ONE HUNDRED FIFTH DAY

St. Paul, Minnesota, Thursday, May 5, 1994

The Senate met at 9:30 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. L. Douglas Throckmorton.

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.

May 2, 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. Nos. 1712 and 2303.

Warmest regards,
Arne H. Carlson, Governor

May 3, 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
	1788	545	1:40 p.m. May 2	May 2
1712		546	1:45 p.m. May 2	May 2
2303		547	1:47 p.m. May 2	May 2

Sincerely,
Joan Anderson Growe
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 2232 and 2197.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 4, 1994

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 180: A bill for an act relating to horse racing; proposing an amendment to the Minnesota Constitution, article X, section 8; permitting the legislature to authorize pari-mutuel betting on horse racing without limitation; directing the Minnesota racing commission to prepare and submit legislation to implement televised off-site betting.

There has been appointed as such committee on the part of the House:

Simoneau, Kahn and Abrams.

Senate File No. 180 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 4, 1994

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2540, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2540: A bill for an act relating to energy; classifying and requiring information on applications for the municipal energy conservation investment loan program; amending Minnesota Statutes 1992, sections 13.99, by adding a subdivision; 216C.37, subdivision 3, and by adding subdivisions; Minnesota Statutes 1993 Supplement, section 216C.37, subdivision 1; repealing Minnesota Statutes 1992, section 216C.37, subdivision 8.

Senate File No. 2540 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 4, 1994

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2158, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2158 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 4, 1994

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2158

A bill for an act relating to pollution; requiring that certain towns, cities, and counties have ordinances complying with pollution control agency rules regarding individual sewage treatment systems; requiring the agency to license sewage treatment professionals; requiring rulemaking; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 115.

May 3, 1994

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 2158, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 2158 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [115.55] [INDIVIDUAL SEWAGE TREATMENT SYSTEMS.]

Subdivision 1. [DEFINITIONS.] *(a) The definitions in this subdivision apply to this section and section 2.*

(b) "Advisory committee" means the advisory committee on individual sewage treatment systems established under the individual sewage treatment system rules.

(c) "Applicable requirements" means:

(1) local ordinances that comply with the individual sewage treatment system rules, as required in subdivision 2; or

(2) in areas not subject to the ordinances described in clause (1), the individual sewage treatment system rules.

(d) "City" means a statutory or home rule charter city.

(e) "Commissioner" means the commissioner of the pollution control agency.

(f) "Dwelling" means a building or place used or intended to be used by human occupants as a single-family or two-family unit.

(g) "Individual sewage treatment system" or "system" means a sewage treatment system, or part thereof, serving a dwelling, other establishment, or group thereof, that uses subsurface soil treatment and disposal.

(h) "Individual sewage treatment system professional" means an inspector, installer, site evaluator or designer, or pumper.

(i) "Individual sewage treatment system rules" means rules adopted by the agency that establish minimum standards and criteria for the design, location, installation, use, and maintenance of individual sewage treatment systems.

(j) "Inspector" means a person who inspects individual sewage treatment systems for compliance with the applicable requirements.

(k) "Installer" means a person who constructs or repairs individual sewage treatment systems.

(l) "Local unit of government" means a township, city, or county.

(m) "Pumper" means a person who maintains components of individual sewage treatment systems including, but not limited to, septic, aerobic, and holding tanks.

(n) "Seasonal dwelling" means a dwelling that is occupied or used for less than 180 days per year and less than 120 consecutive days.

(o) "Site evaluator or designer" means a person who:

(1) investigates soils and site characteristics to determine suitability, limitations, and sizing requirements; and

(2) designs individual sewage treatment systems.

Subd. 2. [LOCAL ORDINANCES.] *(a) Any ordinance adopted by a local unit of government to regulate individual sewage treatment systems must be in compliance with the individual sewage treatment system rules by January 1, 1996.*

(b) A copy of each ordinance adopted under this subdivision must be submitted to the commissioner upon adoption.

Subd. 3. [RULES.] *(a) The agency shall adopt rules containing minimum standards and criteria for the design, location, installation, use, and maintenance of individual sewage treatment systems. The rules must include:*

(1) how the agency will ensure compliance under subdivision 2;

(2) how local units of government shall enforce ordinances under subdivision 2, including requirements for permits and inspection programs;

(3) how the advisory committee will participate in review and implementation of the rules;

(4) provisions for alternative systems;

(5) provisions for handling and disposal of effluent;

(6) provisions for system abandonment;

(7) provisions allowing local units of government to adopt alternative standards and criteria, provided that:

(i) the alternative standards and criteria may not apply to new construction or replacement of systems, as defined by the agency; and

(ii) the commissioner must certify that the alternative standards and criteria adequately protect public health and the environment; and

(8) procedures for variances, including the consideration of variances based on cost and variances that take into account proximity of a system to other systems.

(b) The agency shall consult with the advisory committee before adopting rules under this subdivision.

Subd. 4. [COMPLIANCE WITH RULES REQUIRED; ENFORCEMENT.] *(a) A person who designs, installs, alters, repairs, maintains, pumps, or inspects all or part of an individual sewage treatment system shall comply with the applicable requirements.*

(b) Local units of government may enforce, under section 115.071, subdivisions 3 and 4, ordinances that are applicable requirements.

Subd. 5. [INSPECTION.] *(a) Except as provided in paragraph (b), after December 31, 1995, a local unit of government may not issue a building permit or variance for new construction or replacement of a system, as defined by agency rule, or for the addition of a bedroom or bathroom on property served by a system unless the system is in compliance with the applicable requirements, as evidenced by a certificate of compliance issued by a licensed inspector or site evaluator or designer.*

(b) In areas that are not subject to ordinances adopted under subdivision 2, a compliance inspection under this subdivision is required only for new construction or replacement of a system, as defined by agency rule.

(c) If a system inspected under this subdivision is not in compliance with the applicable requirements, the inspector or site evaluator or designer must issue a notice of noncompliance to the property owner and must provide a copy of the notice to the local unit of government to which application for the building

permit or variance was made. If the inspector or site evaluator or designer finds that the system presents an imminent threat to public health or safety, the inspector or site evaluator or designer must include a statement to this effect in the notice and the property owner must upgrade, replace, or discontinue use of the system within ten months of receipt of the notice.

Subd. 6. [DISCLOSURE OF INDIVIDUAL SEWAGE TREATMENT SYSTEM TO BUYER.] *After August 31, 1994, before signing an agreement to sell or transfer real property, the seller must disclose in writing to the buyer information about the status and location of individual sewage treatment systems on the property or serving the property. The disclosure must be made by delivering to the buyer either a statement by the seller that there is no individual sewage treatment system on or serving the property or a disclosure statement describing the system and indicating the legal description of the property, the county in which the property is located, and a map drawn from available information showing the location of the system on the property to the extent practicable. In the disclosure statement the seller must indicate whether the individual sewage treatment system is in use and, to the seller's knowledge, in compliance with applicable sewage treatment laws and rules. Unless the buyer and seller agree to the contrary in writing before the closing of the sale, a seller who fails to disclose the existence or known status of an individual sewage treatment system at the time of sale, and who knew or had reason to know of the existence or known status of the system, is liable to the buyer for costs relating to bringing the system into compliance with the individual sewage treatment system rules and for reasonable attorney fees for collection of costs from the seller. An action under this subdivision must be commenced within two years after the date on which the buyer closed the purchase of the real property where the system is located.*

Subd. 7. [LOCAL ORDINANCE MAY BE MORE RESTRICTIVE.] *(a) A local unit of government may adopt and enforce ordinances or rules affecting individual sewage treatment systems that are more restrictive than the agency's rules.*

(b) If standards are adopted that are more restrictive than the agency's rules, the local unit of government must submit the more restrictive standards to the commissioner along with an explanation of the more restrictive provisions.

Sec. 2. [115.56] [MANDATORY LICENSING PROGRAM.]

Subdivision 1. [RULES.] *(a) Pursuant to section 115.03, subdivision 1, by January 1, 1996, the agency shall adopt rules containing standards of licensure applicable to all individual sewage treatment system professionals.*

The rules must include but are not limited to:

(1) training requirements that include both classroom and fieldwork components;

(2) examination content requirements and testing procedures;

(3) continuing education requirements;

(4) equivalent experience provisions;

(5) bonding and insurance requirements;

(6) schedules for submitting fees; and

(7) license revocation and suspension and other enforcement requirements.

(b) The agency shall consult with the advisory committee before proposing any rules under this subdivision.

Subd. 2. [LICENSE REQUIRED.] *(a) Except as provided in paragraph (b), after March 31, 1996, a person may not design, install, maintain, pump, or inspect an individual sewage treatment system without a license issued by the commissioner.*

(b) A license is not required for a person who complies with the applicable requirements if the person is:

(1) a qualified employee of state or local government who has passed the examination described in paragraph (d) or a similar examination;

(2) an individual who constructs an individual sewage treatment system on land that is owned or leased by the individual and functions solely as the individual's dwelling or seasonal dwelling; or

(3) an individual who performs labor or services for a person licensed under this section in connection with the design, installation, maintenance, pumping, or inspection of an individual sewage treatment system at the direction and under the personal supervision of a person licensed under this section.

A person constructing an individual sewage treatment system under clause (2) must consult with a site evaluator or designer before beginning construction. In addition, the system must be inspected before being covered and a compliance report must be provided to the local unit of government after the inspection.

(c) The commissioner, in conjunction with the University of Minnesota extension service or another higher education institution, shall ensure adequate training exists for individual sewage treatment system professionals.

(d) The commissioner shall conduct examinations to test the knowledge of applicants for licensing and shall issue documentation of licensing.

(e) Licenses may be issued only upon successful completion of the required examination and submission of proof of sufficient experience, proof of general liability insurance, and a corporate surety bond in the amount of at least $10,000.

(f) Notwithstanding paragraph (e), the examination and proof of experience are not required for an individual sewage treatment system professional who, on the effective date of the rules adopted under subdivision 1, holds a certification attained by examination and experience under a voluntary certification program administered by the agency.

(g) Local units of government may not require additional local licenses for individual sewage treatment system professionals.

Subd. 3. [ENFORCEMENT.] *(a) The commissioner may deny, suspend, or revoke a license, or use any lesser remedy against an individual sewage treatment system professional, for any of the following reasons:*

(1) failure to meet the requirements for a license;

(2) incompetence, negligence, or inappropriate conduct in the performance of the duties of an individual sewage treatment system professional;

(3) failure to comply with applicable requirements; or

(4) submission of false or misleading information or credentials in order to obtain or renew a license.

(b) Upon receiving a signed written complaint that alleges the existence of a ground for enforcement action against a person under paragraph (a), the commissioner shall initiate an investigation. Revocation, suspension, or other enforcement action may not be taken before written notice is given to the person and an opportunity is provided for a contested case hearing complying with the provisions of chapter 14.

Subd. 4. [LICENSE FEE.] *The fee for a license required under subdivision 2 is $100 per year. Revenue from the fees must be credited to the environmental fund.*

Sec. 3. [APPROPRIATION.]

(a) $120,000 is appropriated from the environmental fund to the commissioner of the pollution control agency for the purposes of sections 1 and 2 to be available for the biennium ending June 30, 1995.

(b) Amounts spent by the commissioner of the pollution control agency from the appropriation in paragraph (a) must be reimbursed to the environmental fund no later than June 30, 1997.

Sec. 4. [EFFECTIVE DATE.]

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

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

House Conferees: (Signed) Dave Bishop, Kathleen Sekhon, Henry J. Kalis

Senate Conferees: (Signed) Leonard R. Price, Steve Dille, Steven Morse

Mr. Price moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2158 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.

H.F. No. 2158 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 51 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE – CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2028, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2028 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 4, 1994

CONFERENCE COMMITTEE REPORT ON 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.

May 3, 1994

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 2028, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 2028 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. Minnesota Statutes 1992, section 13.03, subdivision 4, is amended to read:

Subd. 4. [CHANGE IN CLASSIFICATION OF DATA.] *(a)* The classification of data in the possession of an agency shall change if it is required to do so to comply with either judicial or administrative rules pertaining to the conduct of legal actions or with a specific statute applicable to the data in the possession of the disseminating or receiving agency.

(b) If data on individuals is classified as both private and confidential by this chapter, or any other statute or federal law, the data is private.

(c) To the extent that government data is disseminated to state agencies, political subdivisions, or statewide systems by another state agency, political subdivision, or statewide system, the data disseminated shall have the same classification in the hands of the agency receiving it as it had in the hands of the entity providing it.

Sec. 2. Minnesota Statutes 1992, section 13.03, is amended by adding a subdivision to read:

Subd. 11. [TREATMENT OF DATA CLASSIFIED AS NOT PUBLIC; PUBLIC MEETINGS.] *Not public data may be discussed at a meeting open to the public to the extent provided in section 471.705, subdivision 1d.*

Sec. 3. Minnesota Statutes 1992, section 13.05, subdivision 4, is amended to read:

Subd. 4. [LIMITATIONS ON COLLECTION AND USE OF DATA.] Private or confidential data on an individual shall not be collected, stored, used, or disseminated by political subdivisions, statewide systems, or state agencies for any purposes other than those stated to the individual at the time of collection in accordance with section 13.04, except as provided in this subdivision.

(a) Data collected prior to August 1, 1975, and which have not been treated as public data, may be used, stored, and disseminated for the purposes for which the data was originally collected or for purposes which are specifically approved by the commissioner as necessary to public health, safety, or welfare.

(b) Private or confidential data may be used and disseminated to individuals or agencies specifically authorized access to that data by state, local, or federal law enacted or promulgated after the collection of the data.

(c) Private or confidential data may be used and disseminated to individuals or agencies subsequent to the collection of the data when the responsible authority maintaining the data has requested approval for a new or different use or dissemination of the data and that request has been specifically approved by the commissioner as necessary to carry out a function assigned by law.

(d) Private data may be used by and disseminated to any person or agency if the individual subject or subjects of the data have given their informed consent. Whether a data subject has given informed consent shall be determined by rules of the commissioner. Informed consent shall not be deemed to have been given by an individual subject of the data by the signing

of any statement authorizing any person or agency to disclose information about the individual to an insurer or its authorized representative, unless the statement is:

(1) in plain language;

(2) dated;

(3) specific in designating the particular persons or agencies the data subject is authorizing to disclose information about the data subject;

(4) specific as to the nature of the information the subject is authorizing to be disclosed;

(5) specific as to the persons or agencies to whom the subject is authorizing information to be disclosed;

(6) specific as to the purpose or purposes for which the information may be used by any of the parties named in clause (5), both at the time of the disclosure and at any time in the future;

(7) specific as to its expiration date which should be within a reasonable period of time, not to exceed one year except in the case of authorizations given in connection with applications for life insurance or noncancelable or guaranteed renewable health insurance and identified as such, two years after the date of the policy.

The responsible authority may require a person requesting copies of data under this paragraph to pay the actual costs of making, certifying, and compiling the copies.

(e) Private or confidential data on an individual may be discussed at a meeting open to the public to the extent provided in section 471.705, subdivision 1d.

Sec. 4. Minnesota Statutes 1992, section 13.32, is amended by adding a subdivision to read:

Subd. 7. [USES OF DATA.] *School officials who receive data on juveniles, as authorized under section 260.161, may use and share that data within the school district or educational entity as necessary to protect persons and property or to address the educational and other needs of students.*

Sec. 5. Minnesota Statutes 1992, section 13.38, is amended by adding a subdivision to read:

Subd. 4. [TRANSITION PLANS.] *Transition plans that are submitted to the commissioner of health by health care providers as required by section 62J.23, subdivision 2, are classified as private data on individuals or nonpublic data not on individuals.*

Sec. 6. Minnesota Statutes 1992, section 13.39, subdivision 2, is amended to read:

Subd. 2. [CIVIL ACTIONS.] *(a) Except as provided in paragraph (b),* data collected by state agencies, political subdivisions or statewide systems as part of an active investigation undertaken for the purpose of the commencement or defense of a pending civil legal action, or which are retained in anticipation of a pending civil legal action, are classified as protected nonpublic data pursuant to section 13.02, subdivision 13 in the case of data not on individuals and

confidential pursuant to section 13.02, subdivision 3 in the case of data on individuals. Any agency, political subdivision or statewide system may make any data classified as confidential or protected nonpublic pursuant to this subdivision accessible to any person, agency or the public if the agency, political subdivision or statewide system determines that the access will aid the law enforcement process, promote public health or safety or dispel widespread rumor or unrest.

(b) A complainant has access to a statement provided by the complainant to a state agency, statewide system, or political subdivision under paragraph (a).

Sec. 7. Minnesota Statutes 1992, section 13.39, is amended by adding a subdivision to read:

Subd. 2a. [DISCLOSURE OF DATA.] *During the time when a civil legal action is determined to be pending under subdivision 1, any person may bring an action in the district court in the county where the data is maintained to obtain disclosure of data classified as confidential or protected nonpublic under subdivision 2. The court may order that all or part of the data be released to the public or to the person bringing the action. In making the determination whether data shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, the agency, or any person identified in the data. The data in dispute shall be examined by the court in camera.*

Sec. 8. Minnesota Statutes 1992, section 13.41, subdivision 2, is amended to read:

Subd. 2. [PRIVATE DATA.] *(a)* The following data collected, created or maintained by any licensing agency are classified as private, pursuant to section 13.02, subdivision 12: data, other than their names and *designated* addresses, submitted by applicants for licenses; the identity of complainants who have made reports concerning licensees or applicants which appear in inactive complaint data unless the complainant consents to the disclosure; the nature or content of unsubstantiated complaints when the information is not maintained in anticipation of legal action; the identity of patients whose medical records are received by any health licensing agency for purposes of review or in anticipation of a contested matter; inactive investigative data relating to violations of statutes or rules; and the record of any disciplinary proceeding except as limited by subdivision 4.

(b) An applicant for a license shall designate on the application a residence or business address at which the applicant can be contacted in connection with the license application.

Sec. 9. Minnesota Statutes 1993 Supplement, section 13.43, subdivision 2, is amended to read:

Subd. 2. [PUBLIC DATA.] (a) Except for employees described in subdivision 5, the following personnel data on current and former employees, volunteers, and independent contractors of a state agency, statewide system, or political subdivision and members of advisory boards or commissions is public: name; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; job title; job description; education and training background; previous work experience; date of first and last employment; the

existence and status of any complaints or charges against the employee, whether or not the complaint or charge resulted in a disciplinary action; the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body; the terms of any agreement settling any dispute arising out of the employment relationship; work location; a work telephone number; badge number; honors and awards received; payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data; and city and county of residence.

(b) For purposes of this subdivision, a final disposition occurs when the state agency, statewide system, or political subdivision makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the state agency, statewide system, political subdivision, or arbitrator.

(c) The state agency, statewide system, or political subdivision may display a photograph of a current or former employee to a prospective witness as part of the state agency's, statewide system's, or political subdivision's investigation of any complaint or charge against the employee.

(d) A complainant has access to a statement provided by the complainant to a state agency, statewide system, or political subdivision in connection with a complaint or charge against an employee.

Sec. 10. Minnesota Statutes 1993 Supplement, section 13.46, subdivision 2, is amended to read:

Subd. 2. [GENERAL.] (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(1) pursuant to section 13.05;

(2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;

(6) to administer federal funds or programs;

(7) between personnel of the welfare system working in the same program;

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names and social security numbers, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, and the income tax;

(9) to the Minnesota department of jobs and training for the purpose of monitoring the eligibility of the data subject for unemployment compensation, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential facilities as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education coordinating board to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant social security numbers and names collected by the telephone assistance program may be disclosed to the department of revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a recipient of aid to families with dependent children~~, medical assistance, general assistance, work readiness, or general assistance medical care~~ may be disclosed to law enforcement officers who provide the name and social security number of the recipient and satisfactorily demonstrate that: (i) the recipient is a fugitive felon, including the grounds for this determination; (ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and (iii) the request is made in writing and in the proper exercise of those duties; ~~or~~

(16) *the current address of a recipient of general assistance, work readiness, or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient, and to law enforcement officers who are investigating the recipient in connection with a felony-level offense; or*

(17) information obtained from food stamp applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the food stamp act, in accordance with Code of Federal Regulations, title 7, section 272.1(c).

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed in accordance with the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15) ~~or~~, (16)~~;~~, *or (17),* or *paragraph* (b) are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

Sec. 11. Minnesota Statutes 1993 Supplement, section 13.46, subdivision 4, is amended to read:

Subd. 4. [LICENSING DATA.] (a) As used in this subdivision:

(1) "licensing data" means all data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered or who apply for licensure or registration or who formerly were licensed or registered under the authority of the commissioner of human services;

(2) "client" means a person who is receiving services from a licensee or from an applicant for licensure; and

(3) "personal and personal financial data" means social security numbers, identity of and letters of reference, insurance information, reports from the bureau of criminal apprehension, health examination reports, and social/home studies.

(b) Except as provided in paragraph (c), the following data on current and former licensees are public: name, address, telephone number of licensees, licensed capacity, type of client preferred, variances granted, type of dwelling, name and relationship of other family members, previous license history, class of license, and the existence and status of complaints. When disciplinary action has been taken against a licensee or the complaint is resolved, the following data are public: the substance of the complaint, the findings of the investigation of the complaint, the record of informal resolution of a licensing violation, orders of hearing, findings of fact, conclusions of law, and specifications of the final disciplinary action contained in the record of disciplinary action.

The following data on persons ~~licensed~~ *subject to disqualification* under section 245A.04 *in connection with a license* to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home, are public: the nature of any disqualification set aside under section 245A.04, subdivision 3b, and the reasons for setting aside the disqualification; and the reasons for granting any variance under section 245A.04, subdivision 9.

(c) The following are private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial data on family day care program and family foster care program applicants and licensees and their family members who provide services under the license.

(d) The following are private data on individuals: the identity of persons who have made reports concerning licensees or applicants that appear in inactive investigative data, and the records of clients or employees of the licensee or applicant for licensure whose records are received by the licensing agency for purposes of review or in anticipation of a contested matter. The names of reporters under sections 626.556 and 626.557 may be disclosed only as provided in section 626.556, subdivision 11, or 626.557, subdivision 12.

(e) Data classified as private, confidential, nonpublic, or protected nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning the disciplinary action.

(f) Data generated in the course of licensing investigations that relate to an alleged violation of law are investigative data under subdivision 3.

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in section 626.556, subdivision 2, are subject to the destruction provisions of section 626.556, subdivision 11.

Sec. 12. [13.49] [SOCIAL SECURITY NUMBERS.]

The social security numbers of individuals collected or maintained by a state agency, statewide system, or political subdivision are private data on individuals, except to the extent that access to the social security number is specifically authorized by law.

Sec. 13. Minnesota Statutes 1992, section 13.57, is amended to read:

13.57 [SOCIAL RECREATIONAL DATA.]

The following data collected and maintained by political subdivisions for the purpose of enrolling individuals in recreational and other social programs are classified as private, pursuant to section 13.02, subdivision 12: *the name, address, telephone number, any other data that identifies the individual, and any* data which describes the health or medical condition of the individual, family relationships and living arrangements of an individual or which are opinions as to the emotional makeup or behavior of an individual.

Sec. 14. Minnesota Statutes 1992, section 13.82, is amended by adding a subdivision to read:

Subd. 3a. [AUDIO RECORDING OF 911 CALL.] *The audio recording of a call placed to a 911 system for the purpose of requesting service from a law enforcement, fire, or medical agency is private data on individuals with respect to the individual making the call, except that a written transcript of the audio recording is public, unless it reveals the identity of an individual otherwise protected under subdivision 10. A transcript shall be prepared upon request. The person requesting the transcript shall pay the actual cost of transcribing the call, in addition to any other applicable costs provided under section 13.03, subdivision 3. The audio recording may be disseminated to law enforcement agencies for investigative purposes. The audio recording may be used for public safety dispatcher training purposes.*

Sec. 15. Minnesota Statutes 1993 Supplement, section 13.82, subdivision 4, is amended to read:

Subd. 4. [RESPONSE OR INCIDENT DATA.] The following data created or collected by law enforcement agencies which documents the agency's response to a request for service including, but not limited to, responses to traffic accidents, or which describes actions taken by the agency on its own initiative shall be public government data:

(a) date, time and place of the action;

(b) agencies, units of agencies and individual agency personnel participating in the action unless the identities of agency personnel qualify for protection under subdivision 10;

(c) any resistance encountered by the agency;

(d) any pursuit engaged in by the agency;

(e) whether any weapons were used by the agency or other individuals;

(f) a brief factual reconstruction of events associated with the action;

(g) names and addresses of witnesses to the agency action or the incident unless the identity of any witness qualifies for protection under subdivision 10;

(h) names and addresses of any victims or casualties unless the identities of those individuals qualify for protection under subdivision 10;

(i) the name and location of the health care facility to which victims or casualties were taken;

(j) response or incident report number;

(k) dates of birth of the parties involved in a traffic accident; ~~and~~

(l) whether the parties involved were wearing seat belts*; and*

(m) the alcohol concentration of each driver.

Sec. 16. Minnesota Statutes 1992, section 13.84, subdivision 5a, is amended to read:

Subd. 5a. [PUBLIC BENEFIT DATA.] (a) The responsible authority or its designee of a parole or probation authority or correctional agency may release private or confidential court services data related to: (1) criminal acts to any law enforcement agency, if necessary for law enforcement purposes; and (2) criminal acts or delinquent acts to the victims of criminal or delinquent acts to the extent that the data are necessary for the victim to assert the victim's legal right to restitution. ~~In the case of delinquent acts, the data that may be released include only the juvenile's name, address, date of birth, and place of employment; the name and address of the juvenile's parents or guardians; and the factual part of police reports related to the investigation of the delinquent act.~~

(b) A parole or probation authority, a correctional agency, or agencies that provide correctional services under contract to a correctional agency may release to a law enforcement agency the following data on defendants, parolees, or probationers: current address, dates of entrance to and departure from agency programs, and dates and times of any absences, both authorized and unauthorized, from a correctional program.

(c) The responsible authority or its designee of a juvenile correctional agency may release private or confidential court services data to a victim of a delinquent act to the extent the data are necessary to enable the victim to assert the victim's right to request notice of release under section 611A.06. The data that may be released include only the name, home address, and placement site of a juvenile who has been placed in a juvenile correctional facility as a result of a delinquent act.

Sec. 17. Minnesota Statutes 1992, section 13.99, subdivision 79, is amended to read:

Subd. 79. [PEACE OFFICERS, *COURT SERVICES,* AND CORRECTIONS RECORDS OF JUVENILES.] Inspection and maintenance of juvenile records held by police and the commissioner of corrections are governed by section 260.161, subdivision 3. *Disclosure to school officials of court services data on juveniles adjudicated delinquent is governed by section 260.161, subdivision 1b.*

Sec. 18. Minnesota Statutes 1993 Supplement, section 121.8355, is amended by adding a subdivision to read:

Subd. 3a. [INFORMATION SHARING.] *(a) The school district, county, and public health entity members of a family services collaborative may inform each other as to whether an individual or family is being served by the member, without the consent of the subject of the data. If further information sharing is necessary in order for the collaborative to carry out duties under subdivision 2 or 3, the collaborative may share data if the individual, as defined in section 13.02, subdivision 8, gives written informed consent. Data on individuals shared under this subdivision retain the original classification as defined under section 13.02, as to each member of the collaborative with whom the data is shared.*

(b) If a federal law or regulation impedes information sharing that is necessary in order for a collaborative to carry out duties under subdivision 2 or 3, the appropriate state agencies shall seek a waiver or exemption from the applicable law or regulation.

Sec. 19. Minnesota Statutes 1993 Supplement, section 144.335, subdivision 3a, is amended to read:

Subd. 3a. [PATIENT CONSENT TO RELEASE OF RECORDS; LIABILITY.] (a) A provider, or a person who receives health records from a provider, may not release a patient's health records to a person without a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release, unless the release is specifically authorized by law. Except as provided in paragraph (c), a consent is valid for one year or for a lesser period specified in the consent or for a different period provided by law.

(b) This subdivision does not prohibit the release of health records for a medical emergency when the provider is unable to obtain the patient's consent due to the patient's condition or the nature of the medical emergency.

(c) Notwithstanding paragraph (a), if a patient explicitly gives informed consent to the release of health records for the purposes and pursuant to the restrictions in clauses (1) and (2), the consent does not expire after one year for:

(1) the release of health records to a provider who is being advised or consulted with in connection with the current treatment of the patient;

(2) the release of health records to an accident and health insurer, health service plan corporation, health maintenance organization, or third-party administrator for purposes of payment of claims, fraud investigation, or quality of care review and studies, provided that:

(i) the use or release of the records complies with sections 72A.49 to 72A.505;

(ii) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited; and

(iii) the recipient establishes adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient.

(d) Until June 1, ~~1994~~ *1996*, paragraph (a) does not prohibit the release of health records to qualified personnel solely for purposes of medical or scientific research, if the patient has not objected to a release for research purposes and the provider who releases the records makes a reasonable effort to determine that:

(i) the use or disclosure does not violate any limitations under which the record was collected;

(ii) the use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which the use or disclosure is to be made;

(iii) the recipient has established and maintains adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient; and

(iv) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited.

(e) A person who negligently or intentionally releases a health record in violation of this subdivision, or who forges a signature on a consent form, or who obtains under false pretenses the consent form or health records of another person, or who, without the person's consent, alters a consent form, is liable to the patient for compensatory damages caused by an unauthorized release, plus costs and reasonable attorney's fees.

(f) Upon the written request of a spouse, parent, child, or sibling of a patient being evaluated for or diagnosed with mental illness, a provider shall inquire of a patient whether the patient wishes to authorize a specific individual to receive information regarding the patient's current and proposed course of treatment. If the patient so authorizes, the provider shall communicate to the designated individual the patient's current and proposed course of treatment. Paragraph (a) applies to consents given under this paragraph.

Sec. 20. [144.3352] [HEPATITIS B MATERNAL CARRIER DATA; INFANT IMMUNIZATION.]

The commissioner of health or a local board of health may inform the physician attending a newborn of the hepatitis B infection status of the biological mother.

Sec. 21. Minnesota Statutes 1992, section 144.581, subdivision 5, is amended to read:

Subd. 5. [CLOSED MEETINGS; RECORDING.] (a) Notwithstanding subdivision 4 or section 471.705, a public hospital or an organization established under this section may hold a closed meeting to discuss specific marketing activity and contracts that might be entered into pursuant to the marketing activity in cases where the hospital or organization is in competition with health care providers that offer similar goods or services, and where disclosure of information pertaining to those matters would cause harm to the competitive position of the hospital or organization, provided that the goods or services do not require a tax levy. No contracts referred to in this paragraph may be entered into earlier than 15 days after the proposed contract has been described at a public meeting and the description entered in the minutes, except for contracts for consulting services or with individuals for personal services.

(b) A meeting may not be closed under paragraph (a) except by a majority vote of the board of directors in a public meeting. The time and place of the closed meeting must be announced at the public meeting. A written roll of members present at the closed meeting must be available to the public after the closed meeting. The proceedings of a closed meeting must be tape-recorded and preserved by the board of directors for two years. The data on the tape are nonpublic data under section 13.02, subdivision 9. However, the data become public data under section 13.02, subdivision 14, two years after the meeting, or when the hospital or organization takes action on matters referred to in paragraph (a), except for contracts for consulting services. In the case of personal service contracts, the data become public when the contract is signed. For entities subject to section 471.345, a contract entered into by the board is subject to the requirements of section 471.345.

(c) The board of directors may not discuss a tax levy, *bond issuance, or other expenditure of money unless the expenditure is directly related to specific marketing activities and contracts described in paragraph (a)* at a closed meeting.

Sec. 22. [145.90] [FETAL, INFANT, AND MATERNAL DEATH STUDIES.]

Subdivision 1. [PURPOSE.] *The commissioner of health may conduct fetal, infant, and maternal death studies in order to assist the planning, implementation, and evaluation of medical, health, and welfare service systems, and to improve pregnancy outcomes and reduce the numbers of preventable fetal, infant, and maternal deaths in Minnesota.*

Subd. 2. [ACCESS TO DATA.] *(a) Until July 1, 1997, the commissioner of health has access to medical data as defined in section 13.42, subdivision 1, paragraph (b), medical examiner data as defined in section 13.83, subdivision 1, and health records created, maintained, or stored by providers as defined in section 144.335, subdivision 1, paragraph (b), without the consent of the subject of the data, and without the consent of the parent, spouse, other guardian, or legal representative of the subject of the data, when the subject of the data is:*

(1) a fetus that showed no signs of life at the time of delivery, was 20 or more weeks of gestation at the time of delivery, and was not delivered by an induced abortion;

(2) a liveborn infant that died within the first two years of life;

(3) a woman who died during a pregnancy or within 12 months of a fetal death, a live birth, or other termination of a pregnancy; or

(4) the biological mother of a fetus or infant as described in clause (1) or (2).

The commissioner only has access to medical data and health records related to deaths or stillbirths that occur on or after July 1, 1994. With respect to data under clause (4), the commissioner only has access to medical data and health records that contain information that bears upon the pregnancy and the outcome of the pregnancy.

(b) The provider or responsible authority that creates, maintains, or stores the data shall furnish the data upon the request of the commissioner. The provider or responsible authority may charge a fee for providing data, not to exceed the actual cost of retrieving and duplicating the data.

(c) The commissioner shall make a good faith reasonable effort to notify the subject of the data, or the parent, spouse, other guardian, or legal representative of the subject of the data, before collecting data on the subject. For purposes of this paragraph, "reasonable effort" includes:

(1) one visit by a public health nurse to the last known address of the data subject, or the parent, spouse, or guardian; and

(2) if the public health nurse is unable to contact the data subject, or the parent, spouse, or guardian, one notice by certified mail to the last known address of the data subject, or the parent, spouse, or guardian.

(d) The commissioner does not have access to coroner or medical examiner data that are part of an active investigation as described in section 13.83.

Subd. 3. [MANAGEMENT OF RECORDS.] *After the commissioner has collected all data about a subject of a fetal, infant, or maternal death study needed to perform the study, the data from source records obtained under subdivision 2, other than data identifying the subject, must be transferred to separate records to be maintained by the commissioner. Notwithstanding section 138.17, after the data have been transferred, all source records obtained under subdivision 2 in the hands of the commissioner must be destroyed.*

Subd. 4. [CLASSIFICATION OF DATA.] *Data provided to or created by the commissioner for the purpose of carrying out fetal, infant, or maternal death studies, including identifying information on individual providers or patients, are classified as private data on individuals or nonpublic data on deceased individuals, as defined in section 13.02, with the following exceptions:*

(1) summary data created by the commissioner, as defined in section 13.02, subdivision 19; and

(2) data provided by the commissioner of human services, which retains the classification it held when in the hands of the commissioner of human services.

Sec. 23. Minnesota Statutes 1993 Supplement, section 148B.04, subdivision 6, is amended to read:

Subd. 6. [CLASSIFICATION OF CERTAIN RESIDENCE ADDRESSES AND TELEPHONE NUMBERS.] Notwithstanding section 13.41, subdivision 2 or 4, the residence address and telephone number of an applicant or licensee are private data on individuals as defined in section 13.02, subdivision 12, if the applicant or licensee *so requests and* provides an alternative address and telephone number.

Sec. 24. Minnesota Statutes 1993 Supplement, section 168.346, is amended to read:

168.346 [PRIVACY OF NAME OR RESIDENCE ADDRESS.]

The registered owner of a motor vehicle may request in writing that the owner's residence address or name and residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the owner that the classification is required for the safety of the owner or the owner's family, if the statement also provides a valid, existing address where the owner consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the motor vehicle. The residence address or name and residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, *probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9.*

Sec. 25. Minnesota Statutes 1992, section 171.12, subdivision 7, is amended to read:

Subd. 7. [PRIVACY OF RESIDENCE ADDRESS.] An applicant for a driver's license or a Minnesota identification card may request that the applicant's residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the individual that the classification is required for the safety of the applicant or the applicant's family, if the statement also provides a valid, existing address where the applicant consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the driver's license or identification card. The residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, *probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9.*

Sec. 26. [245.041] [PROVISION OF FIREARMS BACKGROUND CHECK INFORMATION.]

Notwithstanding section 253B.23, subdivision 9, the commissioner of human services shall provide commitment information to local law enforcement agencies for the sole purpose of facilitating a firearms background check under section 624.7131, 624.7132, or 624.714. The information to be provided is limited to whether the person has been committed under chapter 253B and, if so, the type of commitment.

Sec. 27. Minnesota Statutes 1993 Supplement, section 245.493, is amended by adding a subdivision to read:

Subd. 3. [INFORMATION SHARING.] *(a) The members of a local children's mental health collaborative may share data on individuals being served by the collaborative or its members if the individual, as defined in section 13.02, subdivision 8, gives written informed consent and the information sharing is necessary in order for the collaborative to carry out duties under subdivision 2. Data on individuals shared under this subdivision retain the original classification as defined under section 13.02, as to each member of the collaborative with whom the data is shared.*

(b) If a federal law or regulation impedes information sharing that is necessary in order for a collaborative to carry out duties under subdivision 2, the appropriate state agencies shall attempt to get a waiver or exemption from the applicable law or regulation.

Sec. 28. [253B.091] [REPORTING JUDICIAL COMMITMENTS INVOLVING PRIVATE TREATMENT PROGRAMS OR FACILITIES.]

Notwithstanding section 253B.23, subdivision 9, when a committing court judicially commits a proposed patient to a treatment program or facility other than a state-operated program or facility, the court shall report the commitment to the commissioner of human services for purposes of providing commitment information for firearm background checks under section 245.041.

Sec. 29. Minnesota Statutes 1992, section 253B.23, subdivision 4, is amended to read:

Subd. 4. [IMMUNITY.] All persons acting in good faith, upon either actual knowledge or information thought by them to be reliable, who act pursuant to any provision of this chapter or who procedurally or physically assist in the commitment of any individual, pursuant to this chapter, are not subject to any civil or criminal liability under this chapter. Any privilege otherwise existing between patient and physician ~~or between~~, patient and examiner, *or patient and social worker,* is waived as to any physician ~~or~~, examiner, *or social worker* who provides information with respect to a patient pursuant to any provision of this chapter.

Sec. 30. Minnesota Statutes 1992, section 256.0361, is amended by adding a subdivision to read:

Subd. 3. [EVALUATION DATA.] *The commissioner may access data maintained by the department of jobs and training under sections 268.03 to 268.231 for the purpose of evaluating the Minnesota family investment plan for persons randomly assigned to a test or comparison group as part of the evaluation. This subdivision authorizes access to data concerning the three years before the time of random assignment for persons randomly assigned to a test or comparison group and data concerning the five years after random assignment.*

Sec. 31. Minnesota Statutes 1992, section 260.161, is amended by adding a subdivision to read:

Subd. 1b. [DISPOSITION ORDER; COPY TO SCHOOL.] *(a) If a juvenile is enrolled in school, the juvenile's probation officer shall transmit a copy of the court's disposition order to the principal or chief administrative officer of the juvenile's school if the juvenile has been adjudicated delinquent for committing an act on the school's property or an act:*

(1) that would be a violation of section 609.185 (first-degree murder); 609.19 (second-degree murder); 609.195 (third-degree murder); 609.20 (first-degree manslaughter); 609.205 (second-degree manslaughter); 609.21 (criminal vehicular homicide and injury); 609.221 (first-degree assault); 609.222 (second-degree assault); 609.223 (third-degree assault); 609.2231 (fourth-degree assault); 609.224 (fifth-degree assault); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.342 (first-degree criminal sexual conduct); 609.343 (second-degree criminal sexual conduct); 609.344 (third-degree criminal sexual conduct); 609.345 (fourth-degree criminal sexual conduct); 609.3451 (fifth-degree criminal sexual conduct); 609.498 (tampering with a witness); 609.561 (first-degree arson); 609.582, subdivision 1 or 2 (burglary); 609.713 (terroristic threats); or 609.749 (harassment and stalking), if committed by an adult;

(2) that would be a violation of section 152.021 (first-degree controlled substance crime); 152.022 (second-degree controlled substance crime); 152.023 (third-degree controlled substance crime); 152.024 (fourth-degree controlled substance crime); 152.025 (fifth-degree controlled substance crime); 152.0261 (importing a controlled substance); or 152.027 (other controlled substance offenses), if committed by an adult; or

(3) that involved the possession or use of a dangerous weapon as defined in section 609.02, subdivision 6.

When a disposition order is transmitted under this paragraph, the probation officer shall notify the juvenile's parent or legal guardian that the disposition order has been shared with the juvenile's school.

(b) The disposition order must be accompanied by a notice to the school that the school may obtain additional information from the juvenile's probation officer with the consent of the juvenile or the juvenile's parents, as applicable. The disposition order must be maintained in the student's permanent education record but may not be released outside of the school district or educational entity, other than to another school district or educational entity to which the juvenile is transferring. Notwithstanding section 138.17, the disposition order must be destroyed when the juvenile graduates from the school or at the end of the academic year when the juvenile reaches age 23, whichever date is earlier.

(c) The juvenile's probation officer shall maintain a record of disposition orders released under this subdivision and the basis for the release.

(d) The criminal and juvenile justice information policy group, in consultation with representatives of probation officers and educators, shall prepare standard forms for use by juvenile probation officers in forwarding information to schools under this subdivision and in maintaining a record of the information that is released.

(e) As used in this subdivision, "school" means a public or private elementary, middle, or secondary school.

Sec. 32. Minnesota Statutes 1992, section 260.161, subdivision 2, is amended to read:

Subd. 2. [PUBLIC INSPECTION LIMITATIONS.] Except as *otherwise* provided in this ~~subdivision and in subdivision 1~~ *section*, and except for legal records arising from proceedings that are public under section 260.155,

subdivision 1, none of the records of the juvenile court and none of the records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion, shall be open to public inspection or their contents disclosed except (a) by order of a court or (b) as required by sections 245A.04, 611A.03, 611A.04, 611A.06, and 629.73. The records of juvenile probation officers and county home schools are records of the court for the purposes of this subdivision. Court services data relating to delinquent acts that are contained in records of the juvenile court may be released as allowed under section 13.84, subdivision 5a. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court, except that this subdivision does not apply to proceedings under section 260.255, 260.261, or 260.315 when the proceeding involves an adult defendant. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record and the guardian ad litem a reasonable time before it is used in connection with any proceeding before the court.

When a judge of a juvenile court, or duly authorized agent of the court, determines under a proceeding under this chapter that a child has violated a state or local law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets and highways, except parking violations, the judge or agent shall immediately report the violation to the commissioner of public safety. The report must be made on a form provided by the department of public safety and must contain the information required under section 169.95.

Sec. 33. Minnesota Statutes 1993 Supplement, section 260.161, subdivision 3, is amended to read:

Subd. 3. [PEACE OFFICER RECORDS OF CHILDREN.] (a) Except for records relating to an offense where proceedings are public under section 260.155, subdivision 1, peace officers' records of children who are or may be delinquent or who may be engaged in criminal acts shall be kept separate from records of persons 18 years of age or older and are private data but shall be disseminated: (1) by order of the juvenile court, (2) as required by section 126.036, (3) as authorized under section 13.82, subdivision 2, (4) to the child or the child's parent or guardian unless disclosure of a record would interfere with an ongoing investigation, or (5) as *otherwise* provided in ~~paragraph (d)~~ *this subdivision*. Except as provided in paragraph (c), no photographs of a child taken into custody may be taken without the consent of the juvenile court unless the child is alleged to have violated section 169.121 or 169.129. Peace officers' records containing data about children who are victims of crimes or witnesses to crimes must be administered consistent with section 13.82, subdivisions 2, 3, 4, and 10. Any person violating any of the provisions of this subdivision shall be guilty of a misdemeanor.

In the case of computerized records maintained about juveniles by peace officers, the requirement of this subdivision that records about juveniles must be kept separate from adult records does not mean that a law enforcement agency must keep its records concerning juveniles on a separate computer system. Law enforcement agencies may keep juvenile records on the same computer as adult records and may use a common index to access both juvenile and adult records so long as the agency has in place procedures that keep juvenile records in a separate place in computer storage and that comply with the special data retention and other requirements associated with protecting data on juveniles.

(b) Nothing in this subdivision prohibits the exchange of information by law enforcement agencies if the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing a criminal investigation.

(c) A photograph may be taken of a child taken into custody pursuant to section 260.165, subdivision 1, clause (b), provided that the photograph must be destroyed when the child reaches the age of 19 years. The commissioner of corrections may photograph juveniles whose legal custody is transferred to the commissioner. Photographs of juveniles authorized by this paragraph may be used only for institution management purposes, case supervision by parole agents, and to assist law enforcement agencies to apprehend juvenile offenders. The commissioner shall maintain photographs of juveniles in the same manner as juvenile court records and names under this section.

(d) Traffic investigation reports are open to inspection by a person who has sustained physical harm or economic loss as a result of the traffic accident. Identifying information on juveniles who are parties to traffic accidents may be disclosed as authorized under section 13.82, subdivision 4, and accident reports required under section 169.09 may be released under section 169.09, subdivision 13, unless the information would identify a juvenile who was taken into custody or who is suspected of committing an offense that would be a crime if committed by an adult, or would associate a juvenile with the offense, and the offense is not a minor traffic offense under section 260.193.

(e) A law enforcement agency shall notify the principal or chief administrative officer of a juvenile's school of an incident occurring within the agency's jurisdiction if:

(1) the agency has probable cause to believe that the juvenile has committed an offense that would be a crime if committed as an adult, that the victim of the offense is a student or staff member of the school, and that notice to the school is reasonably necessary for the protection of the victim; or

(2) the agency has probable cause to believe that the juvenile has committed an offense described in subdivision 1b, paragraph (a), clauses (1) to (3), that would be a crime if committed by an adult.

A law enforcement agency is not required to notify the school under this paragraph if the agency determines that notice would jeopardize an ongoing investigation. Notwithstanding section 138.17, data from a notice received from a law enforcement agency under this paragraph must be destroyed when the juvenile graduates from the school or at the end of the academic year when the juvenile reaches age 23, whichever date is earlier. For purposes of this paragraph, "school" means a public or private elementary, middle, or secondary school.

(f) In any county in which the county attorney operates or authorizes the operation of a juvenile prepetition or pretrial diversion program, a law enforcement agency or county attorney's office may provide the juvenile diversion program with data concerning a juvenile who is a participant in or is being considered for participation in the program.

(g) Upon request of a local social service agency, peace officer records of children who are or may be delinquent or who may be engaged in criminal acts may be disseminated to the agency to promote the best interests of the subject of the data.

Sec. 34. Minnesota Statutes 1992, section 260.161, is amended by adding a subdivision to read:

Subd. 5. [FURTHER RELEASE OF RECORDS.] *A person who receives access to juvenile court or peace officer records of children that are not accessible to the public may not release or disclose the records to any other person except as authorized by law. This subdivision does not apply to the child who is the subject of the records or the child's parent or guardian.*

Sec. 35. [325I.01] [DEFINITIONS.]

Subdivision 1. [GENERAL.] *The definitions in this section apply to sections 325I.01 to 325I.03.*

Subd. 2. [CONSUMER.] *"Consumer" means a renter, purchaser, or subscriber of goods or services from a videotape service provider or videotape seller.*

Subd. 3. [PERSONALLY IDENTIFIABLE INFORMATION.] *"Personally identifiable information" means information that identifies a person as having requested or obtained specific video materials or services from a videotape service provider or videotape seller.*

Subd. 4. [VIDEOTAPE SELLER.] *"Videotape seller" means a person engaged in the business of selling prerecorded videocassette tapes or similar audiovisual materials, or a person to whom a disclosure is made by a videotape seller under section 325I.02, but only with respect to the information contained in the disclosure.*

Subd. 5. [VIDEOTAPE SERVICE PROVIDER.] *"Videotape service provider" means a person engaged in the business of rental of prerecorded videocassette tapes or similar audiovisual materials, or a person to whom a disclosure is made by a videotape service provider under section 325I.02, but only with respect to the information contained in the disclosure.*

Sec. 36. [325I.02] [DISCLOSURE OF VIDEOTAPE RENTAL OR SALES RECORDS.]

Subdivision 1. [DISCLOSURE PROHIBITED.] *Except as provided in subdivisions 2 and 3, a videotape service provider or videotape seller who knowingly discloses, to any person, personally identifiable information concerning any consumer of the provider or seller is liable to the consumer for the relief provided in section 325I.03.*

Subd. 2. [DISCLOSURE REQUIRED.] *(a) A videotape service provider or videotape seller shall disclose personally identifiable information concerning any consumer:*

(1) to a grand jury pursuant to a grand jury subpoena;

(2) pursuant to a court order in a civil proceeding upon a showing of compelling need for the information that cannot be accommodated by other means, or in a criminal proceeding upon a showing of legitimate need for the information that cannot be accommodated by other means, if:

(i) the consumer is given reasonable notice by the person seeking the disclosure of the court proceeding relevant to the issuance of the court order;

(ii) the consumer is afforded the opportunity to appear and contest the disclosure; and

(iii) the court imposes appropriate safeguards against unauthorized disclosure; or

(3) to a law enforcement agency pursuant to a warrant lawfully obtained under the laws of this state or the United States.

(b) A videotape service provider or videotape seller may disclose personally identifiable information concerning any consumer to a court or law enforcement agency pursuant to a civil action or criminal investigation for conversion or theft commenced or initiated by the videotape service provider or videotape seller or to enforce collection of fines for overdue or unreturned videotapes or collection for unpaid videotapes, to the extent necessary to establish the fact of the rental or sale. In a court action, the court shall impose appropriate safeguards against unauthorized disclosure of the information. A law enforcement agency shall maintain the information as investigative data under section 13.82, except that when the investigation becomes inactive, the information is private data on individuals as defined in section 13.02, subdivision 12.

Subd. 3. [DISCLOSURE PERMITTED.] *A videotape service provider or videotape seller may disclose personally identifiable information concerning any consumer:*

(1) to the consumer;

(2) to a person in connection with a transfer of ownership of the videotape service provider or videotape seller;

(3) to any person with the written informed consent of the consumer, as provided in subdivision 4; or

(4) if a videotape is sold by mail or telephone and the videotape seller complies with United States Code, title 18, section 2710 (b)(2)(D).

Subd. 4. [PROCEDURE FOR WRITTEN INFORMED CONSENT OF THE CONSUMER.] *For purposes of subdivision 3, clause (3), in order to obtain the written informed consent of the consumer, the videotape service provider or videotape seller must obtain a signed statement conforming to the notice contained in this subdivision. The notice must be in writing in at least ten-point bold-faced type, must be separate from any membership, subscriber, or rental or purchase agreement between the consumer and the videotape service provider or videotape seller, and must read as follows:*

"This videotape service provider [videotape seller] from time to time provides to marketers of goods and services, the names and addresses of customers and a description or subject matter of materials rented or purchased by video customers. The videotape service provider [videotape seller] may not include your name, address, or the description or subject matter of any material rented or purchased in these lists without your written consent. This election may be changed by you, in writing, at any time.

I do not object to the release of my name, address, or the description or subject matter of the material rented or purchased.

.....

Signature

Subd. 5. [EXCLUSION FROM EVIDENCE.] *Personally identifiable information obtained in any manner other than as provided in this section may not be received in evidence in any trial, hearing, arbitration, or other proceeding before any court, grand jury, officer, agency, regulatory body, legislative committee, or other authority of the state or any political subdivision.*

Subd. 6. [DESTRUCTION OF INFORMATION.] *A person subject to this section shall destroy personally identifiable information as soon as practicable, but no later than one year from the date the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to the information under this section.*

Subd. 7. [PROHIBITION ON REFUSAL OF SERVICES.] *A videotape service provider or videotape seller may not require a consumer to execute a consent under subdivision 4 as a condition of providing videotape goods or services to the consumer.*

Sec. 37. [325I.03] [ENFORCEMENT; CIVIL LIABILITY.]

The public and private remedies in section 8.31 apply to violations of section 325I.02. In addition, a consumer who prevails or substantially prevails in an action brought under this section is entitled to a minimum of $500 in damages, regardless of the amount of actual damage proved, plus costs, disbursements, and reasonable attorney fees. Sections 325I.01 to 325I.03 do not affect any rights or remedies available under other law.

Sec. 38. Minnesota Statutes 1992, section 403.07, subdivision 4, is amended to read:

Subd. 4. [USE OF FURNISHED INFORMATION.] Names, addresses, and telephone numbers provided to a 911 system under subdivision 3 are private data and may be used only for identifying the location or identity, or both, of a person calling a 911 public safety answering point. The information furnished under subdivision 3 may not be used or disclosed by 911 system agencies, their agents, or their employees for any other purpose except under a court order. *A telephone company or telecommunications provider is not liable to any person for the good faith release to emergency communications personnel of information not in the public record, including, but not limited to, nonpublished or nonlisted telephone numbers.*

Sec. 39. Minnesota Statutes 1992, section 471.705, is amended to read:

471.705 [MEETINGS OF GOVERNING BODIES; OPEN TO PUBLIC; EXCEPTIONS.]

Subdivision 1. [~~REQUIREMENT~~ *PRESUMPTION OF OPENNESS.*] Except as otherwise expressly provided by statute, all meetings, including executive sessions, of any state agency, board, commission or department when required or permitted by law to transact public business in a meeting, and the governing body of any school district however organized, unorganized territory, county, city, town, or other public body, and of any committee, subcommittee, board, department or commission thereof, shall be open to the public, except meetings of the commissioner of corrections. The votes of the members of such state agency, board, commission, or department or of such governing body, committee, subcommittee, board, department, or commission on any action taken in a meeting herein required to be open to the public shall be recorded in a journal kept for that purpose, ~~which~~ *and the* journal shall be

open to the public during all normal business hours where such records are kept. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims and amounts fixed by statute. This section shall not apply to any state agency, board, or commission when exercising quasi-judicial functions involving disciplinary proceedings.

Subd. 1a. [LABOR NEGOTIATIONS; ~~EXCEPTION~~.] Subdivision 1 does not apply to a meeting held pursuant to the procedure in this subdivision. The governing body of a public employer may by a majority vote in a public meeting decide to hold a closed meeting to consider strategy for labor negotiations, including negotiation strategies or developments or discussion and review of labor negotiation proposals, conducted pursuant to sections 179A.01 to 179A.25. The time of commencement and place of the closed meeting shall be announced at the public meeting. A written roll of members and all other persons present at the closed meeting shall be made available to the public after the closed meeting. The proceedings of a closed meeting to discuss negotiation strategies shall be ~~tape recorded~~ *tape-recorded* at the expense of the governing body ~~and~~. *The recording* shall be preserved ~~by it~~ for two years after the contract is signed and shall be made available to the public after all labor contracts are signed by the governing body for the current budget period.

If an action is brought claiming that public business other than discussions of labor negotiation strategies or developments or discussion and review of labor negotiation proposals was transacted at a closed meeting held pursuant to this subdivision during the time when the tape is not available to the public, the court shall review the recording of the meeting in camera. If the court ~~determines that no violation of this section is found~~ *finds that this subdivision was not violated*, the action shall be dismissed and the recording shall be *sealed and* preserved in the records of the court until otherwise made available to the public pursuant to this ~~section~~ *subdivision*. If the court ~~determines that a violation of this section is found~~ *finds that this subdivision was violated*, the recording may be introduced at trial in its entirety subject to any protective orders as requested by either party and deemed appropriate by the court.

~~The prevailing party in an action brought before or after the tape is made available to the public which establishes that a violation of this section has occurred shall recover costs and reasonable attorney's fees as determined by the court.~~

Subd. 1b. [~~AGENDA~~ *WRITTEN* MATERIALS.] In any meeting which under subdivision 1 must be open to the public, at least one copy of any printed materials relating to the agenda items of the meeting ~~which are~~ prepared or distributed by or at the direction of the governing body or its employees and ~~which are~~:

(1) distributed at the meeting to all members of the governing body;

(2) distributed before the meeting to all members; or

(3) available in the meeting room to all members;

shall be available in the meeting room for inspection by the public. ~~The materials shall be available to the public~~ while the governing body considers their subject matter. This subdivision does not apply to materials classified by law as other than public as defined in chapter 13, or to materials relating to the agenda items of a closed meeting held in accordance with the procedures in

subdivision 1a or other law permitting the closing of meetings. ~~If a member intentionally violates the requirements of this subdivision, that member shall be subject to a civil penalty in an amount not to exceed $100. An action to enforce this penalty may be brought by any person in any court of competent jurisdiction where the administrative office of the member is located.~~

Subd. 1c. [NOTICE OF MEETINGS.] (a) [REGULAR MEETINGS.] A schedule of the regular meetings of a public body shall be kept on file at its primary offices. If a public body decides to hold a regular meeting at a time or place different from the time or place stated in its schedule of regular meetings, it shall give the same notice of the meeting that is provided in this subdivision for a special meeting.

(b) [SPECIAL MEETINGS.] For a special meeting, except an emergency meeting or a special meeting for which a notice requirement is otherwise expressly established by statute, the public body shall post written notice of the date, time, place, and purpose of the meeting on the principal bulletin board of the public body, or if the public body has no principal bulletin board, on the door of its usual meeting room. The notice shall also be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings with the public body. This notice shall be posted and mailed or delivered at least three days before the date of the meeting. As an alternative to mailing or otherwise delivering notice to persons who have filed a written request for notice of special meetings, the public body may publish the notice once, at least three days before the meeting, in the official newspaper of the public body or, if there is none, in a qualified newspaper of general circulation within the area of the public body's authority. A person filing a request for notice of special meetings may limit the request to notification of meetings concerning particular subjects, in which case the public body is required to send notice to that person only concerning special meetings involving those subjects. A public body may establish an expiration date for requests for notices of special meetings pursuant to this paragraph and require refiling of the request once each year. Not more than 60 days before the expiration date of a request for notice, the public body shall send notice of the refiling requirement to each person who filed during the preceding year.

(c) [EMERGENCY MEETINGS.] For an emergency meeting, the public body shall make good faith efforts to provide notice of the meeting to each news medium that has filed a written request for notice if the request includes the news medium's telephone number. Notice of the emergency meeting shall be given by telephone or by any other method used to notify the members of the public body. Notice shall be provided to each news medium which has filed a written request for notice as soon as reasonably practicable after notice has been given to the members. Notice shall include the subject of the meeting. Posted or published notice of an emergency meeting shall not be required. An ''emergency'' meeting is a special meeting called because of circumstances that, in the judgment of the public body, require immediate consideration by the public body. If matters not directly related to the emergency are discussed or acted upon at an emergency meeting, the minutes of the meeting shall include a specific description of the matters. *The notice requirement of this paragraph supersedes any other statutory notice requirement for a special meeting that is an emergency meeting.*

(d) [RECESSED OR CONTINUED MEETINGS.] If a meeting is a recessed or continued session of a previous meeting, and the time and place of the meeting was established during the previous meeting and recorded in

the minutes of that meeting, then no further published or mailed notice is necessary. For purposes of this clause, the term "meeting" includes a public hearing conducted pursuant to chapter 429 or any other law or charter provision requiring a public hearing by a public body.

(e) [CLOSED MEETINGS.] The notice requirements of this subdivision apply to closed meetings.

(f) [STATE AGENCIES.] For a meeting of an agency, board, commission, or department of the state, (i) the notice requirements of this subdivision apply only if a statute governing meetings of the agency, board, or commission does not contain specific reference to the method of providing notice, and (ii) all provisions of this subdivision relating to publication shall be satisfied by publication in the State Register.

(g) [ACTUAL NOTICE.] If a person receives actual notice of a meeting of a public body at least 24 hours before the meeting, all notice requirements of this subdivision are satisfied with respect to that person, regardless of the method of receipt of notice.

~~(h) [LIABILITY.] No fine or other penalty may be imposed on a member of a public body for a violation of this subdivision unless it is established that the violation was willful and deliberate by the member.~~

Subd. 1d. [TREATMENT OF DATA CLASSIFIED AS NOT PUBLIC.] (a) Except as provided in this section, meetings may not be closed to discuss data that are not public data. Data that are not public data may be discussed at a meeting subject to this section without liability or penalty, if the disclosure relates to a matter within the scope of the public body's authority~~,~~ *and* is reasonably necessary to conduct the business or agenda item before the public body~~, and is without malice. During an open meeting, a public body shall make reasonable efforts to protect from disclosure data that are not public data, including where practical acting by means of reference to a letter, number, or other designation that does not reveal the identity of the data subject~~. Data discussed at an open meeting retain the data's original classification; however, a record of the meeting, regardless of form, shall be public.

(b) Any portion of a meeting must be closed if expressly required by other law or if the following types of data are discussed:

(1) data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults;

(2) active investigative data as defined in section 13.82, subdivision 5, or internal affairs data relating to allegations of law enforcement personnel misconduct collected or created by a state agency, statewide system, or political subdivision; or

(3) educational data, health data, medical data, welfare data, or mental health data that are not public data under section 13.32, 13.38, 13.42, or 13.46, subdivision 2 or 7.

(c) A public body shall close ~~a meeting~~ *one or more meetings* for preliminary consideration of allegations or charges against an individual subject to its authority. If the members conclude that discipline of any nature may be warranted *as a result of those specific charges or allegations*, further meetings or hearings *relating to those specific charges or allegations held*

after that conclusion is reached must be open. A meeting must also be open at the request of the individual who is the subject of the meeting.

(d) A public body may close a meeting to evaluate the performance of an individual who is subject to its authority. The public body shall identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the public body shall summarize its conclusions regarding the evaluation. A meeting must be open at the request of the individual who is the subject of the meeting.

(e) Meetings may be closed if the closure is expressly authorized by statute or permitted by the attorney-client privilege.

Subd. 1e. [REASONS FOR CLOSING A MEETING.] Before closing a meeting, a public body shall state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed.

Subd. 2. [~~VIOLATION; PENALTY~~ *PENALTIES.*] *(a)* Any person who *intentionally* violates ~~subdivision 1~~ *this section* shall be subject to personal liability in the form of a civil penalty in an amount not to exceed ~~$100~~ *$300* for a single occurrence, *which may not be paid by the public body.* An action to enforce this penalty may be brought by any person in any court of competent jurisdiction where the administrative office of the governing body is located. ~~Upon a third violation by the same person connected with~~ *If a person has been found to have intentionally violated this section in three or more actions brought under this section involving* the same governing body, such person shall forfeit any further right to serve on such governing body or in any other capacity with such public body for a period of time equal to the term of office such person was then serving. The court determining the merits of any action in connection with any alleged third violation shall receive competent, relevant evidence in connection therewith and, upon finding as to the occurrence of a separate third violation, unrelated to the previous violations issue its order declaring the position vacant and notify the appointing authority or clerk of the governing body. As soon as practicable thereafter the appointing authority or the governing body shall fill the position as in the case of any other vacancy.

(b) In addition to other remedies, the court may award reasonable costs, disbursements, and reasonable attorney fees of up to $13,000 to any party in an action under this section. The court may award costs and attorney fees to a defendant only if the court finds that the action under this section was frivolous and without merit. A public body may pay any costs, disbursements, or attorney fees incurred by or awarded against any of its members in an action under this section.

(c) No monetary penalties or attorney fees may be awarded against a member of a public body unless the court finds that there was a specific intent to violate this section.

Subd. 3. [~~POPULAR NAME~~ *CITATION.*] This section may be cited as the "Minnesota open meeting law".

Sec. 40. Minnesota Statutes 1993 Supplement, section 595.02, subdivision 1, is amended to read:

Subdivision 1. [COMPETENCY OF WITNESSES.] Every person of sufficient understanding, including a party, may testify in any action or

proceeding, civil or criminal, in court or before any person who has authority to receive evidence, except as provided in this subdivision:

(a) A husband cannot be examined for or against his wife without her consent, nor a wife for or against her husband without his consent, nor can either, during the marriage or afterwards, without the consent of the other, be examined as to any communication made by one to the other during the marriage. This exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other or against a child of either or against a child under the care of either spouse, nor to a criminal action or proceeding in which one is charged with homicide or an attempt to commit homicide and the date of the marriage of the defendant is subsequent to the date of the offense, nor to an action or proceeding for nonsupport, neglect, dependency, or termination of parental rights.

(b) An attorney cannot, without the consent of the attorney's client, be examined as to any communication made by the client to the attorney or the attorney's advice given thereon in the course of professional duty; nor can any employee of the attorney be examined as to the communication or advice, without the client's consent.

(c) A member of the clergy or other minister of any religion shall not, without the consent of the party making the confession, be allowed to disclose a confession made to the member of the clergy or other minister in a professional character, in the course of discipline enjoined by the rules or practice of the religious body to which the member of the clergy or other minister belongs; nor shall a member of the clergy or other minister of any religion be examined as to any communication made to the member of the clergy or other minister by any person seeking religious or spiritual advice, aid, or comfort or advice given thereon in the course of the member of the clergy's or other minister's professional character, without the consent of the person.

(d) A licensed physician or surgeon, dentist, or chiropractor shall not, without the consent of the patient, be allowed to disclose any information or any opinion based thereon which the professional acquired in attending the patient in a professional capacity, and which was necessary to enable the professional to act in that capacity; after the decease of the patient, in an action to recover insurance benefits, where the insurance has been in existence two years or more, the beneficiaries shall be deemed to be the personal representatives of the deceased person for the purpose of waiving this privilege, and no oral or written waiver of the privilege shall have any binding force or effect except when made upon the trial or examination where the evidence is offered or received.

(e) A public officer shall not be allowed to disclose communications made to the officer in official confidence when the public interest would suffer by the disclosure.

(f) Persons of unsound mind and persons intoxicated at the time of their production for examination are not competent witnesses if they lack capacity to remember or to relate truthfully facts respecting which they are examined.

(g) A registered nurse, psychologist ~~or~~, consulting psychologist, *or licensed social worker engaged in a psychological or social assessment or treatment of an individual at the individual's request* shall not, without the consent of the

professional's client, be allowed to disclose any information or opinion based thereon which the professional has acquired in attending the client in a professional capacity, and which was necessary to enable the professional to act in that capacity. *Nothing in this clause exempts licensed social workers from compliance with the provisions of sections 626.556 and 626.557.*

(h) An interpreter for a person handicapped in communication shall not, without the consent of the person, be allowed to disclose any communication if the communication would, if the interpreter were not present, be privileged. For purposes of this section, a "person handicapped in communication" means a person who, because of a hearing, speech or other communication disorder, or because of the inability to speak or comprehend the English language, is unable to understand the proceedings in which the person is required to participate. The presence of an interpreter as an aid to communication does not destroy an otherwise existing privilege.

(i) Licensed chemical dependency counselors shall not disclose information or an opinion based on the information which they acquire from persons consulting them in their professional capacities, and which was necessary to enable them to act in that capacity, except that they may do so:

(1) when informed consent has been obtained in writing, except in those circumstances in which not to do so would violate the law or would result in clear and imminent danger to the client or others;

(2) when the communications reveal the contemplation or ongoing commission of a crime; or

(3) when the consulting person waives the privilege by bringing suit or filing charges against the licensed professional whom that person consulted.

(j) A parent or the parent's minor child may not be examined as to any communication made in confidence by the minor to the minor's parent. A communication is confidential if made out of the presence of persons not members of the child's immediate family living in the same household. This exception may be waived by express consent to disclosure by a parent entitled to claim the privilege or by the child who made the communication or by failure of the child or parent to object when the contents of a communication are demanded. This exception does not apply to a civil action or proceeding by one spouse against the other or by a parent or child against the other, nor to a proceeding to commit either the child or parent to whom the communication was made or to place the person or property or either under the control of another because of an alleged mental or physical condition, nor to a criminal action or proceeding in which the parent is charged with a crime committed against the person or property of the communicating child, the parent's spouse, or a child of either the parent or the parent's spouse, or in which a child is charged with a crime or act of delinquency committed against the person or property of a parent or a child of a parent, nor to an action or proceeding for termination of parental rights, nor any other action or proceeding on a petition alleging child abuse, child neglect, abandonment or nonsupport by a parent.

(k) Sexual assault counselors may not be compelled to testify about any opinion or information received from or about the victim without the consent of the victim. However, a counselor may be compelled to identify or disclose information in investigations or proceedings related to neglect or termination of parental rights if the court determines good cause exists. In determining

whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the treatment relationship, and the treatment services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from compliance with the provisions of sections 626.556 and 626.557.

"Sexual assault counselor" for the purpose of this section means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or assistance to victims of sexual assault.

(l) A person cannot be examined as to any communication or document, including worknotes, made or used in the course of or because of mediation pursuant to an agreement to mediate. This does not apply to the parties in the dispute in an application to a court by a party to have a mediated settlement agreement set aside or reformed. A communication or document otherwise not privileged does not become privileged because of this paragraph. This paragraph is not intended to limit the privilege accorded to communication during mediation by the common law.

(m) A child under ten years of age is a competent witness unless the court finds that the child lacks the capacity to remember or to relate truthfully facts respecting which the child is examined. A child describing any act or event may use language appropriate for a child of that age.

(n) A communication assistant for a telecommunications relay system for communication-impaired persons shall not, without the consent of the person making the communication, be allowed to disclose communications made to the communication assistant for the purpose of relaying.

Sec. 41. Minnesota Statutes 1993 Supplement, section 624.7131, subdivision 1, is amended to read:

Subdivision 1. [INFORMATION.] Any person may apply for a transferee permit by providing the following information in writing to the chief of police of an organized full time police department of the municipality in which the person resides or to the county sheriff if there is no such local chief of police:

(a) the name, residence, telephone number and driver's license number or nonqualification certificate number, if any, of the proposed transferee;

(b) the sex, date of birth, height, weight and color of eyes, and distinguishing physical characteristics, if any, of the proposed transferee; ~~and~~

(c) *a statement that the proposed transferee authorizes the release to the local police authority of commitment information about the proposed transferee maintained by the commissioner of human services, to the extent that the information relates to the proposed transferee's eligibility to possess a pistol or semiautomatic military-style assault weapon under section 624.713, subdivision 1; and*

(d) a statement by the proposed transferee that the proposed transferee is not prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon.

The ~~statement~~ *statements* shall be signed *and dated* by the person applying for a permit. At the time of application, the local police authority shall provide the applicant with a dated receipt for the application. *The statement under clause (c) must comply with any applicable requirements of Code of Federal*

Regulations, title 42, sections 2.31 to 2.35, with respect to consent to disclosure of alcohol or drug abuse patient records.

Sec. 42. Minnesota Statutes 1992, section 624.7131, subdivision 2, is amended to read:

Subd. 2. [INVESTIGATION.] The chief of police or sheriff shall check criminal histories, records and warrant information relating to the applicant through the Minnesota crime information system. *The chief of police or sheriff shall obtain commitment information from the commissioner of human services as provided in section 245.041.*

Sec. 43. Minnesota Statutes 1993 Supplement, section 624.7132, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED INFORMATION.] Except as provided in this section and section 624.7131, every person who agrees to transfer a pistol or semiautomatic military-style assault weapon shall report the following information in writing to the chief of police of the organized full-time police department of the municipality where the agreement is made or to the appropriate county sheriff if there is no such local chief of police:

(a) the name, residence, telephone number and driver's license number or nonqualification certificate number, if any, of the proposed transferee;

(b) the sex, date of birth, height, weight and color of eyes, and distinguishing physical characteristics, if any, of the proposed transferee;

(c) *a statement that the proposed transferee authorizes the release to the local police authority of commitment information about the proposed transferee maintained by the commissioner of human services, to the extent that the information relates to the proposed transferee's eligibility to possess a pistol or semiautomatic military-style assault weapon under section 624.713, subdivision 1;*

(d) a statement by the proposed transferee that the transferee is not prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon; and

~~(d)~~ *(e)* the address of the place of business of the transferor.

The report shall be signed *and dated* by the transferor and the proposed transferee. The report shall be delivered by the transferor to the chief of police or sheriff no later than three days after the date of the agreement to transfer, excluding weekends and legal holidays. *The statement under clause (c) must comply with any applicable requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to disclosure of alcohol or drug abuse patient records.*

Sec. 44. Minnesota Statutes 1993 Supplement, section 624.7132, subdivision 2, is amended to read:

Subd. 2. [INVESTIGATION.] Upon receipt of a transfer report, the chief of police or sheriff shall check criminal histories, records and warrant information relating to the proposed transferee through the Minnesota crime information system. *The chief of police or sheriff shall obtain commitment information from the commissioner of human services as provided in section 245.041.*

Sec. 45. Minnesota Statutes 1992, section 624.714, subdivision 3, is amended to read:

Subd. 3. [CONTENTS.] Applications for permits to carry shall set forth in writing the following information:

(1) the name, residence, telephone number, and driver's license number or nonqualification certificate number, if any, of the applicant;

(2) the sex, date of birth, height, weight, and color of eyes and hair, and distinguishing physical characteristics, if any, of the applicant;

(3) *a statement that the applicant authorizes the release to the local police authority of commitment information about the applicant maintained by the commissioner of human services, to the extent that the information relates to the applicant's eligibility to possess a pistol or semiautomatic military-style assault weapon under section 624.713, subdivision 1;*

(4) a statement by the applicant that the applicant is not prohibited by section 624.713 from possessing a pistol *or semiautomatic military-style assault weapon*; and

~~(4)~~ *(5)* a recent color photograph of the applicant.

The application shall be signed *and dated* by the applicant. *The statement under clause (3) must comply with any applicable requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to disclosure of alcohol or drug abuse patient records.*

Sec. 46. Minnesota Statutes 1992, section 624.714, subdivision 4, is amended to read:

Subd. 4. [INVESTIGATION.] The application authority shall check criminal records, histories, and warrant information on each applicant through the Minnesota Crime Information System. *The chief of police or sheriff shall obtain commitment information from the commissioner of human services as provided in section 245.041.*

Sec. 47. Laws 1990, chapter 566, section 9, as amended by Laws 1992, chapter 569, section 36, is amended to read:

Sec. 9. [REPEALER.]

Section 2 is repealed effective July 31, ~~1994~~ *1995*.

Sec. 48. [INFORMATION POLICY TRAINING PLAN.]

Subdivision 1. [GENERAL.] *The commissioner of administration is responsible for the preparation of a plan for training state and local government officials and employees on data practices laws and procedures and other information policy statutes, including official records and records management statutes. The plan must include training models for state agencies, counties, cities, school districts, higher education agencies, and human service agencies. The plan must focus on the development of broad-based training expertise and responsibility for training within these entities. The plan must be developed in consultation with representatives of these entities, including:*

(1) information policy council, commissioner of employee relations, and attorney general;

(2) association of counties, county attorneys' council, and counties insurance trust;

(3) league of Minnesota cities, city attorneys' association, and cities insurance trust;

(4) school board association, council of school attorneys, and school board association insurance trust;

(5) higher education agencies, University of Minnesota, and university attorneys' office; and

(6) commissioner of human services, county human service agencies, and private nonprofit agencies that provide social services.

Subd. 2. [MODELS.] *The training models developed under subdivision 1 must:*

(1) identify training needs within each group of entities, including the need for mandatory training for certain positions and continuing as well as initial training requirements;

(2) provide for assignment of training responsibility within the entities and procedures for training; and

(3) provide for training resources, including the use of electronic communications and other forms of technology, audiovisual materials, and the development of written materials and standard forms, such as consent forms.

Subd. 3. [REPORT.] *The commissioner of administration shall report to the legislature by January 1, 1995, with the results of the plan prepared under this section and any other recommendations for information policy training.*

Sec. 49. [APPROPRIATION.]

$50,000 is appropriated from the general fund to the commissioner of administration for the purpose of preparing the training plan under section 48.

Sec. 50. [EFFECTIVE DATE; APPLICATION.]

Sections 18, 19, 24, 25, and 27, are effective the day following final enactment. Section 30 is effective April 1, 1994. Section 31 is effective January 1, 1995.

Any increased civil penalties or awards of attorney fees provided under section 39 apply only to actions for violations occurring on or after August 1, 1994.

ARTICLE 2

Section 1. Minnesota Statutes 1992, section 13.71, is amended by adding a subdivision to read:

Subd. 8. [CERTAIN DATA RECEIVED BY COMMISSIONER OF COMMERCE.] *Certain data received because of the commissioner's participation in various organizations are classified under section 45.012.*

Sec. 2. Minnesota Statutes 1992, section 13.71, is amended by adding a subdivision to read:

Subd. 9. [BANK INCORPORATORS DATA.] *Financial data on individuals submitted by incorporators proposing to organize a bank are classified under section 46.041, subdivision 1.*

Sec. 3. Minnesota Statutes 1992, section 13.71, is amended by adding a subdivision to read:

Subd. 10. [SURPLUS LINES INSURER DATA.] *Reports and recommendations on the financial condition of eligible surplus lines insurers submitted to the commissioner of commerce are classified under section 60A.208, subdivision 7.*

Sec. 4. Minnesota Statutes 1992, section 13.71, is amended by adding a subdivision to read:

Subd. 11. [INSURER FINANCIAL CONDITION DATA.] *Recommendations on the financial condition of an insurer submitted to the commissioner of commerce by the insurance guaranty association are classified under section 60C.15.*

Sec. 5. Minnesota Statutes 1992, section 13.71, is amended by adding a subdivision to read:

Subd. 12. [INSURER SUPERVISION DATA.] *Data on insurers supervised by the commissioner of commerce under chapter 60G are classified under section 60G.03, subdivision 1.*

Sec. 6. Minnesota Statutes 1992, section 13.71, is amended by adding a subdivision to read:

Subd. 13. [LIFE AND HEALTH INSURER DATA.] *A report on an insurer submitted by the life and health guaranty association to the commissioner is classified under section 61B.28, subdivision 2.*

Sec. 7. Minnesota Statutes 1992, section 13.71, is amended by adding a subdivision to read:

Subd. 14. [SOLICITOR OR AGENT DATA.] *Data relating to suspension or revocation of a solicitor's or agent's license are classified under section 62C.17, subdivision 4.*

Sec. 8. Minnesota Statutes 1992, section 13.71, is amended by adding a subdivision to read:

Subd. 15. [LEGAL SERVICE PLAN SOLICITOR OR AGENT DATA.] *Information contained in a request by a legal service plan for termination of a solicitor's or agent's license is classified under section 62G.20, subdivision 3.*

Sec. 9. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 6a. [AQUACULTURE DATA.] *Data on aquatic farming held by the pollution control agency is classified under section 17.498.*

Sec. 10. Minnesota Statutes 1992, section 13.99, subdivision 7, is amended to read:

Subd. 7. [PESTICIDE DEALER *AND APPLICATOR* RECORDS.] Records of pesticide dealers *and applicators* inspected or copied by the commissioner

of agriculture are classified under ~~section~~ *sections* 18B.37, subdivision 5, *and 18B.38.*

Sec. 11. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 7a. [WHOLESALE PRODUCE DEALERS.] *Financial data submitted by a license applicant is classified under section 27.04, subdivision 2.*

Sec. 12. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 7b. [MEAT INSPECTION DATA.] *Access to information obtained by the commissioner of agriculture under the meat inspection law is governed by section 31A.27, subdivision 3.*

Sec. 13. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 8a. [DAIRY PRODUCT DATA.] *Financial and production information obtained by the commissioner of agriculture to administer chapter 34 are classified under section 32.71, subdivision 2.*

Sec. 14. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 17a. [HMO FINANCIAL STATEMENTS.] *Unaudited financial statements submitted to the commissioner by a health maintenance organization are classified under section 62D.08, subdivision 6.*

Sec. 15. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 19a. [HEALTH TECHNOLOGY DATA.] *Data obtained by the health technology advisory committee about a specific technology are classified under section 62J.152, subdivision 7.*

Sec. 16. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 19b. [PROVIDER CONFLICTS OF INTEREST.] *Certain data in transition plans submitted by providers to comply with section 62J.23, subdivision 2, on conflicts of interest are classified under that section.*

Sec. 17. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 19c. [HEALTH CARE ANALYSIS DATA.] *Data collected by the health care analysis unit are classified under section 62J.30, subdivision 7.*

Sec. 18. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 19d. [HEALTH CARRIER DATA.] *Data received by the commissioner from health carriers under chapter 62L are classified under section 62L.10, subdivision 3.*

Sec. 19. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 19e. [SMALL EMPLOYER REINSURANCE ASSOCIATION DATA.] *Patient identifying data held by the reinsurance association are classified under section 62L.16, subdivision 6.*

Sec. 20. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 21a. [MINERAL DEPOSIT EVALUATION DATA.] *Data submitted in applying for a permit for mineral deposit evaluation are classified under section 103I.605, subdivision 2.*

Sec. 21. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 21b. [TRANSFER STATION DATA.] *Data received by a county or district from a transfer station under section 115A.84, subdivision 5, are classified under that section.*

Sec. 22. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 21c. [CUSTOMER LISTS.] *Customer lists provided to counties or cities by solid waste collectors are classified under section 115A.93, subdivision 5.*

Sec. 23. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 27a. [MINNESOTA TECHNOLOGY, INC.] *Data on a tape of a closed board meeting of Minnesota Technology, Inc. are classified under section 116O.03, subdivision 6. Certain data disclosed to the board or employees of Minnesota Technology, Inc. are classified under section 116O.03, subdivision 7.*

Sec. 24. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 27b. [AIRLINES DATA.] *Specified data about an airline submitted in connection with state financing of certain aircraft maintenance facilities are classified under section 116R.02, subdivision 3.*

Sec. 25. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 27c. [MINNESOTA BUSINESS FINANCE, INC.] *Various data held by Minnesota Business Finance, Inc. are classified under section 116S.02, subdivision 8.*

Sec. 26. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 27d. [LEARNING READINESS PROGRAM.] *Data on a child participating in a learning readiness program are classified under section 121.831, subdivision 9.*

Sec. 27. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 29a. [PARENTS' SOCIAL SECURITY NUMBER; BIRTH CERTIFICATE.] *Parents' social security numbers provided for a child's birth certificate are classified under section 144.215, subdivision 4.*

Sec. 28. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 35a. [PUBLIC HOSPITAL MEETINGS.] *Data from a closed meeting of a public hospital are classified under section 144.581, subdivision 5.*

Sec. 29. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 35b. [EPIDEMIOLOGIC DATA.] *Epidemiologic data that identify individuals are classified under section 144.6581.*

Sec. 30. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 38a. [AMBULANCE SERVICE DATA.] *Data required to be reported by ambulance services under section 144.807, subdivision 1, are classified under that section.*

Sec. 31. Minnesota Statutes 1992, section 13.99, subdivision 39, is amended to read:

Subd. 39. [HOME CARE SERVICES.] Certain data from providers of home care services given to the commissioner of health are classified under ~~section~~ *sections 144A.46, subdivision 5, and* 144A.47.

Sec. 32. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 39a. [NURSING HOME EMPLOYEE DATA.] *Certain data arising out of appeals from findings of neglect, abuse, or misappropriation of property are classified under section 144A.612.*

Sec. 33. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 42a. [PHYSICIAN HEALTH DATA.] *Physician health data obtained by the licensing board in connection with a disciplinary action are classified under section 147.091, subdivision 6.*

Sec. 34. Minnesota Statutes 1992, section 13.99, subdivision 45, is amended to read:

Subd. 45. [CHIROPRACTIC REVIEW RECORDS.] Data of the board of chiropractic examiners and the peer review committee are classified under ~~section~~ *sections 148.10, subdivision 1, and* 148.106, subdivision 10.

Sec. 35. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 48a. [LICENSEE RESIDENCE ADDRESSES.] *Residence addresses of certain professional licensees are classified under section 148B.04, subdivision 6.*

Sec. 36. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 52a. [FUNERAL ESTABLISHMENT REPORTS.] *Data on individuals in annual reports required of certain funeral establishments are classified under section 149.13, subdivision 7.*

Sec. 37. Minnesota Statutes 1992, section 13.99, subdivision 53, is amended to read:

Subd. 53. [BOARD OF DENTISTRY.] Data obtained by the board of dentistry under section 150A.08, subdivision 6, are classified as provided in that subdivision. *Data obtained under section 150A.081 are classified under that section.*

Sec. 38. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 53a. [CONTROLLED SUBSTANCE CONVICTIONS.] *Data on certain convictions for controlled substances offenses may be expunged under section 152.18, subdivisions 2 and 3.*

Sec. 39. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 54a. [CHEMICAL USE ASSESSMENTS.] *A report of an assessment conducted in connection with a conviction for driving while intoxicated is classified under section 169.126, subdivision 2.*

Sec. 40. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 58a. [WORKERS' COMPENSATION MEDICAL DATA.] *Access to medical data in connection with a workers' compensation claim is governed by section 176.138.*

Sec. 41. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 59a. [EMPLOYEE DRUG AND ALCOHOL TESTS.] *Results of employee drug and alcohol tests are classified under section 181.954, subdivision 2.*

Sec. 42. Minnesota Statutes 1992, section 13.99, subdivision 60, is amended to read:

Subd. 60. [OCCUPATIONAL SAFETY AND HEALTH.] Certain data gathered or prepared by the commissioner of labor and industry as part of occupational safety and health inspections are classified under ~~section~~ *sections* 182.659, subdivision 8, *and 182.668, subdivision 2.*

Sec. 43. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 65a. [RAIL CARRIER DATA.] *Certain data submitted to the commissioner of transportation and the attorney general by acquiring and divesting rail carriers are classified under section 222.86, subdivision 3.*

Sec. 44. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 65b. [GRAIN BUYER LICENSEE DATA.] *Financial data submitted to the commissioner by grain buyer's license applicants are classified under section 223.17, subdivision 6.*

Sec. 45. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 65c. [PREDATORY OFFENDERS.] *Data provided under section 243.166, subdivision 7, are classified under that section.*

Sec. 46. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 68a. [OMBUDSMAN FOR MENTAL HEALTH AND RETARDATION.] *Access by the ombudsman for mental health and mental retardation to private data on individuals is provided under section 245.94, subdivision 1.*

Sec. 47. Minnesota Statutes 1992, section 13.99, subdivision 71, is amended to read:

Subd. 71. [RAMSEY HEALTH CARE.] Data maintained by Ramsey Health Care, Inc., are classified under ~~section~~ *sections 246A.16, subdivision 3, and* 246A.17.

Sec. 48. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 74a. [TECHNOLOGY ASSISTANCE REVIEW PANEL.] *Data maintained by the technology assistance review panel under section 256.9691, subdivision 6, are classified under that section.*

Sec. 49. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 74b. [MEDICAL ASSISTANCE COST REPORTS.] *Medical records of medical assistance recipients obtained by the commissioner of human services for purposes of section 256B.27, subdivision 5, are classified under that section.*

Sec. 50. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 79a. [COURT RECORDS.] *Court records of dispositions involving placement outside this state are classified under section 260.195, subdivision 6.*

Sec. 51. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 81a. [WAGE SUBSIDY PROGRAM.] *Data on individuals collected under section 268.552, subdivision 7, are classified under that subdivision.*

Sec. 52. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 91a. [HAZARDOUS SUBSTANCE EMERGENCIES.] *Data collected by a fire department under sections 299F.091 to 299F.099 are classified under sections 299F.095 and 299F.096, subdivision 1.*

Sec. 53. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 92b. [DATA ON VIDEOTAPE CONSUMERS.] *Personally identifiable information on videotape consumers received by law enforcement agencies is classified under section 325I.02, subdivision 2.*

Sec. 54. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 92c. [SPORTS BOOKMAKING TAX.] *Disclosure of facts contained in a sports bookmaking tax return is prohibited by section 349.2115, subdivision 8.*

Sec. 55. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 92d. [LOTTERY PRIZE WINNER.] *Certain data on a lottery prize winner are classified under section 349A.08, subdivision 9.*

Sec. 56. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 94a. [PROPERTY TAX ABATEMENT.] *Certain data in an application for property tax abatement are classified under section 375.192, subdivision 2.*

Sec. 57. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 96a. [SOLID WASTE COLLECTOR.] *Data obtained in an audit of a solid waste collector under section 400.08, subdivision 4, are classified under that subdivision.*

Sec. 58. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 96b. [EMERGENCY TELEPHONE SERVICES.] *Public utility data and names, addresses, and telephone numbers provided to a 911 system under section 403.07, subdivisions 3 and 4, are classified under those subdivisions.*

Sec. 59. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 96c. [PUBLIC FACILITIES AUTHORITY.] *Financial information received or prepared by a public facilities authority are classified under section 446A.11, subdivision 11.*

Sec. 60. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 96d. [HOUSING FINANCE AGENCY.] *Financial information regarding a housing finance agency loan or grant recipient are classified under section 462A.065.*

Sec. 61. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 97a. [ECONOMIC DEVELOPMENT DATA.] *Access to preliminary information submitted to the commissioner of trade and economic development under sections 469.142 to 469.151 or sections 469.152 to 469.165 is limited under sections 469.150 and 469.154, subdivision 2.*

Sec. 62. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 101a. [CUSTODY MEDIATION.] *Child custody or visitation mediation records are classified under section 518.619, subdivision 5.*

Sec. 63. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 101b. [INTERNATIONAL WILL REGISTRATION.] *Information on the execution of international wills is classified under section 524.2-1010, subdivision 1.*

Sec. 64. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 107a. [SEX OFFENDER HIV TESTS.] *Results of HIV tests of sex offenders under section 611A.19, subdivision 2, are classified under that section.*''

Delete the title and insert:

''A bill for an act relating to privacy; classifying data; providing for sharing of certain data; clarifying treatment of not public data at an open meeting; permitting the commissioner of health to conduct fetal, infant, and maternal death studies; providing for release of certain information on juvenile offenders to schools and victims; limiting release of juvenile records; providing for the preparation of an information policy training plan; providing for the release of commitment information for firearm background checks; limiting release of personal information on videotape consumers; limiting liability for 911 systems; providing for a social worker witness privilege; changing exceptions and other conditions of the open meeting law; appropriating money; amending Minnesota Statutes 1992, sections 13.03, subdivision 4, and by adding a subdivision; 13.05, subdivision 4; 13.32, by adding a subdivision; 13.38, by adding a subdivision; 13.39, subdivision 2, and by adding a subdivision; 13.41, subdivision 2; 13.57; 13.71, by adding subdivisions; 13.82, by adding a subdivision; 13.84, subdivision 5a; 13.99, subdivisions 7, 39, 45, 53, 60, 71, 79, and by adding subdivisions; 144.581, subdivision 5; 171.12, subdivision 7; 253B.23, subdivision 4; 256.0361, by adding a subdivision; 260.161, subdivision 2, and by adding subdivisions; 403.07, subdivision 4; 471.705; 624.7131, subdivision 2; and 624.714, subdivisions 3 and 4; Minnesota Statutes 1993 Supplement, sections 13.43, subdivision 2; 13.46, subdivisions 2 and 4; 13.82, subdivision 4; 121.8355, by adding a subdivision; 144.335, subdivision 3a; 148B.04, subdivision 6; 168.346; 245.493, by adding a subdivision; 260.161, subdivision 3; 595.02, subdivision 1; 624.7131, subdivision 1; and 624.7132, subdivisions 1 and 2; Laws 1990, chapter 566, section 9; proposing coding for new law in Minnesota Statutes, chapters 13; 144; 145; 245; and 253B; proposing coding for new law as Minnesota Statutes, chapter 325I.''

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

House Conferees: (Signed) Mary Jo McGuire, Wesley J. ''Wes'' Skoglund, Walter E. Perlt, Bill Macklin, Doug Swenson

Senate Conferees: (Signed) Harold R. ''Skip'' Finn, Gene Merriam, David L. Knutson, Jane Krentz, Pat Piper

Mr. Finn moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2028 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.

H.F. No. 2028 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 58 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE – CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2493, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2493 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 5, 1994

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2493

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

May 4, 1994

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 2493, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 2493 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [17.136] [ANIMAL FEEDLOTS; POLLUTION CONTROL; FEEDLOT AND MANURE MANAGEMENT ADVISORY COMMITTEE.]

(a) The commissioner of agriculture and the commissioner of the pollution control agency shall establish a feedlot and manure management advisory committee to identify needs, goals, and suggest policies for research, monitoring, and regulatory activities regarding feedlot and manure management. In establishing the committee, the commissioner shall give first consideration to members of the existing feedlot advisory group.

(b) The committee must include representation from beef, dairy, pork, chicken, and turkey producer organizations. The committee shall not exceed 18 members, but must include representatives from at least three environmental organizations, eight livestock producers, and four experts in soil and water science, nutrient management, and animal husbandry, one member from an organization representing local units of government, one member from the senate, and one member from the house of representatives. In addition, the department of agriculture, the pollution control agency, board of water and soil resources, soil and water conservation districts, the federal Soil Conservation Service, the association of Minnesota counties, and the Agricultural Stabilization and Conservation Service shall serve on the committee as ex-officio nonvoting members.

(c) Persons who participated in activities of the feedlot advisory group existing on and before the effective date of this section must be allowed to speak at proceedings of the advisory committee. These persons hold nonvoting status and are not eligible for reimbursement of expenses under paragraph (h).

(d) The advisory committee shall elect a chair from its members. The department and the agency shall provide staff support to the committee.

(e) The commissioner of agriculture and the commissioner of the pollution control agency shall consult with the advisory committee during the development of any policies, rules, or funding proposals or recommendations relating to feedlots or feedlot-related manure management.

(f) The commissioner of agriculture shall consult with the advisory committee on establishing a list of manure management research needs and priorities.

(g) The advisory committee shall advise the commissioners on other appropriate matters.

(h) Nongovernment members of the advisory committee shall receive expenses, in accordance with section 15.059, subdivision 6. The advisory committee expires on June 30, 1997.

Sec. 2. [17.138] [MANURE MANAGEMENT RESEARCH AND MONITORING PRIORITIES; COORDINATION OF RESEARCH.]

Subdivision 1. [PRIORITIES.] *(a) The commissioner, in consultation with the commissioner of the pollution control agency and the feedlot and manure management advisory committee, shall develop and maintain a list of manure management research and monitoring needs and priorities.*

(b) The commissioner shall solicit the needs and ideas of livestock producers and consult with producers in developing the list.

(c) The commissioner shall also consult with agricultural and environmental researchers, state and federal agencies, and other appropriate organiza-

tions to identify current efforts as well as to assist in the development of research and monitoring needs and priorities.

Subd. 2. [COORDINATION OF RESEARCH.] *The commissioner shall coordinate manure management research and monitoring and make recommendations on manure management research and monitoring funding priorities to the legislature and other funding bodies.*

Sec. 3. [17.139] [MEMORANDUM OF AGREEMENT AMONG STATE AGENCIES ON INSPECTIONS OF AGRICULTURAL OPERATIONS.]

The commissioner shall develop memorandums of agreement among all state and federal agencies that have authority to inspect property in agricultural use, as defined in section 17.81, subdivision 4, to ensure that reasonable and effective protocols are followed when inspecting sites in agricultural use. The memorandum shall specify procedures that address, but are not limited to, the following:

(1) when appropriate, advance notice to the agricultural use landowner or operator;

(2) procedures for notification of the inspection results or conclusions to the owner or operator; and

(3) special procedures as might be necessary, such as to prevent the introduction of diseases.

Sec. 4. Minnesota Statutes 1992, section 18B.07, subdivision 3, as amended by Laws 1994, chapter 482, section 1, is amended to read:

Subd. 3. [POSTING.] (a) All fields receiving applications of pesticide(s) bearing the label statement "Notify workers of the application by warning them orally and by posting signs at entrances to treated areas" must be posted in accordance with labeling and rules adopted under this chapter.

(b) Sites being treated with pesticides through irrigation systems must be posted throughout the period of pesticide treatment. The posting must be done in accordance with labeling and rules adopted under this chapter.

(c) If federal worker protection standards are not applicable, soil applied insecticides are exempt from posting requirements.

Sec. 5. Minnesota Statutes 1992, section 41B.02, is amended by adding a subdivision to read:

Subd. 10a. [LIVESTOCK EXPANSION.] *"Livestock expansion" means improvements to a livestock operation, including the purchase and construction or installation of improvements to land, buildings, and other permanent structures, including equipment incorporated in or permanently affixed to the land, buildings, or structures, which are useful for and intended to be used for the purpose of raising livestock.*

Sec. 6. Minnesota Statutes 1993 Supplement, section 41B.03, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY FOR BEGINNING FARMER LOANS.] *(a)* In addition to the requirements under subdivision 1, a prospective borrower for a beginning farm loan in which the authority holds an interest, must:

(1) have sufficient education, training, or experience in the type of farming for which the loan is desired;

(2) have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than $200,000 in 1991 and an amount in subsequent years which is adjusted for inflation by multiplying $200,000 by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index;

(3) demonstrate a need for the loan;

(4) demonstrate an ability to repay the loan;

(5) certify that the agricultural land to be purchased will be used by the borrower for agricultural purposes;

(6) certify that farming will be the principal occupation of the borrower;

(7) agree to participate in a farm management program approved by the commissioner of agriculture for at least the first five years of the loan, if an approved program is available within 45 miles from the borrower's residence. The commissioner may waive this requirement for any of the programs administered by the authority if the participant requests a waiver and has either a four-year degree in an agricultural program or certification as an adult farm management instructor; and

(8) agree to file an approved soil and water conservation plan with the soil conservation service office in the county where the land is located.

(b) If a borrower fails to participate under paragraph (a), clause (7), the borrower is subject to penalty as determined by the authority.

Sec. 7. [41B.045] [LIVESTOCK EXPANSION LOAN PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] *The authority may establish, adopt rules for, and implement a loan program to finance livestock expansions in the state.*

Subd. 2. [LOAN PARTICIPATION.] *The authority may participate in a livestock expansion loan with an eligible lender to a livestock farmer who meets the requirements of section 41B.03, subdivision 1, clauses (1) and (2), and who are actively engaged in a livestock operation. Participation is limited to 45 percent of the principal amount of the loan or $100,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may be different from the interest rates and repayment terms of the lender's retained portion of the loan.*

Subd. 3. [SPECIFICATIONS.] *No loan may be made to refinance an existing debt. Each loan participation must be secured by a mortgage on real property and such other security as the authority may require.*

Subd. 4. [APPLICATION AND ORIGINATION FEE.] *The authority may impose a reasonable nonrefundable application fee for each application for a loan participation and an origination fee for each loan issued under the livestock expansion loan program. The origination fee initially shall be set at 1.5 percent and the application fee at $50. The authority may review the fees annually and make adjustments as necessary. The fees must be deposited in the state treasury and credited to an account in the special revenue fund.*

Money in this account is appropriated to the commissioner for administrative expenses of the livestock expansion loan program.

Subd. 5. [INTEREST RATE.] *The interest rate per annum on the livestock expansion loan participation must be at the rate of interest determined by the authority to be necessary to provide for the timely payment of principal and interest when due on bonds or other obligations of the authority issued under this chapter, to provide financing for loan participations made under the livestock expansion loan program, and to provide for reasonable and necessary costs of issuing, carrying, administering, and securing the bonds or notes and to pay the costs incurred and to be incurred by the authority in the implementation of the livestock expansion loan program.*

Sec. 8. Minnesota Statutes 1992, section 116.07, subdivision 7, is amended to read:

Subd. 7. [COUNTIES; PROCESSING OF APPLICATIONS FOR ANIMAL LOT PERMITS.] Any Minnesota county board may, by resolution, with approval of the pollution control agency, assume responsibility for processing applications for permits required by the pollution control agency under this section for livestock feedlots, poultry lots or other animal lots. The responsibility for permit application processing, if assumed by a county, may be delegated by the county board to any appropriate county officer or employee.

(a) For the purposes of this subdivision, the term "processing" includes:

~~(a)~~ *(1)* the distribution to applicants of forms provided by the pollution control agency;

~~(b)~~ *(2)* the receipt and examination of completed application forms, and the certification, in writing, to the pollution control agency either that the animal lot facility for which a permit is sought by an applicant will comply with applicable rules and standards, or, if the facility will not comply, the respects in which a variance would be required for the issuance of a permit; and

~~(c)~~ *(3)* rendering to applicants, upon request, assistance necessary for the proper completion of an application.

(b) For the purposes of this subdivision, the term "processing" may include, at the option of the county board:

~~(d)~~, issuing, denying, modifying, imposing conditions upon, or revoking permits pursuant to the provisions of this section or rules promulgated pursuant to it, subject to review, suspension, and reversal by the pollution control agency. The pollution control agency shall, after written notification, have 15 days to review, suspend, modify, or reverse the issuance of the permit. After this period, the action of the county board is final, subject to appeal as provided in chapter 14.

(c) For the purpose of administration of rules adopted under this subdivision, the commissioner and the agency may provide exceptions for cases where the owner of a feedlot has specific written plans to close the feedlot within five years. These exceptions include waiving requirements for major capital improvements.

(d) For purposes of this subdivision, a discharge caused by an extraordinary natural event such as a precipitation event of greater magnitude than the 25-year, 24-hour event, tornado, or flood in excess of the 100-year flood is not a "direct discharge of pollutants."

(e) In adopting and enforcing rules under this subdivision, the commissioner shall cooperate closely with other governmental agencies.

(f) The pollution control agency shall work with the Minnesota extension service, the department of agriculture, the board of water and soil resources, producer groups, local units of government, as well as with appropriate federal agencies such as the Soil Conservation Service and the Agricultural Stabilization and Conservation Service, to notify and educate producers of rules under this subdivision at the time the rules are being developed and adopted and at least every two years thereafter.

(g) The pollution control agency shall adopt rules governing the issuance and denial of permits for livestock feedlots, poultry lots or other animal lots pursuant to this section. These rules apply both to permits issued by counties and to permits issued by the pollution control agency directly.

(h) The pollution control agency shall exercise supervising authority with respect to the processing of animal lot permit applications by a county.

Sec. 9. Minnesota Statutes 1992, section 561.19, subdivision 1, is amended to read:

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

(a) "Agricultural operation" means a facility and its appurtenances for the production of crops, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in processing agricultural products.

(b) "Established date of operation" means the date on which the agricultural operation commenced. If the agricultural operation is subsequently expanded or significantly altered, the established date of operation for each expansion or alteration is deemed to be the date of commencement of the expanded or altered operation. *As used in this paragraph, "expanded or significantly altered" means:*

(1) an expansion by at least 25 percent in the amount of a particular crop grown or the number of a particular kind of animal or livestock located on an agricultural operation; or

(2) a distinct change in the kind of agricultural operation, as in changing from one kind of crop, livestock, animal, or product to another, but not merely a change from one generally accepted agricultural practice to another in producing the same crop or product.

~~(c) "Family farm" means an unincorporated farm unit owned by one or more persons or spouses of persons related to each other within the third degree of kindred according to the rules of the civil law at least one of whom is residing or actively engaged in farming on the farm unit, or a "family farm corporation," as that term is defined in section 500.24, subdivision 2.~~

Sec. 10. Minnesota Statutes 1992, section 561.19, subdivision 2, is amended to read:

Subd. 2. [AGRICULTURAL OPERATION NOT A NUISANCE.] An agricultural operation ~~which is a part of a family farm~~ is not and shall not become a private or public nuisance after ~~six~~ *two* years from its established date of operation if the operation was not a nuisance at its established date of operation.

The provisions of this subdivision do not apply:

~~(a)~~ *(1)* to a condition or injury which results from the negligent or improper operation of an agricultural operation or from operations contrary to commonly accepted agricultural practices or to applicable state or local laws, ordinances, rules, or permits;

~~(b)~~ *(2)* when an agricultural operation causes injury or direct threat of injury to the health or safety of any person;

~~(c)~~ *(3)* to the pollution of, or change in the condition of, the waters of the state or the overflow of waters on the lands of any person;

~~(d)~~ *(4)* to an animal feedlot facility with a swine capacity of 1,000 or more animal units as defined in the rules of the pollution control agency for control of pollution from animal feedlots, or a cattle capacity of 2,500 animals or more; or

~~(e)~~ *(5)* to any prosecution for the crime of public nuisance as provided in section 609.74 or to an action by a public authority to abate a particular condition which is a public nuisance.

Sec. 11. [1994 and 1995 DEMONSTRATION PROGRAM; RESTRICTIONS.]

(a) During the years 1994 and 1995, loan participations under Minnesota Statutes, section 41B.045, must comply with the restrictions in this section.

(b) To the extent that herd health will not be jeopardized, farms receiving assistance from the authority must be available for tours within the first two years after completion of the expansion.

(c) All livestock expansion loans must be for expansions that include some of the most up-to-date, efficient systems available. Projects must be approved by a University of Minnesota extension livestock specialist prior to approval by the authority.

Sec. 12. [EFFECTIVE DATE.]

Section 4 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to agriculture; changing the law on nuisance liability of agricultural operations; establishing an advisory committee; providing for research and memorandums of agreement; clarifying terms; authorizing a livestock expansion loan program; changing loan procedures; regulating animal lots; establishing a demonstration program; changing pesticide posting laws; amending Minnesota Statutes 1992, sections 18B.07, subdivision 3, as amended; 41B.02, by adding a subdivision; 116.07, subdivision 7; and 561.19, subdivisions 1 and 2; Minnesota Statutes 1993 Supplement, section 41B.03, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 17; and 41B."

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

House Conferees: (Signed) Gerald J. "Jerry" Bauerly, Stephen G. Wenzel, Sydney G. Nelson

Senate Conferees: (Signed) Dallas C. Sams, Joe Bertram, Sr., Steve Dille

Mr. Sams moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2493 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.

H.F. No. 2493 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 55 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE – CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 3211, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 3211 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 5, 1994

CONFERENCE COMMITTEE REPORT ON H.F. NO. 3211

A bill for an act relating to claims against the state; providing for payment of various claims; imposing a fee; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 3.

May 3, 1994

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 3211, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 3211 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [3.749] [LEGISLATIVE CLAIMS; FILING FEE.]

A person filing a claim with the joint senate-house of representatives subcommittee on claims must pay a filing fee of $5. The money must be deposited by the clerk of the subcommittee in the state treasury and credited to the general fund. A claimant who is successful in obtaining an award from the subcommittee shall be reimbursed for the fee paid.

Sec. 2. Minnesota Statutes 1992, section 3.754, is amended to read:

3.754 [BUDGET REQUESTS; PROPERTY IMPROVEMENT CLAIMS.]

All state departments and agencies including the state university board and the state board for community colleges shall include in their budget requests the amounts necessary to reimburse counties and municipalities for claims involving assessments for improvements benefiting state owned property in their communities. *Each department and agency shall pay the assessments when due or, if a department or agency feels that it was not fairly assessed, notify the chairs of the committee on finance of the senate and the committee on ways and means of the house of representatives for a review of the assessment. Assessments on state owned property under the control of the state university board and the state board for community colleges are governed by section 135A.131. All agencies and departments should negotiate assessment costs with counties and municipalities prior to commencement of improvements benefitting state owned property.*

Sec. 3. [DEPARTMENT OF ADMINISTRATION.]

Subdivision 1. [STATE OFFICE BUILDING PARKING RAMP.] *The department of administration is directed to pay the following persons for damage to their cars by the automatic door in the state office building parking ramp, in full and final payment of their claims against the state:*

(a) Judith Bernet, 5616 Upton Avenue, Minneapolis, MN 55410.....$330.89.

(b) Edgar Olson, RR3, Box 99, Fosston, MN 56542.....$854.60.

(c) Samuel Rankin, House Research Dept., 600 State Office Building, St. Paul, MN 55155.....$418.10.

Subd. 2. [MILL-SON, INC.] *$44,855.45 is appropriated from the general fund to the commissioner of administration for payment to Mill-Son, Inc., 3106 West Lake Street, Minneapolis, MN 55416, in full and final payment of claims against the state for loss of income due to a bidding oversight and damage caused by vandals on a state construction project. This appropriation is available until June 30, 1995.*

Sec. 4. [DEPARTMENT OF CORRECTIONS.]

The amounts in this section are appropriated from the general fund to the commissioner of corrections for payment to service providers as indicated in this section in full and final payment of claims against the state for medical services to individuals who were injured while performing community service work for correctional purposes under Minnesota Statutes, section 3.739. These appropriations are available until June 30, 1995.

(a) For claims under $500.00 each and other claims already paid.....$8,568.42.

(b) For medical services provided to Rochelle Bergman, who suffered an injury to her back while performing sentencing to service work in Lyon county.....$531.02.

(c) For medical services provided to Raymond Bredow, who suffered an injury to his back while performing sentencing to service work in Lake county.....$1,783.19.

(d) For medical services provided to Forrest Cole, who suffered an injury to his finger while performing sentencing to service work in Washington county.....$439.57.

(e) For medical services provided to Rocky E. Jacob, who suffered an injury to his knee while performing sentencing to service work in Wadena county.....$712.52.

(f) For medical services provided to Karl A. Kolbe, who required medical treatment after being bitten by a cat while performing community service work in Stearns county.....$1,363.23.

(g) For medical services provided to Tanner J. Smith, who suffered an injury to his wrist while performing sentencing to service work in St. Louis county.....$458.55.

Sec. 5. [DEPARTMENT OF NATURAL RESOURCES.]

$3,704.63 is appropriated from the game and fish fund to the commissioner of natural resources for payment to Wal-Mart #1562, Attn: Glenn Miller, 13020 Riverdale Drive, Coon Rapids, MN 55448, in full and final payment of claims against the state for partial reimbursement for returned unsold hunting and fishing licenses. This appropriation is available until June 30, 1995.

Sec. 6. [DEPARTMENT OF TRANSPORTATION.]

Subdivision 1. [APPROPRIATION.] *The amounts in this section are appropriated from the trunk highway fund to the commissioner of transportation for payment to the persons named in this section in full and final payment of claims against the state. These appropriations are available until June 30, 1995.*

Subd. 2. [JOHNSON.] *Lois Johnson, Route 5, Box 431, Detroit Lakes, MN 56501, for a wrist injury suffered at a travel information center.....$15,000.00.*

Subd. 3. [BYERS.] *Harris and Hilda Byers, Route 2, Box 250, Westbrook, MN 56183, for crop damage resulting from an inadequate highway culvert.....$13,401.96.*

Subd. 4. [HOUDEK.] *For a claim already paid to Kent Houdek, 717 Mechanic Street, Decorah, IA 52101, for being underpaid for state contract work.....$2,500.00.*

Sec. 7. [DEPARTMENT OF VETERANS AFFAIRS.]

Subdivision 1. [APPROPRIATION.] *The amounts in this section are appropriated from the general fund to the commissioner of veterans affairs for payment to the persons named in this section in full and final payment of claims against the state for adjusted compensation arising from World War II,*

the Korean Conflict, and Vietnam service. These appropriations are available until June 30, 1995.

Subd. 2. [WORLD WAR II.] *Eric E. Aho, 106 Himango Road, Esko, MN 55723.....$195.00.*

Warren C. Amlie, 5844 Fairfax Avenue South, Edina, MN 55424.....$255.00.

Burnce J. Anderson, 4547 Colorado Avenue North, Crystal, MN 55422.....$315.00.

Delmer E. Anderson. P.O. Box 44, Northome, MN 56661.....$135.00.

Ernest L. Anderson, 5919 Tacony Street, Duluth, MN 55807.....$165.00.

Robert H. Anderson, 600 McLean, Mora, MN 55051.....$45.00.

Robert T. Arbogast, 7008 60th Avenue North, Crystal, MN 55428.....$240.00.

Curtis E. Arneson, 4303 Webber Parkway, Minneapolis, MN 55412.....$105.00.

George J. Berg, 3608 Abbott Avenue North, Minneapolis, MN 55422.....$90.00.

Wallace A. Borgen, 5744 Stevens Avenue South, Minneapolis, MN 55419.....$400.00.

Vernon J. Brekke, 1512 27th Avenue South, Fargo, ND 58103.....$105.00.

Herbert D. Brugger, 117 11th Street NW, Faribault, MN 55021.....$225.00.

Richard J. Carpenter, 6733 Jones Avenue NW, Seattle, WA 98117.....$180.00.

John A. Cochrane, 24 East Fourth Street, St. Paul, MN 55101.....$400.00.

Peter R. Dahlen, R.R. 2, Box 38, Twin Valley, MN 56584.....$30.00.

James I. Dale, 985 Foxglove Drive, Salt Lake City, UT 84123.....$180.00.

James A. Danaher, 4420 43rd Avenue South, Minneapolis, MN 55406.....$315.00.

Gene R. Davis, 2415 33rd Avenue South, Minneapolis, MN 55406.....$105.00.

Clement S. Dove, 537 Quinmore Avenue North, Lakeland, MN 55082.....$330.00.

Gerald O. Draxten, HC2, Box 425, Fifty Lakes, MN 56448.....$120.00.

Bernard Drouillard, Dallesport Mobile Home Park #43, P.O. Box 121, Dallesport, WA 98614.....$255.00.

Charles S. Duncan, Route 3, Box 37, Fergus Falls, MN 56537.....$60.00.

Leonard L. Edel, 405 South First Street, Montgomery, MN 56069.....$150.00.

Peter Ege, P.O. Box 6953, South Lake Tahoe, CA 96157.....$225.00.

Reinert Ege, 1130 Pineview Lane, Plymouth, MN 55441.....$255.00.

Warren I. Freeman, 609 South Section Avenue, Spring Valley, MN 55975.....$225.00.

Clyde D. Garrett, 528 Third Street NW, Faribault, MN 55021.....$45.00.

Joseph A. Gawronski, 4437 Arthur Street NE, Columbia Heights, MN 55421.....$400.00.

Richard L. Gorham, 3407 Zenith Avenue North, Robbinsdale, MN 55422.....$195.00.

Royal W. Grayden, 357 Capitol View, St. Paul, MN 55113.....$75.00.

Kenneth R. Hall, 4054 Quail Avenue, Robbinsdale, MN 55422.....$240.00.

Joseph Hanf, 6101 Lee Avenue North, Brooklyn Center, MN 55429.....$270.00.

Gerald C. Hardy, 6513 Humboldt Avenue South, Richfield, MN 55423.....$105.00.

Leonard E. Horn, Box 153, Deer Creek, MN 56527.....$45.00.

Warren E. Johnson, 36 Field Road, Silver Bay, MN 55614.....$400.00.

James A. Jussila, R.R. 1, Box 268, New York Mills, MN 56567.....$45.00.

Martin J. Kinch, 324 Second Street NE, Minneapolis, MN 55413.....$120.00.

Harold R. Kinnunen, Route 4, Box 82, Menahga, MN 56464.....$75.00.

Thomas R. Krueger, 5005 Yvonne Terrace, Edina, MN 55436.....$255.00.

Norbert J. Kucala, 315 Waite Avenue South, #101, Waite Park, MN 56387.....$270.00.

Norman F. LaVigne, 2705 Kirkwood Lane North, Plymouth, MN 55441.....$165.00.

Robert J. Maas, Route 1, Box 107, Remer, MN 56672.....$15.00.

Gordon A. Mahoney, 4256 39th Avenue South, Minneapolis, MN 55406.....$400.00.

Kenneth R. Matti, 235 Viking Drive East, #156, St. Paul, MN 55117.....$210.00.

Gerald Mitchell, 2280 Knoll, Mounds View, MN 55112.....$210.00.

Bernhard J. Mossberg, P.O. Box 52, Villard, MN 56334.....$120.00.

David L. Nelson, 17805 Placida Octubre, Green Valley, AZ 85614...$135.00.

Alton H. Nordgren, Henning, MN 56551.....$30.00.

David L. Ohman, 18200 Priory Lane, Minnetonka, MN 55345.....$30.00.

Ervin W. Ojala, R.R. 3, P.O. Box 30, New York Mills, MN 56567.....$75.00.

Hubert E. Olson, 7127 Logan Avenue South, Richfield, MN 55423.....$255.00.

Calvin J. Oss, 4428 Abbott Avenue South, Minneapolis, MN 55410.....$315.00.

Charles W. Pederson, R.R. 1, P.O. Box 348A, Clearwater, MN 55320.....$15.00.

Theodore D. Peterson, 18 Nelson Drive, Silver Bay, MN 55614.....$240.00.

Warren J. Peterson, 4536 – 29th Avenue South, Minneapolis, MN 55406.....$330.00.

Eugene F. Poser, R.R. 2, P.O. Box 187, New York Mills, MN 56567.....$60.00.

Leroy A. Pumper, 4230 – 40th Street West, Webster, MN 55088.....$165.00.

Edward J. Richardson, 2308 West 96th Street, Bloomington, MN 55431.....$180.00.

Allen B. Roedecker, 3900 West 100th Street, Bloomington, MN 55437.....$120.00.

Raymond L. Roth, 3236 – 36th Avenue South, Minneapolis, MN 55406.....$105.00.

Percy G. Runia, R.R. 1, P.O. Box 67, Lake Wilson, MN 56151.....$75.00.

Edward M. Salo, 5766 North Pike Lake Road, Duluth, MN 55811.....$90.00.

John E. Sandberg, P.O. Box 55, Barrett, MN 56311.....$330.00.

Melvin S. Sanderson, R.R. 1, P.O. Box 505, Dent, MN 56528.....$400.00.

Donald W. Schultz, P.O. Box 236, Rothsay, MN 56579.....$45.00.

Walter Schwartz, 3319 McNair, Robbinsdale, MN 55422.....$150.00.

Carl A. Senarighi, 1663 Long Lake Road, Eveleth, MN 55734.....$150.00.

Donald J. Severson, 1625 Xenia Avenue North, Golden Valley, MN 55422.....$390.00.

John W. Sloan, 10901 – 27th Avenue South, Burnsville, MN 55337.....$345.00.

Charles E. Spooner, 3232 Minnehaha Avenue South, Minneapolis, MN 55406.....$210.00.

Edward L. Stellmach, 744 Delaware Avenue, St. Paul, MN 55107.....$45.00.

George Stone, 1417 West Minnehaha Avenue, St. Paul, MN 55104.....$400.00.

Brent M. Symonds, 6407 Westchester Circle, Golden Valley, MN 55427.....$270.00.

Glen G. Thune, R.R. 2, Twin Valley, MN 56584.....$60.00.

John E. Walkowiak, 13404 Garfield Avenue South, Burnsville, MN 55337.....$90.00.

Getchel Widdes, 924 Chester Park Drive, Duluth, MN 55812.....$195.00.

Howard V. Wilson, 4119 – 28th Avenue South, Minneapolis, MN 55406.....$240.00.

Henry J. Wollmering, 712 Ramsey Street, Hastings, MN 55033.....$210.00.

Deslove Zakula, 9411 Boyd Avenue, Duluth, MN 55808.....$210.00.

Subd. 3. [WORLD WAR II; BENEFICIARY.] *Dorothea J. Stram, R.R. 2, P.O. Box 266, Cohasset, MN 55721.....$255.00.*

Subd. 4. [KOREAN CONFLICT.] *Richard J. Bigham, 5533 Rumsey, Riverside, CA 92506.....$180.00.*

Charles W. Blanchard, c/o Betty McDonald, 384 Third Avenue S.E., New Brighton, MN 55112.....$150.00.

Robert Johnson, 2416 County Road B, Grand Rapids, MN 55744.....$90.00.

Walter F. Kelsey, 22111 Gates Avenue, Faribault, MN 55021.....$180.00.

Roy W. Meyer, 108 10th Street N.W., Faribault, MN 55021.....$60.00.

Richard F. Perry, 834 Second Street S.W., Faribault, MN 55021.....$225.00.

Alan E. Ruffcorn, 2048 County Road F, White Bear Lake, MN 55110.....$135.00.

Subd. 5. [KOREAN CONFLICT; BENEFICIARY.] *Patricia Greer, 19197 Canby Way, Faribault, MN 55021.....$22.50.*

Subd. 6. [VIETNAM SERVICE.] *Bruce C. M. Bradach, R.R., P.O. Box 128D, Tenstrike, MN 56683.....$600.00.*

David F. Bruns, 19100 Stratford Road, Minnetonka, MN 55345.....$500.00.

Janet T. Dalke, 148 Union Street, Tracy, MN 56175.....$300.00.

Arthur D. Gapinski, 412-1/2 S.W. 6th Street, Chisholm, MN 55719.....$300.00.

Stanley L. Jarmuzek, 6464 – 157th Avenue N.W., Clearwater, MN 55320.....$600.00.

Dennis L. Miller, Jr., 2350 – 177th Lane N.W., Andover, MN 55304.....$600.00.

Robert R. Rainville, 2737 – 18th Avenue South, Minneapolis, MN 55407.....$300.00.

Minerva B. Sims, 307 East Elmwood, Arlington, MN 55307.....$210.00.

Fred A. Strowbridge, 1589 Adams Avenue N.W., Bemidji, MN 56601.....$525.00.

Thomas A. Udovich, 2613 West 4th Street, Duluth, MN 55806.....$600.00.

Subd. 7. [VIETNAM SERVICE; BENEFICIARY.] *Jane I. Richert, 2117 – 15th Street N.W., Faribault, MN 55021.....$100.00.*

Sec. 8. [REIMBURSEMENT REQUIRED.]

(a) $32,220.40 of the money appropriated from the general fund to the attorney general for fiscal year 1994 must be used to reimburse businesses for legal costs described in paragraph (b).

(b) Legal costs that may be reimbursed are attorney fees and court costs incurred by a business as a result of offers made by an agent of the attorney general in 1993 to remove hazardous waste in an illegal manner. A business may not seek or receive reimbursement under this section if the business incurred an administrative, civil, or criminal penalty related to the hazardous waste removal offered by the agent of the attorney general. A business seeking reimbursement under this section must file a claim containing information requested by the commissioner of finance, and must, as a condition of receiving reimbursement under this section, waive any and all claims against the state or its agents arising from the offers to remove hazardous waste described above. Payment may be made only upon receipt of a written release by the claimant in a form approved by the attorney general.

Sec. 9. [EFFECTIVE DATE.]

This act is effective the day following final enactment.''

Delete the title and insert:

''A bill for an act relating to claims against the state; providing for payment of various claims; imposing a fee; appropriating money; amending Minnesota Statutes 1992, section 3.754; proposing coding for new law in Minnesota Statutes, chapter 3.''

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

House Conferees: (Signed) Andy Steensma, Steve Trimble, Kris Hasskamp, Carol Molnau, Connie Morrison

Senate Conferees: (Signed) Randy C. Kelly, Terry D. Johnston, Janet B. Johnson, Tracy L. Beckman

Mr. Kelly moved that the foregoing recommendations and Conference Committee Report on H.F. No. 3211 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.

H.F. No. 3211 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 57 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE – CONTINUED

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 3041:

H.F. No. 3041: A bill for an act relating to government; providing for the ownership, financing, and use of certain sports facilities; permitting the issuance of bonds and other obligations; appropriating money; amending Minnesota Statutes 1992, sections 423A.02, subdivision 1; 423B.01, subdivision 9; 423B.15, subdivision 3; 473.551; 473.552; 473.553; 473.556; 473.561; 473.564, subdivision 2; 473.572; 473.581; 473.592; 473.595; and 473.596; Laws 1989, chapter 319, article 19, section 7, subdivisions 1, as amended, and 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 240A; and 473; repealing Minnesota Statutes 1992, sections 473.564, subdivision 1; and 473.571.

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

Jefferson; Brown, C.; Kahn; Milbert and Van Dellen have been appointed as such committee on the part of the House.

House File No. 3041 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 May 4, 1994

Mr. Pogemiller moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 3041, 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.

MOTIONS AND RESOLUTIONS – CONTINUED

S.F. No. 1948 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1948

A bill for an act relating to agriculture; providing for family farm limited liability companies and authorized farm limited liability companies; removing limitation on number of shareholders or partners for authorized farm corporations and partnerships; amending Minnesota Statutes 1992, section 500.24, subdivision 2.

May 3, 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. 1948, 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. 1948 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. 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.*

Sec. 2. Minnesota Statutes 1992, section 500.24, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For the purposes of this section, the terms defined in this subdivision have the meanings here given them:

(a) "Farming" means the production of (1) agricultural products; (2) livestock or livestock products; (3) milk or milk products; or (4) fruit or other horticultural products. It does not include the processing, refining, or packaging of said products, nor the provision of spraying or harvesting services by a processor or distributor of farm products. It does not include the production of timber or forest products or the production of poultry or poultry products.

(b) "Family farm" means an unincorporated farming unit owned by one or more persons residing on the farm or actively engaging in farming.

(c) "Family farm corporation" means a corporation founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons or the spouses of persons related to each other within the third degree of kindred according to the rules of the civil law, and at least one of said related persons is residing on or actively operating the farm, and none of whose stockholders are corporations; provided that a family farm corporation shall not cease to qualify as such hereunder by reason of any devise or bequest of shares of voting stock.

(d) "Authorized farm corporation" means a corporation meeting the following standards *under clause (1) or (2)*:

(1)*(i)* its shareholders do not exceed five in number;

~~(2)~~ *(ii)* all its shareholders, other than any estate are natural persons;

~~(3)~~ *(iii)* it does not have more than one class of shares; and

~~(4)~~ *(iv)* its revenues from rent, royalties, dividends, interest and annuities does not exceed 20 percent of its gross receipts; and

~~(5)~~ *(v)* shareholders holding 51 percent or more of the interest in the corporation must be residing on the farm or actively engaging in farming;

~~(6)~~ *(vi)* the authorized farm corporation, directly or indirectly, owns or otherwise has an interest, whether legal, beneficial, or otherwise, in any title to no more than 1,500 acres of real estate used for farming or capable of being used for farming in this state; and

~~(7)~~ *(vii)* a shareholder of the authorized farm corporation is not a shareholder in other authorized farm corporations that directly or indirectly in combination with the authorized farm corporation own not more than 1,500 acres of real estate used for farming or capable of being used for farming in this state~~.~~*; or*

(2)(i) the corporation is engaged in the production of livestock other than dairy cattle; and not engaged in farming activities otherwise prohibited under this section;

(ii) all its shareholders other than an estate, are natural persons or a family farm corporation;

(iii) it does not have more than one class of shares;

(iv) its revenue from rent, royalties, dividends, interest and annuities does not exceed 20 percent of its gross receipts;

(v) shareholders holding 75 percent or more of the control and financial investment in the corporation must be farmers residing in Minnesota and at least 51 percent of the required percentage of farmers must be actively engaged in livestock production;

(vi) the authorized farm corporation, directly or indirectly, owns or otherwise has an interest, whether legal, beneficial, or otherwise, in any title to no more than 1,500 acres of real estate used for farming or capable of being used for farming in this state;

(vii) a shareholder of the authorized farm corporation is not a shareholder in other authorized farm corporations that directly or indirectly in combination with the authorized farm corporation own not more than 1,500 acres of real estate used for farming or capable of being used for farming in this state; and

(viii) the corporation was formed for the production of livestock other than dairy cattle by natural persons or family farm corporations that provide 75 percent or more of the capital investment.

(e) "Agricultural land" means land used for farming.

(f) "Pension or investment fund" means a pension or employee welfare benefit fund, however organized, a mutual fund, a life insurance company separate account, a common trust of a bank or other trustee established for the investment and reinvestment of money contributed to it, a real estate investment trust, or an investment company as defined in United States Code, title 15, section 80a-3. "Pension or investment fund" does not include a benevolent trust established by the owners of a family farm, authorized farm corporation or family farm corporation.

(g) "Farm homestead" means a house including adjoining buildings that has been used as part of a farming operation or is part of the agricultural land used for a farming operation.

(h) "Family farm partnership" means a limited partnership formed for the purpose of farming and the ownership of agricultural land in which the majority of the interests in the partnership is held by and the majority of the partners are persons or the spouses of persons related to each other within the third degree of kindred according to the rules of the civil law, and at least one of the related persons is residing on or actively operating the farm, and none of the partners are corporations. A family farm partnership does not cease to qualify as a family farm partnership because of a devise or bequest of interest in the partnership.

(i) "Authorized farm partnership" means a limited partnership meeting the following standards:

(1) it has been issued a certificate from the secretary of state or is registered with the county recorder and farming and ownership of agricultural land is stated as a purpose or character of the business;

(2) its partners do not exceed five in number;

(3) all its partners, other than an estate, are natural persons;

(4) its revenues from rent, royalties, dividends, interest, and annuities do not exceed 20 percent of its gross receipts;

(5) its general partners hold at least 51 percent of the interest in the land assets of the partnership and reside on the farm or are actively engaging in farming not more than 1,500 acres as a general partner in an authorized limited partnership;

(6) its limited partners do not participate in the business of the limited partnership including operating, managing, or directing management of farming operations;

(7) the authorized farm partnership, directly or indirectly, does not own or otherwise have an interest, whether legal, beneficial, or otherwise, in a title to more than 1,500 acres of real estate used for farming or capable of being used for farming in this state; and

(8) a limited partner of the authorized farm partnership is not a limited partner in other authorized farm partnerships that directly or indirectly in combination with the authorized farm partnership own not more than 1,500 acres of real estate used for farming or capable of being used for farming in this state.

(j) "Farmer" means a person who regularly participates in physical labor or operations management in the farmer's farming operation and files "Schedule F" as part of the person's annual Form 1040 filing with the United States Internal Revenue Service.

(k) "Actively engaged in livestock production" means that a person performs day-to-day physical labor or day-to-day operations management that significantly contributes to livestock production and the functioning of a livestock operation.

Sec. 3. Minnesota Statutes 1992, section 500.24, subdivision 3, is amended to read:

Subd. 3. [FARMING AND OWNERSHIP OF AGRICULTURAL LAND BY CORPORATIONS RESTRICTED.] No corporation, limited liability company, pension or investment fund, or limited partnership shall engage in farming; nor shall any corporation, limited liability company, pension or investment fund, or limited partnership, directly or indirectly, own, acquire, or otherwise obtain an interest, whether legal, beneficial or otherwise, in any title to real estate used for farming or capable of being used for farming in this state. *Livestock that are delivered for slaughter or processing may be fed and cared for by a corporation up to 20 days prior to slaughter or processing.* Provided, however, that the restrictions in this subdivision do not apply to corporations or partnerships in clause (b) and do not apply to corporations, limited partnerships, and pension or investment funds that record its name and the particular exception under clauses (a) to (s) under which the agricultural land is owned or farmed, have a conservation plan prepared for the agricultural land, report as required under subdivision 4, and satisfy one of the following conditions under clauses (a) to (s):

(a) a bona fide encumbrance taken for purposes of security;

(b) a family farm corporation, an authorized farm corporation, a family farm partnership, or an authorized farm partnership as defined in subdivision 2 or a general partnership;

(c) agricultural land and land capable of being used for farming owned by a corporation as of May 20, 1973, or a pension or investment fund as of May 12, 1981, including the normal expansion of such ownership at a rate not to exceed 20 percent of the amount of land owned as of May 20, 1973, or, in the case of a pension or investment fund, as of May 12, 1981, measured in acres, in any five-year period, and including additional ownership reasonably necessary to meet the requirements of pollution control rules;

(d) agricultural land operated for research or experimental purposes with the approval of the commissioner of agriculture, provided that any commercial sales from the operation must be incidental to the research or experimental objectives of the corporation. A corporation, limited partnership, or pension or investment fund seeking to operate agricultural land for research or experimental purposes must submit to the commissioner a prospectus or proposal of the intended method of operation, containing information required by the commissioner including a copy of any operational contract with individual participants, prior to initial approval of an operation. A corporation, limited partnership, or pension or investment fund operating agricultural land for research or experimental purposes prior to May 1, 1988, must comply with all requirements of this clause except the requirement for initial approval of the project;

(e) agricultural land operated by a corporation or limited partnership for the purpose of raising breeding stock, including embryos, for resale to farmers or operated for the purpose of growing seed, wild rice, nursery plants or sod. *An entity that is organized to raise livestock other than dairy cattle under this clause that does not meet the definition requirement for an authorized farm corporation must:*

(1) sell all castrated animals to be fed out or finished to farming operations

that are neither directly or indirectly owned by the business entity operating the breeding stock operation; and

(2) report its total production and sales annually to the commissioner of agriculture;

(f) agricultural land and land capable of being used for farming leased by a corporation or limited partnership in an amount, measured in acres, not to exceed the acreage under lease to such corporation as of May 20, 1973, or to the limited partnership as of May 1, 1988, and the additional acreage required for normal expansion at a rate not to exceed 20 percent of the amount of land leased as of May 20, 1973, for a corporation or May 1, 1988, for a limited partnership in any five-year period, and the additional acreage reasonably necessary to meet the requirements of pollution control rules;

(g) agricultural land when acquired as a gift (either by grant or a devise) by an educational, religious, or charitable nonprofit corporation or by a pension or investment fund or limited partnership; provided that all lands so acquired by a pension or investment fund, and all lands so acquired by a corporation or limited partnership which are not operated for research or experimental purposes, or are not operated for the purpose of raising breeding stock for resale to farmers or operated for the purpose of growing seed, wild rice, nursery plants or sod must be disposed of within ten years after acquiring title thereto;

(h) agricultural land acquired by a pension or investment fund or a corporation other than a family farm corporation or authorized farm corporation, as defined in subdivision 2, or a limited partnership other than a family farm partnership or authorized farm partnership as defined in subdivision 2, for which the corporation or limited partnership has documented plans to use and subsequently uses the land within six years from the date of purchase for a specific nonfarming purpose, or if the land is zoned nonagricultural, or if the land is located within an incorporated area. A pension or investment fund or a corporation or limited partnership may hold such agricultural land in such acreage as may be necessary to its nonfarm business operation; provided, however, that pending the development of agricultural land for nonfarm purposes, such land may not be used for farming except under lease to a family farm unit, a family farm corporation, an authorized farm corporation, a family farm partnership, or an authorized farm partnership, or except when controlled through ownership, options, leaseholds, or other agreements by a corporation which has entered into an agreement with the United States of America pursuant to the New Community Act of 1968 (Title IV of the Housing and Urban Development Act of 1968, United States Code, title 42, sections 3901 to 3914) as amended, or a subsidiary or assign of such a corporation;

(i) agricultural lands acquired by a pension or investment fund or a corporation or limited partnership by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise; provided, however, that all lands so acquired be disposed of within ten years after acquiring the title if acquired before May 1, 1988, and five years after acquiring the title if acquired on or after May 1, 1988, acquiring the title thereto, and further provided that the land so acquired shall not be used for farming during the ten-year or five-year period except under a lease to a family farm unit, a family farm corporation, an authorized farm corporation, a family farm partnership, or an authorized

farm partnership. The aforementioned ten-year or five-year limitation period shall be deemed a covenant running with the title to the land against any grantee, assignee, or successor of the pension or investment fund, corporation, or limited partnership. Notwithstanding the five-year divestiture requirement under this clause, a financial institution may continue to own the agricultural land if the agricultural land is leased to the immediately preceding former owner, but must divest of the agricultural land within the ten-year period. *Livestock acquired by a pension or investment fund, corporation, or limited partnership in the collection of debts, or by a procedure for the enforcement of lien or claim on the livestock whether created by security agreement or otherwise after the effective date of this act, must be sold or disposed of within one full production cycle for the type of livestock acquired or 18 months after the livestock is acquired, whichever is later*;

(j) agricultural land acquired by a corporation regulated under the provisions of Minnesota Statutes 1974, chapter 216B, for purposes described in that chapter or by an electric generation or transmission cooperative for use in its business, provided, however, that such land may not be used for farming except under lease to a family farm unit, a family farm corporation, or a family farm partnership;

(k) agricultural land, either leased or owned, totaling no more than 2,700 acres, acquired after May 20, 1973, for the purpose of replacing or expanding asparagus growing operations, provided that such corporation had established 2,000 acres of asparagus production;

(l) all agricultural land or land capable of being used for farming which was owned or leased by an authorized farm corporation as defined in Minnesota Statutes 1974, section 500.24, subdivision 1, clause (d), but which does not qualify as an authorized farm corporation as defined in subdivision 2, clause (d);

(m) a corporation formed primarily for religious purposes whose sole income is derived from agriculture;

(n) agricultural land owned or leased by a corporation prior to August 1, 1975, which was exempted from the restriction of this subdivision under the provisions of Laws 1973, chapter 427, including normal expansion of such ownership or leasehold interest to be exercised at a rate not to exceed 20 percent of the amount of land owned or leased on August 1, 1975, in any five-year period and the additional ownership reasonably necessary to meet requirements of pollution control rules;

(o) agricultural land owned or leased by a corporation prior to August 1, 1978, including normal expansion of such ownership or leasehold interest, to be exercised at a rate not to exceed 20 percent of the amount of land owned or leased on August 1, 1978, and the additional ownership reasonably necessary to meet requirements of pollution control rules, provided that nothing herein shall reduce any exemption contained under the provisions of Laws 1975, chapter 324, section 1, subdivision 2;

(p) an interest in the title to agricultural land acquired by a pension fund or family trust established by the owners of a family farm, authorized farm corporation or family farm corporation, but limited to the farm on which one or more of those owners or shareholders have resided or have been actively engaged in farming as required by subdivision 2, clause (b), (c), or (d);

(q) agricultural land owned by a nursing home located in a city with a population, according to the state demographer's 1985 estimate, between 900 and 1,000, in a county with a population, according to the state demographer's 1985 estimate, between 18,000 and 19,000, if the land was given to the nursing home as a gift with the expectation that it would not be sold during the donor's lifetime. This exemption is available until July 1, 1995;

(r) the acreage of agricultural land and land capable of being used for farming owned and recorded by an authorized farm corporation as defined in Minnesota Statutes 1986, section 500.24, subdivision 2, paragraph (d), or a limited partnership as of May 1, 1988, including the normal expansion of the ownership at a rate not to exceed 20 percent of the land owned and recorded as of May 1, 1988, measured in acres, in any five-year period, and including additional ownership reasonably necessary to meet the requirements of pollution control rules;

(s) agricultural land owned or leased as a necessary part of an aquatic farm as defined in section 17.47, subdivision 3.

Sec. 4. Minnesota Statutes 1992, section 561.19, subdivision 1, is amended to read:

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

(a) "Agricultural operation" means a facility and its appurtenances for the production of crops, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in processing agricultural products.

(b) "Established date of operation" means the date on which the agricultural operation commenced. If the agricultural operation is subsequently expanded or significantly altered, the established date of operation for each expansion or alteration is deemed to be the date of commencement of the expanded or altered operation. *As used in this paragraph, "expanded or significantly altered" means:*

(1) an expansion by at least 25 percent in the amount of a particular crop grown or the number of a particular kind of animal or livestock located on an agricultural operation; or

(2) a distinct change in the kind of agricultural operation, as in changing from one kind of crop, livestock, animal, or product to another, but not merely a change from one generally accepted agricultural practice to another in producing the same crop or product.

~~(c) "Family farm" means an unincorporated farm unit owned by one or more persons or spouses of persons related to each other within the third degree of kindred according to the rules of the civil law at least one of whom is residing or actively engaged in farming on the farm unit, or a "family farm corporation," as that term is defined in section 500.24, subdivision 2.~~

Sec. 5. Minnesota Statutes 1992, section 561.19, subdivision 2, is amended to read:

Subd. 2. [AGRICULTURAL OPERATION NOT A NUISANCE.] *(a)* An agricultural operation ~~which is a part of a family farm~~ is not and shall not become a private or public nuisance after ~~six~~ *two* years from its established date of operation if the operation was not a nuisance at its established date of operation.

(b) An agricultural operation is operating according to generally accepted agricultural practices if it is located in an agriculturally zoned area and complies with the provisions of all applicable federal and state statutes and rules or any issued permits for the operation.

(c) The provisions of this subdivision do not apply:

~~(a)~~ *(1)* to a condition or injury which results from the negligent or improper operation of an agricultural operation or from operations contrary to commonly accepted agricultural practices or to applicable state or local laws, ordinances, rules, or permits;

~~(b)~~ *(2)* when an agricultural operation causes injury or direct threat of injury to the health or safety of any person;

~~(c)~~ *(3)* to the pollution of, or change in the condition of, the waters of the state or the overflow of waters on the lands of any person;

~~(d)~~ *(4)* to an animal feedlot facility with a swine capacity of 1,000 or more animal units as defined in the rules of the pollution control agency for control of pollution from animal feedlots, or a cattle capacity of 2,500 animals or more; or

~~(e)~~ *(5)* to any prosecution for the crime of public nuisance as provided in section 609.74 or to an action by a public authority to abate a particular condition which is a public nuisance.

Sec. 6. [CORPORATE FARMING LAW TASK FORCE.]

Subdivision 1. [PURPOSE.] *Current Minnesota law generally precludes corporations from owning farm land or operating a farming enterprise. Corporate farming law has been developed over a period of 14 decades, and the development has included numerous changes to accommodate shifting priorities in agriculture and a recognition that the economic and social climate of the state is not static. There is a concern whether current corporate farming law, especially as it relates to the breeding and raising of swine, represents the appropriate balance between protection of family farms and opportunity for creative new enterprise structures organized by multiple farmers. Farmers wish to support a corporate farming law that is in the overall best interest of production agriculture and preservation of the family farm unit as the main component of the agricultural economy in the state. The study, legislative report, and legislative recommendations authorized by this section will increase public and legislative understanding of the issues involved.*

Subd. 2. [CREATION; MEMBERSHIP.] *(a) There is hereby created a corporate farming law task force with ten members appointed as follows:*

(1) the chairs of the agriculture policy committees of the Minnesota senate and house of representatives, or their designees;

(2) two members of the Minnesota house of representatives appointed by the speaker of the house;

(3) one member of the Minnesota house of representatives appointed by the minority leader of the house;

(4) two members of the Minnesota senate appointed by the senate committee on rules and administration;

(5) one member of the Minnesota senate appointed by the minority leader of the senate;

(6) one member with education and experience in the area of agricultural economics appointed by the governor of Minnesota; and

(7) one member who is the operator of a production agriculture farm in Minnesota appointed by the governor.

(b) Each of the appointing authorities must make their respective appointments not later than June 15, 1994.

(c) Citizen members of the task force may be reimbursed for expenses as provided in Minnesota Statutes, section 15.059, subdivision 6.

(d) The first meeting of the task force must be called and convened by the chairs of the agriculture policy committees of the senate and the house of representatives. Task force members must then elect a permanent chair from among the task force members.

Subd. 3. [CHARGE.] *The task force must examine current and projected impacts of corporate, partnership, and limited liability company farming enterprises on the economic, social, and environmental conditions and structures of rural Minnesota. The study should consider probable impacts on both agriculture related and nonagricultural businesses in rural communities. Issues of nonpoint source pollution and other environmental issues must also be considered. The task force shall also examine the issue of responsibility for potential pollution damage.*

Subd. 4. [RESOURCES; STAFF SUPPORT; CONTRACT SERVICES.] *The commissioner of agriculture shall provide necessary resources and staff support for the meetings, hearings, activities, and report of the task force. To the extent the task force determines it appropriate to contract with nonstate providers for research or analytical services, the commissioner shall serve as the fiscal agent for the task force.*

Subd. 5. [PUBLIC HEARINGS.] *The task force shall hold at least four public hearings on the issue of corporate farming law and the impacts of other potential legal structures of farming operations, with specific emphasis on appropriate regulation of business structures involved in swine breeding and raising. At least three of the hearings must be held in greater Minnesota.*

Subd. 6. [REPORT.] *Not later than February 15, 1995, the corporate farming law task force shall report to the legislature on the findings of its study. The report must include recommendations for improvements in Minnesota Statutes that are in the best interests of production agriculture in the state and the economic, environmental, and social environment and preservation of the family farm.*

Subd. 7. [EXPIRATION.] *The corporate farming law task force expires 45 days after its report and recommendations are delivered to the legislature or on May 15, 1995, whichever date is earlier.*

Sec. 7. [EFFECTIVE DATE.]

Section 6 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to agriculture; providing for cooperative farming agreements on certain lands; changing the law limiting corporate farming; changing liability of certain agricultural operations; creating corporate farming law task force and requiring legislative report; amending Minnesota Statutes 1992, sections 97A.135, subdivision 3; 500.24, subdivisions 2 and 3; and 561.19, subdivisions 1 and 2."

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

Senate Conferees: (Signed) Charles A. Berg, Jim Vickerman, Steve Dille, Joe Bertram, Sr., Ember D. Reichgott Junge

House Conferees: (Signed) Ted Winter, Stephen G. Wenzel, Doug Peterson, Chuck Brown, Gene Hugoson

Mr. Berg moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1948 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. 1948 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 58 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill, as amended by the Conference Committee, was repassed 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 bills were read the first time and referred to the committee indicated.

Ms. Runbeck introduced—

S.F. No. 2933: A bill for an act relating to workers' compensation; modifying provisions relating to attorney fees; amending Minnesota Statutes 1992, sections 176.081, subdivisions 1, 7a, and 9; 176.135, subdivision 1; and

176.191, subdivision 8; repealing Minnesota Statutes 1992, sections 176.081, subdivisions 2, 5, 7, and 8; and 176.133.

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

Ms. Runbeck introduced—

S.F. No. 2934: A bill for an act relating to workers' compensation; modifying provisions relating to benefits and fraud; providing penalties; amending Minnesota Statutes 1992, sections 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; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 18, and 20; 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; repealing Minnesota Statutes 1992, sections 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.

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

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 12:00 noon. The motion prevailed.

The hour of 12:00 noon having arrived, the President called the Senate to order.

CALL OF THE SENATE

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

MOTIONS AND RESOLUTIONS – CONTINUED

S.F. No. 2192 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2192

A bill for an act relating to health; MinnesotaCare; establishing and regulating community integrated service networks; defining terms; creating a reinsurance and risk adjustment association; classifying data; requiring reports; mandating studies; modifying provisions relating to the regulated all-payer option; requiring administrative rulemaking; setting timelines and requiring plans for implementation; designating essential community providers; establishing an expedited fact finding and dispute resolution process; requiring proposed legislation; establishing task forces; providing for demonstration models; mandating universal coverage; requiring insurance reforms; providing grant programs; establishing the Minnesota health care administrative simplification act; implementing electronic data interchange standards; creating the Minnesota center for health care electronic data interchange; providing standards for the Minnesota health care identification card; appropriating money; providing penalties; amending Minnesota Statutes 1992, sections 60A.02, subdivision 3; 60A.15, subdivision 1; 62A.303; 62D.02,

subdivision 4; 62D.04, by adding a subdivision; 62E.02, subdivisions 10, 18, 20, and 23; 62E.10, subdivisions 1, 2, and 3; 62E.141; 62E.16; 62J.03, by adding a subdivision; 62L.02, subdivisions 9, 13, 17, 24, and by adding subdivisions; 62L.03, subdivision 1; 62L.05, subdivisions 1, 5, and 8; 62L.06; 62L.07, subdivision 2; 62L.08, subdivisions 2, 5, 6, and 7; 62L.12; 62L.21, subdivision 2; 62M.02, subdivisions 5 and 21; 62M.03, subdivisions 1, 2, and 3; 62M.05, subdivision 3; 62M.06, subdivision 3; 62M.09, subdivision 5; 144.335, by adding a subdivision; 144.581, subdivision 2; 256.9355, by adding a subdivision; 256.9358, subdivision 4; 295.50, by adding subdivisions; and 318.02, by adding a subdivision; Minnesota Statutes 1993 Supplement, sections 43A.317, by adding a subdivision; 60K.14, subdivision 7; 61B.20, subdivision 13; 62A.011, subdivision 3; 62A.65, subdivisions 2, 3, 4, 5, and by adding subdivisions; 62D.12, subdivision 17; 62J.03, subdivision 6; 62J.04, subdivisions 1 and 1a; 62J.09, subdivisions 1a and 2; 62J.33, by adding subdivisions; 62J.35, subdivisions 2 and 3; 62J.38; 62J.41, subdivision 2; 62J.45, by adding subdivisions; 62L.02, subdivisions 8, 11, 15, 16, 19, and 26; 62L.03, subdivisions 3, 4, and 5; 62L.04, subdivision 1; 62L.08, subdivisions 4 and 8; 62N.01; 62N.02, subdivisions 1, 8, and by adding a subdivision; 62N.06, subdivision 1; 62N.065, subdivision 1; 62N.10, subdivisions 1 and 2; 62N.22; 62N.23; 62P.01; 62P.03; 62P.04; 62P.05; 144.1486; 151.21, subdivisions 7 and 8; 256.9352, subdivision 3; 256.9353, subdivisions 3 and 7; 256.9354, subdivisions 1, 4, 5, and 6; 256.9356, subdivision 3; 256.9362, subdivision 6; 256.9363, subdivisions 6, 7, and 9; 256.9657, subdivision 3; 295.50, subdivisions 3, 4, and 12b; 295.52, subdivision 5; 295.53, subdivisions 1, 2, and 5; 295.54; 295.58; and 295.582; Laws 1992, chapter 549, article 9, section 22; proposing coding for new law in Minnesota Statutes, chapters 62A; 62J; 62N; 62P; 144; and 317A; proposing coding for new law as Minnesota Statutes, chapter 62Q; repealing Minnesota Statutes 1992, sections 62A.02, subdivision 5; 62E.51; 62E.52; 62E.53; 62E.531; 62E.54; 62E.55; and 256.362, subdivision 5; Minnesota Statutes 1993 Supplement, sections 62J.04, subdivision 8; 62N.07; 62N.075; 62N.08; 62N.085; and 62N.16.

May 4, 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. 2192, 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. 2192 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

COMMUNITY INTEGRATED SERVICE NETWORKS

Section 1. [62J.016] [GOALS OF RESTRUCTURING.]

The state seeks to bring about changes in the health care delivery and financing system that will assure quality, affordable, and accessible health

care for all Minnesotans. This goal will be accomplished by restructuring the delivery system, the financial incentives, and the regulatory environment in a way that will make health care providers and health plan companies more accountable to consumers, group purchasers, and communities for their costs and quality, their effectiveness in meeting the health care needs of all of their patients and enrollees, and their contributions to improving the health of the greater community.

Sec. 2. [62J.017] [IMPLEMENTATION TIMETABLE.]

The state seeks to complete the restructuring of the health care delivery and financing system by July 1, 1997. The restructured system will have two options: (1) integrated service networks, which will be accountable for meeting state cost containment, quality, and access standards; or (2) a uniform set of price and utilization controls for all health care services for Minnesota residents not provided through an integrated service network. Both systems will operate under the state's growth limits and will be structured to promote competition in the health care marketplace.

Beginning July 1, 1994, measures will be taken to increase the public accountability of existing health plan companies, to promote the development of small, community-based integrated service networks, and to reduce administrative costs by standardizing third-party billing forms and procedures and utilization review requirements. Voluntary formation of other integrated service networks will begin after rules have been adopted, but not before July 1, 1996. Statutes and rules for the entire restructured health care financing and delivery system must be enacted or adopted by January 1, 1996, and a phase-in of the all-payer reimbursement system must begin on that date. By July 1, 1997, all health coverage must be regulated under integrated service network or community integrated service network law pursuant to chapter 62N or all-payer law pursuant to chapter 62P.

Sec. 3. Minnesota Statutes 1993 Supplement, section 62N.02, is amended by adding a subdivision to read:

Subd. 4a. [COMMUNITY INTEGRATED SERVICE NETWORK.] *(a) "Community integrated service network" or "community network" means a formal arrangement licensed by the commissioner under section 62N.25 for providing prepaid health services to enrolled populations of 50,000 or fewer enrollees, including enrollees who are residents of other states.*

(b) Notwithstanding paragraph (a), an organization licensed as a community network that accepts payments for health care services on a capitated basis, or under another similar risk sharing agreement, from a program of self-insurance as described in section 60A.02, subdivision 3, paragraph (b), shall not be regulated as a community network with respect to the receipt of the payments. The payments are not premium revenues for the purpose of calculating the community network's liability for otherwise applicable state taxes, assessments, or surcharges, with the exception of:

(1) the MinnesotaCare provider tax;

(2) the one percent premium tax imposed in section 60A.15, subdivision 1, paragraph (d); and

(3) effective July 1, 1995, assessments by the Minnesota comprehensive health association.

This paragraph applies only where:

(1) the community network does not bear risk in excess of 110 percent of the self-insurance program's expected costs;

(2) the employer does not carry stop loss, excess loss, or similar coverage with an attachment point lower than 120 percent of the self-insurance program's expected costs;

(3) the community network and the employer comply with the data submission and administrative simplification provisions of chapter 62J;

(4) the community network and the employer comply with the provider tax pass-through provisions of section 295.582;

(5) the community network's required minimum reserves reflect the risk borne by the community network under this paragraph, with an appropriate adjustment for the 110 percent limit on risk borne by the community network;

(6) on or after July 1, 1994, but prior to January 1, 1995, the employer has at least 1,500 current employees, as defined in section 62L.02, or, on or after January 1, 1995, the employer has at least 750 current employees, as defined in section 62L.02;

(7) the employer does not exclude any eligible employees or their dependents, both as defined in section 62L.02, from coverage offered by the employer, under this paragraph or any other health coverage, insured or self-insured, offered by the employer, on the basis of the health status or health history of the person.

This paragraph expires December 31, 1997.

Sec. 4. Minnesota Statutes 1993 Supplement, section 62N.02, subdivision 8, is amended to read:

Subd. 8. [INTEGRATED SERVICE NETWORK.] *(a)* "Integrated service network" means a formal arrangement permitted by this chapter and licensed by the commissioner for providing health services under this chapter to enrollees for a fixed payment per time period. *Integrated service network does not include a community integrated service network.*

(b) Notwithstanding paragraph (a), an organization licensed as an integrated service network that accepts payments for health care services on a capitated basis, or under another similar risk sharing agreement, from a program of self-insurance as described in section 60A.02, subdivision 3, paragraph (b), shall not be regulated as an integrated service network with respect to the receipt of the payments. The payments are not premium revenues for the purpose of calculating the integrated service network's liability for otherwise applicable state taxes, assessments, or surcharges, with the exception of:

(1) the MinnesotaCare provider tax;

(2) the one percent premium tax imposed in section 60A.15, subdivision 1, paragraph (d); and

(3) effective July 1, 1995, assessments by the Minnesota comprehensive health association.

This paragraph applies only where:

(1) the integrated service network does not bear risk in excess of 110 percent of the self-insurance program's expected costs;

(2) the employer does not carry stop loss, excess loss, or similar coverage with an attachment point lower than 120 percent of the self-insurance program's expected costs;

(3) the integrated service network and the employer comply with the data submission and administrative simplification provisions of chapter 62J;

(4) the integrated service network and the employer comply with the provider tax pass-through provisions of section 295.582;

(5) the integrated service network's required minimum reserves reflect the risk borne by the integrated service network under this paragraph, with an appropriate adjustment for the 110 percent limit on risk borne by the integrated service network;

(6) on or after July 1, 1994, but prior to January 1, 1995, the employer has at least 1,500 current employees, as defined in section 62L.02, or, on or after January 1, 1995, the employer has at least 750 current employees, as defined in section 62L.02;

(7) the employer does not exclude any eligible employees or their dependents, both as defined in section 62L.02, from coverage offered by the employer, under this paragraph or any other health coverage, insured or self-insured, offered by the employer, on the basis of the health status or health history of the person.

This paragraph expires December 31, 1997.

Sec. 5. [62N.25] [COMMUNITY INTEGRATED SERVICE NETWORKS.]

Subdivision 1. [SCOPE OF LICENSURE.] *Beginning July 1, 1994, the commissioner shall accept applications for licensure as a community integrated service network under this section. Licensed community integrated service networks may begin providing health coverage to enrollees no earlier than January 1, 1995, and may begin marketing coverage to prospective enrollees upon licensure.*

Subd. 2. [LICENSURE REQUIREMENTS GENERALLY.] *To be licensed and to operate as a community integrated service network, an applicant must satisfy the requirements of chapter 62D, and all other legal requirements that apply to entities licensed under chapter 62D, except as exempted or modified in this section. Community networks must, as a condition of licensure, comply with rules adopted under section 256B.0644 that apply to entities governed by chapter 62D.*

Subd. 3. [REGULATION; APPLICABLE LAW.] *Community integrated service networks are regulated and licensed by the commissioner under the same authority that applies to entities licensed under chapter 62D, except as exempted or modified under this section. All statutes or rules that apply to health maintenance organizations apply to community networks, unless otherwise specified. A cooperative organized under chapter 308A may establish a community integrated service network.*

Subd. 4. [GOVERNING BODY.] *In addition to the requirements of section 62D.06, at least 51 percent of the members of the governing body of the*

community integrated service network must be residents of the community integrated service network's service area. Service area, for purposes of this subdivision, may include contiguous geographic areas outside the state of Minnesota.

Subd. 5. [BENEFITS.] *Community integrated service networks must offer the health maintenance organization benefit set, as defined in chapter 62D, and other laws applicable to entities regulated under chapter 62D, except that the community integrated service network may impose a deductible, not to exceed $1,000 per person per year, provided that out-of-pocket expenses on covered services do not exceed $3,000 per person or $5,000 per family per year. The deductible must not apply to preventive health services as described in Minnesota Rules, part 4685.0801, subpart 8. Community networks and chemical dependency facilities under contract with a community network shall use the assessment criteria in Minnesota Rules, parts 9530.6600 to 9530.6660, when assessing enrollees for chemical dependency treatment.*

Subd. 6. [SOLVENCY.] *A community integrated service network is exempt from the deposit, reserve, and solvency requirements specified in sections 62D.041, 62D.042, 62D.043, and 62D.044 and shall comply instead with sections 62N.27 to 62N.32. In applying sections 62N.27 to 62N.32, the commissioner is exempt from the rulemaking requirements of chapter 14. However, to the extent that there are analogous definitions or procedures in chapter 62D or in rules promulgated thereunder, the commissioner shall follow those existing provisions rather than adopting a contrary approach or interpretation. This rulemaking exemption shall expire on June 1, 1995.*

Subd. 7. [EXEMPTIONS FROM EXISTING REQUIREMENTS.] *Community integrated service networks are exempt from the following requirements applicable to health maintenance organizations:*

(1) conducting focused studies under Minnesota Rules, part 4685.1125;

(2) preparing and filing, as a condition of licensure, a written quality assurance plan, and annually filing such a plan and a work plan, under Minnesota Rules, parts 4685.1110 and 4685.1130;

(3) maintaining statistics under Minnesota Rules, part 4685.1200;

(4) filing provider contract forms under sections 62D.03, subdivision 4, and 62D.08, subdivision 1;

(5) reporting any changes in the address of a network provider or length of a provider contract or additions to the provider network to the commissioner within ten days under section 62D.08, subdivision 5. Community networks must report such information to the commissioner on a quarterly basis. Community networks that fail to make the required quarterly filing are subject to the penalties set forth in section 62D.08, subdivision 5; and

(6) preparing and filing, as a condition of licensure, a marketing plan, and annually filing a marketing plan, under sections 62D.03, subdivision 4, paragraph (l), and 62D.08, subdivision 1.

Subd. 8. [PROVIDER CONTRACTS.] *The provisions of section 62D.123 are implied in every provider contract or agreement between a community integrated service network and a provider, regardless of whether those provisions are expressly included in the contract. No participating provider, agent, trustee, or assignee of a participating provider has or may maintain*

any cause of action against a subscriber or enrollee to collect sums owed by the community network.

Subd. 9. [EXCEPTIONS TO ENROLLMENT LIMIT.] *A community integrated service network may enroll enrollees in excess of 50,000 if necessary to comply with guaranteed issue or guaranteed renewal requirements of chapter 62L or section 62A.65.*

Sec. 6. [62N.255] [EXPANDED PROVIDER NETWORKS.]

Subdivision 1. [PROVIDER ACCEPTANCE REQUIRED.] *Each health plan company, with the exception of any health plan company with 50,000 or fewer enrollees and health plan companies that are exempt under subdivision 6, shall establish an expanded network of allied independent health providers, in addition to a preferred network. A health plan company shall accept as a provider in the expanded network any allied independent health provider who: (1) meets the health plan company's credentialing standards; (2) agrees to the terms of the health plan company's provider contract; and (3) agrees to comply with all managed care protocols of the health plan company. A preferred network shall be considered an expanded network if all allied independent health providers who meet the requirements of clauses (1), (2), and (3), are accepted into the preferred network. A community integrated service network may offer to its enrollees an expanded network of allied independent health providers as described under this section.*

Subd. 2. [MANAGED CARE.] *The managed care protocols used by the health plan company may include: (1) a requirement that an enrollee obtain a referral from the health plan company before obtaining services from an allied independent health provider in the expanded network; (2) limits on the number and length of visits to allied independent health providers in the expanded network allowed by each referral, as long as the number and length of visits allowed is not less than the number and length allowed for comparable referrals to allied independent health providers in the preferred network; and (3) ongoing management and review by the health plan company of the care provided by an allied independent health provider in the expanded network after a referral is made.*

Subd. 3. [MANDATORY OFFERING TO ENROLLEES.] *Each health plan company shall offer to enrollees the option of receiving covered services through the expanded network of allied independent health providers established under subdivisions 1 and 2. This expanded network option may be offered as a separate health plan. The network may establish separate premium rates and cost-sharing requirements for this expanded network plan, as long as these premium rates and cost-sharing requirements are actuarially justified and approved by the commissioner. This subdivision does not apply to Medicare, medical assistance, general assistance medical care, and MinnesotaCare. This subdivision is effective January 1, 1995, and applies to health plans issued or renewed, or offers of health plans to be issued or renewed, on or after January 1, 1995, except that this subdivision is effective January 1, 1996, for collective bargaining agreements of the department of employee relations and the University of Minnesota.*

Subd. 4. [PROVIDER REIMBURSEMENT.] *A health plan company shall pay each allied independent health provider in the expanded network the same rate per unit of service as paid to allied independent health providers in the preferred network.*

Subd. 5. [DEFINITIONS.] *(a) For purposes of this section, the following definitions apply.*

(b) "Allied independent health provider" means an independently enrolled audiologist, chiropractor, dietitian, home health care provider, licensed marriage and family therapist, nurse practitioner or advanced practice nurse, occupational therapist, optometrist, optician, outpatient chemical dependency counselor, pharmacist who is not employed by and based on the premises of a health plan company, physical therapist, podiatrist, licensed psychologist, psychological practitioner, licensed social worker, or speech therapist.

(c) "Home health care provider" means a provider of personal care assistance, home health aide, homemaker, respite care, adult day care, or home therapies and home health nursing services.

(d) "Independently enrolled" means that a provider can bill, and receive direct payment for services from, a third-party payer or patient.

Subd. 6. [EXEMPTION.] *A health plan company, to the extent that it operates as a staff model health plan company as defined in section 295.50, subdivision 12b, by employing allied independent health care providers to deliver health care services to enrollees, is exempt from this section.*

Sec. 7. [62N.26] [SHARED SERVICES COOPERATIVE.]

The commissioner of health shall establish, or assist in establishing, a shared services cooperative organized under chapter 308A to make available administrative and legal services, technical assistance, provider contracting and billing services, and other services to those community integrated service networks and integrated service networks that choose to participate in the cooperative. The commissioner shall provide, to the extent funds are appropriated, start-up loans sufficient to maintain the shared services cooperative until its operations can be maintained by fees and contributions. The cooperative must not be staffed, administered, or supervised by the commissioner of health. The cooperative shall make use of existing resources that are already available in the community, to the extent possible.

Sec. 8. [62N.27] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *For purposes of sections 62N.27 to 62N.32, the terms defined in this section have the meanings given. Other terms used in those sections have the meanings given in sections 62D.041, 62D.042, 62D.043, and 62D.044.*

Subd. 2. [NET WORTH.] *"Net worth" means admitted assets as defined in subdivision 3, minus liabilities. Liabilities do not include those obligations that are subordinated in the same manner as preferred ownership claims under section 60B.44, subdivision 10. For purposes of this subdivision, preferred ownership claims under section 60B.44, subdivision 10, include promissory notes subordinated to all other liabilities of the community integrated service network.*

Subd. 3. [ADMITTED ASSETS.] *"Admitted assets" means admitted assets as defined in section 62D.044, except that real estate investments allowed by section 62D.045 are not admitted assets. Admitted assets include the deposit required under section 62N.32.*

Subd. 4. [ACCREDITED CAPITATED PROVIDER.] *"Accredited capitated provider" means a health care providing entity that:*

(1) receives capitated payments from a community network under a contract to provide health services to the network's enrollees. For purposes of this section, a health care providing entity is "capitated" when its compensation arrangement with a network involves the provider's acceptance of material financial risk for the delivery of a predetermined set of services for a specified period of time;

(2) is licensed to provide and provides the contracted services, either directly or through an affiliate. For purposes of this section, an "affiliate" is any person that directly or indirectly controls, is controlled by, or is under common control with the health care providing entity, and "control" exists when any person, directly or indirectly, owns, controls, or holds the power to vote or holds proxies representing no less than 80 percent of the voting securities or governance rights of any other person;

(3) agrees to serve as an accredited capitated provider of a community network or for the purpose of reducing the network's net worth and deposit requirements under section 62N.28; and

(4) is approved by the commissioner as an accredited capitated provider for a community network in accordance with section 62N.31.

Subd. 5. [PERCENTAGE OF RISK CEDED.] *"Percentage of risk ceded" means the ratio, expressed as a percentage, between capitated payments made or, in the case of a new entity, expected to be made by a community network to all accredited capitated providers during any contract year and the total premium revenue, adjusted to eliminate expected administrative costs, received for the same time period by the community network.*

Subd. 6. [PROVIDER AMOUNT AT RISK.] *"Provider amount at risk" means a dollar amount certified by a qualified actuary to represent the expected direct costs to an accredited capitated provider for providing the contracted, covered health care services to the enrollees of the network to which it is accredited for a period of 120 days.*

Sec. 9. [62N.28] [NET WORTH REQUIREMENT.]

Subdivision 1. [REQUIREMENT.] *Except as otherwise permitted by this chapter, each community network must maintain a minimum net worth equal to the greater of:*

(1) $1,000,000;

(2) two percent of the first $150,000,000 of annual premium revenue plus one percent of annual premium revenue in excess of $150,000,000;

(3) eight percent of the annual health services costs, except those paid on a capitated or managed hospital payment basis, plus four percent of the annual capitation and managed hospital payment costs; or

(4) four months uncovered health services costs.

Subd. 2. [DEFINITIONS.] *For purposes of this section, the following terms have the meanings given:*

(1) "capitated basis" means fixed per member per month payment or percentage of premium paid to a provider that assumes the full risk of the cost of contracted services without regard to the type, value, or frequency of

services provided. For purposes of this definition, capitated basis includes the cost associated with operating staff model facilities;

(2) "managed hospital payment basis" means agreements in which the financial risk is primarily related to the degree of utilization rather than to the cost of services; and

(3) "uncovered health services costs" means the cost to the community network of health services covered by the community network for which the enrollee would also be liable in the event of the community network's insolvency, and that are not guaranteed, insured, or assumed by a person other than the community network.

Subd. 3. [REINSURANCE CREDIT.] *A community network may use the subtraction for premiums paid for insurance permitted under section 62D.042, subdivision 4.*

Subd. 4. [PHASE-IN FOR NET WORTH REQUIREMENT.] *A community network may choose to comply with the net worth requirement on a phase-in basis according to the following schedule:*

(1) 50 percent of the amount required under subdivisions 1 to 3 at the time that the community network begins enrolling enrollees;

(2) 75 percent of the amount required under subdivisions 1 to 3 at the end of the first full calendar year of operation;

(3) 87.5 percent of the amount required under subdivisions 1 to 3 at the end of the second full calendar year of operation; and

(4) 100 percent of the amount required under subdivisions 1 to 3 at the end of the third full calendar year of operation.

Subd. 5. [NET WORTH CORRIDOR.] *A community network shall not maintain net worth that exceeds two and one-half times the amount required of the community network under subdivision 1. Subdivision 4 is not relevant for purposes of this subdivision.*

Subd. 6. [NET WORTH REDUCTION.] *If a community network has contracts with accredited capitated providers, and only for so long as those contracts or successor contracts remain in force, the net worth requirement of subdivision 1 shall be reduced by the percentage of risk ceded, but in no event shall the net worth requirements be reduced by this subdivision to less than $1,000,000. The phase-in requirements of subdivision 4 shall not be affected by this reduction.*

Sec. 10. [62N.29] [GUARANTEEING ORGANIZATION.]

A community network may satisfy its net worth and deposit requirements, in whole or in part, through the use of one or more guaranteeing organizations, with the approval of the commissioner, under the conditions permitted in chapter 62D. Governmental entities, such as counties, may serve as guaranteeing organizations subject to the requirements of chapter 62D.

Sec. 11. [62N.31] [STANDARDS FOR ACCREDITED CAPITATED PROVIDER ACCREDITATION.]

Subdivision 1. [GENERAL.] *Each health care providing entity seeking initial accreditation as an accredited capitated provider shall submit to the commissioner of health sufficient information to establish that the applicant*

has operational capacity, facilities, personnel, and financial capability to provide the contracted covered services to the enrollees of the network for which it seeks accreditation (1) on an ongoing basis; and (2) for a period of 120 days following the insolvency of the network without receiving payment from the network. Accreditation shall continue until abandoned by the accredited capitated provider or revoked by the commissioner in accordance with subdivision 4. The applicant may establish financial capability by demonstrating that the provider amount at risk can be covered by or through any of allocated or restricted funds, a letter of credit, the taxing authority of the applicant or governmental sponsor of the applicant, an unrestricted fund balance at least two times the provider amount at risk, reinsurance, either purchased directly by the applicant or by the community network to which it will be accredited, or any other method accepted by the commissioner. Accreditation of a health care providing entity shall not in itself limit the right of the accredited capitated provider to seek payment of unpaid capitated amounts from a community network, whether the community network is solvent or insolvent; provided that, if the community network is subject to any liquidation, rehabilitation, or conservation proceedings, the accredited capitated provider shall have the status accorded creditors under chapter 60B.44, subdivision 10.

Subd. 2. [ANNUAL REPORTING PERIOD.] *Each accredited capitated provider shall submit to the commissioner annually, no later than April 15, the following information for each network to which it is accredited: the provider amount at risk for that year, the number of enrollees for the network, both for the prior year and estimated for the current year, any material change in the provider's operational or financial capacity since its last report, and any other information reasonably requested by the commissioner.*

Subd. 3. [ADDITIONAL REPORTING.] *Each accredited capitated provider shall provide the commissioner with 60 days' advance written notice of termination of the accredited capitated provider relationship with a network.*

Subd. 4. [REVOCATION OF ACCREDITATION.] *The commissioner may revoke the accreditation of an accredited capitated provider if the accredited capitated provider's ongoing operational or financial capabilities fail to meet the requirements of this section. The revocation shall be handled in the same fashion as placing a health maintenance organization under administrative supervision.*

Sec. 12. [62N.32] [DEPOSIT REQUIREMENT.]

A community network must satisfy the deposit requirement provided in section 62D.041. The deposit counts as an admitted asset and as part of the required net worth. The deposit requirement cannot be reduced by the alternative means that may be used to reduce the net worth requirement, other than through the use of a guaranteeing organization.

Sec. 13. [62N.33] [COVERAGE FOR ENROLLEES OF INSOLVENT NETWORKS.]

In the event of a community network insolvency, the commissioner shall determine whether one or more community networks or health plan companies are willing and able to provide replacement coverage to all of the failed community network's enrollees, and if so, the commissioner shall facilitate the provision of the replacement coverage. If such replacement coverage is not available, the commissioner shall randomly assign enrollees of the insolvent

community network to other community networks and health plan companies in the service area, in proportion to their market share, for the remaining terms of the enrollees' contracts with the insolvent network. The other community networks and health plan companies must accept the allocated enrollees under their policy or contract most similar to the enrollees' contracts with the insolvent community network. The allocation must keep groups together. Enrollees with special continuity of care needs may, in the commissioner's discretion, be given a choice of replacement coverage rather than random assignment. Individuals and groups that are assigned randomly may choose a different community network or health plan company when their contracts expire, on the same basis as any other individual or group. The replacement health plan company must comply with any guaranteed renewal or other renewal provisions of the prior coverage, including but not limited to, provisions regarding preexisting conditions and health conditions that developed during prior coverage.

Sec. 14. [62N.34] [INSOLVENCY FUNDING.]

(a) In the event of an insolvency of a community network, all other community networks and health plan companies shall be assessed a surcharge, if necessary to pay expenses and claims set forth in paragraph (b), based on average annual premiums on health plans as defined in section 62A.011. For purposes of this section, "average annual premiums" means annual premiums averaged over the three most recent calendar years for which information is available preceding the calendar year in which the community network became insolvent. The total of all such surcharges upon a community network or health plan company shall not, in any one calendar year, exceed two percent of the community network's or health plan company's average annual premium in this state on health plans as defined in section 62A.011.

(b) Money raised by the assessment shall be used to pay for the following, to the extent that they exceed the community network's deposit and other remaining assets:

(1) expenses in connection with the insolvency and transfer of enrollees;

(2) outstanding fee-for-service claims from nonparticipating providers, discounted by 25 percent of the claim amount. Claims incurred after the implementation of the fee schedules provided under chapter 62P will be reimbursed at the fee schedule amount discounted by 25 percent. Providers may not seek to recover the unpaid portion of their claim from enrollees; and

(3) premiums to community networks and health plan companies that take enrollees of the insolvent community network, prorated to account for premiums already paid to the insolvent community network on behalf of those enrollees, to purchase coverage for time periods for which the insolvent community network can no longer provide coverage.

(c) In any year in which an assessment is made, the commissioner, in consultation with community networks and other health carriers, shall report to the legislature and governor on the continuing viability of the assessment approach and on the merits of potential alternative funding sources.

Sec. 15. [62N.35] [BORDER ISSUES.]

To the extent feasible and appropriate, community networks that also operate under the health maintenance organization or similar prepaid health

care law of another state must be licensed and regulated by this state in a manner that avoids unnecessary duplication and expense for the community network. The commissioner shall communicate with regulatory authorities in neighboring states to explore the feasibility of cooperative approaches to streamline regulation of border community networks, such as joint financial audits, and shall report to the legislature on any changes to Minnesota law that may be needed to implement appropriate collaborative approaches to regulation.

Sec. 16. [STUDY OF SOLVENCY REGULATION OF INTEGRATED SERVICE NETWORKS.]

The commissioners of health and commerce shall develop the solvency standards for the integrated service networks created by Minnesota Statutes, chapter 62N. The solvency standards for integrated service networks must be effective no later than January 1, 1996.

The standards may use a risk-based capital standard as an integral tool to assess solvency of the integrated service networks. The standards may require that integrated service networks file the risk based capital calculation as part of the annual financial statement. The risk-based capital standard for integrated service networks may be based upon the national association of insurance commissioners health organization risk based capital standards currently under development, with any necessary modifications to reflect the unique risk characteristics of integrated service networks. Those modifications must be based upon an actuarial analysis of the effect on risk.

Sec. 17. [MONITORING OF REINSURANCE ACCESSIBILITY FOR COMMUNITY NETWORKS.]

The commissioners of commerce and health shall monitor the private sector market for reinsurance, in order to determine whether community integrated service networks are able to purchase reinsurance at competitive rates. If the commissioners find that the private market for reinsurance is not accessible or not affordable to community integrated service networks, the commissioners shall recommend to the legislature a voluntary or mandatory reinsurance purchasing pool for community integrated service networks. The commissioners' recommendations shall address the conditions under which community networks would be permitted or required to participate in the pool and the role of the state in overseeing or administering the pool.

Sec. 18. [REVISOR INSTRUCTIONS.]

The revisor of statutes shall recode section 6 establishing an expanded provider network from Minnesota Statutes, chapter 62N to Minnesota Statutes, chapter 62Q, and change all references to that section in Minnesota Statutes accordingly.

Sec. 19. [EFFECTIVE DATE.]

Sections 1 to 18 are effective July 1, 1994.

ARTICLE 2

REQUIREMENTS FOR ALL HEALTH PLAN COMPANIES

Section 1. Minnesota Statutes 1993 Supplement, section 62J.33, is amended by adding a subdivision to read:

Subd. 3. [OFFICE OF CONSUMER INFORMATION.] *The commissioner shall create an office of consumer information to assist health plan company enrollees and to serve as a resource center for enrollees. The office shall operate within the information clearinghouse. The functions of the office are:*

(1) to assist enrollees in understanding their rights;

(2) to explain and assist in the use of all available complaint systems, including internal complaint systems within health carriers, community integrated service networks, integrated service networks, and the departments of health and commerce;

(3) to provide information on coverage options in each regional coordinating board region of the state;

(4) to provide information on the availability of purchasing pools and enrollee subsidies; and

(5) to help consumers use the health care system to obtain coverage.

The office of consumer information shall not provide legal services to consumers and shall not represent a consumer or enrollee. The office of consumer information shall not serve as an advocate for consumers in disputes with health plan companies. Nothing in this subdivision shall interfere with the ombudsman program established under section 256B.031, subdivision 6, or other existing ombudsman programs.

Sec. 2. Minnesota Statutes 1993 Supplement, section 62J.33, is amended by adding a subdivision to read:

Subd. 4. [INFORMATION ON HEALTH PLAN COMPANIES.] *The information clearinghouse shall provide information on all health plan companies operating in a specific geographic area to consumers and purchasers who request it.*

Sec. 3. Minnesota Statutes 1993 Supplement, section 62J.33, is amended by adding a subdivision to read:

Subd. 5. [DISTRIBUTION OF DATA ON QUALITY.] *The commissioner shall make available through the clearinghouse hospital quality data collected under section 62J.45, subdivision 4b, and health plan company quality data collected under section 62J.45, subdivision 4c.*

Sec. 4. Minnesota Statutes 1993 Supplement, section 62J.45, is amended by adding a subdivision to read:

Subd. 4a. [EVALUATION OF CONSUMER SATISFACTION; PROVIDER INFORMATION PILOT STUDY.] *(a) The commissioner may make a grant to the data institute to develop and implement a mechanism for collecting comparative data on consumer satisfaction through adoption of a standard consumer satisfaction survey. As a condition of receiving this grant, the data institute shall appoint a consumer advisory group which shall consist of 13 individuals, representing enrollees from public and private health plan companies and programs and two uninsured consumers, to advise the data institute on issues of concern to consumers. The advisory group must have at least one member from each regional coordinating board region of the state. The advisory group expires June 30, 1997. This survey shall include enrollees in community integrated service networks, integrated service networks, health maintenance organizations, preferred provider organizations, indemnity in-*

surance plans, public programs, and other health plan companies. The data institute shall determine a mechanism for the inclusion of the uninsured. Health plan companies and group purchasers shall provide enrollment information, including the names, addresses, and telephone numbers of enrollees and former enrollees and other data necessary for the completion of this study to the data institute. This enrollment information provided by the health plan companies and group purchasers is classified as private data on individuals, as defined in section 13.02, subdivision 12. The data institute shall provide raw unaggregated data to the data analysis unit. The data institute may analyze and prepare findings from the raw, unaggregated data, and the findings from this survey may be included in the health plan company report cards, and in other reports developed by the data analysis unit, in consultation with the data institute, to be disseminated by the information clearinghouse. The raw unaggregated data is classified as private data on individuals as defined in section 13.02, subdivision 12. The survey may include information on the following subjects:

(1) enrollees' overall satisfaction with their health care plan;

(2) consumers' perception of access to emergency, urgent, routine, and preventive care, including locations, hours, waiting times, and access to care when needed;

(3) premiums and costs;

(4) technical competence of providers;

(5) communication, courtesy, respect, reassurance, and support;

(6) choice and continuity of providers;

(7) continuity of care;

(8) outcomes of care;

(9) services offered by the plan, including range of services, coverage for preventive and routine services, and coverage for illness and hospitalization;

(10) availability of information; and

(11) paperwork.

(b) The commissioner, in consultation with the data institute, shall develop a pilot study to collect comparative data from health care providers on opportunities and barriers to the provision of quality, cost-effective health care. The provider information pilot study shall include providers in community integrated service networks, integrated service networks, health maintenance organizations, preferred provider organizations, indemnity insurance plans, public programs, and other health plan companies. Health plan companies and group purchasers shall provide to the commissioner providers' names, health plan assignment, and other appropriate data necessary for the commissioner to conduct the study. The provider information pilot study shall examine factors that increase and hinder access to the provision of quality, cost-effective health care. The study may examine:

(1) administrative barriers and facilitators;

(2) time spent obtaining permission for appropriate and necessary treatments;

(3) latitude to order appropriate and necessary tests, pharmaceuticals, and referrals to specialty providers;

(4) assistance available for decreasing administrative and other routine paperwork activities;

(5) continuing education opportunities provided;

(6) access to readily available information on diagnoses, diseases, outcomes, and new technologies;

(7) continuous quality improvement activities;

(8) inclusion in administrative decision-making;

(9) access to social services and other services that facilitate continuity of care;

(10) economic incentives and disincentives;

(11) peer review procedures; and

(12) the prerogative to address public health needs.

In selecting additional data for collection, the commissioner shall consider the: (1) statistical validity of the indicator; (2) public need for the information; (3) estimated expense of collecting and reporting the indicator; and (4) usefulness of the indicator to identify barriers and opportunities to improve quality care provision within health plan companies.

Sec. 5. Minnesota Statutes 1993 Supplement, section 62J.45, is amended by adding a subdivision to read:

Subd. 4b. [HOSPITAL QUALITY INDICATORS.] *The commissioner, in consultation with the data institute, shall develop a system for collecting data on hospital quality. The commissioner shall require a licensed hospital to collect and report data as needed for the system. Data to be collected shall include structural characteristics including staff-mix and nurse-patient ratios. In selecting additional data for collection, the commissioner shall consider: (1) feasibility and statistical validity of the indicator; (2) purchaser and public demand for the indicator; (3) estimated expense of collecting and reporting the indicator; and (4) usefulness of the indicator for internal improvement purposes.*

Sec. 6. Minnesota Statutes 1993 Supplement, section 62J.45, is amended by adding a subdivision to read:

Subd. 4c. [QUALITY REPORT CARDS.] *(a) Each health plan company shall report annually by April 1 to the commissioner specific quality indicators, in the form specified by the commissioner in consultation with the data institute. The quality indicators must be reported using standard definitions and measurement processes as specified by the commissioner. Wherever possible, the commissioner's specifications must be consistent with any outlined in the health plan employer data and information set (HEDIS 2.0). The commissioner, in consultation with the data institute, may modify the quality indicators to be reported to incorporate improvements in quality measurement tools. When HEDIS 2.0 indicators or health care financing administration approved quality indicators for medical assistance and Medicare are used, the commissioner is exempt from rulemaking. For additions or modifications to the HEDIS indicators or if other quality indicators are added,*

the commissioner shall proceed through rulemaking pursuant to chapter 14. The data analysis unit shall develop quality report cards, and these report cards shall be disseminated through the information clearinghouse.

(b) Data shall be collected by county and high-risk and special needs populations as well as by health plan but shall not be reported. The commissioner, in consultation with the data institute and counties, shall provide this data to a community health board as defined in section 145A.02 in a manner that would not allow the identification of individuals.

Sec. 7. Minnesota Statutes 1992, section 62M.02, subdivision 5, is amended to read:

Subd. 5. [CERTIFICATION.] "Certification" means a determination by a utilization review organization that an admission, extension of stay, or other health care service has been reviewed and that it, based on the information provided, meets the utilization review requirements of the applicable health plan *and the health carrier will then pay for the covered benefit, provided the preexisting limitation provisions, the general exclusion provisions, and any deductible, copayment, coinsurance, or other policy requirements have been met.*

Sec. 8. Minnesota Statutes 1992, section 62M.02, subdivision 21, is amended to read:

Subd. 21. [UTILIZATION REVIEW ORGANIZATION.] "Utilization review organization" means an entity including but not limited to an insurance company licensed under chapter 60A to offer, sell, or issue a policy of accident and sickness insurance as defined in section 62A.01; a health service plan licensed under chapter 62C; a health maintenance organization licensed under chapter 62D; *a community integrated service network or an integrated service network licensed under chapter 62N;* a fraternal benefit society operating under chapter 64B; a joint self-insurance employee health plan operating under chapter 62H; a multiple employer welfare arrangement, as defined in section 3 of the Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1103, as amended; a third party administrator licensed under section 60A.23, subdivision 8, which conducts utilization review and determines certification of an admission, extension of stay, or other health care services for a Minnesota resident; or any entity performing utilization review that is affiliated with, under contract with, or conducting utilization review on behalf of, a business entity in this state.

Sec. 9. Minnesota Statutes 1992, section 62M.03, subdivision 1, is amended to read:

Subdivision 1. [LICENSED UTILIZATION REVIEW ORGANIZATION.] Beginning January 1, 1993, any organization that ~~is licensed in this state and that~~ meets the definition of utilization review organization in section 62M.02, subdivision 21, must *be licensed under chapter 60A, 62C, 62D, 62N, or 64B, or registered under this chapter and must* comply with sections 62M.01 to 62M.16 *and section 72A.201, subdivisions 8 and 8a. Each licensed community integrated service network, integrated service network, or health maintenance organization that has an employed staff model of providing health care services shall comply with sections 62M.01 to 62M.16 and section 72A.201, subdivisions 8 and 8a for any services provided by providers under contract.*

Sec. 10. Minnesota Statutes 1992, section 62M.03, subdivision 2, is amended to read:

Subd. 2. [NONLICENSED UTILIZATION REVIEW ORGANIZATION.] An organization that meets the definition of a utilization review organization under section 62M.02, subdivision 21, that is not licensed in this state that performs utilization review services for Minnesota residents must register with the commissioner of commerce and must certify compliance with sections 62M.01 to 62M.16.

Initial registration must occur no later than January 1, 1993. *The registration is effective for two years and may be renewed for another two years by written request. Each utilization review organization registered under this chapter shall notify the commissioner of commerce within 30 days of any change in the name, address, or ownership of the organization.*

Sec. 11. Minnesota Statutes 1992, section 62M.03, subdivision 3, is amended to read:

Subd. 3. [PENALTIES AND ENFORCEMENTS.] If a ~~nonlicensed~~ utilization review organization fails to comply with sections 62M.01 to 62M.16, the organization may not provide utilization review services for any Minnesota resident. The commissioner of commerce may issue a cease and desist order under section 45.027, subdivision 5, to enforce this provision. The cease and desist order is subject to appeal under chapter 14. A nonlicensed utilization review organization that fails to comply with the provisions of sections 62M.01 to 62M.16 is subject to all applicable penalty and enforcement provisions of section 72A.201. *Each utilization review organization licensed under chapter 60A, 62C, 62D, 62N, or 64B shall comply with sections 62M.01 to 62M.16 as a condition of licensure.*

Sec. 12. Minnesota Statutes 1992, section 62M.05, subdivision 3, is amended to read:

Subd. 3. [NOTIFICATION OF DETERMINATIONS.] A utilization review organization must have written procedures for providing notification of its determinations on all certifications in accordance with the following:

(a) When an initial determination is made to certify, notification must be provided promptly by telephone to the provider. *The utilization review organization shall send written notification to the hospital, attending physician, or applicable service provider within ten business days of the determination in accordance with section 72A.20, subdivision 4a, or shall maintain an audit trail of the determination and telephone notification. For purposes of this subdivision, "audit trail" includes documentation of the telephone notification, including the date; the name of the person spoken to, the enrollee or patient; the service, procedure, or admission certified; and the date of the service, procedure, or admission. If the utilization review organization indicates certification by use of a number, the number must be called the "certification number."*

(b) When a determination is made not to certify a hospital or surgical facility admission or extension of a hospital stay, or other service requiring review determination, within one working day after making the decision the attending physician and hospital must be notified by telephone and a written notification must be sent to the hospital, attending physician, and enrollee or patient. The written notification must include the principal reason or reasons

for the determination and the process for initiating an appeal of the determination. *Upon request, the utilization review organization shall provide the attending physician or provider with the criteria used to determine the necessity, appropriateness, and efficacy of the health care service and identify the database, professional treatment parameter, or other basis for the criteria.* Reasons for a determination not to certify may include, among other things, the lack of adequate information to certify after a reasonable attempt has been made to contact the attending physician.

Sec. 13. Minnesota Statutes 1992, section 62M.06, subdivision 3, is amended to read:

Subd. 3. [STANDARD APPEAL.] The utilization review organization must establish procedures for appeals to be made either in writing or by telephone.

(a) Each utilization review organization shall notify in writing the enrollee or patient, attending physician, and claims administrator of its determination on the appeal as soon as practical, but in no case later than 45 days after receiving the required documentation on the appeal.

(b) The documentation required by the utilization review organization may include copies of part or all of the medical record and a written statement from the health care provider.

(c) Prior to upholding the original decision not to certify for clinical reasons, the utilization review organization shall conduct a review of the documentation by a physician who did not make the original determination not to certify.

(d) The process established by a utilization review organization may include defining a period within which an appeal must be filed to be considered. The time period must be communicated to the patient, enrollee, or attending physician when the initial determination is made.

(e) An attending physician who has been unsuccessful in an attempt to reverse a determination not to certify shall, consistent with section 72A.285, be provided the following:

(1) a complete summary of the review findings;

(2) qualifications of the reviewers, including any license, certification, or specialty designation; and

(3) the relationship between the enrollee's diagnosis and the review criteria used as the basis for the decision, including the specific rationale for the reviewer's decision.

(f) In cases ~~where an~~ *of* appeal to reverse a determination not to certify for clinical reasons ~~is unsuccessful~~, the utilization review organization must, *upon request of the attending physician,* ensure that a physician *of the utilization review organization's choice* in the same or a similar general specialty as typically manages the medical condition, procedure, or treatment under discussion is reasonably available to review the case.

Sec. 14. [62Q.01] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] *For purposes of this chapter, the terms defined in this section have the meanings given.*

Subd. 2. [COMMISSIONER.] *"Commissioner" means the commissioner of health.*

Subd. 3. [HEALTH PLAN.] *"Health plan" means a health plan as defined in section 62A.011 or a policy, contract, or certificate issued by a community integrated service network; an integrated service network; or an all-payer insurer as defined in section 62P.02.*

Subd. 4. [HEALTH PLAN COMPANY.] *"Health plan company" means:*

(1) a health carrier as defined under section 62A.011, subdivision 2;

(2) an integrated service network as defined under section 62N.02, subdivision 8;

(3) an all-payer insurer as defined under section 62P.02; or

(4) a community integrated service network as defined under section 62N.02, subdivision 4a.

Sec. 15. [62Q.03] [PROCESS FOR DEFINING, DEVELOPING, AND IMPLEMENTING A RISK ADJUSTMENT SYSTEM.]

Subdivision 1. [PURPOSE.] *Risk adjustment is a vital element of the state's strategy for achieving a more equitable, efficient system of health care delivery and financing for all state residents. Risk adjustment is needed to: remove current disincentives in the health care system to insure and serve high risk and special needs populations; promote fair competition among health plan companies on the basis of their ability to efficiently and effectively provide services rather than on the health status of those in a given insurance pool; and help assure the viability of all health plan companies, including community integrated service networks. It is the commitment of the state to develop and implement a risk adjustment system by July 1, 1997, and to continue to improve and refine risk adjustment over time. The process for designing and implementing risk adjustment shall be open, explicit, utilize resources and expertise from both the private and public sectors, and include at least the representation described in subdivision 4. The process shall take into account the formative nature of risk adjustment as an emerging science, and shall develop and implement risk adjustment to allow continual modifications, expansions, and refinements over time. The process shall have at least two stages, as described in subdivision 2 and 3.*

Subd. 2. [FIRST STAGE OF RISK ADJUSTMENT DEVELOPMENT PROCESS.] *The objective of the first stage is to report to the legislature by January 15, 1995, with recommendations on the process, organization, resource needs, and specific work plan to define, develop, and implement a risk adjustment mechanism by July 1, 1997, and to continually improve risk adjustment over time. The report shall address the specific issues listed in subdivision 5, and shall also identify any additional policy issues, questions and concerns that must be addressed to facilitate development and implementation of risk adjustment.*

Subd. 3. [SECOND STAGE OF THE RISK ADJUSTMENT DEVELOPMENT PROCESS.] *The second stage of the process, following review and any modification by the legislature of the January 15, 1995 report, shall be to carry out the work plan to develop and implement a risk adjustment mechanism by July 1, 1997, and to continue to improve and refine a risk*

adjustment over time. The second stage of the process shall be carried out by the association created in subdivision 6.

Subd. 4. [EXPERT PANEL.] *The commissioners of health and commerce shall convene an expert advisory panel comprised of, but not limited to, the board members of the Minnesota risk adjustment association, as described in subdivision 8, and experts from the fields of epidemiology, health services research, and health economics. The commissioners may also convene technical work groups that may include members of the expert advisory panel and other persons, all selected in the sole discretion of the commissioners. The expert advisory panel and the workgroups shall assist and advise the commissioners of health and commerce in preparing the implementation report described in subdivision 5.*

Subd. 5. [IMPLEMENTATION REPORT TO THE LEGISLATURE.] *The commissioners of health and commerce shall submit a report to the legislature by January 15, 1995, with recommendations on the process, organization, resource needs, and specific work plan to define, develop, and implement a risk adjustment system by July 1, 1997, and to continually improve risk adjustment over time. In developing the January 15, 1995 report, the commissioners of commerce and health must consider and describe the following:*

(1) the relationship of risk adjustment to the implementation of universal coverage and community rating;

(2) the role of reinsurance in the risk adjustment system, as a short-term alternative in the absence of a risk adjustment methodology;

(3) the relationship of the risk adjustment system to the implementation of reforms in underwriting and rating requirements;

(4) the potential role of the health coverage reinsurance association in the risk adjustment system;

(5) the need for mandatory participation of all health plan companies in the risk adjustment system;

(6) current and emerging applications of risk adjustment methodologies used for reimbursement purposes at the state and national level and the reliability and validity of current risk assessment and risk adjustment methodologies;

(7) the levels and types of risk to be distributed through the risk adjustment system;

(8) the extent to which prepaid contracting by public programs needs to be addressed by the risk adjustment methodology;

(9) a plan for testing of the risk adjustment options being proposed, including simulations using existing health plan data, and development and testing of models on simulated data to assess the feasibility and efficacy of specific methodologies;

(10) the appropriate role of the state in the supervision of the risk adjustment association created pursuant to subdivision 6;

(11) risk adjustment methodologies that take into account differences among health plan companies due to their relative efficiencies, characteris-

tics, and relative to existing insured contracts, new business, underwriting, or rating restrictions required or permitted by law; and

(12) methods to encourage health plan companies to enroll higher risk populations.

To the extent possible, the implementation report shall identify a specific methodology or methodologies that may serve as a starting point for risk adjustment, explain the advantages and disadvantages of each such methodology, and provide a specific workplan for implementing the methodology.

Subd. 6. [CREATION OF RISK ADJUSTMENT ASSOCIATION.] *The Minnesota risk adjustment association is created on July 1, 1994, and may operate as a nonprofit unincorporated association.*

Subd. 7. [PURPOSE OF ASSOCIATION.] *The association is established to carry out the purposes of subdivision 1, as further elaborated on by the implementation report described in subdivision 5 and by legislation enacted in 1995 or subsequently.*

Subd. 8. [GOVERNANCE.] *(a) The association shall be governed by an interim 19-member board as follows: one provider member appointed by the Minnesota Hospital Association; one provider member appointed by the Minnesota Medical Association; one provider member appointed by the governor; three members appointed by the Minnesota Council of HMOs to include an HMO with at least 50 percent of total membership enrolled through a public program; three members appointed by Blue Cross and Blue Shield of Minnesota, to include a member from a Blue Cross and Blue Shield of Minnesota affiliated health plan with fewer than 50,000 enrollees and located outside the Minneapolis-St. Paul metropolitan area; two members appointed by the Insurance Federation of Minnesota; one member appointed by the Minnesota Association of Counties; and three public members appointed by the governor, to include at least one representative of a public program. The commissioners of health, commerce, human services, and employee relations shall be nonvoting ex-officio members.*

(b) The board may elect officers and establish committees as necessary.

(c) A majority of the members of the board constitutes a quorum for the transaction of business.

(d) Approval by a majority of the board members present is required for any action of the board.

(e) Interim board members shall be appointed by July 1, 1994, and shall serve until a new board is elected according to the plan developed by the association.

(f) A member may designate a representative to act as a member of the interim board in the member's absence.

Subd. 9. [DATA COLLECTION.] *The board of the association shall consider antitrust implications and establish procedures to assure that pricing and other competitive information is appropriately shared among competitors in the health care market or members of the board. Any information shared shall be distributed only for the purposes of administering or developing any of the tasks identified in subdivisions 2 and 4. In developing these procedures, the board of the association may consider the identification of a state agency*

or other appropriate third party to receive information of a confidential or competitive nature.

Subd. 10. [SUPERVISION.] *The association's activities shall be supervised by the commissioners of health and commerce.*

Subd 11. [REPORTING.] *The board of the association shall provide a status report on its activities to the health care commission on a quarterly basis.*

Sec. 16. [62Q.07] [ACTION PLANS.]

Subdivision 1. [ACTION PLANS REQUIRED.] *(a) To increase public awareness and accountability of health plan companies, all health plan companies must annually file with the applicable commissioner an action plan that satisfies the requirements of this section beginning July 1, 1994, as a condition of doing business in Minnesota. Each health plan company must also file its action plan with the information clearinghouse. Action plans are required solely to provide information to consumers, purchasers, and the larger community as a first step toward greater accountability of health plan companies. The sole function of the commissioner in relation to the action plans is to ensure that each health plan company files a complete action plan, that the action plan is truthful and not misleading, and that the action plan is reviewed by appropriate community agencies.*

(b) If a commissioner responsible for regulating a health plan company required to file an action plan under this section has reason to believe an action plan is false or misleading, the commissioner may conduct an investigation to determine whether the action plan is truthful and not misleading, and may require the health plan company to submit any information that the commissioner reasonably deems necessary to complete the investigation. If the commissioner determines that an action plan is false or misleading, the commissioner may require the health plan company to file an amended plan or may take any action authorized under chapter 72A.

Subd. 2. [CONTENTS OF ACTION PLANS.] *(a) An action plan must include a detailed description of all of the health plan company's methods and procedures, standards, qualifications, criteria, and credentialing requirements for designating the providers who are eligible to participate in the health plan company's provider network, including any limitations on the numbers of providers to be included in the network. This description must be updated by the health plan company and filed with the applicable agency on a quarterly basis.*

(b) An action plan must include the number of full-time equivalent physicians, by specialty, nonphysician providers, and allied health providers used to provide services. The action plan must also describe how the health plan company intends to encourage the use of nonphysician providers, midlevel practitioners, and allied health professionals, through at least consumer education, physician education, and referral and advisement systems. The annual action plan must also include data that is broken down by type of provider, reflecting actual utilization of midlevel practitioners and allied professionals by enrollees of the health plan company during the previous year. Until July 1, 1995, a health plan company may use estimates if actual data is not available. For purposes of this paragraph, "provider" has the meaning given in section 62J.03, subdivision 8.

(c) An action plan must include a description of the health plan company's policy on determining the number and the type of providers that are necessary to deliver cost-effective health care to its enrollees. The action plan must also include the health plan company's strategy, including provider recruitment and retention activities, for ensuring that sufficient providers are available to its enrollees.

(d) An action plan must include a description of actions taken or planned by the health plan company to ensure that information from report cards, outcome studies, and complaints is used internally to improve quality of the services provided by the health plan company.

(e) An action plan must include a detailed description of the health plan company's policies and procedures for enrolling and serving high risk and special needs populations. This description must also include the barriers that are present for the high risk and special needs population and how the health plan company is addressing these barriers in order to provide greater access to these populations. "High risk and special needs populations" includes, but is not limited to, recipients of medical assistance, general assistance medical care, and MinnesotaCare; persons with chronic conditions or disabilities; individuals within certain racial, cultural, and ethnic communities; individuals and families with low income; adolescents; the elderly; individuals with limited or no English language proficiency; persons with high-cost preexisting conditions; homeless persons; chemically dependent persons; persons with serious and persistent mental illness and children with severe emotional disturbance; and persons who are at high-risk of requiring treatment. The action plan must also reflect actual utilization of providers by enrollees defined by this section as high risk or special needs populations during the previous year. For purposes of this paragraph, "provider" has the meaning given in section 62J.03, subdivision 8.

(f) An action plan must include a general description of any action the health plan company has taken and those it intends to take to offer health coverage options to rural communities and other communities not currently served by the health plan company.

(g) A health plan company other than a large managed care plan company may satisfy any of the requirements of the action plan in paragraphs (a) to (f) by stating that it has no policies, procedures, practices, or requirements, either written or unwritten, or formal or informal, and has undertaken no activities or plans on the issues required to be addressed in the action plan, provided that the statement is truthful and not misleading. For purposes of this paragraph, "large managed care plan company" means a health maintenance organization, integrated service network, or other health plan company that employs or contracts with health care providers, that has more than 50,000 enrollees in this state. If a health plan company employs or contracts with providers for some of its health plans and does not do so for other health plans that it offers, the health plan company is a large managed care plan company if it has more than 50,000 enrollees in this state in health plans for which it does employ or contract with providers.

Sec. 17. [62Q.09] [PROHIBITION ON EXCLUSIVE RELATIONSHIPS.]

Subdivision 1. [PROHIBITION ON EXCLUSIVE CONTRACTS.] *No provider or health plan company shall restrict any person's right to provide health services or procedures to another provider or health plan company, unless the person is an employee.*

Subd. 2. [PROHIBITION ON RESTRICTIVE CONTRACT TERMS.] *No provider or person providing goods or health services to a provider shall enter into any contract or subcontract with any health plan company on terms that require the provider or person not to contract with any other health plan company, unless the provider or person is an employee.*

Subd. 3. [ENFORCEMENT.] *Either the commissioner of health or commerce shall periodically review contracts among health care providing entities and health plan companies to determine compliance with this section. Any provider may submit a contract to the commissioner for review if the provider believes this section has been violated. Any provision of a contract found to violate this section is null and void, and the commissioner may seek civil penalties in an amount not to exceed $25,000 for each such contract.*

Subd. 4. [APPLICATION; VOLUNTARY RENEWAL.] *This section applies to contracts entered into on or after the effective date of this section. This section does not prohibit the voluntary renewal of exclusive contracts entered into prior to the effective date of this section.*

Subd. 5. [SUNSET.] *This section expires January 1, 1997.*

Sec. 18. [62Q.10] [NONDISCRIMINATION.]

If a health plan company, with the exception of a community integrated service network or an indemnity insurer licensed under chapter 60A who does not offer a product through a preferred provider network, offers coverage of a health care service as part of its plan, it may not deny provider network status to a qualified health care provider type who meets the credentialing requirements of the health plan company solely because the provider is an allied independent health care provider as defined in section 62N.255.

Sec. 19. [62Q.11] [DISPUTE RESOLUTION.]

Subdivision 1. [ESTABLISHED.] *The commissioners of health and commerce shall make dispute resolution processes available to encourage early settlement of disputes in order to avoid the time and cost associated with litigation and other formal adversarial hearings. For purposes of this section, "dispute resolution" means the use of negotiation, mediation, arbitration, mediation-arbitration, neutral fact finding, and minitrials. These processes shall be nonbinding unless otherwise agreed to by all parties to the dispute.*

Subd. 2. [REQUIREMENTS.] *(a) If an enrollee, health care provider, or applicant for network provider status chooses to use a dispute resolution process prior to the filing of a formal claim or of a lawsuit, the health plan company must participate.*

(b) If an enrollee, health care provider, or applicant for network provider status chooses to use a dispute resolution process after the filing of a lawsuit, the health plan company must participate in dispute resolution, including, but not limited to, alternative dispute resolution under rule 114 of the Minnesota general rules of practice.

(c) The commissioners of health and commerce shall inform and educate health plan companies' enrollees about dispute resolution and its benefits.

(d) A health plan company may encourage but not require an enrollee to submit a complaint to alternative dispute resolution.

Sec. 20. [62Q.12] [DENIAL OF ACCESS.]

No health plan company may deny access to a covered health care service unless the denial is made by, or under the direction of, or subject to the review of a health care professional licensed to provide the service in question.

Sec. 21. [62Q.135] [CONTRACTING FOR CHEMICAL DEPENDENCY SERVICES.]

No health plan company shall contract with a chemical dependency treatment program, unless the program participates in the chemical dependency treatment accountability plan established by the commissioner of human services. The commissioner of human services shall make data on chemical dependency services and outcomes collected through this program available to health plan companies.

Sec. 22. [62Q.14] [RESTRICTIONS ON ENROLLEE SERVICES.]

No health plan company may restrict the choice of an enrollee as to where the enrollee receives services related to:

(1) the voluntary planning of the conception and bearing of children, provided that this clause does not refer to abortion services;

(2) the diagnosis of infertility;

(3) the testing and treatment of a sexually transmitted disease; and

(4) the testing for AIDS or other HIV-related conditions.

Sec. 23. [62Q.16] [MID-MONTH TERMINATION PROHIBITED.]

The termination of a person's coverage under any health plan as defined in section 62A.011, subdivision 3, with the exception of individual health plans, issued or renewed on or after January 1, 1995, must provide coverage until the end of the month in which coverage was terminated.

Sec. 24. [UTILIZATION REVIEW STUDY.]

The commissioners of health and commerce shall study means of funding the registration required by Minnesota Statutes, section 62M.03, and of monitoring and enforcing the requirements of Minnesota Statutes, chapter 62M. They shall jointly report their recommendations to the legislature by January 15, 1995.

Sec. 25. [EFFECTIVE DATE.]

Sections 1, 5, 6, 14 to 17, and 24 are effective the day following final enactment. Sections 7 to 13 and 23 are effective January 1, 1995. Section 2 to 4, and 18 to 21 are effective July 1, 1994. Section 22 is effective January 1, 1995, and applies to policies and contracts issued or renewed on or after that date.

ARTICLE 3

THE REGULATED ALL-PAYER OPTION

Section 1. Minnesota Statutes 1993 Supplement, section 62P.01, is amended to read:

62P.01 [REGULATED ALL-PAYER ~~SYSTEM~~ *OPTION*.]

~~The regulated all-payer system established under this chapter governs all health care services that are provided outside of an integrated service network. The regulated all-payer system is designed to control costs, prices, and utilization of all health care services not provided through an integrated service network while maintaining or improving the quality of services. The commissioner of health shall adopt rules establishing controls within the system to ensure that the rate of growth in spending in the system, after adjustments for population size and risk, remains within the limits set by the commissioner under section 62J.04. All providers that serve Minnesota residents and all health carriers that cover Minnesota residents shall comply with the requirements and rules established under this chapter for all health care services or coverage provided to Minnesota residents.~~ *The purpose of the regulated all-payer option is to provide an alternative to integrated service networks for those consumers, providers, third-party payers, and group purchasers who prefer to participate in a fee-for-service system. The initial goal of the all-payer option is to reduce administrative costs and burdens by including the all-payer option in a uniform, standardized system of billing forms and procedures and utilization review. The longer-term goal of the all-payer option is to establish a uniform reimbursement system, reimbursement and utilization controls, and quality standards and monitoring; to ensure that the annual growth in the costs for all services not provided through integrated service networks will remain within the growth limits established under section 62J.04; and to ensure that quality for these services is maintained or improved.*

Sec. 2. [62P.02] [DEFINITIONS.]

(a) For purposes of this chapter, the following definitions apply:

(b) "All-payer insurer" means a health carrier as defined in section 62A.011, subdivision 2. The term does not include community integrated service networks or integrated service networks licensed under chapter 62N.

(c) "All-payer reimbursement level" means the reimbursement amount specified by the all-payer reimbursement system.

(d) "All-payer reimbursement system" means the Minnesota-specific physician and independent provider fee schedule, the Minnesota-specific hospital reimbursement system, and other provider payment methods established under this chapter or rules adopted under this chapter.

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

(f) "Health care provider" has the meaning given in section 62J.03, subdivision 8.

Sec. 3. Minnesota Statutes 1993 Supplement, section 62P.03, is amended to read:

62P.03 [IMPLEMENTATION.]

~~(a) By January 1, 1994, the commissioner of health, in consultation with the Minnesota health care commission, shall report to the legislature recommendations for the design and implementation of the all-payer system. The commissioner may use a consultant or other technical assistance to develop a design for the all-payer system. The commissioner's recommendations shall include the following:~~

~~(1) methods for controlling payments to providers such as uniform fee schedules or rate limits to be applied to all health plans and health care providers with independent billing rights;~~

~~(2) methods for controlling utilization of services such as the application of standardized utilization review criteria, incentives based on setting and achieving volume targets, recovery of excess spending due to overutilization, or required use of practice parameters;~~

~~(3) methods for monitoring quality of care and mechanisms to enforce the quality of care standards;~~

~~(4) requirements for maintaining and reporting data on costs, prices, revenues, expenditures, utilization, quality of services, and outcomes;~~

~~(5) measures to prevent or discourage adverse risk selection between the regulated all-payer system and integrated service networks;~~

~~(6) measures to coordinate the regulated all-payer system with integrated service networks to minimize or eliminate barriers to access to health care services that might otherwise result;~~

~~(7) an appeals process;~~

~~(8) measures to encourage and facilitate appropriate use of midlevel practitioners and eliminate undesirable barriers to their participation in providing services;~~

~~(9) measures to assure appropriate use of technology and to manage introduction of new technology;~~

~~(10) consequences to be imposed on providers whose expenditures have exceeded the limits established by the commissioner; and~~

~~(11) restrictions on provider conflicts of interest.~~

~~(b)~~ On July 1, 1994, the regulated all-payer ~~system~~ *option* shall begin to be phased in with full implementation *of the all-payer reimbursement system* by July 1, ~~1996~~ *1997*. During the transition period, expenditure limits for health carriers shall be established in accordance with section 62P.04 and health care provider revenue limits shall be established in accordance with section 62P.05.

Sec. 4. Minnesota Statutes 1993 Supplement, section 62P.04, is amended to read:

62P.04 [~~EXPENDITURE~~ *INTERIM HEALTH PLAN COMPANY EXPENDITURE* LIMITS ~~FOR HEALTH PLAN COMPANY.~~]

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, the following definitions apply.

(b) "Health ~~carrier~~ *plan company*" has the definition provided in section ~~62A.011~~ *62Q.01*.

(c) *"Total expenditures" means incurred claims or expenditures on health care services, administrative expenses, charitable contributions, and all other payments made by health plan companies out of premium revenues.*

(d) ~~"Total expenditures" mean incurred claims or expenditures on health care services, administrative expenses, charitable contributions, and all other payments made by health carriers out of premium revenues, except taxes and~~

~~assessments,~~ ~~and~~ *"Net expenditures" means total expenditures minus exempted taxes and assessments and* payments or allocations made to establish or maintain reserves. ~~Total expenditures are equivalent to the amount of total revenues minus taxes and assessments. Taxes and assessments~~

(e) "Exempted taxes and assessments" means *direct* payments for taxes *to government agencies*, contributions to the Minnesota comprehensive health association, the *medical assistance* provider's surcharge under section 256.9657, the MinnesotaCare provider tax under section 295.52, assessments by the health coverage reinsurance association, assessments by the Minnesota life and health insurance guaranty association, *assessments by the Minnesota risk adjustment association,* and any new assessments imposed by federal or state law.

(f) "Consumer cost-sharing or subscriber liability" means enrollee coinsurance, copayment, deductible payments, and amounts in excess of benefit plan maximums.

Subd. 2. [ESTABLISHMENT.] The commissioner of health shall establish limits on the increase in ~~total~~ *net* expenditures by each health carrier *plan company* for calendar years 1994 and , 1995, *1996, and 1997*. The limits must be the same as the annual rate of growth in health care spending established under section 62J.04, subdivision 1, paragraph (b). Health ~~carriers~~ *plan companies* that are affiliates may elect to meet one combined expenditure limit.

Subd. 3. [DETERMINATION OF EXPENDITURES.] Health ~~carriers~~ *plan companies* shall submit to the commissioner of health, by April 1, 1994, for calendar year 1993, ~~and by~~; April 1, 1995, for calendar year 1994,; *April 1, 1996, for calendar year 1995; April 1, 1997, for calendar year 1996; and April 1, 1998, for calendar year 1997* all information the commissioner determines to be necessary to implement and enforce this section. The information must be submitted in the form specified by the commissioner. The information must include, but is not limited to, expenditures per member per month or cost per employee per month, and detailed information on revenues and reserves. The commissioner, to the extent possible, shall coordinate the submittal of the information required under this section with the submittal of the financial data required under chapter 62J, to minimize the administrative burden on health ~~carriers~~ *plan companies*. The commissioner may adjust final expenditure figures for demographic changes, risk selection, changes in basic benefits, and legislative initiatives that materially change health care costs, as long as these adjustments are consistent with the methodology submitted by the health ~~carrier~~ *plan company* to the commissioner, and approved by the commissioner as actuarially justified. The methodology to be used for adjustments and the election to meet one expenditure limit for affiliated health ~~carriers~~ *plan companies* must be submitted to the commissioner by ~~September 1, 1993~~ *September 1, 1994. Community integrated service networks may submit the information with their application for licensure. The commissioner shall also accept changes to methodologies already submitted. The adjustment methodology submitted and approved by the commissioner must apply to the data submitted for calendar years 1994 and 1995. The commissioner may allow changes to accepted adjustment methodologies for data submitted for calendar years 1996 and 1997. Changes to the adjustment methodology must be received by September 1, 1996, and must be approved by the commissioner.*

Subd. 4. [MONITORING OF RESERVES.] (a) The ~~commissioner~~ *commissioners* of health *and commerce* shall monitor health ~~carrier~~ *plan company* reserves and net worth as established under chapters 60A, 62C, 62D, 62H, and 64B, *with respect to the health plan companies that each commissioner respectively regulates* to ensure that savings resulting from the establishment of expenditure limits are passed on to consumers in the form of lower premium rates.

(b) Health ~~carriers~~ *plan companies* shall fully reflect in the premium rates the savings generated by the expenditure ~~limits and the health care provider revenue~~ limits. No premium rate ~~increase~~, *currently reviewed by the departments of health or commerce*, may be approved for those health ~~carriers~~ *plan companies* unless the health ~~carrier~~ *plan company* establishes to the satisfaction of the commissioner of commerce or the commissioner of health, as appropriate, that the proposed new rate would comply with this paragraph.

(c) Health plan companies, except those licensed under chapter 60A to sell accident and sickness insurance under chapter 62A, shall annually before the end of the fourth fiscal quarter provide to the commissioner of health or commerce, as applicable, a projection of the level of reserves the company expects to attain during each quarter of the following fiscal year. These health plan companies shall submit with required quarterly financial statements a calculation of the actual reserve level attained by the company at the end of each quarter including identification of the sources of any significant changes in the reserve level and an updated projection of the level of reserves the health plan company expects to attain by the end of the fiscal year. In cases where the health plan company has been given a certificate to operate a new health maintenance organization under chapter 62D, or been licensed as an integrated service network or community integrated service network under chapter 62N, or formed an affiliation with one of these organizations, the health plan company shall also submit with its quarterly financial statement, total enrollment at the beginning and end of the quarter and enrollment changes within each service area of the new organization. The reserve calculations shall be maintained by the commissioners as trade secret information, except to the extent that such information is also required to be filed by another provision of state law and is not treated as trade secret information under such other provisions.

(d) Health plan companies in paragraph (c) whose reserves are less than the required minimum or more than the required maximum at the end of the fiscal year shall submit a plan of corrective action to the commissioner of health or commerce under subdivision 7.

(e) The commissioner of commerce, in consultation with the commissioner of health, shall report to the legislature no later than January 15, 1995, as to whether the concept of a reserve corridor or other mechanism for purposes of monitoring reserves is adaptable for use with indemnity health insurers that do business in multiple states and that must comply with their domiciliary state's reserves requirements.

Subd. 5. [NOTICE.] The commissioner of health shall publish in the State Register and make available to the public by July 1, 1995, a list of all health ~~carriers~~ *plan companies* that exceeded their expenditure ~~target~~ *limit* for the 1994 calendar year. The commissioner shall publish in the State Register and make available to the public by July 1, 1996, a list of all health ~~carriers~~ *plan companies* that exceeded their combined expenditure limit for calendar years

1994 and 1995. The commissioner shall notify each health ~~carrier~~ *plan company* that the commissioner has determined that the ~~carrier~~ *health plan company* exceeded its expenditure limit, at least 30 days before publishing the list, and shall provide each ~~carrier~~ *health plan company* with ten days to provide an explanation for exceeding the expenditure ~~target~~ *limit*. The commissioner shall review the explanation and may change a determination if the commissioner determines the explanation to be valid.

Subd. 6. [ASSISTANCE BY THE COMMISSIONER OF COMMERCE.] The commissioner of commerce shall provide assistance to the commissioner of health in monitoring health ~~carriers~~ *plan companies* regulated by the commissioner of commerce. The commissioner of commerce, in consultation with the commissioner of health, shall enforce compliance ~~by~~ *with expenditure limits for* those health ~~carriers~~ *plan companies*.

Subd. 7. [ENFORCEMENT.] *(a)* The commissioners of health and commerce shall enforce the reserve limits referenced in subdivision 4, with respect to the health ~~carriers~~ *plan companies* that each commissioner respectively regulates. Each commissioner shall require health ~~carriers~~ *plan companies* under the commissioner's jurisdiction to submit plans of corrective action when the reserve requirement is not met. ~~Each commissioner may adopt rules necessary to enforce this section. Carriers~~ *The plan of correction must address the following:*

(1) actuarial assumptions used in forecasting future financial results;

(2) trend assumptions used in setting future premiums;

(3) demographic, geographic, and private and public sector mix of the population covered by the health plan company;

(4) proposed rate increases or decreases;

(5) growth limits applied under section 62J.04, subdivision 1, paragraph (b); and

(6) other factors deemed appropriate by the health plan company or commissioner.

If the health plan company's reserves exceed the required maximum, the plan of correction shall address how the health plan company will come into compliance and set forth a timetable within which compliance would be achieved. The plan of correction may propose premium refunds, credits for prior premiums paid, policyholder dividends, or any combination of these or other methods which will benefit enrollees and/or Minnesota residents and are such that the reserve requirements can reasonably be expected to be met. The commissioner's evaluation of the plan of correction must consider:

(1) whether implementation of the plan would provide the company with an unfair advantage in the market;

(2) the extent to which the reserve excess was created by any movement of enrolled persons to another organization formed by the company;

(3) whether any proposed premium refund, credit, and/or dividend represents an equitable allocation to policyholders covered in prior periods as determined using sound actuarial practice; and

(4) any other factors deemed appropriate by the applicable commissioner.

(b) The plan of correction is subject to approval by the commissioner of health or commerce, as applicable. If such a plan is not approved by the applicable commissioner, the applicable commissioner shall enter an order stating the steps that the health plan company must take to come into compliance. Within 30 days of the date of such order, the health plan company must file a notice of appeal with the applicable commissioner or comply with the commissioner's order. If an appeal is filed, such appeal is governed by chapter 14.

(c) Health plan companies that exceed the expenditure limits based on two-year average expenditure data ~~or whose reserves exceed the limits referenced in subdivision~~ 4 *(1994 and 1995, 1996 and 1997)* shall be required by the appropriate commissioner to pay back the amount ~~overspent~~ *exceeding the expenditure limit* through an assessment on the ~~carrier~~ *health plan company. A health plan company may appeal the commissioner's order to pay back the amount exceeding the expenditure limit by mailing to the commissioner a written notice of appeal within 30 days from the date the commissioner's order was mailed. The contested case and judicial review provisions of chapter 14 apply to the appeal. The health plan company shall pay the amount specified by the commissioner either to the commissioner or into an escrow account until final resolution of the appeal. Notwithstanding sections 3.762 to 3.765, each party is responsible for its own fees and expenses, including attorneys fees, for the appeal. Any amount required to be paid back under this section shall be deposited in the health care access fund.* The appropriate commissioner may approve a different repayment method to take into account the ~~carrier's~~ *health plan company's* financial condition. *Health plan companies shall comply with the limits but shall also guarantee that their contractual obligations are met. Health plan companies are prohibited from meeting spending obligations by increasing subscriber liability, including copayments and deductibles and amounts in excess of benefit plan maximums.*

Sec. 5. Minnesota Statutes 1993 Supplement, section 62P.05, is amended to read:

62P.05 [HEALTH CARE PROVIDER REVENUE LIMITS.]

Subdivision 1. [DEFINITION.] For purposes of this section, "health care provider" has the definition given in section 62J.03, subdivision 8.

Subd. 2. [ESTABLISHMENT.] The commissioner of health shall establish limits on the increase in revenue for each health care provider, for calendar years 1994 ~~and~~, 1995, *1996, and 1997*. The limits must be the same as the annual rate of growth in health care spending established under section 62J.04, subdivision 1, paragraph (b). The commissioner may adjust final revenue figures for case mix complexity, ~~inpatient to outpatient conversion~~, payer mix, out-of-period settlements, *certain* taxes *and assessments including the MinnesotaCare provider tax and provider surcharge, any new assessments imposed by federal or state law, research and education costs*, donations, grants, and legislative initiatives that materially change health care ~~costs~~ *revenues*, as long as these adjustments are consistent with the methodology submitted by the health care provider to the commissioner, and approved by the commissioner as actuarially justified. The methodology to be used for adjustments must be submitted to the commissioner by September 1, ~~1993~~ *1994. The commissioner shall also accept changes to methodologies already submitted. The adjustment methodology submitted and approved by the commissioner must apply to the data submitted for calendar years 1994 and*

1995. The commissioner may allow changes to accepted adjustment methodologies for data submitted for calendar years 1996 and 1997. Changes to the adjustment methodology must be received by September 1, 1996, and must be approved by the commissioner. ~~A health care provider's revenues for purposes of these growth limits are net of the contributions, surcharges, taxes, and assessments listed in section 62P.04, subdivision 1, that the health care provider pays.~~

Subd. 3. [MONITORING OF REVENUE.] The commissioner of health shall monitor health care provider revenue, to ensure that savings resulting from the establishment of revenue limits are passed on to consumers in the form of lower charges. The commissioner shall monitor hospital revenue by examining net ~~patient~~ *inpatient* revenue per adjusted admission *and net outpatient revenue per outpatient visit*. The commissioner shall monitor the revenue of physicians and other health care providers by examining revenue per patient per year or revenue per encounter. *For purposes of this section, definitions related to the implementation of limits for providers other than hospitals are included in Minnesota Rules, chapter 4650, and definitions related to the implementation of limits for hospitals are included in Minnesota Rules, chapter 4651.* If this information is not available, the commissioner may enforce an annual limit on the rate of growth of the provider's current fees ~~based on the limits on the rate of growth established for calendar years 1994 and 1995~~.

Subd. 4. [MONITORING AND ENFORCEMENT.] Health care providers shall submit to the commissioner of health, in the form and at the times required by the commissioner, all information the commissioner determines to be necessary to implement and enforce this section. ~~Health care providers shall submit to audits conducted by the commissioner.~~ The commissioner shall regularly audit all health clinics employing or contracting with over 100 physicians. The commissioner shall also audit, at times and in a manner that does not interfere with delivery of patient care, a sample of smaller clinics~~,~~ ~~hospitals,~~ and other health care providers. Providers that exceed revenue limits based on two-year average revenue data shall be required by the commissioner to pay back the amount ~~overspent~~ *exceeding the revenue limits* during the following calendar year.

Pharmacists may adjust their revenue figures for increases in drug product costs that are set by the manufacturer. The commissioner shall consult with pharmacy groups, including pharmacies, wholesalers, drug manufacturers, health plans, and other interested parties, to determine the methodology for measuring and implementing the interim growth limits while taking into account the adjustments for drug product costs.

The commissioner shall monitor providers meeting the growth limits based on their current fees on an annual basis. The fee charged for each service must be based on a weighted average across 12 months and compared to the weighted average for the previous 12-month period. The percentage increase in the average fee from 1993 to 1994, from 1994 to 1995, from 1995 to 1996, and from 1996 to 1997 is subject to the growth limits established under section 62J.04, subdivision 1, paragraph (b). The audit process may include a review of the provider's monthly fee schedule, and a random claims analysis for the provider during different parts of the year to monitor variations in fees. The commissioner shall require providers that exceed growth limits, based on annual fees, to pay back during the following calendar year the amount of fees received exceeding the limit.

The commissioner shall notify each provider that has exceeded its revenue or fee limit, at least 30 days before taking action, and shall provide each provider with ten days to provide an explanation for exceeding the revenue or fee limit. The commissioner shall review the explanation and may change a determination if the commissioner determines the explanation to be valid.

The commissioner may approve a different repayment schedule for a health care provider that takes into account the provider's financial condition. ~~For those providers subject to fee limits established by the commissioner, the commissioner may adjust the percentage increase in the fee schedule to account for changes in utilization. The commissioner may adopt rules in order to enforce this section.~~

A provider may appeal the commissioner's order to pay back the amount exceeding the revenue or fee limit by mailing a written notice of appeal to the commissioner within 30 days after the commissioner's order was mailed. The contested case and judicial review provisions of chapter 14 apply to the appeal. The provider shall pay the amount specified by the commissioner either to the commissioner or into an escrow account until final resolution of the appeal. Notwithstanding sections 3.762 to 3.765, each party is responsible for its own fees and expenses, including attorneys fees, for the appeal. Any amount required to be paid back under this section shall be deposited in the health care access fund.

Sec. 6. [62P.07] [SCOPE.]

Subdivision 1. [GENERAL APPLICABILITY.] *(a) Minnesota health care providers shall comply with the requirements and rules established under this chapter for: (1) all health care services provided to Minnesota residents who are not enrolled in a community integrated service network or an integrated service network; (2) all out-of-network services provided to enrollees of community integrated service networks and integrated service networks; and (3) all health care services provided to persons covered by an all-payer insurer.*

(b) All-payer insurers shall comply with the requirements and rules established under this chapter for all coverage provided.

(c) Community integrated service networks and integrated service networks shall comply with the requirements and rules established under this chapter when reimbursing health care providers for out-of-network services.

Subd. 2. [PROGRAMS EXCLUDED.] *This chapter does not apply to services reimbursed under Medicare, medical assistance, general assistance medical care, the MinnesotaCare program, or worker's compensation programs.*

Subd. 3. [PAYMENT REQUIRED AT ALL-PAYER LEVEL.] *(a) All reimbursements to Minnesota health care providers from all-payer insurers, for services provided to covered persons, shall be at the all-payer reimbursement level.*

(b) All-payer insurers shall reimburse out-of-state health care providers for nonemergency services provided to covered persons at the all-payer reimbursement level. For purposes of this paragraph, "nonemergency services" means services that do not meet the definition of "emergency care" under Minnesota Rules, part 4685.0100, subpart 5.

(c) Community integrated service networks and integrated service networks shall reimburse Minnesota health care providers for out-of-network services at the all-payer reimbursement level.

(d) Community integrated service networks and integrated service networks shall reimburse out-of-network health care providers located out-of-state for nonemergency out-of-network services at the all-payer reimbursement level. For purposes of this paragraph, "nonemergency out-of-network services" means out-of-network services that do not meet the definition of "emergency care" under Minnesota Rules, part 4685.0100, subpart 5.

Subd. 4. [BALANCE BILLING PROHIBITED.] *Minnesota health care providers shall accept reimbursement at the all-payer reimbursement level, including applicable copayments, deductibles, and coinsurance, as payment in full for services provided to Minnesota residents and persons covered by all-payer insurers, and for out-of-network services provided to enrollees of community integrated service networks and integrated service networks.*

Sec. 7. [62P.09] [DUTIES OF THE COMMISSIONER.]

Subdivision 1. [GENERAL DUTIES.] *The commissioner of health is responsible for developing and administering the all-payer option. The commissioner shall:*

(1) develop, implement, and administer fee schedules for physicians and providers with independent billing rights;

(2) develop, implement, and administer a reimbursement system for hospitals and other institutional providers, but excluding intermediate care facilities for the mentally retarded, nursing homes, state-operated community service sites operated by the commissioner of human services, and regional treatment centers;

(3) modify and adjust all-payer reimbursement levels so that health care spending under the all-payer option does not exceed the growth limits on health care spending established under section 62J.04;

(4) collect data from all-payer insurers, health care providers, and patients to monitor revenues, spending, and quality of care;

(5) provide incentives for the appropriate utilization of services and the appropriate use and distribution of technology;

(6) coordinate the development and administration of the all-payer option with the development and administration of the integrated service network system; and

(7) develop and implement a fair and efficient system for resolving appeals by providers and insurers.

Subd. 2. [COORDINATION.] *The commissioner shall regularly consult with the commissioner of commerce in developing and administering the all-payer option and in applying the all-payer reimbursement system to health carriers regulated by the commissioner of commerce.*

Subd. 3. [TIMELINES FOR IMPLEMENTATION.] *In developing and implementing the all-payer option, the commissioner shall comply with the following implementation schedule:*

(a) The phase-in of standardized billing requirements must be completed following the timetable set forth in article 9.

(b) The phase-in of the all-payer reimbursement system must begin January 1, 1996, or upon the date rules for the all-payer option reimbursement system are adopted, whichever is later.

(c) The all-payer reimbursement system must be fully implemented by July 1, 1997.

Subd. 4. [ADVISORY COMMITTEE.] *The commissioner shall convene an advisory committee made up of a broad array of health care professionals that will be affected by the fee schedule. Recommendations of this committee must be submitted to the commissioner by November 15, 1994, and may be incorporated in the implementation report due January 1, 1995.*

Subd. 5. [RULEMAKING.] *The commissioner shall adopt rules to establish and administer the all-payer option. The rules must include, but are not limited to: (1) the reimbursement methods used in the all-payer option reimbursement system; (2) a plan and implementation schedule to phase-in the all-payer reimbursement system, beginning January 1, 1996; and (3) mechanisms to ensure compliance by all-payer insurers, health care providers, and patients with the all-payer reimbursement system and the growth limits established under section 62J.04. The commissioner shall seek to ensure that the rules for the all-payer option are adopted by January 1, 1996. The commissioner shall comply with section 62J.07, subdivision 3, when adopting rules for the all-payer option.*

Sec. 8. [62P.11] [PAYMENT TO PHYSICIANS AND INDEPENDENT PROVIDERS.]

Subdivision 1. [FEE SCHEDULE.] *The commissioner shall adopt a Minnesota-specific fee schedule, based upon the Medicare resource based relative value scale, to reimburse physicians and other independent providers. The fee schedule must assign each service a relative value unit that measures the relative resources required to provide the service. Payment levels for each service must be determined by multiplying relative value units by a conversion factor that converts relative value units into monetary payment. The conversion factor used to derive the fee schedule must be set at a level that is consistent with current relevant health care spending, subject to the state's growth limits as defined in section 62J.04. The conversion factor must be set at a level that equalizes total aggregate expenditures for a given period before and after implementation of the all-payer option.*

Subd. 2. [DEVELOPMENT AND MODIFICATION OF RELATIVE VALUE UNITS.] *(a) When appropriate, the relative value unit for each service shall be the Medicare value adjusted to reflect Minnesota health care costs. The commissioner may assign a different relative value to a service if, in the judgment of the commissioner, the Medicare relative value unit is not accurate. The commissioner may also develop or adopt relative value units for services not covered under the Medicare resource based relative value scale. Except as provided in paragraph (b), modifications or additions to relative value units are subject to the rulemaking requirements of chapter 14.*

(b) The commissioner may modify the relative value units used in the Minnesota-specific fee schedule, or change the number of services assigned relative value units, to reflect changes and improvements in the Medicare

resource based relative value scale. When adopting these federal changes, the commissioner is exempt from the rulemaking requirements of chapter 14, but shall publish a notice of modifications and additions to relative value units in the State Register 30 days before they take effect.

Subd. 3. [DEVELOPMENT OF THE CONVERSION FACTOR.] *The commissioner shall develop a conversion factor using actual Minnesota claims data available to the commissioner.*

Sec. 9. [62P.13] [VOLUME PERFORMANCE STANDARD FOR PHYSICIAN AND OUTPATIENT SERVICES.]

Subdivision 1. [DEVELOPMENT.] *The commissioner shall establish an annual, statewide volume performance standard for physician and outpatient services. The volume performance standard shall serve as an expenditure target and must be set at a level that is consistent with achieving the growth limits pursuant to section 62J.04. The volume performance standard must combine expenditures for all services provided by physicians and other independent providers and all ambulatory care services that are not provided through an integrated service network. The statewide volume performance standard must be developed from aggregate and encounter level data reported to the state, including the claims database established under section 62J.38, when it becomes operational.*

Subd. 2. [APPLICATION.] *The commissioner shall compare actual expenditures for physician and outpatient services with the volume performance standard in order to keep the all-payer option expenditures within the statewide growth limits. If total expenditures during a particular year exceed the expenditure target for that year, the commissioner shall update the fee schedule rates for the second year following the year in which the target was exceeded, by adjusting the conversion factor, in order to offset this increase.*

Sec. 10. [62P.15] [REIMBURSEMENT.]

The commissioner, as part of the implementation report due January 1, 1995, shall recommend to the legislature and the governor which health care professionals should be paid at the full fee schedule rate and which at a partial rate, for services covered in the fee schedule.

Sec. 11. [62P.17] [PAYMENT FOR SERVICES NOT IN THE FEE SCHEDULE.]

The commissioner shall examine options for paying for services not covered in the fee schedule and shall present recommendations to the legislature and the governor as part of the implementation report due January 1, 1995. The options examined by the commissioner must include, but are not limited to, updates and modifications to the Medicare resource based relative value scale; development of additional relative value units; development of a fee schedule based on a percentage of usual, customary, and reasonable charges; and use of rate of increase controls.

Sec. 12. [62P.19] [PAYMENT FOR URBAN AND SELECTED RURAL HOSPITALS.]

Subdivision 1. [ESTABLISHMENT OF RATE.] *The commissioner shall develop a Minnesota-specific hospital reimbursement system to pay for inpatient services in those acute-care general hospitals not qualifying for reimbursement under section 62P.25. In developing this system, the commis-*

sioner shall consider the all-patient refined diagnosis related groups system and other diagnosis related groups systems. Payment rates must be standardized on a statewide basis based on Minnesota specific claims level data available to the commissioner. Rates must be consistent with the overall growth limit for health care spending. Payment rates may be adjusted for area wage rates and other factors, including uncompensated care. The commissioner shall recommend any needed adjustments to the legislature and governor as part of the implementation report due January 1, 1995.

Subd. 2. [SHORT STAY AND LONG STAY OUTLIERS.] *The reimbursement system must provide, on a budget neutral basis, lower charges for self-pay patients with short or low cost stays. The commissioner shall phase out this exception once universal coverage is achieved. The commissioner, as part of the implementation report due January 1, 1995, shall recommend to the legislature and the governor whether an outlier payment for long stays is needed.*

Sec. 13. [62P.21] [STATEWIDE VOLUME PERFORMANCE STANDARD FOR HOSPITALS.]

Subdivision 1. [DEVELOPMENT.] *The commissioner shall establish an annual, statewide volume performance standard for inpatient hospital expenditures. The volume performance standard shall serve as an expenditure target and must be set at a level that is consistent with meeting the limits on health care spending growth.*

Subd. 2. [APPLICATION.] *The commissioner shall compare actual inpatient hospital expenditures with the volume performance standard in order to keep all-payer option expenditures within the statewide growth limits. If aggregate inpatient hospital expenditures for a particular year exceed the volume performance standard, the commissioner shall adjust the annual increase in payment levels for the following year.*

Sec. 14. [62P.23] [FLEXIBILITY IN APPLYING THE VOLUME PERFORMANCE STANDARD; REVIEW.]

Subdivision 1. [REALLOCATION.] *The commissioner may reallocate spending limits between the inpatient hospital services volume performance standard and the physician and outpatient services volume performance standard, if this promotes the efficient use of health care services and does not cause total health care spending in the all-payer option to exceed the level allowed by the growth limits on health care spending.*

Subd. 2. [REVIEW.] *The commissioner shall review the effectiveness of the volume performance standard after the first three years of operation and shall recommend any necessary changes to the legislature and the governor.*

Sec. 15. [62P.25] [REIMBURSEMENT FOR SMALL RURAL HOSPITALS.]

All-payer insurers shall pay small rural hospitals on the basis of reasonable charges, subject to a rate of increase control. For purposes of this requirement, a "small rural hospital" means a hospital with 40 or fewer licensed beds that is located at least 25 miles from another facility licensed under sections 144.50 to 144.58 and operating as an acute care community hospital. The commissioner shall recommend to the legislature and the governor a methodology for determining reasonable charges as part of the implementation report due January 1, 1995.

Sec. 16. [62P.27] [PAYMENT FOR OUTPATIENT SERVICES.]

Outpatient services provided in acute-care general hospitals and freestanding ambulatory surgery centers shall be paid on the basis of approved charges, subject to rate of increase controls. The rate of increase allowed must be consistent with the volume performance standard for physician and outpatient services.

Sec. 17. [62P.29] [OTHER INSTITUTIONAL PROVIDERS.]

Subdivision 1. [SPECIALTY HOSPITALS AND HOSPITAL UNITS.] *The commissioner shall develop payment mechanisms for specialty hospitals providing pediatric and psychiatric care and distinct psychiatric and rehabilitation units in hospitals. The commissioner shall present these recommendations to the legislature and governor as part of the implementation report due January 1, 1995.*

Subd. 2. [OTHER PROVIDERS.] *The commissioner shall apply rate of increase limits on charges or fees to other nonhospital institutional providers. These providers include, but are not limited to, home health agencies, substance abuse treatment centers, and nursing homes, to the extent their services are included in the all-payer option. In setting rate of increase limits for institutional providers, the commissioner shall consider outcomes, comprehensiveness of services, and the special needs and severity of illness of patients treated by individual providers.*

Sec. 18. [62P.31] [LIMITATIONS ON ALL-PAYER OPTION.]

Beginning July 1, 1997, all-payer insurers shall not employ or contract with health care providers, establish a network of exclusive or preferred providers, or negotiate provider payments that differ from the all-payer fee schedule. Preferred provider organizations may continue to provide care to their existing enrollees, without becoming licensed as an integrated service network, through December 31, 1997.

Sec. 19. [62P.33] [RECOMMENDATIONS FOR A USER FEE.]

The commissioner of health shall present to the legislature, as part of the implementation plan due January 1, 1996, recommendations for establishing and collecting a user fee from all-payer insurers. The user fee must be set at a level that reflects the state's investment in fee schedules, standard utilization reviews, quality monitoring, and other regulatory and administrative functions provided for the regulated all-payer option. The commissioner may consult actuaries in developing recommendations for and setting the level of the user fee. The commissioner may also present recommendations to establish additional fees and assessments if the commissioner determines they are needed to assure equal levels of accountability between the integrated service network system and the regulated all-payer option in terms of public health goals, serving high-risk and special needs populations, and other obligations imposed on the integrated service network system.

Sec. 20. Minnesota Statutes 1992, section 72A.20, is amended by adding a subdivision to read:

Subd. 30. [REASONABLE, ADEQUATE, AND NOT PREDATORY PREMIUMS.] *Premiums charged by a health plan company, as defined in section 62Q.01, shall be reasonable, adequate, and not predatory in relation to the benefits, considering actuarial projection of the cost of providing or paying*

for the covered health services, considering the costs of administration, and in relation to the reserves and surplus required by law.

Sec. 21. [STUDY OF STANDARD UTILIZATION REVIEW CRITERIA FOR SERVICES.]

The commissioner of health, after consulting with providers, utilization review organizations, the practice parameters advisory committee, and the health technology advisory committee, shall report to the legislature by July 1, 1995, and recommended clinical criteria for determining the necessity, appropriateness, and efficacy of five frequently used health care services for which standard criteria for utilization review would decrease providers' administrative costs.

Sec. 22. [INSTRUCTION TO THE REVISOR.]

The revisor, in the next edition of Minnesota Statutes, shall replace the term "regulated all-payer system" and similar terms with "regulated all-payer option" and similar terms in sections 62J.04, 62J.09, 62J.152, 62P.01 and 62P.03.

Sec. 23. [EFFECTIVE DATE.]

Sections 1 to 22 are effective the day following final enactment.

ARTICLE 4

FUTURE REQUIREMENTS FOR HEALTH PLAN COMPANIES

Section 1. [62J.48] [CRITERIA FOR REIMBURSEMENT.]

All ambulance services licensed under section 144.802 are eligible for reimbursement under the integrated service network system and the regulated all-payer option. The commissioner shall require community integrated service networks, integrated service networks, and all-payer insurers to adopt the following reimbursement policies.

(1) All scheduled or prearranged air and ground ambulance transports must be reimbursed if requested by an attending physician or nurse, and, if the person is an enrollee in an integrated service network or community integrated service network, if approved by a designated representative of an integrated service network or a community service network who is immediately available on a 24-hour basis. The designated representative must be a registered nurse or a physician assistant with at least three years of critical care or trauma experience, or a licensed physician.

(2) Reimbursement must be provided for all emergency ambulance calls in which a patient is transported or medical treatment rendered.

(3) Special transportation services must not be billed or reimbursed if the patient needs medical attention immediately before transportation.

Sec. 2. Minnesota Statutes 1993 Supplement, section 62N.06, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZED ENTITIES.] (a) An integrated service network may be organized as a separate nonprofit corporation under chapter 317A or as a cooperative under chapter 308A.

(b) A nonprofit health carrier, as defined in section 62A.011, may establish and operate one or more integrated service networks without forming a separate corporation or cooperative, but only if all of the following conditions are met:

(i) ~~a~~ *an existing* contract between the health carrier and a health care provider, for a term of less than seven years, ~~that was executed before June 1, 1993,~~ *that does not explicitly mention the provider's relationship within an integrated service network, or a future integrated service network,* does not bind the health carrier or provider as applied to integrated service network services, except with the mutual consent of the health carrier and provider ~~entered into on or after June 1, 1993~~. This clause does not apply to contracts between a health carrier and its salaried employees;

(ii) the health carrier shall not apply toward the net worth, working capital, or deposit requirements of this chapter any assets used to satisfy net worth, working capital, deposit, or other financial requirements under any other chapter of Minnesota law;

(iii) the health carrier shall not include in its premiums for health coverage provided under any other chapter of Minnesota law, an assessment or surcharge relating to net worth, working capital, or deposit requirements imposed upon the integrated service network under this chapter; and

(iv) the health carrier shall not include in its premiums for integrated service network coverage under this chapter an assessment or surcharge relating to net worth working capital or deposit requirements imposed upon health coverage offered under any other chapter of Minnesota law.

Sec. 3. [62N.14] [OFFICE OF CONSUMER SERVICES.]

Subdivision 1. [DUTIES.] *Every integrated service network must have an office of consumer services which will be responsible for dealing with all enrollee complaints and inquiries. The integrated service network, through its office of consumer services, will be responsible for:*

(1) soliciting consumer comment on the quality and accessibility of services available;

(2) disseminating information to consumers on the integrated service network's enrollee complaint resolutions system;

(3) receiving unsolicited comments on and complaints about services;

(4) taking prompt action upon consumer complaints; and

(5) providing for and participating in alternative dispute resolution processes including the fact-finding and dispute resolution process established under section 62Q.30.

Subd. 2. [CONTACT WITH COMMISSIONER.] *Each integrated service network shall designate a contact person for direct communication with the commissioner. Integrated service network complaint files must be maintained by the integrated service network for seven years and must be made available upon the request of the commissioner. The commissioner shall periodically summarize the number, type, and resolution of complaints received by the health department from integrated service network enrollees, and shall make that information available through the office of consumer information. The*

commissioner may at any time inspect the integrated service network's office of consumer services complaint files.

Subd. 3. [ENROLLEE MEMBERSHIP CARDS.] *Integrated service networks shall issue enrollee membership cards to each enrollee of the integrated service network. The enrollee card shall contain, at minimum, the following information:*

(1) the telephone number of the integrated service network's office of consumer services;

(2) the telephone number of the state's office of consumer information; and

(3) the telephone number of the department of health or local ombudsperson.

The membership cards shall also conform to the requirements set forth in section 62J.60.

Subd. 4. [ENROLLEE DOCUMENTS.] *Each integrated service network, through its office of consumer services, is responsible for providing enrollees, upon request, with any reasonable information desired by an enrollee. This information may include duplicate copies of the evidence of coverage form required under section 62N.11; an annually updated list of addresses and telephone numbers of available integrated service network providers, including midlevel practitioners and allied professionals; and information on the enrollee complaint system of the integrated service network.*

Sec. 4. [62N.38] [FEDERAL AGENCY PARTICIPATION.]

Subdivision 1. [PARTICIPATION.] *An integrated service network may be organized by a department, agency, or instrumentality of the United States government.*

Subd. 2. [ENROLLEES.] *An integrated service network organized under subdivision 1 may limit its enrollment to those persons entitled to care under the federal program responsible for the integrated service network.*

Subd. 3. [PARTICIPATION IN STATE PROGRAMS.] *An integrated service network organized under subdivision 1 may request that the commissioner of health waive the requirement of section 62N.10, subdivision 4 with regard to some or all of the programs listed in that provision. The commissioner shall grant the waiver unless the commissioner determines that the applicant does not plan to provide care to low-income persons who are otherwise eligible for enrollment in the integrated service network. The integrated service network may withdraw its waiver with respect to some or all of the programs listed in section 62N.10, subdivision 4 at any time, as long as it is willing and able to enroll in the programs previously waived on the same basis as other integrated service networks.*

Subd. 4. [SOLVENCY.] *The commissioner shall consult with federal officials to develop procedures to allow integrated service networks organized under subdivision 1 to use the United States government as a guaranteeing organization.*

Subd. 5. [VETERANS.] *In developing and implementing initiatives to expand access to health care, the commissioner shall recognize the unique problems of veterans and consider methods to reach underserved portions of the veteran population.*

Sec. 5. [62N.381] [AMBULANCE SERVICE RATE NEGOTIATION.]

Subdivision 1. [APPLICABILITY.] *This section applies to all reimbursement rate negotiations between ambulance services and community integrated service networks or integrated service networks.*

Subd. 2. [RANGE OF RATES.] *The reimbursement rate negotiated for a contract period must not be more than 20 percent above or below the individual ambulance service's current customary charges, plus the rate of growth allowed under section 62J.04, subdivision 1. If the network and ambulance service cannot agree on a reimbursement rate, each party shall submit their rate proposal along with supportive data to the commissioner.*

Subd. 3. [DEVELOPMENT OF CRITERIA.] *The commissioner, in consultation with representatives of the Minnesota Ambulance Association, regional emergency medical services programs, community integrated service networks and integrated service networks, shall develop guidelines to use in reviewing rate proposals and making a final reimbursement rate determination.*

Subd. 4. [REVIEW OF RATE PROPOSALS.] *The commissioner, using the guidelines developed under subdivision 3, shall review the rate proposals of the ambulance service and community integrated service network or integrated service network and shall adopt either the network's or the ambulance service's proposal. The commissioner shall require the network and ambulance service to adhere to this reimbursement rate for the contract period.*

Subd. 5. [EXPIRATION.] *This section expires July 1, 1996.*

Sec. 6. [62Q.19] [ESSENTIAL COMMUNITY PROVIDERS.]

Subdivision 1. [DESIGNATION.] *The commissioner shall designate essential community providers. The criteria for essential community provider designation shall be the following:*

(1) a demonstrated ability to integrate applicable supportive and stabilizing services with medical care for uninsured persons and high-risk and special needs populations as defined in section 62Q.07, subdivision 2, paragraph (e), underserved, and other special needs populations; and

(2) a commitment to serve low-income and underserved populations by meeting the following requirements:

(i) has nonprofit status in accordance with chapter 317A;

(ii) has tax exempt status in accordance with the Internal Revenue Service Code, section 501(c)(3);

(iii) charges for services on a sliding fee schedule based on current poverty income guidelines; and

(iv) does not restrict access or services because of a client's financial limitation; or

(3) status as a local government or community health board as defined in chapter 145A.

The commissioner may designate an eligible provider as an essential community provider for all the services offered by that provider or for specific services designated by the commissioner.

For the purpose of this subdivision, supportive and stabilizing services include at a minimum, transportation, child care, cultural, and linguistic services where appropriate.

Subd. 2. [APPLICATION.] *Any provider may apply to the commissioner for designation as an essential community provider within two years after the effective date of the rules adopted by the commissioner to implement this section.*

Subd. 3. [HEALTH PLAN COMPANY AFFILIATION.] *A health plan company must offer a provider contract to any designated essential community provider located within the area served by the health plan company. A health plan company shall not restrict enrollee access to the essential community provider for the population that the essential community provider is certified to serve. A health plan company may also make other providers available to this same population. A health plan company may require an essential community provider to meet all data requirements, utilization review, and quality assurance requirements on the same basis as other health plan providers.*

Subd. 4. [ESSENTIAL COMMUNITY PROVIDER RESPONSIBILITIES.] *Essential community providers must agree to serve enrollees of all health plan companies operating in the area that the essential community provider is certified to serve.*

Subd. 5. [CONTRACT PAYMENT RATES.] *An essential community provider and a health plan company may negotiate the payment rate for covered services provided by the essential community provider. This rate must be competitive with rates paid to other health plan providers for the same or similar services.*

Subd. 6. [TERMINATION.] *The designation as an essential community provider is terminated five years after it is granted, and the former essential community provider has no rights or privileges beyond those of any other health care provider.*

Subd. 7. [RECOMMENDATIONS AND RULEMAKING ON ESSENTIAL COMMUNITY PROVIDERS.] *(a) As part of the implementation plan due January 1, 1995, the commissioner shall present proposed rules and any necessary recommendations for legislation for defining essential community providers, using the criteria established under subdivision 1, and defining the relationship between essential community providers and health plan companies.*

(b) By January 1, 1996, the commissioner shall adopt rules for establishing essential community providers and for governing their relationship with health plan companies. The commissioner shall also identify and address any conflict of interest issues regarding essential community provider designation for local governments.

Sec. 7. [62Q.21] [UNIVERSAL STANDARD BENEFITS SET.]

Subdivision 1. [MANDATORY OFFERING.] *Effective January 1, 1996, each health plan company shall offer the universal standard benefits set to its enrollees.*

Subd. 2. [STANDARD BENEFIT SET.] *Effective July 1, 1997, health plan companies shall offer, sell, issue, or renew only the universal standard benefits*

set and the cost-sharing and supplemental coverage options established in accordance with sections 62Q.25 and 62Q.27.

Subd. 3. [GENERAL DESCRIPTION.] *The universal standard benefits set must contain all appropriate and necessary health care services. Benefits necessary to meet public health goals, adequately serve high risk and special needs populations, facilitate the utilization of cost effective alternatives to traditional inpatient acute and extended health care delivery, or meet other objectives of health care reform shall be considered by the commissioner for inclusion in the universal standard benefits set. Appropriate and necessary dental services must be included.*

Subd. 4. [BENEFIT SET RECOMMENDATIONS.] *The commissioner of health, in consultation with the Minnesota health care commission and the commissioners of human services and commerce, shall develop the universal standard benefits set and report these recommendations to the legislature by January 1, 1995. The commissioners shall include in this report a definition for appropriate and necessary care, in terms of type, frequency, level, setting, and duration of services which address the enrollee's mental and physical condition. In developing this definition, the commissioners shall consider that a benefit set that excludes genuinely appropriate and necessary services will not reduce or contain costs, but will only transfer those costs onto individuals and the public sector. Therefore, the definition of appropriate and necessary care must be sufficiently broad to address the needs of those with chronic conditions or disabilities, including those who need health services to improve their functioning, and those for whom maintenance of health may not be possible and those for whom preventing deterioration in their health conditions might not be achievable, and meet other health care reform objectives. In developing the universal standard benefits set, the commissioners shall take into account factors including, but not limited to:*

(1) information regarding the benefits, risks, and cost-effectiveness of health care interventions;

(2) development of practice parameters;

(3) technology assessments;

(4) medical innovations;

(5) health status assessments;

(6) identification of unmet needs or particular barriers to access;

(7) public health goals;

(8) expenditure limits and available funding;

(9) cost savings resulting from the inclusion of a health care service that will decrease the utilization of other health care services in the benefit set;

(10) cost efficient and effective alternatives to inpatient health care services for acute or extended health care needs, such as home health care services; and

(11) the desirability of including coverage for all court-ordered mental health services for juveniles.

Subd. 5. [ADVISORY COMMITTEE ON THE UNIVERSAL BENEFITS SET.] *The commissioner shall appoint an advisory committee to devel*

recommendations regarding the services other than dental services to be included in the universal benefits set. The committee must include representatives of health care providers, purchasers, consumers, health plan companies, and counties. The health care provider representatives must include both physicians and allied independent health care providers representing both physical and mental health conditions. The committee shall report these recommendations to the commissioner by October 1, 1994.

Subd. 6. [ADVISORY COMMITTEE ON DENTAL SERVICES.] *The commissioner shall appoint an advisory committee to develop recommendations regarding the level of appropriate and necessary dental services to be included in the universal standard benefits set. The committee shall also develop recommendations on an appropriate system to deliver dental services. In its analysis the committee shall study the quality and cost-effectiveness of dental services delivered through capitated dental networks, discounted dental preferred provider organizations, and independent practice dentistry. The committee shall report these recommendations to the commissioner by October 1, 1994.*

Subd. 7. [CHEMICAL DEPENDENCY SERVICES.] *If chemical dependency services are included in the universal standard benefits set, the commissioner shall consider the cost effectiveness of requiring health plan companies and chemical dependency facilities to use the assessment criteria in Minnesota Rules, parts 9530.6600 to 9530.6660.*

Sec. 8. [62Q.23] [GENERAL SERVICES.]

(a) Health plan companies shall comply with all continuation and conversion of coverage requirements applicable to health maintenance organizations under state or federal law.

(b) Health plan companies shall comply with sections 62A.047, 62A.27, and any other coverage required under chapter 62A of newborn infants, dependent children who do not reside with a covered person, handicapped children and dependents, and adopted children. A health plan company providing dependent coverage shall comply with section 62A.302.

(c) Health plan companies shall comply with the equal access requirements of section 62A.15.

Sec. 9. [62Q.25] [SUPPLEMENTAL COVERAGE.]

Health plan companies may choose to offer separate supplemental coverage for services not covered under the universal benefits set. Health plan companies may offer any Medicare supplement, Medicare select, or other Medicare-related product otherwise permitted for any type of health plan company in this state. Each Medicare-related product may be offered only in full compliance with the requirements in chapters 62A, 62D, and 62E that apply to that category of product.

Sec. 10. [62Q.27] [ENROLLEE COST-SHARING.]

(a) The commissioner, as part of the implementation plan due January 1, 1995, shall present to the legislature recommendations and draft legislation to establish up to five standardized benefit plans which may be offered by each health plan company. The plans must vary only on the basis of enrollee cost sharing and encompass a range of cost-sharing options from (1) lower premium costs combined with higher enrollee cost-sharing, to (2) higher

premium costs combined with lower enrollee cost-sharing. Each plan offered may include out-of-network coverage options.

(b) For purposes of this section, "enrollee cost-sharing" or "cost-sharing" means copayments, deductibles, coinsurance, and other out-of-pocket expenses paid by the individual consumer of health care services.

(c) The following principles must apply to cost-sharing:

(1) enrollees must have a choice of cost-sharing arrangements;

(2) enrollee cost-sharing must be administratively feasible and consistent with efforts to reduce the overall administrative burden on the health care system;

(3) cost-sharing for recipients of medical assistance, general assistance medical care, or the MinnesotaCare program must be determined by applicable law and rules governing these programs;

(4) cost-sharing must be capped at an annual limit determined by the commissioner to protect individuals and families from severe financial hardship and to protect individuals with substantial health care needs;

(5) cost-sharing must not be applied to preventive health services as defined in Minnesota Rules, part 4685.0801, subpart 8;

(6) the impact of enrollee cost-sharing requirements on appropriate utilization must be considered when cost-sharing requirements are developed;

(7) additional requirements may be established to assist enrollees for whom an inducement in addition to the elimination of cost-sharing is necessary in order to encourage them to use cost-effective preventive services. These requirements may include the provision of educational information, assistance or guidance, and opportunities for responsible decision making by enrollees that minimize potential out-of-pocket costs;

(8) a copayment may be no greater than 25 percent of the paid charges for the service or product;

(9) cost-sharing requirements and benefit or service limitations for outpatient mental health and outpatient chemical dependency services, except for persons placed in chemical dependency services under Minnesota Rules, parts 9530.6600 to 9530.6660, must not place a greater financial burden on the insured or enrollee, or be more restrictive than those requirements and limitations for outpatient medical services; and

(10) cost-sharing requirements and benefit or service limitations for inpatient hospital mental health and inpatient hospital and residential chemical dependency services, except for persons placed in chemical dependency services under Minnesota Rules, parts 9530.6600 to 9530.6660, must not place a greater financial burden on the insured or enrollee, or be more restrictive than those requirements and limitations for inpatient hospital medical services.

(d) The commissioner shall consider whether a health plan company may return to the enrollee all or part of an enrollee's premium as an incentive for completing preventive care, and may return all or part of an enrollee's cost-sharing for participating in health education, improving health, or reducing health risks.

Sec. 11. [62Q.29] [STATE-ADMINISTERED PUBLIC PROGRAMS.]

Public agencies, in conjunction with the department of health and the department of human services, on behalf of eligible recipients enrolled in public programs such as medical assistance, general assistance medical care, and MinnesotaCare, may contract with health plan companies to provide services included in these programs, but not included in the universal standard benefits set.

Sec. 12. [62Q.30] [EXPEDITED FACT FINDING AND DISPUTE RESOLUTION PROCESS.]

The commissioner shall establish an expedited fact finding and dispute resolution process to assist enrollees of integrated service networks and all-payer insurers with contested treatment, coverage, and service issues to be in effect July 1, 1997. The commissioner may order an integrated service network or an all-payer insurer to provide or pay for a service that is within the universal standard benefits set. If the disputed issue relates to whether a service is appropriate and necessary, the commissioner shall issue an order only after consulting with appropriate experts knowledgeable, trained, and practicing in the area in dispute, reviewing pertinent literature, and considering the availability of satisfactory alternatives. The commissioner shall take steps including but not limited to fining, suspending, or revoking the license of an integrated service network or an all-payer insurer that is the subject of repeated orders by the commissioner that suggests a pattern of inappropriate underutilization.

Sec. 13. [COMPLAINT PROCEDURE.]

The commissioners of health and commerce shall develop an internal grievance procedure and appeals process to be used by all health plan companies. The commissioner shall make a report of recommendations to the legislature by January 1, 1995. In developing the report and recommendations, the commissioner shall consider the current prepaid medical assistance and health maintenance organization internal grievance procedure as models.

Sec. 14. [EFFECTIVE DATE.]

(a) Sections 2 and 7 are effective the day following final enactment.

(b) Sections 1, 3, 4, 6, 10, 12, and 13 are effective July 1, 1994.

(c) Section 5 is effective January 1, 1995.

(d) Sections 8, 9, and 11 are effective July 1, 1997.

ARTICLE 5

IMPLEMENTATION AND TRANSITION PLANS

Section 1. [62Q.41] [ANNUAL IMPLEMENTATION REPORT.]

The commissioner of health, in consultation with the Minnesota health care commission, shall develop an annual implementation report to be submitted to the legislature each year beginning January 1, 1995, describing the progress and status of rule development and implementation of the integrated service network system and the regulated all-payer option, and providing recommendations for legislative changes that the commissioner determines may be needed.

Sec. 2. [TRANSITION PLAN.]

The commissioner of health, in consultation with the Minnesota health care commission, shall develop a plan to facilitate the transition from the existing health care delivery and financing system to the integrated service network system and the regulated all-payer option. The plan may include recommendations for integrated service network requirements or other requirements that should become applicable to some or all health plan companies prior to July 1, 1997, and recommendations for requirements that should be modified or waived during a transition period after July 1, 1997, as health plan companies convert to integrated service networks or to the regulated all-payer option. The transition plan must be submitted to the legislature by January 1, 1995.

Sec. 3. [INTEGRATED STATE ADMINISTERED PUBLIC PROGRAM.]

The commissioner of human services in consultation with representatives of counties and consumer groups shall develop an implementation plan for the integration of MinnesotaCare and general assistance medical care into a single cost effective program by July 1, 1996, adding medical assistance into this integrated program under a federal demonstration project waiver by July 1, 1997. The commissioner shall submit the plan including necessary implementation legislation to the legislature by February 1, 1995. The legislation must include:

(1) a definition of services covered by the integrated program, excluding supplemental and long-term care benefits, and supporting actuarial data;

(2) a single set of criteria to determine eligibility for the integrated program;

(3) a request to seek a federal demonstration project waiver to include medical assistance in the integrated program; and

(4) a plan to define the scope and delivery of supplemental long-term care benefits to special populations.

The commissioner will present an update and an initial budget analysis to the legislative commission on health care access no later than December 1, 1994.

Sec. 4. [STATE ADMINISTERED PUBLIC PROGRAM PHASE-IN.]

(a) The commissioner of human services shall present to the legislature and the governor, as part of the implementation report due January 1, 1996, a plan to incorporate state administered health programs into the all-payer option and the integrated service network system. The plan must identify the federal waivers and approvals required. The plan must also provide a schedule for phasing in the state administered health programs beginning July 1, 1997, and for increasing reimbursement levels in stages over the phase-in period. For purposes of this section, "state administered health programs" means the medical assistance, general assistance medical care, and MinnesotaCare programs.

(b) The commissioners of human services and employee relations shall include with the plan required under paragraph (a) recommendations, including proposed legislation, for a coordinated program for purchasing health care services for the state employees group insurance program and

recipients of state administered health programs, to be phased in beginning July 1, 1997.

(c) The recommendations shall include a requirement that health plan companies interested in contracting to serve enrollees or recipients of the programs listed in paragraph (b) submit a bid to provide services to all enrollees and recipients of those programs residing within the plan's service area.

(d) The commissioners of human services and employee relations must convene an advisory task force to assist with the preparation of plans, recommendations, and legislation required by this section. The task force must include representatives of recipients of the publicly paid health care programs, providers with substantial experience in providing services to recipients of these programs, county human services, exclusive representatives of state employees, and other affected persons.

(e) The commissioners of human services and employee relations may begin integrating administrative functions relating to the purchase of health care prior to July 1, 1997, that do not affect eligibility or coverage policy for medical assistance, general assistance medical care, or MinnesotaCare enrollees. All integration shall be included in the report required under paragraph (a).

Sec. 5. [RECODIFICATION AND HEALTH PLAN COMPANY REGULATORY REFORM.]

Subdivision 1. [PROPOSED LEGISLATION.] *The commissioners of health and commerce, in consultation with the Minnesota health care commission and the legislative commission on health care access, shall draft proposed legislation to recodify, simplify, and standardize all statutes, rules, regulatory requirements, and procedures relating to health plan companies. The recodification and regulatory reform must become effective simultaneously with the full implementation of the integrated service network system and the regulated all-payer option on July 1, 1997. The commissioners of health and commerce shall submit to the legislature by January 1, 1996, a report on the recodification and regulatory reform with proposed legislation.*

Subd. 2. [ADVISORY TASK FORCE.] *The commissioner of health shall convene an advisory task force to advise the commissioner on the recodification and reform of regulatory requirements under this section. The task force must include representatives of health plan companies, consumers, counties, employers, labor unions, providers, and other affected persons.*

Sec. 6. [HEALTH REFORM DEMONSTRATION MODELS.]

The commissioner of health, in consultation with appropriate state agencies, is authorized to seek federal and private foundation grants to supplement any funds appropriated under this act in order to conduct demonstration models to develop the implementation strategies for the various components of health care reform. The model projects may include the following:

(1) risk adjustment formulas;

(2) integration of special needs populations into integrated service networks;

(3) organization of health services delivery by post-secondary educational facilities;

(4) establishment of rural purchasing pools and cooperative service arrangements;

(5) integration of rural public health nursing agency services with rural community integrated service networks;

(6) development of appropriate access services which facilitate enrollment of low-income or special needs populations into integrated service networks;

(7) evaluation methods for the action plans prepared by health plan companies; and

(8) integration of services provided by licensed school nurses into integrated service networks.

Sec. 7. [24-HOUR COVERAGE.]

As part of the implementation report submitted on January 1, 1996, as required under Minnesota Statutes, section 62Q.41, the commissioners of health and labor and industry shall develop a 24-hour coverage plan incorporating and coordinating the health component of workers' compensation with health care coverage to be offered by an integrated service network. The commissioners shall also make recommendations of any legislative changes that may be needed to implement this plan.

Sec. 8. [AMBULANCE RATE STUDY.]

(a) The commissioner of health in consultation with the Minnesota ambulance association and the regional emergency medical services systems shall study the feasibility and desirability of establishing a system of ambulance rate regulation. The commissioner shall report findings, conclusions, and recommendations to the legislature by February 1, 1995, as part of the report on the financial condition of licensed ambulance services in Minnesota required in Laws 1993, First Special Session chapter 1, article 1, section 3, subdivision 4.

(b) If the commissioner, under paragraph (a), recommends establishing a system of ambulance rate regulation, the commissioner, in consultation with the Minnesota ambulance association and the regional emergency medical services systems, shall develop a system of ambulance rate regulations for the integrated service network and all-payer option systems. The commissioner shall present recommendations and an implementation plan for this rate regulation system to the legislature by January 1, 1996.

Sec. 9. [SINGLE PAYER STUDY.]

The legislative audit commission is requested to direct the legislative auditor to conduct an evaluation of the administrative cost of paying Minnesota health care providers through the multiple payers that currently reimburse the providers. The legislative auditor shall also analyze the administrative cost of paying Minnesota health care providers through one state government agency and, alternatively, through one private sector health carrier. "Administrative cost" includes: (1) the difference between all revenues received and all claims paid out by all publicly financed health programs and all private sector health carriers; and (2) billing costs for Minnesota health care providers. The legislative auditor shall also study the different types of administrative expenses, including costs that relate to the enhancement of quality of care. The report must, to the extent possible, rely solely on data collected from Minnesota health care providers, health

carriers, and other group purchasers. The legislative auditor shall report findings of this study to the legislature by January 15, 1995.

Sec. 10. [CONTINUED STUDY OF MEDICAL EDUCATION AND RESEARCH COSTS.]

Subdivision 1. [PURPOSE.] *The legislature finds that health care research and the preparation of future health care practitioners are of great importance to the quality of health care available to the citizens of this state; that medical education and research must be designed to meet the health needs of the population and the changing needs of the health care delivery system; and that the cost of medical education and research should not place institutions engaged in these activities at a competitive disadvantage in the marketplace.*

Subd. 2. [SCOPE OF STUDY.] *The commissioner of health shall continue the study developed as part of Minnesota Statutes, section 62J.045, on the impact of state health care reform on the financing of medical education and research activities in the state. The study shall address issues related to the institutions engaged in these activities, including hospitals, medical centers, and health plan companies, and will report on the need for alternative funding mechanisms for medical education and research activities. The commissioner shall monitor ongoing public and private sector activities related to the study of the financing of medical education and research activities and include a description of these activities in the final report as applicable. The commissioner shall submit a report on the study findings, including recommendations on mechanisms to finance medical education and research activities, to the legislature by February 15, 1995.*

Subd. 3. [RECOMMENDATIONS.] *The study shall explore both private and public alternatives for funding medical education and research activities. The study shall include recommendations which, when implemented, would:*

(1) help to assure the coordination between federal and state funding mechanisms;

(2) help assure adequate funding to support medical education and research activities;

(3) create alternative funding mechanisms, if necessary, to assure that medical education and research are responsive to the health needs of the population and the needs of Minnesota's health delivery system;

(4) help to assure that any changes in funding for medical education and health care research do not destabilize institutions that currently conduct, sponsor, or otherwise engage in health care research and medical education; and

(5) allocate the costs of medical education and research fairly across the health care system.

Subd. 4. [TASK FORCE.] *The commissioner may appoint an advisory task force to provide expertise and advice on the study. The task force may include up to 20 members. The commissioner shall take under consideration representation of the following groups: the Minnesota association of public teaching hospitals and other nonteaching hospitals; private academic medical centers; the University of Minnesota medical school and its primary care residency programs; payer organizations including managed care, nonprofit health service plan organizations, and commercial carriers; other providers*

including the Minnesota medical association, the Minnesota nurses association, and others; a representative of the health technology advisory committee; employers; consumers; and medical researchers. The task force shall include representation of rural areas in the state.

Sec. 11. [PREPAID MEDICAL ASSISTANCE PLAN STUDY.]

The commissioners of health and human services shall study the coordination between health care reform and the prepaid medical assistance plan. The study must also determine whether there have been cost savings, cost increases, or cost shifting under current implementation of the prepaid medical assistance plan. The commissioners shall jointly report their findings to the legislature by January 1, 1995.

Sec. 12. [EFFECTIVE DATE.]

Sections 1 to 11 are effective the day following final enactment.

ARTICLE 6

UNIVERSAL COVERAGE

Section 1. [62Q.16] [UNIVERSAL COVERAGE.]

It is the commitment of the state to achieve universal health coverage for all Minnesotans by July 1, 1997. In order to achieve this commitment, the following goals must be met:

(1) every Minnesotan shall have health coverage and shall contribute to the costs of coverage based on ability to pay;

(2) no Minnesotan shall be denied coverage or forced to pay more because of health status;

(3) quality health care services must be accessible to all Minnesotans;

(4) all health care purchasers must be placed on an equal footing in the health care marketplace; and

(5) a comprehensive and affordable health plan must be available to all Minnesotans.

Sec. 2. [62Q.17] [VOLUNTARY PURCHASING POOLS.]

Subdivision 1. [PERMISSION TO FORM.] *Notwithstanding section 62A.10, employers, groups, and individuals may voluntarily form purchasing pools, solely for the purpose of negotiating and purchasing health plan coverage from health plan companies for members of the pool.*

Subd. 2. [COMMON FACTORS.] *All participants in a purchasing pool must live within a common geographic region, be employed in a similar occupation, or share some common factor as approved by the commissioner.*

Subd. 3. [GOVERNING STRUCTURE.] *Each pool must have a governing structure controlled by its members. The governing structure of the pool is responsible for administration of the pool. The governing structure shall review and evaluate all bids for coverage from health plan companies, shall determine criteria for joining and leaving the pool, and may design incentives for healthy lifestyles and health promotion programs. The governing structure may design uniform entrance standards for all employers, except small*

employers as defined under section 62L.02. Small employers must be permitted to enter any pool if the small employer meets the pool's membership requirements. Pools must provide as much choice in health plans to members as is financially possible. The governing structure may charge all members a fee for administrative purposes.

Subd. 4. [ENROLLMENT.] *Pools must have an annual open enrollment period of not less than 15 days, during which all individuals or groups that qualify for membership may enter the pool without any preexisting condition limitations or exclusions or exclusionary riders, except those permitted under chapter 62L for groups or section 62A.65 for individuals. Pools must reach and maintain an enrolled population of at least 1,000 members within six months of formation. If a pool fails to reach or maintain the minimum enrollment, all coverage subsequently purchased through the purchasing pool must be regulated through existing applicable laws and forego all advantages under this section.*

Subd. 5. [MEMBERS.] *The governing structure of the pool shall set a minimum time period for membership. Members must stay in the purchasing pool for the entire minimum period to avoid paying a penalty. Penalties for early withdrawal from the purchasing pool shall be established by the governing structure.*

Subd. 6. [EMPLOYER-BASED PURCHASING POOLS.] *Employer-based purchasing pools must, with respect to small employers as defined in section 62L.02, meet all the requirements of chapter 62L. The experience of the pool must be pooled and the rates blended across all groups. Pools may decide to create tiers within the pool, based on experience of group members. These tiers must be designed within the requirements of section 62L.08. The governing structure may establish criteria limiting movement between tiers. Tiers must be phased out within two years of the pool's creation.*

Subd. 7. [INDIVIDUAL MEMBERS.] *Purchasing pools that contain individual members must meet all of the underwriting and rate restrictions found in the individual health plan market.*

Subd. 8. [REPORTS.] *Prior to the initial effective date of coverage, and annually thereafter, each pool shall file a report with the information clearinghouse. The information clearinghouse must use the report to promote the purchasing pools. The annual report must contain the following information:*

(1) the number of lives in the pool;

(2) the geographic area the pool intends to cover;

(3) the number of health plans offered;

(4) a description of the benefits under each plan;

(5) a description of the premium structure, including any copayments or deductibles, of each plan offered;

(6) evidence of compliance with chapter 62L;

(7) a sample of marketing information, including a phone number where the pool may be contacted; and

(8) a list of all administrative fees charged.

Sec. 3. [62Q.18] [UNIVERSAL COVERAGE; INSURANCE REFORMS.]

Subdivision 1. [DEFINITION.] *For purposes of this section,*

(1) "continuous coverage" has the meaning given in section 62L.02;

(2) "guaranteed issue" means:

(i) for individual health plans, that a health plan company shall not decline an application by an individual for any individual health plan offered by that health plan company, including coverage for a dependent of the individual to whom the health plan has been or would be issued; and

(ii) for group health plans, that a health plan company shall not decline an application by a group for any group health plan offered by that health plan company and shall not decline to cover under the group health plan any person eligible for coverage under the group's eligibility requirements, including persons who become eligible after initial issuance of the group health plan;

(3) "qualifying coverage" has the meaning given in section 62L.02; and

(4) "underwriting restrictions" has the meaning given in section 62L.03, subdivision 4.

Subd. 2. [INDIVIDUAL MANDATE.] *Effective July 1, 1997, each Minnesota resident shall obtain and maintain qualifying coverage.*

Subd. 3. [GUARANTEED ISSUE.] *(a) Effective July 1, 1997, each health plan company shall offer, sell, issue, or renew each of its individual health plan forms on a guaranteed issue basis to any Minnesota resident.*

(b) Effective July 1, 1997, each health plan company shall offer, sell, issue, or renew each of its group health plan forms to any employer that has its principal place of business in this state on a guaranteed issue basis, provided that the guaranteed issue requirement does not apply to employees, dependents, or other persons to be covered, who are not residents of this state.

Subd. 4. [UNDERWRITING RESTRICTIONS LIMITED.] *Effective July 1, 1997, no health plan company shall offer, sell, issue, or renew a health plan that has underwriting restrictions that apply to a Minnesota resident, except as expressly permitted under this section.*

Subd. 5. [PREEXISTING CONDITION LIMITATIONS.] *Effective July 1, 1997, no health plan company shall offer, sell, issue, or renew a health plan that contains a preexisting condition limitation or exclusion or exclusionary rider that applies to a Minnesota resident, except a limitation which is no longer than 12 months and applies only to a person who has not maintained continuous coverage. An unexpired preexisting condition limitation from previous qualifying coverage may be carried over to new coverage under a health plan, if the unexpired condition is one permitted under this section. A Minnesota resident who has not maintained continuous coverage may be subjected to a new 12-month preexisting condition limitation after each break in continuous coverage.*

Subd. 6. [LIMITS ON PREMIUM RATE VARIATIONS.] *(a) Effective July 1, 1995, the premium rate variations permitted under sections 62A.65 and 62L.08 become:*

(1) for factors other than age and geography, 12.5 percent of the index rate; and

(2) for age, 25 percent of the index rate.

(b) Effective July 1, 1996, the premium variations permitted under sections 62A.65 and 62L.08 become:

(1) for factors other than age and geography, 7.5 percent of the index rate; and

(2) for age, 15 percent of the index rate.

(c) Effective July 1, 1997, no health plan company shall offer, sell, issue, or renew a health plan, that is subject to section 62A.65 or 62L.08, for which the premium rate varies between covered persons on the basis of any factor other than:

(1) for individual health plans, differences in benefits or benefit design, and for group health plans, actuarially valid differences in benefits or benefit design;

(2) the number of persons to be covered by the health plan;

(3) actuarially valid differences in expected costs between adults and children;

(4) healthy lifestyle discounts authorized by statute; and

(5) for individual health plans, geographic variations permitted under section 62A.65, and for group health plans, geographic variations permitted under section 62L.08.

(d) All premium rate variations permitted under paragraph (c) are subject to the approval of the commissioner.

(e) Notwithstanding paragraphs (a), (b), and (c), no health plan company shall renew any individual or group health plan, except in compliance with this paragraph. No premium rate for any policy holder or contract holder shall increase or decrease upon renewal, as a result of this subdivision, by more than 15 percent per year. The increase or decrease described in this paragraph is in addition to any premium increase or decrease caused by legally permissible factors other than this subdivision. If a premium increase or decrease is constrained by this paragraph, the health plan company may implement the remaining portion of the increase or decrease at the time of subsequent annual renewals, but never to exceed 15 percent per year for paragraphs (a), (b), and (c) combined.

Subd. 7. [PORTABILITY OF COVERAGE.] *(a) Effective July 1, 1997, no health plan company shall offer, sell, issue, or renew any group or individual health plan that does not provide for guaranteed issue, with full credit for previous qualifying coverage against any preexisting condition limitation that would otherwise apply under subdivision 5. No health plan shall be subject to any other type of underwriting restriction.*

(b) Effective July 1, 1995, no health plan company shall offer, sell, issue, or renew any group or individual health plan that does not, with respect to individuals who maintain continuous coverage and whose immediately preceding qualifying coverage is a health plan issued by medical assistance

under chapter 256B, general assistance medical care under chapter 256D, or the MinnesotaCare plan established under section 256.9352,

(1) make coverage available on a guaranteed issue basis; and

(2) give full credit for previous continuous coverage against any applicable preexisting condition limitation or exclusion.

(c) Paragraph (b) applies to individuals whose immediately preceding qualifying coverage is medical assistance under chapter 256B, general assistance medical care under chapter 256D, or the MinnesotaCare plan established under section 256.9352, only if the individual has disenrolled from the public program or will disenroll upon issuance of the new coverage. Paragraph (b) does not apply if the public program uses or will use public funds to pay the premiums for an individual who remains or will remain enrolled in the public program. No public funds may be used to purchase private coverage available under this paragraph. This paragraph does not prohibit public payment of premiums to continue private sector coverage originally obtained prior to enrollment in the public program, where otherwise permitted by state or federal law. Portability coverage under this paragraph is subject to the provisions of section 62A.65, subdivision 5, clause (b).

(d) Effective July 1, 1994, no health plan company shall offer, sell, issue, or renew any group health plan that does not, with respect to individuals who maintain continuous coverage:

(1) make coverage available on a guaranteed issue basis; and

(2) give full credit for previous continuous coverage against any applicable preexisting condition limitation or exclusion.

To the extent that this paragraph conflicts with chapter 62L, with respect to small employers as defined in section 62L.02, chapter 62L governs.

Subd. 8. [COMPREHENSIVE HEALTH ASSOCIATION.] *Effective July 1, 1997, the comprehensive health association created in section 62E.10 shall not accept new applicants for enrollment, except for medicare-related coverage described in section 62E.12 and for coverage described in section 62E.18.*

Subd. 9. [CONTINGENCY; FUTURE LEGISLATION.] *This section, except for subdivision 7, paragraphs (b), (c), and (d), is not intended to be implemented prior to legislation enacted to achieve the objectives of sections 1, 5, 6, and 7. Subdivision 6 is not effective until an effective date is specified in 1995 legislation.*

Sec. 4. [MARKET REFORM STRATEGIES STUDY.]

The health care commission shall study and recommend to the legislature by January 1, 1995, insurance market reforms designed to promote the formation of large purchasing pools to be available to individuals and small employers by July 1, 1997. The health care commission shall study:

(1) integrating workers' compensation and the medical component of automobile no-fault coverage with coverage purchased through a purchasing pool;

(2) integrating public and private sector financing mechanisms to extend MinnesotaCare subsidies to employees and dependents who are eligible for employer-based coverage without eroding existing coverage;

(3) requiring purchasing pools to make available to consumers all plans that submit bids to the pool;

(4) whether some or all purchasers should be required to obtain coverage through a public or private pool;

(5) the impact and effectiveness of the Minnesota employees insurance program under section 43A.317 and the public employees insurance plan under section 43A.316; and

(6) how statewide or regional purchasing pools could be developed for all individuals and small groups that do not have access to a private purchasing pool, and for the MinnesotaCare program and other state-subsidized health care programs, by expanding the Minnesota employees insurance program currently operated by the department of employee relations or by other means.

Sec. 5. [SURVEY OF THE UNINSURED AND EVALUATION OF EXISTING REFORMS.]

Subdivision 1. [SURVEY.] *The Minnesota health care commission shall authorize a survey of Minnesota households and employers to provide current data on the uninsured population and assess the effectiveness of the existing health care reforms. As part of this survey, the commissioner of human services shall conduct a survey of the MinnesotaCare population to determine the effects of existing health care reforms on this population. Results of this survey shall be presented to the legislature by January 15, 1995.*

Subd. 2. [EVALUATION.] *The commissioner of health, in consultation with the health care commission and the commissioners of human services and commerce, shall evaluate the effect of existing reforms and the effect of the MinnesotaCare program on the uninsured population. Based on this evaluation, the commissioners of health, commerce, and human services shall recommend modifications to existing reforms as necessary to continue to make progress toward universal coverage by 1997 and report these modifications to the legislature by January 15, 1996.*

Sec. 6. [HEALTH CARE AFFORDABILITY STUDY.]

(a) The commissioner of health, in consultation with the commissioners of human services, commerce, and revenue, shall study and report to the Minnesota health care commission by October 1, 1994, the various factors that affect health care affordability, including out-of-pocket spending, insurance premiums, and taxes.

(b) Based on the study in paragraph (a), the Minnesota health care commission shall recommend to the legislature by January 15, 1995, a specific percentage of income that overall health care costs to a family or individual should not exceed.

(c) The recommendations in paragraph (b) must be used by the commissioners of health and human services to develop an appropriate premium subsidy and sliding fee scale for a permanent health care subsidy program.

Sec. 7. [FINANCING STUDY.]

The Minnesota health care commission, in consultation with the commissioners of health, commerce, human services, and revenue, and representatives of county government shall report to the legislature by January 1, 1995, with an implementation schedule and plan for a stable, long-term health care funding system for all government health programs. The report must include recommendations for overhauling the current system, specific financing methods, and detailed cost estimates for an expanded, fully-funded subsidy program to guarantee universal coverage to all Minnesota residents. The report must include an inventory and analysis of the existing system of government financing of health care. It must include recommendations for capturing savings that will accrue under health care reform and reallocating them to offset additional costs of universal coverage. The commission may contract for actuarial, finance, and taxation expertise.

The study must take into account the following goals and guiding principles:

(a) To the extent possible, universal coverage should be achieved without a net increase in total health spending, taxes, or government spending by recapturing savings and reallocating resources within the system.

(b) To the extent that universal coverage will require additional funding, revenues may be raised by reducing other general fund spending or through a variety of funding options, including broad-based taxes such as income or payroll, as long as they can be adjusted to provide appropriate offsets for low-income individuals. Taxing items that are considered to be health risks and contribute to preventable illness and injury shall be considered as a possible funding source.

(c) Financing reform should ensure adequate and equitable financing of all necessary components of the health system.

(d) Activities that benefit the entire community, such as core public health activities, including collection of data on health status and community health needs, and medical education should be financed by broad-based funding sources. Funding mechanisms should promote collaboration between the public and private sectors.

(e) Personal health care services for individuals who are enrolled in a health plan should be provided or paid for by the health plan.

(f) Government subsidy programs for low-income Minnesotans should be financed by broad-based funding sources.

(g) Funding mechanisms that are inequitable or create undesirable incentives, such as the Minnesota comprehensive health association assessment, should be restructured.

Sec. 8. [PREEXISTING CONDITIONS STUDY.]

The health care commission shall study the feasibility and impact of the following:

(1) eliminating preexisting condition limitations in steps;

(2) standardizing preexisting condition limitations;

(3) narrowing the preexisting condition limitation period from 12 months to six months; and

(4) requiring limited coverage of services for preexisting conditions.

The health care commission shall provide a written report to the legislature on or before December 15, 1994.

Sec. 9. [REQUIRED OFFER OF INDIVIDUAL HEALTH PLANS.]

The health care commission shall study the effects and desirability of the requirement that all health plan companies offer individual health plans. The health care commission shall provide a written report, including recommendations on implementation, to the legislature on or before December 15, 1994.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 and 4 to 9 are effective the day following final enactment. Sections 2 and 3 are effective July 1, 1994.

ARTICLE 7

PUBLIC HEALTH

Section 1. [62Q.075] [LOCAL PUBLIC ACCOUNTABILITY AND COLLABORATION PLAN.]

Subdivision 1. [DEFINITION.] *For purposes of this section, "managed care organization" means a health maintenance organization, community integrated service network, or integrated service network.*

Subd. 2. [REQUIREMENT.] *Beginning July 1, 1995, all managed care organizations shall annually file with the action plans required under section 62Q.07 a plan describing the actions the managed care organization has taken and those it intends to take to contribute to achieving public health goals for each service area in which an enrollee of the managed care organization resides. This plan must be jointly developed in collaboration with the local public health units, appropriate regional coordinating boards, and other community organizations providing health services within the same service area as the managed care organization. Local government units with responsibilities and authority defined under chapters 145A and 256E may designate individuals to participate in the collaborative planning with the managed care organization to provide expertise and represent community needs and goals as identified under chapters 145A and 256E.*

Subd. 3. [CONTENTS.] *The plan must address the following:*

(a) specific measurement strategies and a description of any activities which contribute to public health goals and needs of high risk and special needs populations as defined and developed under chapters 145A and 256E;

(b) description of the process by which the managed care organization will coordinate its activities with the community health boards, regional coordinating boards, and other relevant community organizations servicing the same area;

(c) documentation indicating that local public health units and local government unit designees were involved in the development of the plan;

(d) documentation of compliance with the plan filed the previous year, including data on the previously identified progress measures.

Subd. 4. [REVIEW.] *Upon receipt of the plan, the appropriate commissioner shall provide a copy to the regional coordinating boards, local community health boards, and other relevant community organizations within the managed care organization's service area. After reviewing the plan, these community groups may submit written comments on the plan to either the commissioner of health or commerce, as applicable, and may advise the commissioner of the managed care organization's effectiveness in assisting to achieve regional public health goals. The plan may be reviewed by the county boards, or city councils acting as a local board of health in accordance with chapter 145A, within the managed care organization's service area to determine whether the plan is consistent with the goals and objectives of the plans required under chapters 145A and 256E and whether the plan meets the needs of the community. The county board, or applicable city council, may also review and make recommendations on the availability and accessibility of services provided by the managed care organization. The county board, or applicable city council, may submit written comments to the appropriate commissioner, and may advise the commissioner of the managed care organization's effectiveness in assisting to meet the needs and goals as defined under the responsibilities of chapters 145A and 256E. Copies of these written comments must be provided to the managed care organization. The plan and any comments submitted must be filed with the information clearinghouse to be distributed to the public.*

Sec. 2. [62Q.32] [LOCAL OMBUDSPERSON.]

County board or community health service agencies may establish an office of ombudsperson to provide a system of consumer advocacy for persons receiving health care services through a health plan company. The ombudsperson's functions may include, but are not limited to:

(a) mediation or advocacy on behalf of a person accessing the complaint and appeal procedures to ensure that necessary medical services are provided by the health plan company; and

(b) investigation of the quality of services provided to a person and determine the extent to which quality assurance mechanisms are needed or any other system change may be needed.

Sec. 3. [62Q.33] [LOCAL GOVERNMENT PUBLIC HEALTH FUNCTIONS.]

Subdivision 1. [FINDINGS.] *The legislature finds that the local government public health functions of community assessment, policy development, and assurance of service delivery are essential elements in consumer protection and in achieving the objectives of health care reform in Minnesota. The legislature further finds that the site-based and population-based services provided by state and local health departments are a critical strategy for the long-term containment of health care costs. The legislature further finds that without adequate resources, the local government public health system will lack the capacity to fulfill these functions in a manner consistent with the needs of a reformed health care delivery system.*

Subd. 2. [REPORT ON SYSTEM DEVELOPMENT.] *The commissioner of health, in consultation with the state community health services advisory committee and the commissioner of human services, and representatives of local health departments, county government, a municipal government acting as a local board of health, the Minnesota health care commission, area Indian*

health services, health care providers, and citizens concerned about public health, shall coordinate the process for defining implementation and financing responsibilities of the local government core public health functions. The commissioner shall submit recommendations and an initial and final report on local government core public health functions according to the timeline established in subdivision 5.

Subd. 3. [CORE PUBLIC HEALTH FUNCTIONS.] *(a) The report required by subdivision 2 must describe the local government core public health functions of: assessment of community health needs; goal-determination, public policy, and program development for addressing these needs; and assurance of service availability and accessibility to meet community health goals and needs. The report must further describe activities for implementation of these functions that are the continuing responsibility of the local government public health system, taking into account the ongoing reform of the health care delivery system.*

(b) The activities to be defined in terms of the local government core public health functions include, but are not limited to:

(1) consumer protection and advocacy;

(2) targeted outreach and linkage to personal services;

(3) health status monitoring and disease surveillance;

(4) investigation and control of diseases and injuries;

(5) protection of the environment, work places, housing, food, and water;

(6) laboratory services to support disease control and environmental protection;

(7) health education and information;

(8) community mobilization for health-related issues;

(9) training and education of public health professionals;

(10) public health leadership and administration;

(11) emergency medical services;

(12) violence prevention; and

(13) other activities that have the potential to improve the health of the population or special needs populations and reduce the need for or cost of health care services.

Subd. 4. [CAPACITY BUILDING, ACCOUNTABILITY AND FUNDING.] *The recommendations required by subdivision 2 shall include:*

(1) a definition of minimum outcomes for implementing core public health functions, including a local ombudsperson under the assurance of services function;

(2) the identification of counties and applicable cities with public health programs that need additional assistance to meet the minimum outcomes;

(3) a budget for supporting all functions needed to achieve the minimum outcomes, including the local ombudsperson assurance of services function;

(4) an analysis of the costs and benefits expected from achieving the minimum outcomes;

(5) strategies for improving local government public health functions throughout the state to meet the minimum outcomes including: (i) funding distribution for local government public health functions necessary to meet the minimum outcomes; and (ii) strategies for the financing of personal health care services within the uniform benefits set and identifying appropriate mechanisms for the delivery of these services; and

(6) a recommended level of dedicated funding for local government public health functions in terms of a percentage of total health service expenditures by the state or in terms of a per capita basis, including methods of allocating the dedicated funds to local government.

Subd. 5. [TIMELINE.] *(a) By October 1, 1994, the commissioner shall submit to the legislative commission on health care access the initial report and recommendations required by subdivisions 2 to 4.*

(b) By February 15, 1995, the commissioner, in cooperation with the legislative commission on health care access, shall submit a final report to the legislature, with specific recommendations for capacity building and financing to be implemented over the period from January 1, 1996, through December 31, 1997.

(c) By January 1, 1997, and by January 1 of each odd-numbered year thereafter, the commissioner shall present to the legislature an updated report and recommendations.

Sec. 4. [PUBLIC HEALTH GOALS REPORT.]

The commissioner of health shall provide a written report to the legislature by January 1, 1996, of recommendations on how providers and payers participating in the regulated all-payer option shall participate in achieving public health goals.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective the day following final enactment.

ARTICLE 8

CONFORMING AND MISCELLANEOUS CHANGES

Section 1. Minnesota Statutes 1992, section 60A.02, subdivision 3, is amended to read:

Subd. 3. [INSURANCE.] *(a)* "Insurance" is any agreement whereby one party, for a consideration, undertakes to indemnify another to a specified amount against loss or damage from specified causes, or to do some act of value to the assured in case of such loss or damage. A program of self-insurance, self-insurance revolving fund or pool established under section 471.981 is not insurance for purposes of this subdivision.

(b) Notwithstanding paragraph (a), capitation payments to a capitated entity by an employer that maintains a program of self-insurance described in this paragraph, do not constitute insurance with respect to the receipt of the payments. The payments are not premium revenues for the purpose of

calculating liability for otherwise applicable state taxes, assessments, or surcharges, with the exception of:

(1) the MinnesotaCare provider tax;

(2) the one percent premium tax imposed in section 60A.15, subdivision 1, paragraph (d); and

(3) effective July 1, 1995, assessments by the Minnesota comprehensive health association.

This paragraph applies only where:

(1) the capitated entity does not bear risk in excess of 110 percent of the self-insurance program's expected costs;

(2) the employer does not carry stop loss, excess loss, or similar coverage with an attachment point lower than 120 percent of the self-insurance program's expected costs;

(3) the capitated entity and the employer comply with the data submission and administrative simplification provisions of chapter 62J;

(4) the capitated entity and the employer comply with the provider tax pass-through provisions of section 295.582;

(5) the capitated entity's required minimum reserves reflect the risk borne by the capitated entity under this paragraph, with an appropriate adjustment for the 110 percent limit on risk borne by the capitated entity;

(6) on or after July 1, 1994, but prior to January 1, 1995, the employer has at least 1,500 current employees, as defined in section 62L.02, or, on or after January 1, 1995, the employer has at least 750 current employees, as defined in section 62L.02;

(7) the employer does not exclude any eligible employees or their dependents, both as defined in section 62L.02, from coverage offered by the employer, under this paragraph or any other health coverage, insured or self-insured, offered by the employer, on the basis of the health status or health history of the person. For purposes of this subdivision, a capitated entity must be licensed as a health maintenance organization, integrated service network, or community integrated service network, or must be a preferred provider organization. For purposes of this section, a preferred provider organization is a health plan company that contracts with providers to provide health care to its enrollees. All other insurance as defined in paragraph (a), even if maintained by an employer that also offers programs of self-insurance, continues to be subject to all applicable state regulations.

This paragraph expires December 31, 1997.

Sec. 2. Minnesota Statutes 1992, section 60A.15, subdivision 1, is amended to read:

Subdivision 1. [DOMESTIC AND FOREIGN COMPANIES.] (a) On or before April 1, June 1, and December 1 of each year, every domestic and foreign company, including town and farmers' mutual insurance companies, domestic mutual insurance companies, marine insurance companies, health maintenance organizations, *integrated service networks, community integrated service networks,* and nonprofit health service *plan* corporations, shall

pay to the commissioner of revenue installments equal to one-third of the insurer's total estimated tax for the current year. Except as provided in paragraphs (b) and (e), installments must be based on a sum equal to two percent of the premiums described in paragraph (c).

(b) For town and farmers' mutual insurance companies and mutual property and casualty insurance companies other than those (i) writing life insurance, or (ii) whose total assets on December 31, 1989, exceeded $1,600,000,000, the installments must be based on an amount equal to the following percentages of the premiums described in paragraph (c):

(1) for premiums paid after December 31, 1988, and before January 1, 1992, one percent; and

(2) for premiums paid after December 31, 1991, one-half of one percent.

(c) Installments under paragraph (a), (b), or (e) are percentages of gross premiums less return premiums on all direct business received by the insurer in this state, or by its agents for it, in cash or otherwise, during such year.

(d) Failure of a company to make payments of at least one-third of either (1) the total tax paid during the previous calendar year or (2) 80 percent of the actual tax for the current calendar year shall subject the company to the penalty and interest provided in this section, unless the total tax for the current tax year is $500 or less.

(e) For health maintenance organizations ~~and~~, nonprofit health services *plan* corporations, *integrated service networks, and community integrated service networks*, the installments must be based on an amount equal to one percent of premiums described in paragraph (c) that are paid after December 31, 1995.

(f) Premiums under ~~the children's health plan~~ *medical assistance*, the ~~health right plan~~ *MinnesotaCare program*, and *the* Minnesota comprehensive health insurance plan are not subject to tax under this section.

Sec. 3. Minnesota Statutes 1993 Supplement, section 61B.20, subdivision 13, is amended to read:

Subd. 13. [MEMBER INSURER.] "Member insurer" means an insurer licensed or holding a certificate of authority to transact in this state any kind of insurance for which coverage is provided under section 61B.19, subdivision 2, and includes an insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn. The term does not include:

(1) a nonprofit hospital or medical service organization, other than a nonprofit health service plan corporation that operates under chapter 62C;

(2) a health maintenance organization;

(3) a fraternal benefit society;

(4) a mandatory state pooling plan;

(5) a mutual assessment company or an entity that operates on an assessment basis;

(6) an insurance exchange; ~~or~~

(7) *an integrated service network or a community integrated service network; or*

(8) an entity similar to those listed in clauses (1) to ~~(6)~~ *(7)*.

Sec. 4. Minnesota Statutes 1992, section 62A.48, subdivision 1, is amended to read:

Subdivision 1. [POLICY REQUIREMENTS.] No individual or group policy, certificate, subscriber contract, or other evidence of coverage of nursing home care or other long-term care services shall be offered, issued, delivered, or renewed in this state, whether or not the policy is issued in this state, unless the policy is offered, issued, delivered, or renewed by a qualified insurer and the policy satisfies the requirements of sections 62A.46 to 62A.56. A long-term care policy must cover prescribed long-term care in nursing facilities and at least the prescribed long-term home care services in section 62A.46, subdivision 4, clauses (1) to (5), provided by a home health agency. Coverage under a long-term care policy AA must include: a maximum lifetime benefit limit of at least $100,000 for services, and nursing facility and home care coverages must not be subject to separate lifetime maximums. Coverage under a long-term care policy A must include: a maximum lifetime benefit limit of at least $50,000 for services, and nursing facility and home care coverages must not be subject to separate lifetime maximums. Prior hospitalization may not be required under a long-term care policy.

Coverage under either policy designation must cover preexisting conditions during the first six months of coverage if the insured was not diagnosed or treated for the particular condition during the 90 days immediately preceding the effective date of coverage. Coverage under either policy designation may include a waiting period of up to 90 days before benefits are paid, but there must be no more than one waiting period per benefit period*; for purposes of this sentence, "days" means calendar days*. No policy may exclude coverage for mental or nervous disorders which have a demonstrable organic cause, such as Alzheimer's and related dementias. No policy may require the insured to be homebound or house confined to receive home care services. The policy must include a provision that the plan will not be canceled or renewal refused except on the grounds of nonpayment of the premium, provided that the insurer may change the premium rate on a class basis on any policy anniversary date. A provision that the policyholder may elect to have the premium paid in full at age 65 by payment of a higher premium up to age 65 may be offered. A provision that the premium would be waived during any period in which benefits are being paid to the insured during confinement in a nursing facility must be included. A nongroup policyholder may return a policy within 30 days of its delivery and have the premium refunded in full, less any benefits paid under the policy, if the policyholder is not satisfied for any reason.

No individual long-term care policy shall be offered or delivered in this state until the insurer has received from the insured a written designation of at least one person, in addition to the insured, who is to receive notice of cancellation of the policy for nonpayment of premium. The insured has the right to designate up to a total of three persons who are to receive the notice of cancellation, in addition to the insured. The form used for the written designation must inform the insured that designation of one person is required and that designation of up to two additional persons is optional and must provide space clearly designated for listing between one and three persons. The designation shall include each person's full name, home address, and telephone number. Each time an individual policy is renewed or continued, the insurer shall notify the insured of the right to change this written designation.

The insurer may file a policy form that utilizes a plan of care prepared as provided under section 62A.46, subdivision 5, clause (1) or (2).

Sec. 5. Minnesota Statutes 1992, section 62D.02, subdivision 4, is amended to read:

Subd. 4. *(a)* "Health maintenance organization" means a nonprofit corporation organized under chapter 317A, or a local governmental unit as defined in subdivision 11, controlled and operated as provided in sections 62D.01 to 62D.30, which provides, either directly or through arrangements with providers or other persons, comprehensive health maintenance services, or arranges for the provision of these services, to enrollees on the basis of a fixed prepaid sum without regard to the frequency or extent of services furnished to any particular enrollee.

(b) Notwithstanding paragraph (a), an organization licensed as a health maintenance organization that accepts payments for health care services on a capitated basis, or under another similar risk sharing agreement, from a program of self-insurance as described in section 60A.02, subdivision 3, paragraph (b), shall not be regulated as a health maintenance organization with respect to the receipt of the payments. The payments are not premium revenues for the purpose of calculating the health maintenance organization's liability for otherwise applicable state taxes, assessments, or surcharges, with the exception of:

(1) the MinnesotaCare provider tax;

(2) the one percent premium tax imposed in section 60A.15, subdivision 1, paragraph (d); and

(3) effective July 1, 1995, assessments by the Minnesota comprehensive health association.

This paragraph applies only where:

(1) the health maintenance organization does not bear risk in excess of 110 percent of the self-insurance program's expected costs;

(2) the employer does not carry stop loss, excess loss, or similar coverage with an attachment point lower than 120 percent of the self-insurance program's expected costs;

(3) the health maintenance organization and the employer comply with the data submission and administrative simplification provisions of chapter 62J;

(4) the health maintenance organization and the employer comply with the provider tax pass-through provisions of section 295.582;

(5) the health maintenance organization's required minimum reserves reflect the risk borne by the health maintenance organization under this paragraph, with an appropriate adjustment for the 110 percent limit on risk borne by the community network;

(6) on or after July 1, 1994, but prior to January 1, 1995, the employer has at least 1,500 current employees, as defined in section 62L.02, or, on or after January 1, 1995, the employer has at least 750 current employees, as defined in section 62L.02;

(7) the employer does not exclude any eligible employees or their dependents, both as defined in section 62L.02, from coverage offered by the employer, under this paragraph or any other health coverage, insured or self-insured, offered by the employer, on the basis of the health status or health history of the person.

This paragraph expires December 31, 1997.

Sec. 6. Minnesota Statutes 1992, section 62D.04, is amended by adding a subdivision to read:

Subd. 5. [PARTICIPATION; GOVERNMENT PROGRAMS.] *Health maintenance organizations shall, as a condition of receiving and retaining a certificate of authority, participate in the medical assistance, general assistance medical care, and MinnesotaCare programs. The participation required from health maintenance organizations shall be pursuant to rules adopted under section 256B.0644.*

Sec. 7. Minnesota Statutes 1992, section 62E.02, subdivision 10, is amended to read:

Subd. 10. [INSURER.] "Insurer" means those companies operating pursuant to chapter 62A or 62C and offering, selling, issuing, or renewing policies or contracts of accident and health insurance. "Insurer" does not include health maintenance organizations, *integrated service networks, or community integrated service networks.*

Sec. 8. Minnesota Statutes 1992, section 62E.02, subdivision 18, is amended to read:

Subd. 18. [WRITING CARRIER.] "Writing carrier" means the insurer or insurers ~~and~~, health maintenance organization or organizations, *integrated service network or networks, and community integrated service network or networks* selected by the association and approved by the commissioner to administer the comprehensive health insurance plan.

Sec. 9. Minnesota Statutes 1992, section 62E.02, subdivision 20, is amended to read:

Subd. 20. [COMPREHENSIVE INSURANCE PLAN OR STATE PLAN.] "Comprehensive health insurance plan" or "state plan" means policies of insurance and contracts of health maintenance organization, *integrated service network, or community integrated service network* coverage offered by the association through the writing carrier.

Sec. 10. Minnesota Statutes 1992, section 62E.02, subdivision 23, is amended to read:

Subd. 23. [CONTRIBUTING MEMBER.] "Contributing member" means those companies regulated under chapter 62A and offering, selling, issuing, or renewing policies or contracts of accident and health insurance; health maintenance organizations regulated under chapter 62D; nonprofit health service plan corporations regulated under chapter 62C; *integrated service network and community integrated service networks regulated under chapter 62N;* fraternal benefit societies regulated under chapter 64B; the private employers insurance program established in section 43A.317, effective July 1, 1993; and joint self-insurance plans regulated under chapter 62H. For the purposes of determining liability of contributing members pursuant to section 62E.11 payments received from or on behalf of Minnesota residents for

coverage by a health maintenance organization, *integrated service network, or community integrated service network* shall be considered to be accident and health insurance premiums.

Sec. 11. Minnesota Statutes 1992, section 62E.10, subdivision 1, is amended to read:

Subdivision 1. [CREATION; TAX EXEMPTION.] There is established a comprehensive health association to promote the public health and welfare of the state of Minnesota with membership consisting of all insurers; self-insurers; fraternals; joint self-insurance plans regulated under chapter 62H; the private employers insurance program established in section 43A.317, effective July 1, 1993; ~~and~~ health maintenance organizations; *integrated service networks; and community integrated service networks* licensed or authorized to do business in this state. The comprehensive health association shall be exempt from taxation under the laws of this state and all property owned by the association shall be exempt from taxation.

Sec. 12. Minnesota Statutes 1992, section 62E.10, subdivision 2, is amended to read:

Subd. 2. [BOARD OF DIRECTORS; ORGANIZATION.] The board of directors of the association shall be made up of nine members as follows: five insurer directors selected by participating members, subject to approval by the commissioner; four public directors selected by the commissioner, at least two of whom must be plan enrollees. Public members may include licensed insurance agents. In determining voting rights at members' meetings, each member shall be entitled to vote in person or proxy. The vote shall be a weighted vote based upon the member's cost of self-insurance, accident and health insurance premium, subscriber contract charges, ~~or~~ health maintenance contract payment, *integrated service network, or community integrated service network payment* derived from or on behalf of Minnesota residents in the previous calendar year, as determined by the commissioner. In approving directors of the board, the commissioner shall consider, among other things, whether all types of members are fairly represented. Insurer directors may be reimbursed from the money of the association for expenses incurred by them as directors, but shall not otherwise be compensated by the association for their services. The costs of conducting meetings of the association and its board of directors shall be borne by members of the association.

Sec. 13. Minnesota Statutes 1992, section 62E.10, subdivision 3, is amended to read:

Subd. 3. [MANDATORY MEMBERSHIP.] All members shall maintain their membership in the association as a condition of doing accident and health insurance, self-insurance, ~~or~~ health maintenance organization, *integrated service network, or community integrated service network* business in this state. The association shall submit its articles, bylaws and operating rules to the commissioner for approval; provided that the adoption and amendment of articles, bylaws and operating rules by the association and the approval by the commissioner thereof shall be exempt from the provisions of sections 14.001 to 14.69.

Sec. 14. Minnesota Statutes 1993 Supplement, section 62J.03, subdivision 6, is amended to read:

Subd. 6. [GROUP PURCHASER.] "Group purchaser" means a person or organization that purchases health care services on behalf of an identified group of persons, regardless of whether the cost of coverage or services is paid for by the purchaser or by the persons receiving coverage or services, as further defined in rules adopted by the commissioner. "Group purchaser" includes, but is not limited to, integrated service networks; *community integrated service networks;* health insurance companies, health maintenance organizations, nonprofit health service plan corporations, and other health plan companies; employee health plans offered by self-insured employers; trusts established in a collective bargaining agreement under the federal Labor-Management Relations Act of 1947, United States Code, title 29, section 141, et seq.; the Minnesota comprehensive health association; group health coverage offered by fraternal organizations, professional associations, or other organizations; state and federal health care programs; state and local public employee health plans; workers' compensation plans; and the medical component of automobile insurance coverage.

Sec. 15. Minnesota Statutes 1992, section 62J.03, is amended by adding a subdivision to read:

Subd. 10. [HEALTH PLAN COMPANY.] *"Health plan company" means a health plan company as defined in section 62Q.01, subdivision 4.*

Sec. 16. Minnesota Statutes 1993 Supplement, section 62J.04, subdivision 1, is amended to read:

Subdivision 1. [LIMITS ON THE RATE OF GROWTH.] (a) The commissioner of health shall set annual limits on the rate of growth of public and private spending on health care services for Minnesota residents, as provided in paragraph (b). The limits on growth must be set at levels the commissioner determines to be realistic and achievable but that will reduce the rate of growth in health care spending by at least ten percent per year for the next five years. The commissioner shall set limits on growth based on available data on spending and growth trends, including data from group purchasers, national data on public and private sector health care spending and cost trends, and trend information from other states.

(b) The commissioner shall set the following annual limits on the rate of growth of public and private spending on health care services for Minnesota residents:

(1) for calendar year 1994, the rate of growth must not exceed the change in the regional consumer price index for urban consumers for calendar year 1993 plus 6.5 percentage points;

(2) for calendar year 1995, the rate of growth must not exceed the change in the regional consumer price index for urban consumers for calendar year 1994 plus 5.3 percentage points;

(3) for calendar year 1996, the rate of growth must not exceed the change in the regional consumer price index for urban consumers for calendar year 1995 plus 4.3 percentage points;

(4) for calendar year 1997, the rate of growth must not exceed the change in the regional consumer price index for urban consumers for calendar year 1996 plus 3.4 percentage points; and

(5) for calendar year 1998, the rate of growth must not exceed the change in the regional consumer price index for urban consumers for calendar year 1997 plus 2.6 percentage points.

~~If the health care financing administration forecast for the total growth in national health expenditures for a calendar year is lower than the rate of growth for the calendar year as specified in clauses (1) to (5), the commissioner shall adopt this forecast as the growth limit for that calendar year.~~ The commissioner shall adjust the growth limit set for calendar year 1995 to recover savings in health care spending required for the period July 1, 1993 to December 31, 1993. The commissioner shall publish:

(1) the projected limits in the State Register by April 15 of the year immediately preceding the year in which the limit will be effective except for the year 1993, in which the limit shall be published by July 1, 1993;

(2) the quarterly change in the regional consumer price index for urban consumers; and

(3) the health care financing administration forecast for total growth in the national health care expenditures. In setting an annual limit, the commissioner is exempt from the rulemaking requirements of chapter 14. The commissioner's decision on an annual limit is not appealable.

Sec. 17. Minnesota Statutes 1993 Supplement, section 62J.04, subdivision 1a, is amended to read:

Subd. 1a. [ADJUSTED GROWTH LIMITS AND ENFORCEMENT.] (a) The commissioner shall publish the final adjusted growth limit in the State Register by January ~~15~~ *31* of the year that the expenditure limit is to be in effect. The adjusted limit must reflect the actual regional consumer price index for urban consumers for the previous calendar year, and may deviate from the previously published projected growth limits to reflect differences between the actual regional consumer price index for urban consumers and the projected Consumer Price Index for urban consumers. The commissioner shall report to the legislature by ~~January~~ *February* 15 of each year on *differences between* the projected increase in health care expenditures, ~~the implementation of growth limits, and the reduction in the trend in the growth based on the limits imposed~~ *the actual expenditures based on data collected, and the impact and validity of growth limits within the overall health care reform strategy.*

(b) The commissioner shall enforce limits on growth in spending and revenues for integrated service networks and for the regulated all-payer ~~system~~ *option*. If the commissioner determines that artificial inflation or padding of costs or prices has occurred in anticipation of the implementation of growth limits, the commissioner may adjust the base year spending totals or growth limits or take other action to reverse the effect of the artificial inflation or padding.

(c) The commissioner shall impose and enforce overall limits on growth in revenues and spending for integrated service networks, with adjustments for changes in enrollment, benefits, severity, and risks. If an integrated service network exceeds ~~a spending limit~~ *the growth limits*, the commissioner may reduce future limits on growth in aggregate premium revenues for that integrated service network by up to the amount overspent. If the integrated service network system exceeds a systemwide spending limit, the commis-

sioner may reduce future limits on growth in premium revenues for the integrated service network system by up to the amount overspent.

(d) The commissioner shall set prices, utilization controls, and other requirements for the regulated all-payer ~~system~~ *option* to ensure that the overall costs of this system, after adjusting for changes in population, severity, and risk, do not exceed the growth limits. If ~~spending~~ growth limits for a calendar year are exceeded, the commissioner may reduce reimbursement rates or otherwise recoup ~~overspending~~ *amounts exceeding the limit* for all or part of the next calendar year~~, to recover in savings up to the amount of money overspent~~. To the extent possible, the commissioner may reduce reimbursement rates or otherwise recoup ~~overspending~~ *amounts over the limit* from individual providers who exceed the ~~spending~~ growth limits.

(e) The commissioner, in consultation with the Minnesota health care commission, shall research and make recommendations to the legislature regarding the implementation of growth limits for integrated service networks and the regulated all-payer option. The commissioner must consider both spending and revenue approaches and will report on the implementation of the interim limits as defined in sections 62P.04 and 62P.05. The commissioner must examine and make recommendations on the use of annual update factors based on volume performance standards as a mechanism for achieving controls on spending in the all-payer option. The commissioner must make recommendations regarding the enforcement mechanism and must consider mechanisms to adjust future growth limits as well as mechanisms to establish financial penalties for noncompliance. The commissioner must also address the feasibility of system-wide limits imposed on all integrated service networks.

(f) The commissioner shall report to the legislative commission on health care access by December 1, 1994, on trends in aggregate spending and premium revenue for health plan companies. The commissioner shall use data submitted under section 62P.04 and other available data to complete this report.

Sec. 18. Minnesota Statutes 1992, section 62J.04, is amended by adding a subdivision to read:

Subd. 9. [GROWTH LIMITS; FEDERAL PROGRAMS.] *The commissioners of health and human services shall establish a rate methodology for Medicare and Medicaid risk-based contracting with health plan companies that is consistent with statewide growth limits. The methodology shall be presented for review by the Minnesota health care commission and the legislative commission on health care access prior to the submission of a waiver request to the health care financing administration and subsequent implementation of the methodology.*

Sec. 19. Minnesota Statutes 1992, section 62J.05, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] (a) [NUMBER.] The Minnesota health care commission consists of ~~25~~ *27* members, as specified in this subdivision. A member may designate a representative to act as a member of the commission in the member's absence. The governor and legislature shall coordinate appointments under this subdivision to ensure gender balance and ensure that geographic areas of the state are represented in proportion to their population.

(b) [HEALTH PLAN COMPANIES.] The commission includes four members representing health plan companies, including one member appointed by the Minnesota Council of Health Maintenance Organizations, one member appointed by the Insurance Federation of Minnesota, one member appointed by Blue Cross and Blue Shield of Minnesota, and one member appointed by the governor.

(c) [HEALTH CARE PROVIDERS.] The commission includes six members representing health care providers, including one member appointed by the Minnesota Hospital Association, one member appointed by the Minnesota Medical Association, one member appointed by the Minnesota Nurses' Association, one rural physician appointed by the governor, and two members appointed by the governor to represent providers other than hospitals, physicians, and nurses.

(d) [EMPLOYERS.] The commission includes four members representing employers, including (1) two members appointed by the Minnesota Chamber of Commerce, including one self-insured employer and one small employer; and (2) two members appointed by the governor.

(e) [CONSUMERS.] The commission includes ~~five~~ *seven* consumer members, including three members appointed by the governor, one of whom must represent persons over age 65; *one member appointed by the consortium of citizens with disabilities to represent consumers with physical disabilities or chronic illness; one member appointed by the mental health association of Minnesota, in consultation with the Minnesota chapter of the society of Americans for recovery, to represent consumers with mental illness or chemical dependency;* one appointed under the rules of the senate; and one appointed under the rules of the house of representatives.

(f) [EMPLOYEE UNIONS.] The commission includes three representatives of labor unions, including two appointed by the AFL-CIO Minnesota and one appointed by the governor to represent other unions.

(g) [STATE AGENCIES.] The commission includes the commissioners of commerce, employee relations, and human services.

(h) [CHAIR.] The governor shall designate the chair of the commission from among the governor's appointees.

Sec. 20. [62J.051] [DISTRIBUTION OF HEALTH CARE TECHNOLOGY, FACILITIES, AND FUNCTIONS; PUBLIC FORUMS.]

The commission may promote and facilitate an open, voluntary, nonregulatory, and public process for regional and statewide discussion regarding the appropriate distribution of health care technologies, facilities, and functions. The process must include the participation of consumers, employers and other group purchasers, providers, health plan companies, and the health care technology industry. The commission shall ensure opportunities for broad-based public input from other interested persons and organizations as well. The purpose of the process is to create an open public forum with the goal of facilitating collaboration for the distribution of a particular technology, facility, or function to achieve health reform goals. Participation in the forums is voluntary and agreements or distribution plans that may be recommended through this process are not mandatory or binding on any person or organization. The recommendations may be considered by the commissioner of health for purposes of the antitrust exception process under sections

62J.2911 to 62J.2921, and the process for reviewing major spending commitments under section 62J.17, but are not binding on the commissioner. The commission may develop criteria for selecting specific technologies, facilities, and functions for discussion and may establish procedures and ground rules for discussion and the development of recommended agreements or distribution plans. The commission may appoint advisory committees to facilitate discussion and planning and may request that regional coordinating boards serve as or convene regional public forums.

Sec. 21. Minnesota Statutes 1993 Supplement, section 62J.09, subdivision 1a, is amended to read:

Subd. 1a. [DUTIES RELATED TO COST CONTAINMENT.] (a) [ALLOCATION OF REGIONAL SPENDING LIMITS.] Regional coordinating boards may advise the commissioner regarding allocation of annual regional limits on the rate of growth for providers in the regulated all-payer system in order to:

(1) achieve communitywide and regional public health goals consistent with those established by the commissioner; and

(2) promote access to and equitable reimbursement of preventive and primary care providers.

(b) [TECHNICAL ASSISTANCE.] Regional coordinating boards, in cooperation with the commissioner, shall provide technical assistance to parties interested in establishing or operating ~~an~~ *a community integrated service network or* integrated service network within the region. This assistance must complement assistance provided by the commissioner under section 62N.23.

Sec. 22. Minnesota Statutes 1993 Supplement, section 62J.09, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] (a) [NUMBER OF MEMBERS.] Each regional coordinating board consists of 17 members as provided in this subdivision. A member may designate a representative to act as a member of the board in the member's absence. The governor shall appoint the chair of each regional board from among its members. The appointing authorities under each paragraph for which there is to be chosen more than one member shall consult prior to appointments being made to ensure that, to the extent possible, the board includes a representative from each county within the region.

(b) [PROVIDER REPRESENTATIVES.] Each regional board must include four members representing health care providers who practice in the region. One member is appointed by the Minnesota Medical Association. One member is appointed by the Minnesota Hospital Association. One member is appointed by the Minnesota Nurses' Association. The remaining member is appointed by the governor to represent providers other than physicians, hospitals, and nurses.

(c) [HEALTH PLAN COMPANY REPRESENTATIVES.] Each regional board includes four members representing health plan companies who provide coverage for residents of the region, including one member representing health insurers who is elected by a vote of all health insurers providing coverage in the region, one member elected by a vote of all health maintenance organizations providing coverage in the region, and one member appointed by Blue Cross and Blue Shield of Minnesota. The fourth member is appointed by the governor.

(d) [EMPLOYER REPRESENTATIVES.] Regional boards include three members representing employers in the region. Employer representatives are ~~elected by a vote of the employers who are~~ *appointed by the Minnesota chamber of commerce from nominations provided by* members of chambers of commerce in the region. At least one member must represent self-insured employers.

(e) [EMPLOYEE UNIONS.] Regional boards include one member appointed by the AFL-CIO Minnesota who is a union member residing or working in the region or who is a representative of a union that is active in the region.

(f) [PUBLIC MEMBERS.] Regional boards include three consumer members. One consumer member is elected by the community health boards in the region, with each community health board having one vote. One consumer member is elected by the state legislators with districts in the region. One consumer member is appointed by the governor.

(g) [COUNTY COMMISSIONER.] Regional boards include one member who is a county board member. The county board member is elected by a vote of all of the county board members in the region, with each county board having one vote.

(h) [STATE AGENCY.] Regional boards include one state agency commissioner appointed by the governor to represent state health coverage programs.

Sec. 23. Minnesota Statutes 1993 Supplement, section 62J.23, subdivision 4, is amended to read:

Subd. 4. [~~INTEGRATED~~ ~~SERVICE~~ *CHAPTER 62N* NETWORKS.] (a) The legislature finds that the formation and operation of integrated service networks *and community integrated service networks* will accomplish the purpose of the federal Medicare antikickback statute, which is to reduce the overutilization and overcharging that may result from inappropriate provider incentives. Accordingly, it is the public policy of the state of Minnesota to support the development of integrated service networks *and community integrated service networks*. The legislature finds that the federal Medicare antikickback laws should not be interpreted to interfere with the development of integrated service networks *or community integrated service networks* or to impose liability for arrangements between an integrated service network *or a community integrated service network* and its participating entities.

(b) An arrangement between an integrated service network *or a community integrated service network* and any or all of its participating entities is not subject to liability under subdivisions 1 and 2.

Sec. 24. Minnesota Statutes 1993 Supplement, section 62J.2916, subdivision 2, is amended to read:

Subd. 2. [PROCEDURES AVAILABLE.] (a) [DECISION ON THE WRITTEN RECORD.] The commissioner may issue a decision based on the application, the comments, and the applicant's responses to the comments, to the extent each is relevant. In making the decision, the commissioner may consult with staff of the department of health and may rely on department of health data.

(b) [LIMITED HEARING.] (1) The commissioner may order a limited hearing. A copy of the order must be mailed to the applicant and to all persons

who have submitted comments or requested to be kept informed of the proceedings involving the application. The order must state the date, time, and location of the limited hearing and must identify specific issues to be addressed at the limited hearing. The issues may include the feasibility and desirability of one or more alternatives to the proposed arrangement. The order must require the applicant to submit written evidence, in the form of affidavits and supporting documents, addressing the issues identified, within 20 days after the date of the order. The order shall also state that any person may arrange to receive a copy of the written evidence from the commissioner, at the person's expense, and may provide written comments on the evidence within 40 days after the date of the order. A person providing written comments shall provide a copy of the comments to the applicant.

(2) The limited hearing must be held before the commissioner or department of health staff member *or members* designated by the commissioner. The commissioner or the commissioner's designee *or designees* shall question the applicant about the evidence submitted by the applicant. The questions may address relevant issues identified in the comments submitted in response to the written evidence or identified by department of health staff or brought to light by department of health data. At the conclusion of the applicant's responses to the questions, any person who submitted comments about the applicant's written evidence may make a statement addressing the applicant's responses to the questions. The commissioner or the commissioner's designee *or designees* may ask questions of any person making a statement. At the conclusion of all statements, the applicant may make a closing statement.

(3) The commissioner's decision after a limited hearing must be based upon the application, the comments, the applicant's response to the comments, the applicant's written evidence, the comments in response to the written evidence, and the information presented at the limited hearing, to the extent each is relevant. In making the decision, the commissioner may consult with staff of the department of health and may rely on department of health data.

(c) [CONTESTED CASE HEARING.] The commissioner may order a contested case hearing. A contested case hearing shall be tried before an administrative law judge who shall issue a written recommendation to the commissioner and shall follow the procedures in sections 14.57 to 14.62. All factual issues relevant to a decision must be presented in the contested case. The attorney general may appear as a party. Additional parties may appear to the extent permitted under sections 14.57 to 14.62. The record in the contested case includes the application, the comments, the applicant's response to the comments, and any other evidence that is part of the record under sections 14.57 to 14.62.

Sec. 25. Minnesota Statutes 1993 Supplement, section 62J.32, subdivision 4, is amended to read:

Subd. 4. [PRACTICE PARAMETER ADVISORY COMMITTEE.] (a) The commissioner shall convene a ~~15-member~~ *17-member* practice parameter advisory committee comprised of eight health care professionals, and representatives of the research community and the medical technology industry. *One representative of the research community must be an individual with expertise in pharmacology or pharmaceutical economics who is familiar with the results of the pharmaceutical care research project at the University of Minnesota and the potential cost savings that can be achieved through use of a comprehensive pharmaceutical care model.* The committee shall present

recommendations on the adoption of practice parameters to the commissioner and the Minnesota health care commission and provide technical assistance as needed to the commissioner and the commission. The advisory committee is governed by section 15.059, except that its existence does not terminate and members do not receive per diem compensation.

(b) The commissioner, upon the advice and recommendation of the practice parameter advisory committee, may convene expert review panels to assess practice parameters and outcome research associated with practice parameters.

Sec. 26. Minnesota Statutes 1993 Supplement, section 62J.35, subdivision 2, is amended to read:

Subd. 2. [FAILURE TO PROVIDE DATA.] The intentional failure to provide the data requested under this chapter is grounds for revocation of a license or other disciplinary or regulatory action against a regulated provider *or group purchaser*. The commissioner may assess a fine against a provider *or group purchaser* who refuses to provide data required by the commissioner. If a provider *or group purchaser* refuses to provide the data required, the commissioner may obtain a court order requiring the provider *or group purchaser* to produce documents and allowing the commissioner to inspect the records of the provider *or group purchaser* for purposes of obtaining the data required.

Sec. 27. Minnesota Statutes 1993 Supplement, section 62J.35, subdivision 3, is amended to read:

Subd. 3. [DATA PRIVACY.] All data received under this section or under section *62J.04,* 62J.37, 62J.38, 62J.41, or 62J.42 is private or nonpublic, ~~as applicable~~ except to the extent that it is given a different classification elsewhere in this chapter. The commissioner shall establish procedures and safeguards to ensure that data released by the commissioner is in a form that does not identify specific patients, providers, employers, purchasers, or other specific individuals and organizations, except with the permission of the affected individual or organization, or as permitted elsewhere in this chapter.

Sec. 28. Minnesota Statutes 1993 Supplement, section 62J.38, is amended to read:

62J.38 [DATA FROM GROUP PURCHASERS.]

(a) The commissioner shall require group purchasers to submit detailed data on total health care spending for calendar years 1990, 1991, and 1992, and for calendar year 1993 and successive calendar years. Group purchasers shall submit data for the 1993 calendar year by ~~February 15~~ *April 1*, 1994, and each April 1 thereafter shall submit data for the preceding calendar year.

(b) The commissioner shall require each group purchaser to submit data on revenue, expenses, and member months, as applicable. Revenue data must distinguish between premium revenue and revenue from other sources and must also include information on the amount of revenue in reserves and changes in reserves. Expenditure data, including raw data from claims, must be provided separately for the following categories: physician services, dental services, other professional services, inpatient hospital services, outpatient hospital services, emergency and out-of-area care, pharmacy services and prescription drugs, mental health services, chemical dependency services, other expenditures, *subscriber liability,* and administrative costs.

(c) State agencies and all other group purchasers shall provide the required data using a uniform format and uniform definitions, as prescribed by the commissioner.

Sec. 29. Minnesota Statutes 1993 Supplement, section 62J.41, subdivision 2, is amended to read:

Subd. 2. [ANNUAL MONITORING AND ESTIMATES.] The commissioner shall require health care providers to submit the required data for the period July 1, 1993 to December 31, 1993, by ~~February 15~~ *April 1*, 1994. Health care providers shall submit data for the 1994 calendar year by ~~February 15~~ *April 1*, 1995, and each ~~February 15~~ *April 1* thereafter shall submit data for the preceding calendar year. The commissioner of revenue may collect health care service revenue data from health care providers, if the commissioner of revenue and the commissioner agree that this is the most efficient method of collecting the data. The commissioner of revenue shall provide any data collected to the commissioner of health.

Sec. 30. Minnesota Statutes 1993 Supplement, section 62J.45, subdivision 11, is amended to read:

Subd. 11. [USE OF DATA.] (a) The board of the data institute, with the advice of the data collection advisory committee and the practice parameter advisory committee through the commissioner, is responsible for establishing the methodology for the collection of the data and is responsible for providing direction on what data would be useful to the plans, providers, consumers, and purchasers.

(b) The health care analysis unit is responsible for the analysis of the data and the development and dissemination of reports.

(c) The commissioner, in consultation with the board, shall determine when and under what conditions data disclosure to group purchasers, health care providers, consumers, researchers, and other appropriate parties may occur to meet the state's goals. The commissioner may require users of data to contribute toward the cost of data collection through the payment of fees. The commissioner shall require users of data to maintain the data according to the data privacy provisions applicable to the data.

(d) The commissioner and the board shall not allow a group purchaser or health care provider to use or have access to data collected by the data institute, unless the group purchaser or health care provider cooperates with the data collection efforts of the data institute by submitting all data requested in the form and manner specified by the board. The commissioner and the board shall prohibit group purchasers and health care providers from transferring, providing, or sharing data obtained from the data institute with a group purchaser or health care provider that does not cooperate with the data collection efforts of the data institute.

Sec. 31. [62J.47] [MORATORIUM ON MERGERS OR ACQUISITIONS BY HEALTH CARRIERS.]

Subdivision 1. [DEFINITIONS.] *For purposes of this section, "health carrier" has the meaning given in section 62A.011, subdivision 2.*

Subd. 2. [RESTRICTIONS.] *Until July 1, 1996, the following health carriers are prohibited from merging with, or acquiring, directly or indirectly, any other health carrier:*

(1) a health carrier whose number of enrollees residing in the state in the previous calendar year exceeds five percent of the total number of insured persons in that year residing in the state of Minnesota; and

(2) a health carrier whose number of enrollees residing in the seven-county metropolitan area in the previous calendar year exceeds ten percent of the total number of insured persons in that year residing in the seven-county metropolitan area.

Subd. 3. [ENFORCEMENT.] *The district court in Ramsey county has jurisdiction to enjoin an alleged violation of subdivision 2. The attorney general may bring an action to enjoin an alleged violation. The commissioner of health or commerce shall not issue or renew a license or certificate of authority to any health carrier in violation of subdivision 2.*

Subd. 4. [EXCEPTIONS.] *This section does not apply to:*

(1) any merger or direct or indirect acquisition approved by the commissioner that is intended to assure continuous coverage for enrollees and avoid liquidation or insolvency under chapter 60B;

(2) any merger or direct or indirect acquisition that develops pursuant to a letter of intent, memorandum of understanding, or other agreement signed before March 17, 1994;

(3) any merger or direct or indirect acquisition that develops pursuant to an affiliation for which a letter of intent, memorandum of understanding, or other agreement was signed before March 17, 1994; or

(4) any merger or direct or indirect acquisition of health carriers that are related organizations, as defined in section 317A.011, subdivision 18, as of March 17, 1994.

Sec. 32. [62J.65] [EXEMPTION.]

Patient revenues derived from non-Minnesota patients are exempt from the regulated all-payer system and Medicare balance billing prohibition under section 62J.25.

Sec. 33. Minnesota Statutes 1993 Supplement, section 62N.01, is amended to read:

62N.01 [CITATION AND PURPOSE.]

Subdivision 1. [CITATION.] ~~Sections 62N.01 to 62N.24~~ *This chapter* may be cited as the "Minnesota integrated service network act."

Subd. 2. [PURPOSE.] ~~Sections 62N.01 to 62N.24 allow~~ *This chapter allows* the creation of integrated service networks that will be responsible for arranging for or delivering a full array of health care services, from routine primary and preventive care through acute inpatient hospital care, to a defined population for a fixed price from a purchaser.

Each integrated service network is accountable to keep its total revenues within the limit of growth set by the commissioner of health under section 62N.05, subdivision 2. Integrated service networks can be formed by health care providers, health maintenance organizations, insurance companies, employers, or other organizations. Competition between integrated service networks on the quality and price of health care services is encouraged.

Sec. 34. Minnesota Statutes 1993 Supplement, section 62N.02, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] The definitions in this section apply to ~~sections 62J.04, subdivision 8, and 62N.01 to 62N.24~~ *this chapter*.

Sec. 35. Minnesota Statutes 1993 Supplement, section 62N.065, subdivision 1, is amended to read:

Subdivision 1. [UNREASONABLE EXPENSES.] No integrated service network shall incur or pay for any expense of any nature which is unreasonably high in relation to the value of the service or goods provided. The commissioner shall implement and enforce this section by rules adopted under this section.

In an effort to achieve the stated purposes of ~~sections 62N.01 to 62N.24~~ *this chapter*; in order to safeguard the underlying nonprofit status of integrated service networks; and to ensure that payment of integrated service network money to any person or organization results in a corresponding benefit to the integrated service network and its enrollees; when determining whether an integrated service network has incurred an unreasonable expense in relation to payments made to a person or organization, due consideration shall be given to, in addition to any other appropriate factors, whether the officers and trustees of the integrated service network have acted with good faith and in the best interests of the integrated service network in entering into, and performing under, a contract under which the integrated service network has incurred an expense. In addition to the compliance powers under subdivision 3, the commissioner has standing to sue, on behalf of an integrated service network, officers or trustees of the integrated service network who have breached their fiduciary duty in entering into and performing such contracts.

Sec. 36. Minnesota Statutes 1993 Supplement, section 62N.10, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS.] All integrated service networks must be licensed by the commissioner. Licensure requirements are:

(1) the ability to be responsible for the full continuum of required health care and related costs for the defined population that the integrated service network will serve;

(2) the ability to satisfy standards for quality of care;

(3) financial solvency; ~~and~~

(4) *the ability to develop and complete the action plans required by law; and*

(5) the ability to fully comply with this chapter and all other applicable law.

The commissioner may adopt rules to specify licensure requirements for integrated service networks in greater detail, consistent with this subdivision.

Sec. 37. Minnesota Statutes 1993 Supplement, section 62N.10, subdivision 2, is amended to read:

Subd. 2. [FEES.] Licensees shall pay an initial fee and a renewal fee each following year to be established by the commissioner of health. *The fee must be imposed at a rate sufficient to cover the cost of regulation.*

Sec. 38. Minnesota Statutes 1993 Supplement, section 62N.22, is amended to read:

62N.22 [DISCLOSURE OF COMMISSIONS.]

Before selling~~, or offering to sell,~~ any coverage or enrollment in *a community integrated service network or* an integrated service network, a person selling the coverage or enrollment shall disclose *in writing* to the prospective purchaser the amount of any commission or other compensation the person will receive as a direct result of the sale. The disclosure may be expressed in dollars or as a percentage of the premium. The amount disclosed need not include any anticipated renewal commissions.

Sec. 39. Minnesota Statutes 1992, section 144.1485, is amended to read:

144.1485 [DATA BASE ON HEALTH PERSONNEL.]

(a) The commissioner of health shall develop and maintain a data base on health services personnel. The commissioner shall use this information to assist local communities and units of state government to develop plans for the recruitment and retention of health personnel. Information collected in the data base must include, but is not limited to, data on levels of educational preparation, specialty, and place of employment. The commissioner may collect information through the registration and licensure systems of the state health licensing boards.

(b) Health professionals who report their practice or place of employment address to the commissioner of health under section 144.052 may request in writing that their practice or place of employment address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the health professional that the classification is required for the safety of the health professional, if the statement also provides a valid, existing address where the health professional consents to receive service of process. The commissioner shall use the mailing address in place of the practice or place of employment address in all documents available to the general public. The practice or place of employment address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to other state agencies. The practice or place of employment address may be used to develop summary reports that show in aggregate the distribution of health care providers in Minnesota.

Sec. 40. Minnesota Statutes 1993 Supplement, section 144.1486, is amended to read:

144.1486 [RURAL COMMUNITY HEALTH CENTERS.]

~~The commissioner of health shall develop and implement a program to establish community health centers in rural areas of Minnesota that are underserved by health care providers. The program shall provide rural communities and community organizations with technical assistance, capital grants for start-up costs, and short-term assistance with operating costs. The technical assistance component of the program must provide assistance in review of practice management, market analysis, practice feasibility analysis, medical records system analysis, and scheduling and patient flow analysis. The program must: (1) include a local match requirement for state dollars received; (2) require local communities, through instrumentalities of the state of Minnesota or nonprofit boards comprised of local residents, to operate and~~

~~own their community's health care program; (3) encourage the use of midlevel practitioners; and (4) incorporate a quality assurance strategy that provides regular evaluation of clinical performance and allows peer review comparisons for rural practices. The commissioner shall report to the legislature on implementation of the program by February 15, 1994.~~

Subdivision 1. [COMMUNITY HEALTH CENTER.] *"Community health center" means a community owned and operated primary and preventive health care practice that meets the unique, essential health care needs of a specified population.*

Subd. 2. [PROGRAM GOALS.] *The Minnesota community health center program shall increase health care access for residents of rural Minnesota by creating new community health centers in areas where they are needed and maintaining essential rural health care services. The program is not intended to duplicate the work of current health care providers.*

Subd. 3. [GRANTS.] *(a) The commissioner shall provide grants to communities for planning and establishing community health centers through the Minnesota community health center program. Grant recipients shall develop and implement a strategy that allows them to become self-sufficient and qualify for other supplemental funding and enhanced reimbursement. The commissioner shall coordinate the grant program with the federal rural health clinic, federally qualified health center, and migrant and community health center programs to encourage federal certification. The commissioner may award planning, project, and initial operating expense grants, as provided in paragraphs (b) to (d).*

(b) Planning grants may be awarded to communities to plan and develop state funded community health centers, federally qualified health centers, or migrant and community health centers.

(c) Project grants may be awarded to communities for community health center start-up or expansion, and the conversion of existing practices to community health centers. Start-up grants may be used for facilities, capital equipment, moving expenses, initial staffing, and setup. Communities must provide reasonable assurance of their ability to obtain health care providers and effectively utilize existing health care provider resources. Funded community health center projects must become operational before funding expires. Communities may obtain funding for conversion of existing health care practices to community health centers. Communities with existing community health centers may apply for grants to add sites in underserved areas. Governing boards must include representatives of new service areas.

(d) Centers may apply for grants for up to two years to subsidize initial operating expenses. Applicants for initial operating expense grants must demonstrate that expenses exceed revenues by a minimum of ten percent or demonstrate other extreme need that cannot be met using organizational reserves.

Subd. 4. [ELIGIBILITY REQUIREMENTS.] *In order to qualify for community health center program funding, a project must:*

(1) be located in a rural shortage area that is a medically underserved, federal health professional shortage, or governor designated shortage area. "Rural" means an area of the state outside the ten-county Twin Cities

metropolitan area and outside of the Duluth, St. Cloud, East Grand Forks, Moorhead, Rochester, and LaCrosse census defined urbanized areas;

(2) represent or propose the formation of a nonprofit corporation with local resident governance, or be a governmental entity. Applicants in the process of forming a nonprofit corporation may have a nonprofit coapplicant serve as financial agent through the remainder of the formation period. With the exception of governmental entities, all applicants must submit application for nonprofit incorporation and 501(c)(3) tax-exempt status within six months of accepting community health center grant funds;

(3) result in a locally owned and operated community health center that provides primary and preventive health care services, and incorporates quality assurance, regular reviews of clinical performance, and peer review;

(4) seek to employ midlevel professionals, where appropriate;

(5) demonstrate community and popular support and provide a 20 percent local match of state funding; and

(6) propose to serve an area that is not currently served by a federally certified medical organization.

Subd. 5. [REVIEW PROCESS, RATING CRITERIA AND POINT ALLOCATION.] *(a) The commissioner shall establish grant application guidelines and procedures that allow the commissioner to assess relative need and the applicant's ability to plan and manage a health care project. Program documentation must communicate program objectives, philosophy, expectations, and other conditions of funding to potential applicants.*

The commissioner shall establish an impartial review process to objectively evaluate grant applications. Proposals must be categorized, ranked, and funded using a 100-point rating scale. Fifty-two points shall be assigned to relative need and 48 points to project merit.

(b) The scoring of relative need must be based on proposed service area factors, including but not limited to:

(1) population below 200 percent of poverty;

(2) geographic barriers based on average travel time and distance to the next nearest source of primary care that is accessible to Medicaid and Medicare recipients and uninsured low-income individuals;

(3) a shortage of primary care health professionals, based on the ratio of the population in the service area to the number of full-time equivalent primary care physicians in the service area; and

(4) other community health issues including a high unemployment rate, high percentage of uninsured population, high growth rate of minority and special populations, high teenage pregnancy rate, high morbidity rates due to specific diseases, late entry into prenatal care, high percentage geriatric population, high infant mortality rate, high percentage of low birth weight, cultural and language barriers, high percentage minority population, excessive average travel time and distance to next nearest source of subsidized primary care.

(c) Project merit shall be determined based on expected benefit from the

project, organizational capability to develop and manage the project, and probability of success, including but not limited to the following factors:

(1) proposed scope of health services;

(2) clinical management plan;

(3) governance;

(4) financial and administrative management; and

(5) community support, integration, collaboration, resources, and innovation.

The commissioner may elect not to award any of the community health center grants if applications fail to meet criteria or lack merit. The commissioner's decision on an application is final.

Subd. 6. [ELIGIBLE EXPENDITURES.] *Grant recipients may use grant funds for the following types of expenditures:*

(1) salaries and benefits for employees, to the extent they are involved in project planning and implementation;

(2) purchase, repair, and maintenance of necessary medical and dental equipment and furnishings;

(3) purchase of office, medical, and dental supplies;

(4) in-state travel to obtain training or improve coordination;

(5) initial operating expenses of community health centers;

(6) programs or plans to improve the coordination, effectiveness, or efficiency of the primary health care delivery system;

(7) facilities;

(8) necessary consultant fees; and

(9) reimbursement to rural-based primary care practitioners for equipment, supplies, and furnishings that are transferred to community health centers. Up to 65 percent of the grant funds may be used to reimburse owners of rural practices for the reasonable market value of usable facilities, equipment, furnishings, supplies, and other resources that the community health center chooses to purchase.

Grant funds shall not be used to reimburse applicants for preexisting debt amortization, entertainment, and lobbying expenses.

Subd. 7. [SPECIAL CONSIDERATION.] *The commissioner, through the office of rural health, shall make special efforts to identify areas of the state where need is the greatest, notify representatives of those areas about grant opportunities, and encourage them to submit applications.*

Subd. 8. [REQUIREMENTS.] *The commissioner shall develop a list of requirements for community health centers and a tracking and reporting system to assess benefits realized from the program to ensure that projects are on schedule and effectively utilizing state funds.*

The commissioner shall require community health centers established through the grant program to:

(1) abide by all federal and state laws, rules, regulations, and executive orders;

(2) establish policies, procedures, and services equivalent to those required for federally certified rural health clinics or federally qualified health centers. Written policies are required for description of services, medical management, drugs, biologicals and review of policies;

(3) become a Minnesota nonprofit corporation and apply for 501(c)(3) tax-exempt status within six months of accepting state funding. Local governmental or tribal entities are exempt from this requirement;

(4) establish a governing board composed of nine to 25 members who are residents of the area served and representative of the social, economic, linguistic, ethnic, and racial target population. At least 35 percent of the board must represent consumers;

(5) establish corporate bylaws that reflect all functions and responsibilities of the board;

(6) develop an appropriate management and organizational structure with clear lines of authority and responsibility to the board;

(7) provide for adequate patient management and continuity of care on site and from referral sources;

(8) establish quality assurance and risk management programs, policies, and procedures;

(9) develop a strategic staffing plan to acquire an appropriate mix of primary care providers and clinical support staff;

(10) establish billing policies and procedures to maximize patient collections, except where federal regulations or contractual obligations prohibit the use of these measures;

(11) develop and implement policies and procedures, including a sliding scale fee schedule, that assure that no person will be denied services because of inability to pay;

(12) establish an accounting and internal control system in accordance with sound financial management principles;

(13) provide a local match equal to 20 percent of the grant amount;

(14) work cooperatively with the local community and other health care organizations, other grant recipients, and the office of rural health;

(15) obtain an independent annual audit and submit audit results to the office of rural health;

(16) maintain detailed records and, upon request, make these records available to the commissioner for examination; and

(17) pursue supplemental funding sources, when practical, for implementation and initial operating expenses.

Subd. 9. [PRECAUTIONS.] *The commissioner may withhold, delay, or cancel grant funding if a grant recipient does not comply with program requirements and objectives.*

Subd. 10. [TECHNICAL ASSISTANCE.] *The commissioner may provide, contract for, or provide supplemental funding for technical assistance to community health centers in the areas of clinical operations, medical practice management, community development, and program management.*

Sec. 41. [144.1492] [STATE RURAL HEALTH NETWORK REFORM INITIATIVE.]

Subdivision 1. [PURPOSE AND MATCHING FUNDS.] *The commissioner of health shall apply for federal grant funding under the state rural health network reform initiative, a health care financing administration program to provide grant funds to states to encourage innovations in rural health financing and delivery systems. The commissioner may use state funds appropriated to the department of health for the provision of technical assistance for community integrated service network development as matching funds for the federal grant.*

Subd. 2. [USE OF FEDERAL FUNDS.] *If the department of health receives federal funding under the state rural health network reform initiative, the department shall use these funds to implement a program to provide technical assistance and grants to rural communities to establish health care networks and to develop and test a rural health network reform model.*

Subd. 3. [ELIGIBLE APPLICANTS AND CRITERIA FOR AWARDING OF GRANTS TO RURAL COMMUNITIES.] *(a) Funding which the department receives to award grants to rural communities to establish health care networks shall be awarded through a request for proposals process. Planning grant funds may be used for community facilitation and initial network development activities including incorporation as a nonprofit organization or cooperative, assessment of network models, and determination of the best fit for the community. Implementation grant funds can be used to enable incorporated nonprofit organizations and cooperatives to purchase technical services needed for further network development such as legal, actuarial, financial, marketing, and administrative services.*

(b) In order to be eligible to apply for a planning or implementation grant under the federally funded health care network reform program, an organization must be located in a rural area of Minnesota excluding the seven-county Twin Cities metropolitan area and the census-defined urbanized areas of Duluth, Rochester, St. Cloud, and Moorhead. The proposed network organization must also meet or plan to meet the criteria for a community integrated service network.

(c) In determining which organizations will receive grants, the commissioner may consider the following factors:

(1) the applicant's description of their plans for health care network development, their need for technical assistance, and other technical assistance resources available to the applicant. The applicant must clearly describe the service area to be served by the network, how the grant funds will be used, what will be accomplished, and the expected results. The applicant should describe achievable objectives, a timetable, and roles and capabilities of responsible individuals and organizations;

(2) the extent of community support for the applicant and the health care network. The applicant should demonstrate support from private and public health care providers in the service area, local community and government

leaders, and the regional coordinating board for the area. Evidence of such support may include a commitment of financial support, in-kind services, or cash, for development of the network;

(3) the size and demographic characteristics of the population in the service area for the proposed network and the distance of the service area from the nearest metropolitan area; and

(4) the technical assistance resources available to the applicant from nonstate sources and the financial ability of the applicant to purchase technical assistance services with nonstate funds.

Sec. 42. Minnesota Statutes 1993 Supplement, section 144.335, subdivision 3a, is amended to read:

Subd. 3a. [PATIENT CONSENT TO RELEASE OF RECORDS; LIABILITY.] (a) A provider, or a person who receives health records from a provider, may not release a patient's health records to a person without a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release, unless the release is specifically authorized by law. Except as provided in paragraph (c), a consent is valid for one year or for a lesser period specified in the consent or for a different period provided by law.

(b) This subdivision does not prohibit the release of health records for a medical emergency when the provider is unable to obtain the patient's consent due to the patient's condition or the nature of the medical emergency.

(c) Notwithstanding paragraph (a), if a patient explicitly gives informed consent to the release of health records for the purposes and pursuant to the restrictions in clauses (1) and (2), the consent does not expire after one year for:

(1) the release of health records to a provider who is being advised or consulted with in connection with the current treatment of the patient;

(2) the release of health records to an accident and health insurer, health service plan corporation, health maintenance organization, or third-party administrator for purposes of payment of claims, fraud investigation, or quality of care review and studies, provided that:

(i) the use or release of the records complies with sections 72A.49 to 72A.505;

(ii) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited; and

(iii) the recipient establishes adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient.

(d) Until June 1, ~~1994~~ *1996*, paragraph (a) does not prohibit the release of health records to qualified personnel solely for purposes of medical or scientific research, if the patient has not objected to a release for research purposes and the provider who releases the records makes a reasonable effort to determine that:

(i) the use or disclosure does not violate any limitations under which the record was collected;

(ii) the use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which the use or disclosure is to be made;

(iii) the recipient has established and maintains adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient; and

(iv) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited.

(e) A person who negligently or intentionally releases a health record in violation of this subdivision, or who forges a signature on a consent form, or who obtains under false pretenses the consent form or health records of another person, or who, without the person's consent, alters a consent form, is liable to the patient for compensatory damages caused by an unauthorized release, plus costs and reasonable attorney's fees.

(f) Upon the written request of a spouse, parent, child, or sibling of a patient being evaluated for or diagnosed with mental illness, a provider shall inquire of a patient whether the patient wishes to authorize a specific individual to receive information regarding the patient's current and proposed course of treatment. If the patient so authorizes, the provider shall communicate to the designated individual the patient's current and proposed course of treatment. Paragraph (a) applies to consents given under this paragraph.

Sec. 43. Minnesota Statutes 1992, section 144.335, is amended by adding a subdivision to read:

Subd. 5a. [NOTICE OF RIGHTS; INFORMATION ON RELEASE.] *A provider shall provide to patients, in a clear and conspicuous manner, a written notice concerning practices and rights with respect to access to health records. The notice must include an explanation of:*

(1) disclosures of health records that may be made without the written consent of the patient, including the type of records and to whom the records may be disclosed; and

(2) the right of the patient to have access to and obtain copies of the patient's health records and other information about the patient that is maintained by the provider.

The notice requirements of this paragraph are satisfied if the notice is included with the notice and copy of the patient and resident bill of rights under section 144.652 or if it is displayed prominently in the provider's place of business. The commissioner of health shall develop the notice required in this subdivision and publish it in the State Register.

Sec. 44. Minnesota Statutes 1992, section 144.581, subdivision 2, is amended to read:

Subd. 2. [USE OF HOSPITAL FUNDS FOR CORPORATE PROJECTS.] In the event that the municipality, political subdivision, state agency, or other governmental entity provides direct financial subsidy to the hospital from tax revenue at the time an undertaking authorized under subdivision 1, *clauses (a) to (g),* is established or funded, the hospital may not contribute funds to the undertaking for more than three years and thereafter all funds must be repaid, with interest in no more than ten years.

Sec. 45. Minnesota Statutes 1993 Supplement, section 144.802, subdivision 3b, is amended to read:

Subd. 3b. [SUMMARY APPROVAL OF PRIMARY SERVICE AREAS.] Except for submission of a written application to the commissioner on a form provided by the commissioner, an application to provide changes in a primary service area shall be exempt from subdivisions 3, paragraphs (d) to (g); and 4, if:

(1) the application is for a change of primary service area to improve coverage, to improve coordination with 911 emergency dispatching, or to improve efficiency of operations;

(2) the application requests redefinition of contiguous or overlapping primary service areas;

(3) the application shows approval from ~~all~~ *the* ambulance licensees whose primary service ~~area is either contiguous, overlapping, or both, with those of the current and proposed primary service area of the applicant~~ *areas are directly affected by a change in the applicant's primary service area*;

(4) the application shows that the applicant requested review and comment on the application, and has included those comments received from: all county boards in the areas of coverage included in the application; all community health boards in the areas of coverage included in the application; all directors of 911 public safety answering point areas in the areas of coverage included in the application; and all regional emergency medical systems areas designated under section 144.8093 in the areas of coverage included in the application; and

(5) the application shows consideration of the factors listed in subdivision 3, paragraph (g).

Sec. 46. Minnesota Statutes 1993 Supplement, section 144A.071, subdivision 4a, as amended by 1994 H.F. No. 3210, article 3, section 4, if enacted, is amended to read:

Subd. 4a. [EXCEPTIONS FOR REPLACEMENT BEDS.] It is in the best interest of the state to ensure that nursing homes and boarding care homes continue to meet the physical plant licensing and certification requirements by permitting certain construction projects. Facilities should be maintained in condition to satisfy the physical and emotional needs of residents while allowing the state to maintain control over nursing home expenditure growth.

The commissioner of health in coordination with the commissioner of human services, may approve the renovation, replacement, upgrading, or relocation of a nursing home or boarding care home, under the following conditions:

(a) to license or certify beds in a new facility constructed to replace a facility or to make repairs in an existing facility that was destroyed or damaged after June 30, 1987, by fire, lightning, or other hazard provided:

(i) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(ii) at the time the facility was destroyed or damaged the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(iii) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility or repairs;

(iv) the new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 144A.073, subdivision 5;

(v) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility; and

(vi) the commissioner determines that the replacement beds are needed to prevent an inadequate supply of beds.

Project construction costs incurred for repairs authorized under this clause shall not be considered in the dollar threshold amount defined in subdivision 2;

(b) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed 25 percent of the appraised value of the facility or $500,000, whichever is less;

(c) to license or certify beds in a project recommended for approval under section 144A.073;

(d) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds;

(e) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure, or in a facility that was granted an exception to the moratorium under section 144A.073, and if the cost of any remodeling of the facility does not exceed 25 percent of the appraised value of the facility or $500,000, whichever is less. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase beyond the number remaining at the time of the upgrade in licensure. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

(f) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of St. Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this paragraph;

(g) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed

boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or $200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements;

(h) to license as a nursing home and certify as a nursing facility a facility that is licensed as a boarding care facility but not certified under the medical assistance program, but only if the commissioner of human services certifies to the commissioner of health that licensing the facility as a nursing home and certifying the facility as a nursing facility will result in a net annual savings to the state general fund of $200,000 or more;

(i) to certify, after September 30, 1992, and prior to July 1, 1993, existing nursing home beds in a facility that was licensed and in operation prior to January 1, 1992;

(j) to license and certify new nursing home beds to replace beds in a facility condemned as part of an economic redevelopment plan in a city of the first class, provided the new facility is located within one mile of the site of the old facility. Operating and property costs for the new facility must be determined and allowed under existing reimbursement rules;

(k) to license and certify up to 20 new nursing home beds in a community-operated hospital and attached convalescent and nursing care facility with 40 beds on April 21, 1991, that suspended operation of the hospital in April 1986. The commissioner of human services shall provide the facility with the same per diem property-related payment rate for each additional licensed and certified bed as it will receive for its existing 40 beds;

(l) to license or certify beds in renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1, so long as the cumulative total costs of the facility's remodeling projects do not exceed 25 percent of the appraised value of the facility or $500,000, whichever is less;

(m) to license and certify beds that are moved from one location to another for the purposes of converting up to five four-bed wards to single or double occupancy rooms in a nursing home that, as of January 1, 1993, was county-owned and had a licensed capacity of 115 beds;

(n) to allow a facility that on April 16, 1993, was a 106-bed licensed and certified nursing facility located in Minneapolis to layaway all of its licensed and certified nursing home beds. These beds may be relicensed and recertified in a newly-constructed teaching nursing home facility affiliated with a teaching hospital upon approval by the legislature. The proposal must be developed in consultation with the interagency committee on long-term care planning. The beds on layaway status shall have the same status as voluntarily delicensed and decertified beds, except that beds on layaway status remain subject to the surcharge in section 256.9657. This layaway provision expires July 1, 1995;

(o) to allow a project which will be completed in conjunction with an approved moratorium exception project for a nursing home in southern Cass county and which is directly related to that portion of the facility that must be repaired, renovated, or replaced, to correct an emergency plumbing problem for which a state correction order has been issued and which must be corrected by August 31, 1993; ~~or~~

(p) to allow a facility that on April 16, 1993, was a 368-bed licensed and certified nursing facility located in Minneapolis to layaway, upon 30 days prior written notice to the commissioner, up to 30 of the facility's licensed and certified beds by converting three-bed wards to single or double occupancy. Beds on layaway status shall have the same status as voluntarily delicensed and decertified beds except that beds on layaway status remain subject to the surcharge in section 256.9657, remain subject to the license application and renewal fees under section 144A.07 and shall be subject to a $100 per bed reactivation fee. In addition, at any time within three years of the effective date of the layaway, the beds on layaway status may be:

(1) relicensed and recertified upon relocation and reactivation of some or all of the beds to an existing licensed and certified facility or facilities located in Pine River, Brainerd, or International Falls; provided that the total project construction costs related to the relocation of beds from layaway status for any facility receiving relocated beds may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073~~.~~*;*

(2) relicensed and recertified, upon reactivation of some or all of the beds within the facility which placed the beds in layaway status, if the commissioner has determined a need for the reactivation of the beds on layaway status.

The property-related payment rate of a facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (d). The property-related payment rate for a facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than three years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

(q) to license and certify up to 24 nursing home beds in a facility located in St. Louis county which, as of January 1, 1993, has a licensed capacity of 26 hospital beds and 24 nursing home beds under the following conditions:

(1) no more than 12 nursing home beds can be licensed and certified during fiscal year 1995; and

(2) the additional 12 nursing home beds can be licensed and certified during fiscal year 1996 only if the 1994 occupancy rate for nursing homes within a 25-mile radius of the facility exceeds 96 percent.

This facility shall not be required to comply with the new construction standards contained in the nursing home licensure rules for resident bedrooms;

(r) to license and certify up to 117 beds that are relocated from a licensed and certified 138-bed nursing facility located in St. Paul to a hospital with 130 licensed hospital beds located in South St. Paul, provided that the nursing facility and hospital are owned and operated by the same organization and that prior to the date the relocation is completed the hospital ceases operation of its inpatient hospital services at that hospital.

The total project construction cost estimate for the project must not exceed the cost estimate submitted for the replacement of the nursing facility in connection with the moratorium exception process initiated under section 144A.073 in 1993.

At the time of licensure and certification of the 117 nursing facility beds in the new location, the facility may layaway the remaining 21 nursing facility beds, which shall have the same status as voluntarily delicensed and decertified beds except that beds on layaway status remain subject to the surcharge in section 256.9657. The 21 nursing facility beds on layaway status may be relicensed and recertified within the identifiable complex of health care facilities in which the beds are currently located upon recommendation by the commissioner of human services;

(s) to license and certify a newly constructed 118-bed facility in Crow Wing county when the following conditions are met:

(1) the owner of the new facility delicenses an existing 68-bed facility located in the same county;

(2) the owner of the new facility delicenses 60 beds in three-bed rooms in other owned facilities located in the seven-county metropolitan area; and

(3) the project results in a ten-bed reduction in the number of licensed beds operated statewide by the owner of the new facility.

All beds in the newly constructed facility shall be licensed as nursing home beds regardless of the licensure of beds at the closed facility.;

(t) to license and certify beds in a renovation and remodeling project to convert 13 three-bed wards into 13 two-bed rooms and 13 single-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey county; was not owned by a hospital corporation; had a licensed capacity of 64 beds; and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process; or

(u) to license and certify beds in a renovation and remodeling project to convert 12 four-bed wards into 24 two-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey county; had a licensed capacity of 154 beds; and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process.

~~The property related payment rate of a facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision~~

~~3a, paragraph (d). The property-related payment rate for a facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than three years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified.~~

Sec. 47. Minnesota Statutes 1992, section 145.64, subdivision 1, is amended to read:

Subdivision 1. [DATA AND INFORMATION.] All data and information acquired by a review organization, in the exercise of its duties and functions, shall be held in confidence, shall not be disclosed to anyone except to the extent necessary to carry out one or more of the purposes of the review organization, and shall not be subject to subpoena or discovery. No person described in section 145.63 shall disclose what transpired at a meeting of a review organization except to the extent necessary to carry out one or more of the purposes of a review organization. The proceedings and records of a review organization shall not be subject to discovery or introduction into evidence in any civil action against a professional arising out of the matter or matters which are the subject of consideration by the review organization. Information, documents or records otherwise available from original sources shall not be immune from discovery or use in any civil action merely because they were presented during proceedings of a review organization, nor shall any person who testified before a review organization or who is a member of it be prevented from testifying as to matters within the person's knowledge, but a witness cannot be asked about the witness' testimony before a review organization or opinions formed by the witness as a result of its hearings.

The confidentiality protection and protection from discovery or introduction into evidence provided in this subdivision shall also apply to the governing body of the review organization and shall not be waived as a result of referral of a matter from the review organization to the governing body or consideration by the governing body of decisions, recommendations, or documentation of the review organization.

The governing body of a hospital, health maintenance organization, community integrated service network, or integrated service network, that is owned or operated by a governmental entity, may close a meeting to discuss decisions, recommendations, deliberations, or documentation of the review organization. A meeting may not be closed except by a majority vote of the governing body in a public meeting. The closed meeting must be tape recorded and the tape must be retained by the governing body for five years.

Sec. 48. Minnesota Statutes 1993 Supplement, section 151.21, subdivision 7, is amended to read:

Subd. 7. ~~This section does not apply to prescription drugs dispensed to persons covered by a health plan that covers prescription drugs under a managed care formulary or similar practices.~~ *This section does not apply when a pharmacist is dispensing a prescribed drug to persons covered under a managed health care plan that maintains a mandatory or closed drug formulary.*

Sec. 49. Minnesota Statutes 1993 Supplement, section 151.21, subdivision 8, is amended to read:

Subd. 8. ~~The following drugs are excluded from this section: coumadin, dilantin, lanoxin, premarin, theophylline, synthroid, tegretol, and phenobarbital.~~ *The drug formulary committee established under section 256B.0625, subdivision 13, shall establish a list of drug products that are to be excluded from this section. This list shall be updated on an annual basis and shall be provided to the board for dissemination to pharmacists licensed in the state.*

Sec. 50. Minnesota Statutes 1993 Supplement, section 256.9353, subdivision 3, is amended to read:

Subd. 3. [INPATIENT HOSPITAL SERVICES.] (a) Beginning July 1, 1993, covered health services shall include inpatient hospital services, including inpatient hospital mental health services and inpatient hospital and residential chemical dependency treatment, subject to those limitations necessary to coordinate the provision of these services with eligibility under the medical assistance spend-down. The inpatient hospital benefit for adult enrollees is subject to an annual benefit limit of $10,000. The commissioner shall provide enrollees with at least 60 days' notice of coverage for inpatient hospital services and any premium increase associated with the inclusion of this benefit.

(b) Enrollees *determined by the commissioner to have a basis of eligibility for medical assistance* shall apply for and cooperate with the requirements of medical assistance by the last day of the third month following admission to an inpatient hospital. If an enrollee fails to apply for medical assistance within this time period, the enrollee and the enrollee's family shall be disenrolled from the plan within one calendar month. Enrollees and enrollees' families disenrolled for not applying for or not cooperating with medical assistance may not reenroll.

(c) Admissions for inpatient hospital services paid for under section 256.9362, subdivision 3, must be certified as medically necessary in accordance with Minnesota Rules, parts 9505.0500 to 9505.0540, except as provided in clauses (1) and (2):

(1) all admissions must be certified, except those authorized under rules established under section 254A.03, subdivision 3, or approved under Medicare; and

(2) payment under section 256.9362, subdivision 3, shall be reduced by five percent for admissions for which certification is requested more than 30 days after the day of admission. The hospital may not seek payment from the enrollee for the amount of the payment reduction under this clause.

Sec. 51. Minnesota Statutes 1993 Supplement, section 256.9353, subdivision 7, is amended to read:

Subd. 7. [COPAYMENTS AND COINSURANCE.] The MinnesotaCare benefit plan shall include the following copayments and coinsurance requirements:

(1) ten percent of the charges submitted for inpatient hospital services for adult enrollees not eligible for medical assistance, subject to an annual inpatient out-of-pocket maximum of $1,000 per individual and $3,000 per family;

(2) $3 per prescription for adult enrollees; and

(3) $25 for eyeglasses for adult enrollees.

~~Enrollees who would be eligible for medical assistance with a spend-down shall be financially responsible for the coinsurance amount up to the spend-down limit or the coinsurance amount, whichever is less, in order to become eligible for the medical assistance program.~~ *Enrollees who are not eligible for medical assistance with or without a spenddown shall be financially responsible for the coinsurance amount and amounts which exceed the $10,000 benefit limit. MinnesotaCare shall be financially responsible for the spenddown amount up to the $10,000 benefit limit for enrollees who are eligible for medical assistance with a spenddown; enrollees who are eligible for medical assistance with a spenddown are financially responsible for amounts which exceed the $10,000 benefit limit.*

Sec. 52. Minnesota Statutes 1993 Supplement, section 256.9354, subdivision 1, is amended to read:

Subdivision 1. [CHILDREN; EXPANSION AND CONTINUATION OF ELIGIBILITY.] (a) [CHILDREN.] "Eligible persons" means children who are one year of age or older but less than 18 years of age who have gross family incomes that are equal to or less than 150 percent of the federal poverty guidelines and who are not eligible for medical assistance *without a spenddown* under chapter 256B and who are not otherwise insured for the covered services. The period of eligibility extends from the first day of the month in which the child's first birthday occurs to the last day of the month in which the child becomes 18 years old.

(b) [EXPANSION OF ELIGIBILITY.] Eligibility for MinnesotaCare shall be expanded as provided in subdivisions 2 to 5, except children who meet the criteria in this subdivision shall continue to be enrolled pursuant to this subdivision. The enrollment requirements in this paragraph apply to enrollment under subdivisions 1 to 5. Parents who enroll in the MinnesotaCare plan must also enroll their children and dependent siblings, if the children and their dependent siblings are eligible. Children and dependent siblings may be enrolled separately without enrollment by parents. However, if one parent in the household enrolls, both parents must enroll, unless other insurance is available. If one child from a family is enrolled, all children must be enrolled, unless other insurance is available. If one spouse in a household enrolls, the other spouse in the household must also enroll, unless other insurance is available. Families cannot choose to enroll only certain uninsured members. For purposes of this section, a "dependent sibling" means an unmarried child who is a full-time student under the age of 25 years who is financially dependent upon a parent. Proof of school enrollment will be required.

(c) [CONTINUATION OF ELIGIBILITY.] Individuals who initially enroll in the MinnesotaCare plan under the eligibility criteria in subdivisions 2 to 5 remain eligible for the MinnesotaCare plan, regardless of age, place of residence, or the presence or absence of children in the same household, as long as all other eligibility criteria are met and residence in Minnesota and continuous enrollment in the MinnesotaCare plan or medical assistance are maintained. In order for either parent or either spouse in a household to remain enrolled, both must remain enrolled, unless other insurance is available.

Sec. 53. Minnesota Statutes 1993 Supplement, section 256.9354, subdivision 4, is amended to read:

Subd. 4. [FAMILIES WITH CHILDREN; ELIGIBILITY BASED ON PERCENTAGE OF INCOME PAID FOR HEALTH COVERAGE.] Beginning January 1, 1993, "eligible persons" means children, parents, and dependent siblings residing in the same household who are not eligible for medical assistance *without a spenddown* under chapter 256B. Children who meet the criteria in subdivision 1 shall continue to be enrolled pursuant to subdivision 1. Persons who are eligible under this subdivision or subdivision 2, 3, or 5 must pay a premium as determined under sections 256.9357 and 256.9358, and children eligible under subdivision 1 must pay the premium required under section 256.9356, subdivision 1. Individuals and families whose income is greater than the limits established under section 256.9358 may not enroll in MinnesotaCare.

Sec. 54. Minnesota Statutes 1993 Supplement, section 256.9354, subdivision 6, is amended to read:

Subd. 6. [APPLICANTS POTENTIALLY ELIGIBLE FOR MEDICAL ASSISTANCE.] Individuals who apply for MinnesotaCare, but who are potentially eligible for medical assistance *without a spenddown* shall be allowed to enroll in MinnesotaCare for a period of 60 days, so long as the applicant meets all other conditions of eligibility. The commissioner shall identify and refer such individuals to their county social service agency. The enrollee must cooperate with the county social service agency in determining medical assistance eligibility within the 60-day enrollment period. Enrollees who do not apply for and cooperate with medical assistance within the 60-day enrollment period, and their other family members, shall be disenrolled from the plan within one calendar month. Persons disenrolled for nonapplication for medical assistance may not reenroll until they have obtained a medical assistance eligibility determination for the family member or members who were referred to the county agency. Persons disenrolled for noncooperation with medical assistance may not reenroll until they have cooperated with the county agency and have obtained a medical assistance eligibility determination. The commissioner shall redetermine provider payments made under MinnesotaCare to the appropriate medical assistance payments for those enrollees who subsequently become eligible for medical assistance.

Sec. 55. Minnesota Statutes 1993 Supplement, section 256.9354, is amended by adding a subdivision to read:

Subd. 7. [GENERAL ASSISTANCE MEDICAL CARE.] *A person cannot have coverage under both MinnesotaCare and general assistance medical care in the same month, except that a MinnesotaCare enrollee may be eligible for retroactive general assistance medical care according to section 256D.03, subdivision 3, paragraph (b).*

Sec. 56. Minnesota Statutes 1993 Supplement, section 256.9357, subdivision 2, is amended to read:

Subd. 2. [MUST NOT HAVE ACCESS TO EMPLOYER-SUBSIDIZED COVERAGE.] *(a)* To be eligible for subsidized premium payments based on a sliding scale, a family or individual must not have access to subsidized health coverage through an employer, and must not have had access to subsidized health coverage through an employer for the 18 months prior to application for subsidized coverage under the MinnesotaCare plan. The requirement that the family or individual must not have had access to employer-subsidized coverage during the previous 18 months does not apply if employer-subsidized coverage was lost for reasons that would not disqualify

the individual for unemployment benefits under section 268.09 and the family or individual has not had access to employer-subsidized coverage since the layoff. *If employer-subsidized coverage was lost for reasons that disqualify an individual for unemployment benefits under section 268.09, children of that individual are exempt from the requirement of no access to employer subsidized coverage for the 18 months prior to application, as long as the children have not had access to employer subsidized coverage since the disqualifying event.*

(b) For purposes of this requirement, subsidized health coverage means health coverage for which the employer pays at least 50 percent of the cost of coverage for the employee, excluding dependent coverage, or a higher percentage as specified by the commissioner. Children are eligible for employer-subsidized coverage through either parent, including the noncustodial parent. The commissioner must treat employer contributions to Internal Revenue Code Section 125 plans as qualified employer subsidies toward the cost of health coverage for employees for purposes of this subdivision.

Sec. 57. Minnesota Statutes 1993 Supplement, section 256.9362, subdivision 6, is amended to read:

Subd. 6. [ENROLLEES 18 OR OLDER.] Payment by the MinnesotaCare program for inpatient hospital services provided to MinnesotaCare enrollees who are 18 years old or older on the date of admission to the inpatient hospital must be in accordance with paragraphs (a) and (b).

(a) If the medical assistance rate minus any copayment required under section 256.9353, subdivision 6, is less than or equal to the amount remaining in the enrollee's benefit limit under section 256.9353, subdivision 3, payment must be the medical assistance rate minus any copayment required under section 256.9353, subdivision 6. The hospital must not seek payment from the enrollee in addition to the copayment. The MinnesotaCare payment plus the copayment must be treated as payment in full.

(b) If the medical assistance rate minus any copayment required under section 256.9353, subdivision 6, is greater than the amount remaining in the enrollee's benefit limit under section 256.9353, subdivision 3, payment must be the lesser of:

(1) the amount remaining in the enrollee's benefit limit; or

(2) charges submitted for the inpatient hospital services less any copayment established under section 256.9353, subdivision 6.

The hospital may seek payment from the enrollee for the amount by which usual and customary charges exceed the payment under this paragraph. *If payment is reduced under section 256.9353, subdivision 3, paragraph (c), the hospital may not seek payment from the enrollee for the amount of the reduction.*

Sec. 58. Minnesota Statutes 1993 Supplement, section 256.9363, subdivision 6, is amended to read:

Subd. 6. [COPAYMENTS AND BENEFIT LIMITS.] Enrollees are responsible for all copayments in section 256.9353, subdivision 6, and shall pay copayments to the managed care plan or to its participating providers. The enrollee is also responsible for payment of inpatient hospital charges which

exceed the MinnesotaCare benefit limit ~~to the managed care plan or its participating providers~~.

Sec. 59. Minnesota Statutes 1993 Supplement, section 256.9363, subdivision 7, is amended to read:

Subd. 7. [MANAGED CARE PLAN VENDOR REQUIREMENTS.] The following requirements apply to all counties or vendors who contract with the department of human services to serve MinnesotaCare recipients. Managed care plan contractors:

(1) shall authorize and arrange for the provision of the full range of services listed in section 256.9353 in order to ensure appropriate health care is delivered to enrollees;

(2) shall accept the prospective, per capita payment or other contractually defined payment from the commissioner in return for the provision and coordination of covered health care services for eligible individuals enrolled in the program;

(3) may contract with other health care and social service practitioners to provide services to enrollees;

(4) shall provide for an enrollee grievance process as required by the commissioner and set forth in the contract with the department;

(5) shall retain all revenue from enrollee copayments;

(6) shall accept all eligible MinnesotaCare enrollees, without regard to health status or previous utilization of health services;

(7) shall demonstrate capacity to accept financial risk according to requirements specified in the contract with the department. A health maintenance organization licensed under chapter 62D, or a nonprofit health plan licensed under chapter 62C, is not required to demonstrate financial risk capacity, beyond that which is required to comply with chapters 62C and 62D; *and*

(8) shall submit information as required by the commissioner, including data required for assessing enrollee satisfaction, quality of care, cost, and utilization of services; ~~and~~

~~(9) shall submit to the commissioner claims in the format specified by the commissioner of human services for all hospital services provided to enrollees for the purpose of determining whether enrollees meet medical assistance spend-down requirements and shall provide to the enrollee, upon the enrollee's request, information on the cost of services provided to the enrollee by the managed care plan for the purpose of establishing whether the enrollee has met medical assistance spend-down requirements~~.

Sec. 60. Minnesota Statutes 1993 Supplement, section 256.9363, subdivision 9, is amended to read:

Subd. 9. [RATE SETTING.] Rates will be prospective, per capita, where possible. *The commissioner may allow health plans to arrange for inpatient hospital services on a risk or nonrisk basis.* The commissioner shall consult with an independent actuary to determine appropriate rates.

Sec. 61. Minnesota Statutes 1993 Supplement, section 256.9657, subdivision 3, is amended to read:

Subd. 3. [HEALTH MAINTENANCE ORGANIZATION; INTEGRATED SERVICE NETWORK SURCHARGE.] (a) Effective October 1, 1992, each health maintenance organization with a certificate of authority issued by the commissioner of health under chapter 62D and each integrated service network *and community integrated service network* licensed by the commissioner under ~~sections 62N.01 to 62N.22~~ *chapter 62N* shall pay to the commissioner of human services a surcharge equal to six-tenths of one percent of the total premium revenues of the health maintenance organization, ~~or~~ integrated service network, *or community integrated service network* as reported to the commissioner of health according to the schedule in subdivision 4.

(b) For purposes of this subdivision, total premium revenue means:

(1) premium revenue recognized on a prepaid basis from individuals and groups for provision of a specified range of health services over a defined period of time which is normally one month, excluding premiums paid to a health maintenance organization, *integrated service network, or community integrated service network* from the Federal Employees Health Benefit Program;

(2) premiums from Medicare wrap-around subscribers for health benefits which supplement Medicare coverage;

(3) Medicare revenue, as a result of an arrangement between a health maintenance organization, *an integrated service network, or a community integrated service network* and the health care financing administration of the federal Department of Health and Human Services, for services to a Medicare beneficiary; and

(4) medical assistance revenue, as a result of an arrangement between a health maintenance organization, *integrated service network, or community integrated service network* and a Medicaid state agency, for services to a medical assistance beneficiary.

If advance payments are made under clause (1) or (2) to the health maintenance organization, *integrated service network, or community integrated service network* for more than one reporting period, the portion of the payment that has not yet been earned must be treated as a liability.

Sec. 62. Minnesota Statutes 1993 Supplement, section 256.9695, subdivision 3, as amended by 1994 House File No. 3210, article 3, section 49, if enacted, is amended to read:

Subd. 3. [TRANSITION.] Except as provided in section 256.969, subdivision 8, the commissioner shall establish a transition period for the calculation of payment rates from July 1, 1989, to the implementation date of the upgrade to the Medicaid management information system or July 1, 1992, whichever is earlier.

During the transition period:

(a) Changes resulting from section 256.969, subdivisions 7, 9, 10, 11, and 13, shall not be implemented, except as provided in section 256.969, subdivisions 12 and 20.

(b) The beginning of the 1991 rate year shall be delayed and the rates notification requirement shall not be applicable.

(c) Operating payment rates shall be indexed from the hospital's most recent fiscal year ending prior to January 1, 1991, by prorating the hospital cost index methodology in effect on January 1, 1989. For payments made for admissions occurring on or after June 1, 1990, until the implementation date of the upgrade to the Medicaid management information system the hospital cost index excluding the technology factor shall not exceed five percent. This hospital cost index limitation shall not apply to hospitals that meet the requirements of section 256.969, subdivision 20, paragraphs (a) and (b).

(d) Property and pass-through payment rates shall be maintained at the most recent payment rate effective for June 1, 1990. However, all hospitals are subject to the hospital cost index limitation of subdivision 2c, for two complete fiscal years. Property and pass-through costs shall be retroactively settled through the transition period. The laws in effect on the day before July 1, 1989, apply to the retroactive settlement.

(e) If the upgrade to the Medicaid management information system has not been completed by July 1, 1992, the commissioner shall make adjustments for admissions occurring on or after that date as follows:

(1) provide a ten percent increase to hospitals that meet the requirements of section 256.969, subdivision 20, or, upon written request from the hospital to the commissioner, 50 percent of the rate change that the commissioner estimates will occur after the upgrade to the Medicaid management information system; and

(2) adjust the Minnesota and local trade area rebased payment rates that are established after the upgrade to the Medicaid management information system to compensate for a rebasing effective date of July 1, 1992. The adjustment shall be determined using claim specific payment changes that result from the rebased rates and revised methodology in effect after the systems upgrade. Any adjustment that is greater than zero shall be ratably reduced by 20 percent. In addition, every adjustment shall be reduced for payments under clause (1), and differences in the hospital cost index. Hospitals shall revise claims so that services provided by rehabilitation units of hospitals are reported separately. The adjustment shall be in effect until the amount due to or owed by the hospital is fully paid over a number of admissions that is equal to the number of admissions under adjustment multiplied by 1.5, except that a hospital with a 20 percent or greater negative adjustment that exceeds $1,000,000 *for admissions occurring from July 1, 1992, to December 31, 1992,* must use a schedule that is three times the number of admissions under adjustment *and the adjustment shall be in effect only over a number of admissions that is equal to the number of admissions under adjustment multiplied by 1.5*. The adjustment for admissions occurring from July 1, 1992 to December 31, 1992, shall be based on claims paid as of August 1, 1993, and the adjustment shall begin with the effective date of rules governing rebasing. The adjustment for admissions occurring from January 1, 1993, to the effective date of the rules shall be based on claims paid as of February 1, 1994, and shall begin after the first adjustment period is fully paid. For purposes of appeals under subdivision 1, the adjustment shall be considered payment at the time of admission.

Sec. 63. Minnesota Statutes 1993 Supplement, section 256B.0917, subdivision 2, is amended to read:

Subd. 2. [DESIGN OF SAIL PROJECTS; LOCAL LONG-TERM CARE COORDINATING TEAM.] (a) The commissioner of human services in

conjunction with the interagency long-term care planning committee's long-range strategic plan shall contract with SAIL projects in four to six counties or groups of counties to demonstrate the feasibility and cost-effectiveness of a local long-term care strategy that is consistent with the state's long-term care goals identified in subdivision 1. The commissioner shall publish a notice in the State Register announcing the availability of project funding and giving instructions for making an application. The instructions for the application shall identify the amount of funding available for project components.

(b) To be selected for the project, a county board or boards must establish a long-term care coordinating team consisting of county social service agencies, public health nursing service agencies, local boards of health, *a representative of local nursing home providers, a representative of local home care providers,* and the area agencies on aging in a geographic area which is responsible for:

(1) developing a local long-term care strategy consistent with state goals and objectives;

(2) submitting an application to be selected as a project;

(3) coordinating planning for funds to provide services to elderly persons, including funds received under Title III of the Older Americans Act, Community Social Services Act, Title XX of the Social Security Act and the Local Public Health Act; and

(4) ensuring efficient services provision and nonduplication of funding.

(c) The board or boards shall designate a public agency to serve as the lead agency. The lead agency receives and manages the project funds from the state and is responsible for the implementation of the local strategy. If selected as a project, the local long-term care coordinating team must semiannually evaluate the progress of the local long-term care strategy in meeting state measures of performance and results as established in the contract.

(d) Each member of the local coordinating team must indicate its endorsement of the local strategy. The local long-term care coordinating team may include in its membership other units of government which provide funding for services to the frail elderly. The team must cooperate with consumers and other public and private agencies, including nursing homes, in the geographic area in order to develop and offer a variety of cost-effective services to the elderly and their caregivers.

(e) The board or boards shall apply to be selected as a project. If the project is selected, the commissioner of human services shall contract with the lead agency for the project and shall provide additional administrative funds for implementing the provisions of the contract, within the appropriation available for this purpose.

(f) Projects shall be selected according to the following conditions.

No project may be selected unless it demonstrates that:

(i) the objectives of the local project will help to achieve the state's long-term care goals as defined in subdivision 1;

(ii) in the case of a project submitted jointly by several counties, all of the participating counties are contiguous;

(iii) there is a designated local lead agency that is empowered to make contracts with the state and local vendors on behalf of all participants;

(iv) the project proposal demonstrates that the local cooperating agencies have the ability to perform the project as described and that the implementation of the project has a reasonable chance of achieving its objectives;

(v) the project will serve an area that covers at least four counties or contains at least 2,500 persons who are 85 years of age or older, according to the projections of the state demographer or the census if the data is more recent; and

(vi) the local coordinating team documents efforts of cooperation with consumers and other agencies and organizations, both public and private, in planning for service delivery.

Sec. 64. Minnesota Statutes 1993 Supplement, section 295.50, subdivision 4, is amended to read:

Subd. 4. [HEALTH CARE PROVIDER.] (a) "Health care provider" means:

(1) a person furnishing any or all of the following goods or services directly to a patient or consumer: medical, surgical, optical, visual, dental, hearing, nursing services, drugs, medical supplies, medical appliances, laboratory, diagnostic or therapeutic services, or any goods and services not listed above that qualifies for reimbursement under the medical assistance program provided under chapter 256B;

(2) a staff model health ~~carrier~~ *plan company*; or

(3) a licensed ambulance service.

(b) Health care provider does not include hospitals, nursing homes licensed under chapter 144A, pharmacies, and surgical centers.

Sec. 65. Minnesota Statutes 1993 Supplement, section 295.50, subdivision 12b, is amended to read:

Subd. 12b. [STAFF MODEL HEALTH ~~CARRIER~~ *PLAN COMPANY.*] "Staff model health ~~carrier~~ *plan company*" means a health ~~carrier~~ *plan company* as defined in section ~~62L.02, subdivision 16~~ *62Q.01, subdivision 4*, which employs one or more types of health care provider to deliver health care services to the health ~~carrier's~~ *plan company's* enrollees.

Sec. 66. [317A.022] [ELECTION BY CERTAIN CHAPTER 318 ASSOCIATIONS.]

Subdivision 1. [GENERAL.] *An association described in section 318.02, subdivision 5, may elect to cease to be an association subject to and governed by chapter 318 and to become subject to and governed by this chapter in the same manner and to the extent provided in this chapter as though it were a nonprofit corporation by complying with this section.*

Subd. 2. [AMENDED TITLE AND OTHER CONFORMING AMENDMENTS.] *The declaration of trust, as defined in section 318.02, subdivision 1, of the association must be amended to identify it as the "articles of an association electing to be treated as a nonprofit corporation." All references in this chapter to "articles" or "articles of incorporation" include the declaration of trust of an electing association. If the declaration of trust*

includes a provision prohibited by this chapter for inclusion in articles of incorporation, omits a provision required by this chapter to be included in articles of incorporation, or is inconsistent with this chapter, the electing association shall amend its declaration of trust to conform to the requirements of this chapter. The appropriate provisions of the association's declaration of trust or bylaws or chapter 318 control the manner of adoption of the amendments required by this subdivision.

Subd. 3. [METHOD OF ELECTION.] *An election by an association under subdivision 2 must be made by resolution approved by the affirmative vote of the trustees of the association and by the affirmative vote of the members or other persons with voting rights in the association. The affirmative vote of both the trustees of the association and of the members or other persons with voting rights, if any, in the association must be of the same proportion that is required for an amendment of the declaration of trust of the association before the election, in each case upon proper notice that a purpose of the meeting is to consider an election by the association to cease to be an association subject to and governed by chapter 318 and to become and be a nonprofit corporation subject to and governed by this chapter. The resolution and the articles of the amendment of the declaration of trust must be filed with the secretary of state and are effective upon filing, or a later date as may be set forth in the filed resolution. Upon the effective date, without any other action or filing by or on behalf of the association, the association automatically is subject to this chapter in the same manner and to the same extent as though it had been formed as a nonprofit corporation pursuant to this chapter. Upon the effective date of the election, the association is not considered to be a new entity, but is considered to be a continuation of the same entity.*

Subd. 4. [EFFECTS OF ELECTION.] *Upon the effective date of an association's election under subdivision 3, and consistent with the continuation of the association under this chapter:*

(1) the organization has the rights, privileges, immunities, powers, and is subject to the duties and liabilities, of a corporation formed under this chapter;

(2) all real or personal property, debts, including debts arising from a subscription for membership and interests belonging to the association, continue to be the real and personal property, and debts of the organization without further action;

(3) an interest in real estate possessed by the association does not revert to the grantor, or otherwise, nor is it in any way impaired by reason of the election, and the personal property of the association does not revert by reason of the election;

(4) except where the will or other instrument provides otherwise, a devise, bequest, gift, or grant contained in a will or other instrument, in a trust or otherwise, made before or after the election has become effective, to or for the association, inures to the organization;

(5) the debts, liabilities, and obligations of the association continue to be the debts, liabilities, and obligations of the organization, just as if the debts, liabilities, and obligations had been incurred or contracted by the organization after the election;

(6) existing claims or a pending action or proceeding by or against the association may be prosecuted to judgment as though the election had not been affected;

(7) the liabilities of the trustees, members, officers, directors, or similar groups or persons, however denominated, of the association, are not affected by the election;

(8) the rights of creditors or liens upon the property of the association are not impaired by the election;

(9) an electing association may merge with one or more nonprofit corporations in accordance with the applicable provisions of this chapter, and either the association or a nonprofit corporation may be the surviving entity in the merger; and

(10) the provisions of the bylaws of the association that are consistent with this chapter remain or become effective and provisions of the bylaws that are inconsistent with this chapter are not effective.

Sec. 67. Minnesota Statutes 1992, section 318.02, is amended by adding a subdivision to read:

Subd. 5. [ELECTION TO BE GOVERNED BY CHAPTER 317A.] *An association may cease to be subject to or governed by this chapter by filing an election in the manner described in section 317A.022, to be subject to and governed by chapter 317A in the same manner and to the same extent provided in chapter 317A as though it were a nonprofit corporation if:*

(1) it is not formed for a purpose involving pecuniary gain to its members, other than to members that are nonprofit organizations or subdivisions, units, or agencies of the United States or a state or local government; and

(2) it does not pay dividends or other pecuniary remuneration, directly or indirectly, to its members, other than to members that are nonprofit organizations or subdivisions, units, or agencies of the United States or a state or local government.

Sec. 68. [CHISAGO COUNTY HOSPITAL PROJECT.]

(a) Notwithstanding the provisions of Minnesota Statutes, section 144.551, subdivision 1, paragraph (a), a project to replace a hospital in Chisago county may be commenced if:

(1) the new hospital is located within ten miles of the current site;

(2) the project will result in a net reduction of licensed hospital beds; and

(3) all hospitals within ten miles of the project agree to the general location criteria, or if the hospitals do not agree by July 1, 1994, the commissioner of health approves the project through the process described in paragraph (b). The hospitals may notify the commissioner and request a mutually agreed upon extension of time not to extend beyond August 15, 1994, for submission of this project to the commissioner. The commissioner shall render a decision on the project within 60 days after submission by the parties. The commissioner's decision is the final administrative decision of the agency.

(b) As expressly authorized under paragraph (a), the commissioner shall approve a project if it is determined that replacement of the existing hospital or hospitals will:

(1) promote high quality care and services;

(2) provide improved access to care;

(3) not involve a substantial expansion of inpatient service capacity; and

(4) benefit the region to be served by the new regional facility.

(c) Prior to making this determination, the commissioner shall solicit and review written comments from hospitals and community service agencies located within ten miles of the new hospital site and from the regional coordinating board.

(d) For the purposes of pursuing the process established under this section, Chisago health services and district memorial hospital may pursue discussions and work cooperatively with each other, and with another organization mutually agreed upon, to plan for a new hospital facility to serve the area presently served by the two hospitals.

Sec. 69. [STUDY OF ANESTHESIA PRACTICES.]

The commissioner of health shall study and report to the legislature by January 15, 1995, on anesthesia services provided in health care facilities of this state by nurse anesthetists and anesthesiologists. The study shall compare different third-party reimbursement practices and contractual and employment arrangements between health care facilities, nurse anesthetists, and anesthesiologists in terms of their effect on:

(1) patient outcomes in this state, including the incidence of mortality/morbidity as related to provider and practice methods in urban and rural settings as disclosed by a literature search of available retrospective or prospective studies;

(2) the cost of the service provided under each arrangement to health care facilities, third-party purchasers, and patients; and

(3) the effects on competition under each arrangement.

The report shall also include the commissioner's findings on the most appropriate methods to provide anesthesia services to ensure cost-effective delivery of quality anesthesia services.

Sec. 70. [HOSPITAL STUDIES.]

The commissioner of human services must review rebased hospital payment rates to determine whether hospitals with exceptionally high cost inpatient admissions are reimbursed at rates that are reasonable and adequate to meet the costs associated with each such high cost admission. The commissioner must report the results of this review, along with recommendations for any appropriate payment rate modifications.

The commissioners of health and human services shall also study the distribution and scope of specialized health care services for children, including the role of all children's hospitals in the context of health care reform. The commissioners shall submit a report, including recommendations, to the legislature and the governor by February 15, 1995.

Sec. 71. [HEALTH CARE ADMINISTRATION.] 1994 House File No. 3210, article 1, section 2, subdivision 3, if enacted, is amended to read:

Subd. 3. Health Care Administration

General

(37,766,000) 17,756,000

~~[MORATORIUM EXCEPTION PROPOSALS.] Of this appropriation, $110,000 is appropriated to the commissioner of human services for the fiscal year ending June 30, 1995, to pay the medical assistance costs associated with exceptions to the nursing home moratorium granted under Minnesota Statutes, section 144A.073. Notwithstanding section 144A.073, the interagency long term care planning committee shall issue a request for proposals by June 6, 1994, and the commissioner of health shall make a final decision on project approvals by October 15, 1994.~~

[MANAGED CARE CARRYOVER.] Unexpended money appropriated for grants to counties for managed care administration in fiscal year 1994 does not cancel but is available in fiscal year 1995 for that purpose.

[HIGH COST INFANT AND YOUNG PEDIATRIC ADMISSIONS.] The appropriation to the aid to families with dependent children program in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 5, for the fiscal year ending June 30, 1994, is reduced by $1,165,000. The appropriation to the medical assistance program is increased by $1,165,000 for the fiscal year ending June 30, 1995, for the purpose of (1) exceptionally high cost inpatient admissions for infants under the age of one, and for children under the age of six receiving services in a hospital that receives payment under Minnesota Statutes, section 256.969, subdivision 9 or 9a; and (2) hospitals with a 20 percent or greater negative adjustment that exceeds $1,000,000, as the adjustment is calculated under Minnesota Statutes, section 256.9695, subdivision 3.

[INFLATION ADJUSTMENTS.] The commissioner of finance shall include, as a budget change request in the 1996-1997 biennial detailed expenditure budget submitted to the legislature under Minnesota

Statutes, section 16A.11, annual inflation adjustments in operating costs for: nursing services and home health aide services under Minnesota Statutes, section 256B.0625, subdivision 6a; nursing supervision of personal care services, under Minnesota Statutes, section 256B.0625, subdivision 19a; private duty nursing services under Minnesota Statutes, section 256B.0625, subdivision 7; home and community-based services waiver for persons with mental retardation and related conditions under Minnesota Statutes, section 256B.501; home and community-based services waiver for the elderly under Minnesota Statutes, section 256B.0915; alternative care program under Minnesota Statutes, section 256B.0913; traumatic brain injury waiver under Minnesota Statutes, section 256B.093; adult residential program grants, under rule 12, under Minnesota Rules, parts 9535.2000 to 9535.3000; adult and family community support grants, under rules 14 and 78, under Minnesota Rules, parts 9535.1700 to 9535.1760.

[HOSPITAL TECHNOLOGY FACTOR.] For admissions occurring on or after April 1, 1994, through June 30, 1995, the hospital cost index shall be increased by 0.51 percent for technology. Notwithstanding the sunset provisions of this article, this increase shall become part of the base for the 1996-1997 biennium. For fiscal year 1995 only, the commissioner shall adjust rates paid to a health maintenance organization under medical assistance contract with the commissioner to reflect the hospital technology factor in this paragraph, and the adjustment must be made on an undiscounted basis.

[ICF/MR RECEIVERSHIP.] If an intermediate care facility for persons with mental retardation or related conditions that is in receivership under Minnesota Statutes, section 245A.12 or 245A.13, is sold to an unrelated organization: (1) the facility shall be considered a newly established facility for rate setting purposes notwithstanding any provisions to the contrary in section 256B.501, subdivision 11; and (2) the facility's historical basis

for the physical plant, land, and land improvements for each facility must not exceed the prior owner's aggregate historical basis for these same assets for each facility. The allocation of the purchase price between land, land improvements, and physical plant shall be based on the real estate appraisal using the depreciated replacement cost method.

[NEW ICF/MR.] A newly constructed or newly established intermediate care facility for persons with mental retardation or related conditions that is developed and financed during the fiscal year ending June 30, 1995, shall not be subject to the equity requirements in Minnesota Statutes, section 256B.501, subdivision 11, paragraph (d), or Minnesota Rules, part 9553.0060, subpart 3, item F, provided that the provider's interest rate does not exceed the interest rate available through state agency tax-exempt financing.

Sec. 72. [REVISOR INSTRUCTION.]

The revisor of statutes shall change the term "health right" to "MinnesotaCare," "health right plan" to "MinnesotaCare program," and "MinnesotaCare plan" to "MinnesotaCare program," wherever these terms are used in Minnesota Statutes or Minnesota Rules.

Sec. 73. [CONTINGENT REPEALER FOR MINNESOTACARE.]

Notwithstanding section 645.34, the article 13, section 2, amendment to section 256.9354, subdivision 5, and the article 13, section 5, amendment to section 256.9358, subdivision 4, are repealed July 1, 1994, and the provisions are revived as they were before the amendments, if the 1994 Legislature passes and the governor signs into law a provision that establishes and provides money for a health care access reserve account to ensure adequate funding for the MinnesotaCare program through fiscal year 1996.

Sec. 74. [REPEALER.]

Minnesota Statutes 1992, section 256.362, subdivision 5; Minnesota Statutes 1993 Supplement, sections 62J.04, subdivision 8; 62N.07; 62N.075; 62N.08; 62N.085; and 62N.16, are repealed.

Sec. 75. [EFFECTIVE DATE.]

Sections 4, 15, 18, 20, 22, 24, 27 to 29, 31 to 35, 39 to 42, 45, 47 to 49, 51 to 55, 62, 64 to 68, and 71 to 74 are effective the day following final enactment. All other sections are effective July 1, 1994.

ARTICLE 9

ADMINISTRATIVE SIMPLIFICATION

Section 1. [62J.50] [CITATION AND PURPOSE.]

Subdivision 1. [CITATION.] *Sections 62J.50 to 62J.61 may be cited as the Minnesota health care administrative simplification act of 1994.*

Subd. 2. [PURPOSE.] *The legislature finds that significant savings throughout the health care industry can be accomplished by implementing a set of administrative standards and simplified procedures and by setting forward a plan toward the use of electronic methods of data interchange. The legislature finds that initial steps have been taken at the national level by the federal health care financing administration in its implementation of nationally accepted electronic transaction sets for its medicare program. The legislature further recognizes the work done by the workgroup for electronic data interchange and the American national standards institute and its accredited standards committee X12, at the national level, and the Minnesota administrative uniformity committee, a statewide, voluntary, public-private group representing payers, hospitals, state programs, physicians, and other health care providers in their work toward administrative simplification in the health care industry.*

Sec. 2. [62J.51] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *For purposes of sections 62J.50 to 62J.61, the following definitions apply.*

Subd. 2. [ANSI.] *"ANSI" means the American national standards institute.*

Subd. 3. [ASCX12] *"ASC X12" means the American national standards institute committee X12.*

Subd. 4. [CATEGORY I INDUSTRY PARTICIPANTS.] *"Category I industry participants" means the following: group purchasers, providers, and other health care organizations doing business in Minnesota including public and private payers; hospitals; claims clearinghouses; third-party administrators; billing service bureaus; value added networks; self-insured plans and employers with more than 100 employees; clinic laboratories; durable medical equipment suppliers with a volume of at least 50,000 claims or encounters per year; and group practices with 20 or more physicians.*

Subd. 5. [CATEGORY II INDUSTRY PARTICIPANTS.] *"Category II industry participants" means all group purchasers and providers doing business in Minnesota not classified as category I industry participants.*

Subd. 6. [CLAIM PAYMENT/ADVICE TRANSACTION SET (ANSI ASC X12 835).] *"Claim payment/advice transaction set (ANSI ASC X12 835)" means the electronic transaction format developed and approved for implementation in October 1991, and used for electronic remittance advice and electronic funds transfer.*

Subd. 7. [CLAIM SUBMISSION TRANSACTION SET (ANSI ASC X12 837).] *"Claim submission transaction set (ANSI ASC X12 837)" means the electronic transaction format developed and approved for implementation in October 1992, and used to submit all health care claims information.*

Subd. 8. [EDI.] *"EDI" or "electronic data interchange" means the computer application to computer application exchange of information using nationally accepted standard formats.*

Subd. 9. [ELIGIBILITY TRANSACTION SET (ANSI ASC X12 270/271).] *"Eligibility transaction set (ANSI ASC X12 270/271)" means the transaction format developed and approved for implementation in February*

1993, and used by providers to request and receive coverage information on the member or insured.

Subd. 10. [ENROLLMENT TRANSACTION SET (ANSI ASC X12 834).] *"Enrollment transaction set (ANSI ASC X12 834)" means the electronic transaction format developed and approved for implementation in February 1992, and used to transmit enrollment and benefit information from the employer to the payer for the purpose of enrolling in a benefit plan.*

Subd. 11. [GROUP PURCHASER.] *"Group purchaser" has the meaning given in section 62J.03, subdivision 6.*

Subd. 12. [ISO.] *"ISO" means the international standardization organization.*

Subd. 13. [NCPDP.] *"NCPDP" means the national council for prescription drug programs, inc.*

Subd. 14. [NCPDP TELECOMMUNICATION STANDARD FORMAT 3.2.] *"NCPDP telecommunication standard format 3.2" means the recommended transaction sets for claims transactions adopted by the membership of NCPDP in 1992.*

Subd. 15. [NCPDP TAPE BILLING AND PAYMENT FORMAT 2.0.] *"NCPDP tape billing and payment format 2.0" means the recommended transaction standards for batch processing claims adopted by the membership of the NCPDP in 1993.*

Subd. 16. [PROVIDER.] *"Provider" or "health care provider" has the meaning given in section 62J.03, subdivision 8.*

Subd. 17. [UNIFORM BILLING FORM HCFA 1450.] *"Uniform billing form HCFA 1450" means the uniform billing form known as the HCFA 1450 or UB92, developed by the national uniform billing committee in 1992 and approved for implementation in October 1993.*

Subd. 18. [UNIFORM BILLING FORM HCFA 1500.] *"Uniform billing form HCFA 1500" means the 1990 version of the health insurance claim form, HCFA 1500, developed by the uniform claims form task force of the federal health care financing administration.*

Subd. 19. [UNIFORM DENTAL BILLING FORM.] *"Uniform dental billing form" means the 1990 uniform dental claim form developed by the American dental association.*

Subd. 20. [UNIFORM PHARMACY BILLING FORM.] *"Uniform pharmacy billing form" means the national council for prescription drug programs/universal claim form (NCPDP/UCF).*

Subd. 21. [WEDI.] *"WEDI" means the national workgroup for electronic data interchange report issued in October, 1993.*

Sec. 3. [62J.52] [ESTABLISHMENT OF UNIFORM BILLING FORMS.]

Subdivision 1. [UNIFORM BILLING FORM HCFA 1450.] *(a) On and after January 1, 1996, all institutional inpatient hospital services, ancillary services, and institutionally owned or operated outpatient services rendered by providers in Minnesota, that are not being billed using an equivalent electronic billing format, must be billed using the uniform billing form HCFA 1450, except as provided in subdivision 5.*

(b) The instructions and definitions for the use of the uniform billing form HCFA 1450 shall be in accordance with the uniform billing form manual specified by the commissioner. In promulgating these instructions, the commissioner may utilize the manual developed by the national uniform billing committee, as adopted and finalized by the Minnesota uniform billing committee.

(c) Services to be billed using the uniform billing form HCFA 1450 include: institutional inpatient hospital services and distinct units in the hospital such as psychiatric unit services, physical therapy unit services, swing bed (SNF) services, inpatient state psychiatric hospital services, inpatient skilled nursing facility services, home health services (Medicare part A), and hospice services; ancillary services, where benefits are exhausted or patient has no Medicare part A, from hospitals, state psychiatric hospitals, skilled nursing facilities, and home health (Medicare part B); and institutional owned or operated outpatient services such as hospital outpatient services, including ambulatory surgical center services, hospital referred laboratory services, hospital-based ambulance services, and other hospital outpatient services, skilled nursing facilities, home health, including infusion therapy, freestanding renal dialysis centers, comprehensive outpatient rehabilitation facilities (CORF), outpatient rehabilitation facilities (ORF), rural health clinics, community mental health centers, and any other health care provider certified by the Medicare program to use this form.

(d) On and after January 1, 1996, a mother and newborn child must be billed separately, and must not be combined on one claim form.

Subd. 2. [UNIFORM BILLING FORM HCFA 1500.] *(a) On and after January 1, 1996, all noninstitutional health care services rendered by providers in Minnesota except dental or pharmacy providers, that are not currently being billed using an equivalent electronic billing format, must be billed using the health insurance claim form HCFA 1500, except as provided in subdivision 5.*

(b) The instructions and definitions for the use of the uniform billing form HCFA 1500 shall be in accordance with the manual developed by the administrative uniformity committee entitled standards for the use of the HCFA 1500 form, dated February 1994, as further defined by the commissioner.

(c) Services to be billed using the uniform billing form HCFA 1500 include physician services and supplies, durable medical equipment, noninstitutional ambulance services, independent ancillary services including occupational therapy, physical therapy, speech therapy and audiology, podiatry services, optometry services, mental health licensed professional services, substance abuse licensed professional services, nursing practitioner professional services, certified registered nurse anesthetists, chiropractors, physician assistants, laboratories, medical suppliers, and other health care providers such as home health intravenous therapy providers, personal care attendants, day activity centers, waivered services, hospice, and other home health services, and freestanding ambulatory surgical centers.

Subd. 3. [UNIFORM DENTAL BILLING FORM.] *(a) On and after January 1, 1996, all dental services provided by dental care providers in Minnesota, that are not currently being billed using an equivalent electronic billing format, shall be billed using the American dental association uniform dental billing form.*

(b) The instructions and definitions for the use of the uniform dental billing form shall be in accordance with the manual developed by the administrative uniformity committee dated February 1994, and as amended or further defined by the commissioner.

Subd. 4. [UNIFORM PHARMACY BILLING FORM.] *(a) On and after January 1, 1996, all pharmacy services provided by pharmacists in Minnesota that are not currently being billed using an equivalent electronic billing format shall be billed using the NCPDP/universal claim form, except as provided in subdivision 5.*

(b) The instructions and definitions for the use of the uniform claim form shall be in accordance with instructions specified by the commissioner of health, except as provided in subdivision 5.

Subd. 5. [STATE AND FEDERAL HEALTH CARE PROGRAMS.] *(a) Skilled nursing facilities and ICF-MR services billed to state and federal health care programs administered by the department of human services shall use the form designated by the department of human services.*

(b) On and after July 1, 1996, state and federal health care programs administered by the department of human services shall accept the HCFA 1450 for community mental health center services and shall accept the HCFA 1500 for freestanding ambulatory surgical center services.

(c) State and federal health care programs administered by the department of human services shall be authorized to use the forms designated by the department of human services for pharmacy services and for child and teen checkup services.

(d) State and federal health care programs administered by the department of human services shall accept the form designated by the department of human services, and the HCFA 1500 for supplies, medical supplies or durable medical equipment. Health care providers may choose which form to submit.

Sec. 4. [62J.53] [ACCEPTANCE OF UNIFORM BILLING FORMS BY GROUP PURCHASERS.]

On and after January 1, 1996, all category I and II group purchasers in Minnesota shall accept the uniform billing forms prescribed under section 62J.52 as the only nonelectronic billing forms used for payment processing purposes.

Sec. 5. [62J.54] [IDENTIFICATION AND IMPLEMENTATION OF UNIQUE IDENTIFIERS.]

Subdivision 1. [UNIQUE IDENTIFICATION NUMBER FOR HEALTH CARE PROVIDER ORGANIZATIONS.] *(a) On and after January 1, 1996, all group purchasers and health care providers in Minnesota shall use a unique identification number to identify health care provider organizations, except as provided in paragraph (d).*

(b) Following the recommendation of the workgroup for electronic data interchange, the federal tax identification number assigned to each health care provider organization by the internal revenue service of the department of the treasury shall be used as the unique identification number for health care provider organizations.

(c) The unique health care provider organization identifier shall be used for purposes of submitting and receiving claims, and in conjunction with other data collection and reporting functions.

(d) The state and federal health care programs administered by the department of human services shall use the unique identification number assigned to health care providers for implementation of the medicaid management information system or the uniform provider identification number (UPIN) assigned by the health care financing administration.

Subd. 2. [UNIQUE IDENTIFICATION NUMBER FOR INDIVIDUAL HEALTH CARE PROVIDERS.] *(a) On and after January 1, 1996, all group purchasers and health care providers in Minnesota shall use a unique identification number to identify an individual health care provider, except as provided in paragraph (d).*

(b) The uniform provider identification number (UPIN) assigned by the health care financing administration shall be used as the unique identification number for individual health care providers. Providers who do not currently have a UPIN number shall request one from the health care financing administration.

(c) The unique individual health care provider identifier shall be used for purposes of submitting and receiving claims, and in conjunction with other data collection and reporting functions.

(d) The state and federal health care programs administered by the department of human services shall use the unique identification number assigned to health care providers for implementation of the medicaid management information system or the uniform provider identification number (UPIN) assigned by the health care financing administration.

Subd. 3. [UNIQUE IDENTIFICATION NUMBER FOR GROUP PURCHASERS.] *(a) On and after January 1, 1996, all group purchasers and health care providers in Minnesota shall use a unique identification number to identify group purchasers.*

(b) The federal tax identification number assigned to each group purchaser by the internal revenue service of the department of the treasury shall be used as the unique identification number for group purchasers. This paragraph applies until the codes described in paragraph (c) are available and feasible to use, as determined by the commissioner.

(c) A two-part code, consisting of 11 characters and modeled after the national association of insurance commissioners company code shall be assigned to each group purchaser and used as the unique identification number for group purchasers. The first six characters, or prefix, shall contain the numeric code, or company code, assigned by the national association of insurance commissioners. The last five characters, or suffix, which is optional, shall contain further codes that will enable group purchasers to further route electronic transaction in their internal systems.

(d) The unique group purchaser identifier shall be used for purposes of submitting and receiving claims, and in conjunction with other data collection and reporting functions.

Subd. 4. [UNIQUE PATIENT IDENTIFICATION NUMBER.] *(a) On and after January 1, 1996, all group purchasers and health care providers in*

Minnesota shall use a unique identification number to identify each patient who receives health care services in Minnesota, except as provided in paragraph (e).

(b) Except as provided in paragraph (d), following the recommendation of the workgroup for electronic data interchange, the social security number of the patient shall be used as the unique patient identification number.

(c) The unique patient identification number shall be used by group purchasers and health care providers for purposes of submitting and receiving claims, and in conjunction with other data collection and reporting functions.

(d) The commissioner shall develop an alternate numbering system for patients who do not have or refuse to provide a social security number. This provision does not require that patients provide their social security numbers and does not require group purchasers or providers to demand that patients provide their social security numbers. Group purchasers and health care providers shall establish procedures to notify patients that they can elect not to have their social security number used as the unique patient identification number.

(e) The state and federal health care programs administered by the department of human services shall use the unique person master index (PMI) identification number assigned to clients participating in programs administered by the department of human services.

Sec. 6. [62J.55] [PRIVACY OF UNIQUE IDENTIFIERS.]

(a) When the unique identifiers specified in section 62J.54 are used for data collection purposes, the identifiers must be encrypted, as required in section 62J.30, subdivision 6. Encryption must follow encryption standards set by the national bureau of standards and approved by the American national standards institute as ANSIX3. 92-1982/R 1987 to protect the confidentiality of the data. Social security numbers must not be maintained in unencrypted form in the database, and the data must never be released in a form that would allow for the identification of individuals. The encryption algorithm and hardware used must not use clipper chip technology.

(b) Providers and group purchasers shall treat medical records, including the social security number if it is used as a unique patient identifier, in accordance with section 144.335. The social security number may be disclosed by providers and group purchasers to the commissioner as necessary to allow performance of those duties set forth in section 144.05.

Sec. 7. [62J.56] [IMPLEMENTATION OF ELECTRONIC DATA INTERCHANGE STANDARDS.]

Subdivision 1. [GENERAL PROVISIONS.] *(a) The legislature finds that there is a need to advance the use of electronic methods of data interchange among all health care participants in the state in order to achieve significant administrative cost savings. The legislature also finds that in order to advance the use of health care electronic data interchange in a cost-effective manner, the state needs to implement electronic data interchange standards that are nationally accepted, widely recognized, and available for immediate use. The legislature intends to set forth a plan for a systematic phase-in of uniform health care electronic data interchange standards in all segments of the health care industry.*

(b) The commissioner of health, with the advice of the Minnesota health data institute and the Minnesota administrative uniformity committee, shall administer the implementation of and monitor compliance with, electronic data interchange standards of health care participants, according to the plan provided in this section.

(c) The commissioner may grant exemptions to category I and II industry participants from the requirements to implement some or all of the provisions in this section if the commissioner determines that the cost of compliance would place the organization in financial distress, or if the commissioner determines that appropriate technology is not available to the organization.

Subd. 2. [IDENTIFICATION OF CORE TRANSACTION SETS.] *(a) All category I and II industry participants in Minnesota shall comply with the standards developed by the ANSI ASC X12 for the following core transaction sets, according to the implementation plan outlined for each transaction set.*

(1) ANSI ASC X12 835 health care claim payment/advice transaction set.

(2) ANSI ASC X12 837 health care claim transaction set.

(3) ANSI ASC X12 834 health care enrollment transaction set.

(4) ANSI ASC X12 270/271 health care eligibility transaction set.

(b) The commissioner, with the advice of the Minnesota health data institute and the Minnesota administrative uniformity committee, and in coordination with federal efforts, may approve the use of new ASC X12 standards, or new versions of existing standards, as they become available, or other nationally recognized standards, where appropriate ASC X12 standards are not available for use. These alternative standards may be used during a transition period while ASC X12 standards are developed.

Subd. 3. [IMPLEMENTATION GUIDES.] *(a) The commissioner, with the advice of the Minnesota administrative uniformity committee, and the Minnesota Center for Health Care Electronic Data Interchange shall review and recommend the use of guides to implement the core transaction sets. Implementation guides must contain the background and technical information required to allow health care participants to implement the transaction set in the most cost-effective way.*

(b) The commissioner shall promote the development of implementation guides among health care participants for those business transaction types for which implementation guides are not available, to allow providers and group purchasers to implement electronic data interchange. In promoting the development of these implementation guides, the commissioner shall review the work done by the American hospital association through the national uniform billing committee and its state representative organization; the american medical association through the uniform claim task force; the american dental association; the national council of prescription drug programs; and the workgroup for electronic data interchange.

Sec. 8. [62J.57] [MINNESOTA CENTER FOR HEALTH CARE ELECTRONIC DATA INTERCHANGE.]

(a) It is the intention of the legislature to support, to the extent of funds appropriated for that purpose, the creation of the Minnesota center for health care electronic data interchange as a broad-based effort of public and private organizations representing group purchasers, health care providers, and

government programs to advance the use of health care electronic data interchange in the state. The center shall attempt to obtain private sector funding to supplement legislative appropriations, and shall become self-supporting by the end of the second year.

(b) The Minnesota center for health care electronic data interchange shall facilitate the statewide implementation of electronic data interchange standards in the health care industry by:

(1) Coordinating and ensuring the availability of quality electronic data interchange education and training in the state;

(2) Developing an extensive, cohesive health care electronic data interchange education curriculum;

(3) Developing a communications and marketing plan to publicize electronic data interchange education activities, and the products and services available to support the implementation of electronic data interchange in the state;

(4) Administering a resource center that will serve as a clearinghouse for information relative to electronic data interchange, including the development and maintenance of a health care constituents data base, health care directory and resource library, and a health care communications network through the use of electronic bulletin board services and other network communications applications; and

(5) Providing technical assistance in the development of implementation guides, and in other issues including legislative, legal, and confidentiality requirements.

Sec. 9. [62J.58] [IMPLEMENTATION OF STANDARD TRANSACTION SETS.]

Subdivision 1. [CLAIMS PAYMENT.] *(a) By July 1, 1995, all category I industry participants, except pharmacists, shall be able to submit or accept, as appropriate, the ANSI ASC X12 835 health care claim payment/advice transaction set (draft standard for trial use version 3030) for electronic transfer of payment information.*

(b) By July 1, 1996, all category II industry participants, except pharmacists, shall be able to submit or accept, as appropriate, the ANSI ASC X12 835 health care claim payment/advice transaction set (draft standard for trial use version 3030) for electronic submission of payment information to health care providers.

Subd. 2. [CLAIMS SUBMISSION.] *Beginning July 1, 1995 , all category I industry participants, except pharmacists, shall be able to accept or submit, as appropriate, the ANSI ASC X12 837 health care claim transaction set (draft standard for trial use version 3030) for the electronic transfer of health care claim information. Category II industry participants, except pharmacists, shall be able to accept or submit, as appropriate, this transaction set, beginning July 1, 1996.*

Subd. 3. [ENROLLMENT INFORMATION.] *Beginning January 1, 1996, all category I industry participants, excluding pharmacists, shall be able to accept or submit, as appropriate, the ANSI ASC X12 834 health care enrollment transaction set (draft standard for trial use version 3030) for the electronic transfer of enrollment and health benefit information. Category II*

industry participants, except pharmacists, shall be able to accept or submit, as appropriate, this transaction set, beginning January 1, 1997.

Subd. 4. [ELIGIBILITY INFORMATION.] *By January 1, 1996, all category I industry participants, except pharmacists, shall be able to accept or submit, as appropriate, the ANSI ASC X12 270/271 health care eligibility transaction set (draft standard for trial use version 3030) for the electronic transfer of health benefit eligibility information. Category II industry participants, except pharmacists, shall be able to accept or submit, as appropriate, this transaction set, beginning January 1, 1997.*

Subd. 5. [APPLICABILITY.] *This section does not require a group purchaser, health care provider, or employer to use electronic data interchange or to have the capability to do so. This section applies only to the extent that a group purchaser, health care provider, or employer chooses to use electronic data interchange.*

Sec. 10. [62J.59] [IMPLEMENTATION OF NCPDP TELECOMMUNICATIONS STANDARD FOR PHARMACY CLAIMS.]

(a) Beginning January 1, 1996, all category I and II pharmacists licensed in this state shall accept the NCPDP telecommunication standard format 3.2 or the NCPDP tape billing and payment format 2.0 for the electronic submission of claims as appropriate.

(b) Beginning January 1, 1996, all category I and category II group purchasers in this state shall use the NCPDP telecommunication standard format 3.2 or NCPDP tape billing and payment format 2.0 for electronic submission of payment information to pharmacists.

Sec. 11. [62J.60] [STANDARDS FOR THE MINNESOTA UNIFORM HEALTH CARE IDENTIFICATION CARD.]

Subdivision 1. [MINNESOTA HEALTH CARE IDENTIFICATION CARD.] *All individuals with health care coverage shall be issued health care identification cards by group purchasers as of January 1, 1998. The health care identification cards shall comply with the standards prescribed in this section.*

Subd. 2. [GENERAL CHARACTERISTICS.] *(a) The Minnesota health care identification card must be a pre-printed card constructed of plastic, paper, or any other medium that conforms with ANSI and ISO 7810 physical characteristics standards. The card dimensions must also conform to ANSI and ISO 7810 physical characteristics standard. The use of a signature panel is optional.*

(b) The Minnesota health care identification card must have an essential information window in the front side with the following data elements left justified in the following top to bottom sequence: issuer name, issuer number, identification number, identification name. No optional data may be interspersed between these data elements. The window must be left justified.

(c) Standardized labels are required next to human readable data elements. The card issuer may decide the location of the standardized label relative to the data element.

Subd. 3. [HUMAN READABLE DATA ELEMENTS.] *(a) The following are the minimum human readable data elements that must be present on the front side of the Minnesota health care identification card:*

(1) Issuer name or logo, which is the name or logo that identifies the card issuer. The issuer name or logo may be the card's front background. No standard label is required for this data element;

(2) Issuer number, which is the unique card issuer number consisting of a base number assigned by a registry process followed by a suffix number assigned by the card issuer. The use of this element is mandatory within one year of the establishment of a process for this identifier. The standardized label for this element is "Issuer";

(3) Identification number, which is the unique identification number of the individual card holder established and defined under this section. The standardized label for the data element is "ID";

(4) Identification name, which is the name of the individual card holder. The identification name must be formatted as follows: first name, space, optional middle initial, space, last name, optional space and name suffix. The standardized label for this data element is "Name";

(5) Account number(s), which is any other number, such as a group number, if required for part of the identification or claims process. The standardized label for this data element is "Account";

(6) Care type, which is the description of the group purchaser's plan product under which the beneficiary is covered. The description shall include the health plan company name and the plan or product name. The standardized label for this data element is "Care Type";

(7) Service type, which is the description of coverage provided such as hospital, dental, vision, prescription, or mental health. The standard label for this data element is "Svc Type"; and

(8) