receiving, has received, or has filed a claim for remuneration in an amount equal to or in excess of the individual's weekly benefit amount in the form of:

(1) termination, severance, or dismissal payment or wages in lieu of notice whether legally required or not; provided that if a termination, severance, or dismissal payment is made in a lump sum, such lump sum payment shall be allocated over a period equal to the lump sum divided by the employee's regular pay while employed by such employer; provided such payment shall be applied for a period immediately following the last day of employment but not to exceed 28 calendar days provided that 50 percent of the total of any such payments in excess of eight weeks shall be similarly allocated to the period immediately following the 28 days; or

(2) vacation allowance paid directly by the employer for a period of requested vacation, including vacation periods assigned by the employer under the provisions of a collective bargaining agreement, or uniform vacation shutdown; or

(3) compensation for loss of wages under the workers' compensation law of this state or any other state or under a similar law of the United States, or under other insurance or fund established and paid for by the employer ~~except that this does not apply to an individual who is receiving temporary partial compensation pursuant to section 176.101, subdivision 3k; or~~

(4) 50 percent of the pension payments from any fund, annuity or insurance maintained or contributed to by a base period employer including the armed forces of the United States if the employee contributed to the fund, annuity or insurance and all of the pension payments if the employee did not contribute to the fund, annuity or insurance; or

(5) 50 percent of a primary insurance benefit under title II of the Social Security Act, as amended, or similar old age benefits under any act of congress or this state or any other state.

Provided, that if such remuneration is less than the benefits which would otherwise be due under sections 268.03 to 268.231, the individual shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration; provided, further, that if the appropriate agency of such other state or the federal government finally determines that the individual is not entitled to such benefits, this provision shall not apply. If the computation of reduced benefits, required by this subdivision, is not a whole dollar amount, it shall be rounded down to the next lower dollar amount.

Sec. 13. [REPEALER.]

Minnesota Statutes 1992, sections 176.011, subdivision 26; and 176.101,

subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u, are repealed.

Sec. 14. [EFFECTIVE DATE.]

Sections 1 to 13 are effective October 1, 1994."

Delete the title and insert:

"A bill for an act relating to workers' compensation; providing insurance regulation; modifying benefits and provisions relating to fraud; providing penalties; appropriating money; amending Minnesota Statutes 1992, sections 79.50; 79.51, subdivisions 1 and 3; 79.53, subdivision 1; 79.55, subdivisions 2, 5, and by adding subdivisions; 79.56, subdivisions 1 and 3; 175.16; 176.011, subdivision 25; 176.021, subdivisions 3 and 3a; 176.061, subdivision 10; 176.101; subdivisions 1, 2, 4, 5, 6, 8, and by adding a subdivision; 176.105, subdivision 4; 176.178; 176.179; 176.221, subdivision 6a; 176.645, subdivision 1; 176.66, subdivision 11; and 176.82; Minnesota Statutes 1993 Supplement, section 268.08, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 79; and 176; repealing Minnesota Statutes 1992, sections 79.53, subdivision 2; 79.54; 79.56, subdivision 2; 79.57; 79.58; 176.011, subdivision 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u; and 176.132."

Mr. Hottinger then moved to amend the Hottinger amendment to S.F. No. 2475 as follows:

Page 10, delete section 4

Renumber the sections of article 2 in sequence and correct the internal references

Amend the title amendment accordingly

The motion prevailed. So the amendment to the amendment was adopted.

The question recurred on the Hottinger amendment, as amended.

Mr. Johnson, D.E. moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 38 and nays 28, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Knutson	Morse	Sams
Beckman	Frederickson	Krentz	Murphy	Stevens
Belanger	Hottinger	Laidig	Neuville	Stumpf
Benson, D.D.	Johnson, D.E.	Langseth	Oliver	Terwilliger
Benson, J.E.	Johnson, D.J.	Larson	Olson	Vickerman
Berg	Johnson, J.B.	Lesewski	Pariseau	Wiener
Bertram	Johnston	Lessard	Robertson	
Day	Kiscaden	McGowan	Runbeck	

Those who voted in the negative were:

Anderson	Finn	Luther	Novak	Reichgott Junge
Berglin	Flynn	Marty	Pappas	Riveness
Berzold	Hanson	Merriam	Piper	Samuelson
Chandler	Janezich	Metzen	Pogemiller	Spear
Chmielewski	Kelly	Moe, R.D.	Price	
Cohen	Kroening	Mondale	Ranum	

The motion prevailed. So the amendment, as amended, was adopted.

Mr. Novak moved that S.F. No. 2475 be laid on the table.

The question was taken on the adoption of the Novak motion.

The roll was called, and there were yeas 28 and nays 36, as follows:

Those who voted in the affirmative were:

Anderson	Flynn	Luther	Novak	Reichgott Junge
Berglin	Hanson	Marty	Pappas	Riveness
Betzold	Janezich	Merriam	Piper	Samuelson
Chandler	Johnson, D.J.	Metzen	Pogemiller	Spear
Cohen	Kelly	Moe, R.D.	Price	
Finn	Kroening	Mondale	Ranum	

Those who voted in the negative were:

Adkins	Dille	Krentz	Murphy	Stevens
Beckman	Frederickson	Laidig	Neuville	Terwilliger
Belanger	Hottinger	Langseth	Oliver	Vickerman
Benson, D.D.	Johnson, D.E.	Larson	Olson	Wiener
Benson, J.E.	Johnson, J.B.	Lesewski	Pariseau	
Berg	Johnston	Lessard	Robertson	
Bertram	Kiscaden	McGowan	Runbeck	
Day	Knutson	Morse	Sams	

The motion did not prevail.

Ms. Krentz moved to amend the Hottinger amendment to S.F. No. 2475, adopted by the Senate April 25, 1994, as follows:

Page 28, after line 1, insert:

“ARTICLE 5

INDEPENDENT CONTRACTORS

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

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

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

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

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

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

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

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

(g) an executive officer of a closely held corporation having less than

22,880 hours of payroll in the preceding calendar year, if that executive officer owns at least 25 percent of the stock of the corporation;

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

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

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

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

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

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

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

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

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

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

Sec. 2. Minnesota Statutes 1993 Supplement, section 176.041, subdivision 1a, is amended to read:

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

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

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

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

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

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

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

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

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

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

Sec. 3. [176.042] [INDEPENDENT CONTRACTORS.]

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

Subd. 2. [EXCEPTION.] An independent contractor is not an employee of

an employer for whom the independent contractor performs work or services if the independent contractor meets all of the following conditions:

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

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

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

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

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

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

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

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

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

Amend the title amendment accordingly

The motion did not prevail. So the amendment to the amendment was not adopted.

Mr. Chandler moved to amend the Hottinger amendment to S.F. No. 2475, adopted by the Senate April 25, 1994, as follows:

Pages 1 to 8, delete article 1 and insert:

"ARTICLE 1

INSURANCE RATE REGULATION

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

Subdivision 1. [TERMS.] Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of sections 79.01 to 79.24 this chapter, shall have the meanings ascribed to given them.

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

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

loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates, rating plan, or schedule of rates reflect the differences with reasonable accuracy.

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

Subd. 4. [EXCESSIVENESS.] Rates, rating plans, or schedules of rates are not excessive if the expected underwriting profit, together with expected income from invested reserves for the market in question, that would accrue to an insurer would be reasonable in relation to the risk undertaken by the insurer in transacting the business or if expenses are reasonable in relation to the services rendered.

The commissioner shall monitor the income and profit actually earned. If it is in excess of the expected profit and return, the commissioner shall provide appropriate adjustments in future rates or provide other appropriate relief.

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

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

Sec. 5. [79.086] [BUNDLING PROHIBITED.]

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

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

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

Subd. 2. [FILING.] If a rate was not filed by an insurer before the effective date of this section, an insurer may file a rate for any classification for which a rate was not previously filed. The rate shall not be used until it is approved by the commissioner. The commissioner may approve a rate up to the rate level approved for use by the assigned risk plan for that rate class. The rates may remain in force until the commissioner has approved a schedule of rates under section 79.71. If the commissioner disapproves of any rate or rating plan pursuant to authority granted in this subdivision, the disapproval shall not be subject to chapter 14 and the decision shall be final.

Subd. 3. [APPROVAL.] Until the commissioner issues an order approving a schedule of rates under section 79.71, an insurer may not, through the use of any rating plan, charge a rate higher than the rates applicable to the insurer under subdivision 1 or 2. This subdivision does not prohibit the use of approved experience rate plans or retrospective rating plans that have been adopted in the filed rates by insurers, the assigned risk plan, or a data service organization. This section does not prohibit the adjustment of a schedule of rates to reflect adjustments in the assessment rate for the special compensation fund, any adjustment in the assessment for the assigned risk plan pursuant to section 79.251, subdivision 5, any adjustment in the assessment

for the Minnesota insurance guarantee association pursuant to section 60C.05, or any other assessment required by law.

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

Subd. 5. [COMPLIANCE.] No insurer may avoid the application of this section by limiting or denying the use of credits or other adjustments to the rates that were available and used before January 1, 1994. The commissioner shall monitor the activities of insurers to ensure that the requirements of this section are satisfied.

Subd. 6. [EFFECTIVE DATE.] This section shall apply only to policies issued or renewed to be effective after the effective date of this section.

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

79.50 [PURPOSES.]

The purposes of chapter 79 are to:

(a) Promote public welfare by regulating insurance rates so that premiums are not excessive, inadequate, or unfairly discriminatory;

(b) Promote quality and integrity in the data bases used in workers' compensation insurance ratemaking;

(c) Prohibit price fixing agreements and anticompetitive behavior by insurers; and

(d) Promote price competition and provide rates that are responsive to competitive market conditions;

(e) Provide a means of establishment of proper rates if competition is not effective;

(f) Define the function and scope of activities of data service organizations;

(g) Provide for an orderly transition from regulated rates to competitive market conditions; and

(h) Encourage insurers to provide alternative innovative methods whereby employers can meet the requirements imposed by section 176.181.

Sec. 8. Minnesota Statutes 1992, section 79.59, subdivision 4, is amended to read:

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

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

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

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

For purposes of this section, "association" means association of insurers.

(b) *In adopting a schedule of rates, the commissioner may act on the written petition of an association, the department of labor and industry, or any other interested party who requests that a hearing be held to adopt a schedule of rates. Upon receipt of a petition requesting a hearing for adoption of a schedule of rates, the commissioner shall determine whether the petition sufficiently sets forth facts that show that the existing schedule of rates is excessive, inadequate, unfairly discriminatory, or otherwise in need of modification so as to indicate the need to hold a hearing. If an association is the petitioner, the commissioner may decline to grant a hearing if the association has failed to provide information requested by previous orders that modify the schedule of rates, if the request was reasonable. The commissioner may accept or reject the petition for a hearing and shall give notice of a determination to the petitioning party. If the commissioner rejects the petition, the commissioner shall notify the petitioning party of the reasons for the rejection.*

Subd. 2. [HEARING.] (a) *The commissioner shall determine, within 90 days of receipt of the petition whether to accept or reject the petition. If the commissioner accepts the petition for hearing, the commissioner shall order a hearing on matters set forth in the petition. Each insurer shall notify their insureds that a hearing on a rate increase will be held. The form of the notice to be sent to each insured shall be prescribed by the commissioner. The hearing shall be held pursuant to the contested case procedures in chapter 14. The burden of proof is on the petitioning party.*

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

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

(d) *The report of the administrative law judge must be issued within 180 days from the date of receipt of the order by the chief administrative law judge. Within 60 days of the completion of the hearing, the administrative law judge must submit a report to the commissioner. The parties, or the*

administrative law judge if the parties cannot agree, shall adjust all time requirements under the contested case procedures to conform with the time requirements set forth in this subdivision. After the close of the hearing record, the administrative law judge shall transmit to the commissioner the entire record of the hearing, including the transcript, exhibits, and all other material properly accepted into evidence, together with the finding of facts, conclusions, and recommended order made by the administrative law judge. The time for submitting the report may be extended by the chief administrative law judge for good cause.

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

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

Subd. 5. [CONSULTANTS; COMMISSIONER OF COMMERCE.] The commissioner of commerce may hire consultants, including a consulting actuary and other experts, deemed necessary to assist in the establishment or modification of the schedule of rates. A sum sufficient to pay the costs of conducting the hearing provided under subdivision 2, appeals therefrom, or the establishment or modification of the schedule of rates, including the costs of consultants and related costs, is appropriated from the special compensation fund to the commissioner of commerce, and assessed against the rating association and its members by the special compensation fund.

Subd. 6. [CONSULTANTS; ADMINISTRATIVE LAW JUDGES.] The office of administrative hearings, upon approval of the chief administrative law judge, may hire consultants necessary to assist the administrative law judge assigned to a workers' compensation rate proceeding. A sum sufficient to pay the costs of the commissioner of labor and industry in regard to the hearing provided under subdivision 2 and appeals therefrom, including the costs of consultants and related costs, is appropriated from the special compensation fund to the commissioner of labor and industry and assessed against the association and its members by the special compensation fund.

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

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

Subdivision 1. [PETITION CONTENTS.] Any party may petition the commissioner for rehearing and reconsideration of a determination made under section 79.71. The petition for rehearing and reconsideration shall be

served on the commissioner and all parties to the rate hearing within 30 days after service of the commissioner's final order. The petition shall set forth factual grounds in support of the petition. Any party adversely affected by a petition for review and reconsideration has 15 days to respond to factual matters alleged in the petition.

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

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

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

Final orders of the commissioner pursuant to sections 79.71 and 79.72 are subject to judicial review pursuant to sections 14.63 to 14.69 but shall remain in effect during the pendency of any appeal.

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

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

(b) The chief administrative law judge shall assign an administrative law judge to hear a petition for a change in the schedule of rates within 30 days. The administrative law judge shall conclude the hearing within 60 days of assignment by the chief administrative law judge and file findings of fact, conclusions of law, and a proposed order with the commissioner within 30 days of concluding the hearing. The administrative law judge shall, after the close of the record, file a report with recommendations in the same manner as in section 79.71. The time for holding the hearing and filing the report with the commissioner may be extended by the chief administrative law judge upon a showing of good cause for an additional 30 days.

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

review standards in section 79.71 shall apply to interim rate hearings, except the time requirements in this subdivision.

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

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

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

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

(b) At each rate hearing held pursuant to section 79.71 or rehearing pursuant to section 79.72, following an automatic adjustment, the commissioner shall review the rate adjustment to assure that the schedule of rates adopted after the adjustment are not excessive, inadequate, or unfairly discriminatory. If the commissioner finds that the schedule of rates adopted after the adjustment are excessive, inadequate, or unfairly discriminatory, the commissioner shall order appropriate remedial action.

Sec. 14. [79.76] [MANUALS.]

Subdivision 1. [INITIAL FILING REQUIRED.] (a) On or before October 1, 1994, a rate service association licensed in Minnesota must file with the commissioner all underwriting and rating manuals that are used in the classification of risks and the calculation of rating plans, rates, and fees. The association must provide the commissioner with at least six copies of each manual. A copy of each manual filed shall also be provided to the commissioner of labor and industry.

(b) The commissioner shall review the manuals and on or before January 1, 1995, approve or disapprove all or part of the manuals. The evidentiary, procedural, and review standards of section 79.71 shall apply to the review of the manuals. Until the commissioner has approved or disapproved the manuals, they shall remain in force. The association may contest the disapproval of a manual or part of a manual pursuant to the contested case procedures of chapter 14. Until the conclusion of the contested case proceeding, the portions of the manuals that were not approved shall remain in force.

Subd. 2. [NEW MANUALS AND AMENDMENTS.] If the association adopts or amends a manual, the manual or the amendment to the manual shall not be effective until approved by the commissioner. The association must provide the commissioner with at least six copies of each manual or amendment. A copy of each manual or amendment filed shall also be provided to the commissioner of labor and industry. The commissioner shall approve or

disapprove any manual or amendment within 90 days of filing. The evidentiary, procedural, and review standards of section 79.71 shall apply to the review of the manuals. Any manual or amendment not approved within 90 days shall be deemed to be disapproved. As to a disapproved manual or amendment, the association may contest the disapproval pursuant to the contested case procedures of chapter 14.

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

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

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

Sec. 15. [79.77] [INFORMATION.]

(a) In addition to other information that the commissioner requests pursuant to section 79.71, a rate service organization shall file with the commissioner, the following information on its Minnesota experience:

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

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

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

(c) The commissioner shall consider this information in an appropriate manner in adopting a schedule of rates and shall decline to grant a hearing pursuant to section 79.71 for purposes of considering a rate increase if the association fails to provide the information.

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

Sec. 16. [79.78] [DEPARTMENT AS RATE SERVICE ORGANIZATION.]

The department of commerce shall assume the functions of all rate service organizations authorized by sections 79.61 and 79.62. Copies of all records and data maintained by rate service organizations must be provided to the department upon request.

An insurer, as a condition of doing business in this state, shall provide to the department all information on claims experience, administrative costs, investment income, loss reserves, adjustment expenses, and other pertinent information the department requests. The information must be provided in a form the department prescribes, at the time the insurer files its annual statement. The costs of this activity by the department shall be paid on an equitable and nondiscriminatory basis by the insurers as determined by the commissioner.

An insurer that fails to comply with this section is subject to a civil penalty, not to exceed \$10,000 and is subject to other penalties, including revocation of its authority to do business in the state. These penalties are in addition to other penalties authorized by law. This section does not preclude the continued activities of any rate service organization. Rate service organizations or other persons may contract with the department to obtain the information collected by the department.

Sec. 17. [79.79] [RECORD; DATA SERVICE ORGANIZATION SHALL FURNISH INFORMATION.]

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

Sec. 18. [79.80] [RATES FILED.]

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

Sec. 19. [79.81] [RATES UNIFORM; EXCEPTIONS.]

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

Sec. 20. [79.82] [DUTIES OF COMMISSIONER.]

The commissioner of commerce shall require compensation insurers, or their agents, to file the necessary reports for the purposes of this chapter for use by the commissioner including but not limited to report as a supplement to the annual report required by licensed property casualty insurers under section 60A.13 that satisfies this section.

The supplemental reports must include the following data for the previous year ending on the 31st day of December:

- (1) direct premiums written;
- (2) direct premiums earned;
- (3) net investment income, including net realized capital gains and losses, using appropriate estimates where necessary;
- (4) incurred claims, listed individually, together with the date each claim was incurred, and with figures provided for, of the following:
 - (a) dollar amount of claims closed with payment, plus
 - (b) reserves for reported claims at the end of the current year, minus
 - (c) reserves for reported claims at the end of the previous year, plus
 - (d) reserves for incurred but not reported claims at the end of the current year, minus
 - (e) reserves for incurred but not reported claims at the end of the previous year, plus
 - (f) reserves for loss adjustment expense at the end of the current year, minus
 - (g) reserves for loss adjustment expense at the end of the previous year;
- (5) actual incurred expenses allocated separately to loss adjustment, commissions, other acquisition costs, general office expenses, taxes, licenses and fees, and all other expenses;
- (6) net underwriting gain or loss; and
- (7) net operation gain or loss, including net investment income.

This report is due by the first of May of each year. The commissioner shall annually audit, compile, and review all reports submitted by insurers pursuant to this section. The audit must verify that each item required by this subdivision on each line of business covered is accurate and complete. The department of commerce shall perform the audit on a domestic insurer, and may either personally audit a foreign insurer, or contract with the domiciliary state of the foreign insurer to have them perform the audit. In either case, each

insurer audited shall pay the audit fees and expenses of the department, including per diem salary fees of persons who participated in or conducted the audit. These fees and expenses must be paid into the department of commerce revolving fund. These filings must be published and made available to any interested insured or citizen.

A rate, or a change or an amendment of a rate, that will result in an increase of an existing rate, filed by an insurer subject to this subdivision is not effective unless the insurer has complied with all of the requirements of this section.

The initial report required by this section is due May 1, 1995.

Sec. 21. [79.83] [VIOLATIONS; PENALTIES.]

Any insurer, data service organization, agent, or other representative or employee of any insurer or data service organization that fails to comply with or violates any of the provisions of this chapter, or any order or ruling of the commissioner, shall be punished by a fine of not less than \$100 nor more than \$25,000. In addition, the license of any insurer, agent, or broker guilty of the violation may be revoked or suspended by the commissioner.

Sec. 22. [79.84] [RULEMAKING.]

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

Sec. 23. [79.85] [LIABILITY UNDER OTHER LAW.]

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

Sec. 24. [TRANSITION PROVISIONS; EMPLOYEES.]

Until January 1, 1998, initial appointment to the professional positions authorized by Minnesota Statutes, section 79.71, shall be deemed to be provisional or exceptional appointments as defined by Minnesota Statutes, section 43A.15, subdivisions 4 and 8, and the commissioner of employee relations must authorize those appointments as requested by the commissioner of commerce or labor and industry. Upon request of the commissioner of commerce or labor and industry, the appointments under this section shall be considered an unusual employment condition as defined by Minnesota Statutes, section 43A.17, subdivision 3, and salaries may be set accordingly.

Sec. 25. [LEGISLATIVE INTENT.]

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

Sec. 26. [RATE, CLASSIFICATION, AND CREDIT FREEZE.]

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

insurer, data service organization, association or the assigned risk plan filed with the commissioner of commerce on or before December 31, 1993.

Sec. 27. [PREMIUM REDUCTION; REINSURANCE REFUND.]

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

Sec. 28. [APPROPRIATION.]

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

Sec. 29. [EFFECTIVE DATE.]

Sections 1 to 28 are effective the day following final enactment."

Amend the title amendment accordingly

The question was taken on the adoption of the Chandler amendment to the Hottinger amendment.

The roll was called, and there were yeas 36 and nays 31, as follows:

Those who voted in the affirmative were:

Adkins	Flynn	Luther	Pappas	Samuelson
Anderson	Hanson	Marty	Piper	Solon
Berglin	Janezich	Metzen	Pogemiller	Spear
Betzold	Johnson, D.J.	Moe, R.D.	Price	Wiener
Chandler	Johnson, J.B.	Mondale	Ranum	
Chmielewski	Kelly	Morse	Reichgott Junge	
Cohen	Krentz	Murphy	Riveness	
Finn	Kroening	Novak	Sams	

Those who voted in the negative were:

Beckman	Dille	Laidig	Neuville	Stumpf
Belanger	Frederickson	Langseth	Oliver	Terwilliger
Benson, D.D.	Hottinger	Larson	Olson	Vickerman
Benson, J.E.	Johnson, D.E.	Lesewski	Pariseau	
Berg	Johnston	Lessard	Robertson	
Bertram	Kiscaden	McGowan	Runbeck	
Day	Knutson	Merriam	Stevens	

The motion prevailed. So the amendment to the amendment was adopted.

Mr. Novak moved that S.F. No. 2475 be laid on the table.

The question was taken on the adoption of the Novak motion.

The roll was called, and there were yeas 38 and nays 29, as follows:

Those who voted in the affirmative were:

Adkins	Flynn	Luther	Novak	Samuelson
Anderson	Hanson	Marty	Pappas	Solon
Berglin	Janezich	Merriam	Piper	Spear
Bertram	Johnson, D.J.	Metzen	Pogemiller	Stumpf
Betzold	Johnson, J.B.	Moe, R.D.	Price	Vickerman
Chandler	Kelly	Mondale	Ranum	Wiener
Cohen	Krentz	Morse	Reichgott Junge	
Finn	Kroening	Murphy	Riveness	

Those who voted in the negative were:

Beckman	Day	Kiscaden	Lessard	Robertson
Belanger	Dille	Knutson	McGowan	Runbeck
Benson, D.D.	Frederickson	Laidig	Neuville	Sams
Benson, J.E.	Hottinger	Langseth	Oliver	Stevens
Berg	Johnson, D.E.	Larson	Olson	Terwilliger
Chmielewski	Johnston	Lesewski	Pariseau	

The motion prevailed.

MOTIONS AND RESOLUTIONS – CONTINUED

Ms. Reichgott Junge moved that S.F. No. 2309 be taken from the table. The motion prevailed.

S.F. No. 2309: A bill for an act relating to civil actions; consolidating and recodifying statutes providing limitations on private personal injury liability; providing immunity for certain volunteer athletic physicians and trainers; limiting liability for certain injuries arising out of nonprofit livestock activities; modifying provisions dealing with recreational land use liability; amending Minnesota Statutes 1992, section 144.761, subdivision 5; proposing coding for new law as Minnesota Statutes, chapter 604A; repealing Minnesota Statutes 1992, sections 31.50; 87.021; 87.0221; 87.023; 87.024; 87.025; 87.026; 87.03; 604.05; 604.08; 604.09; and 609.662, subdivision 5.

Mr. Benson, D.D. moved to amend S.F. No. 2309 as follows:

Page 4, line 35, before the first comma, insert *“or as a physician or certified athletic trainer for a sports team or athletic event sponsored by a public or private educational institution”*

Page 5, line 21, before *“official”* insert *“or”* and delete *“, physician, or”*

Page 5, line 22, delete *“certified athletic trainer”*

Page 5, line 24, delete *“or”* and insert:

“(5) to a public or private educational institution for which a physician or certified athletic trainer provides services; or”

Page 5, line 25, delete *“(5)”* and insert *“(6)”*

Page 5, line 30, after the period, insert *“The limitation in clause (5) does not affect the limitations on liability of a public educational institution under section 3.736 or chapter 466.”*

The motion prevailed. So the amendment was adopted.

Mr. Luther moved to amend S.F. No. 2309 as follows:

Page 13, after line 21, insert:

“Sec. 2. Minnesota Statutes 1992, section 469.091, is amended by adding a subdivision to read:

Subd. 3. [UNPAID OFFICERS, DIRECTORS, AND AGENTS; LIABILITY.] Section 317A.257 applies to an economic development authority or to a nonprofit corporation exercising the powers of an economic development authority.”

Renumber the sections of article 4 in sequence

Amend the title as follows:

Page 1, line 8, after the semicolon, insert "providing limitations on liability of officers, directors, and agents of economic development authorities;"

Page 1, line 9, delete "section" and insert "sections"

Page 1, line 10, before the semicolon, insert "; and 469.091, by adding a subdivision"

The motion prevailed. So the amendment was adopted.

S.F. No. 2309 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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Finn	Krentz	Mondale	Robertson
Anderson	Flynn	Kroening	Morse	Runbeck
Beckman	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	Merriam	Ranum	Wiener
Cohen	Kiscaden	Metzen	Reichgott Junge	
Day	Knutson	Moe, R.D.	Riveness	

So the bill, as amended, was passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 2010 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 2010: A bill for an act relating to the environment; requiring a person who arranges for management of solid waste in an environmentally inferior manner to indemnify generators of the waste and, for a landfill, set aside a fund to pay for contamination from the landfill; proposing coding for new law in Minnesota Statutes, chapter 115A.

Mr. Merriam moved to amend H.F. No. 2010, the unofficial engrossment, as follows:

Page 6, after line 18, insert:

"Sec. 2. [EFFECTIVE DATE.]

(a) Except as provided in paragraph (b), section 1 is effective February 1, 1995, or when the rules adopted under section 1, subdivision 4, are effective, whichever is sooner.

(b) Section 1, subdivision 4, is effective the day following final enactment."

The motion prevailed. So the amendment was adopted.

H.F. No. 2010 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 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill, as amended, was passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bill was read the first time and referred to the committee indicated.

Mr. Betzold introduced—

S.F. No. 2925: A bill for an act relating to commerce; enacting the Minnesota residential mortgage lending, servicing, and brokering act; establishing licensing and enforcement mechanisms; amending Minnesota Statutes 1992, section 47.206, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 82C; repealing Minnesota Statutes 1992, sections 47.808; and 82.175.

Referred to the Committee on Commerce and Consumer Protection.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 2028: Messrs. Finn, Merriam, Knutson, Mses. Krentz and Piper.

H.F. No. 2410: Messrs. Lessard, Chandler and Laidig.

S.F. No. 2429: Messrs. Lessard, Berg and Laidig.

H.F. No. 2485: Messrs. Price, Morse and Dille.

H.F. No. 2624: Ms. Flynn, Mr. Luther and Ms. Kiscaden.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees 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. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 2920 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.
2920	2523				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2920 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2920 and insert the language after the enacting clause of S.F. No. 2523, the second engrossment; further, delete the title of H.F. No. 2920 and insert the title of S.F. No. 2523, the second engrossment.

And when so amended H.F. No. 2920 will be identical to S.F. No. 2523, and further recommends that H.F. No. 2920 be given its second reading and substituted for S.F. No. 2523, 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 HOUSE BILLS

H.F. No. 2920 was read the second time.

MEMBERS EXCUSED

Mr. Chmielewski was excused from the Session of today from 10:30 to 11:30 a.m. Mr. Terwilliger was excused from the Session of today from 11:50 a.m. to 1:15 p.m. Mr. Oliver was excused from the Session of today at 3:20 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 8:30 a.m., Tuesday, April 26, 1994. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate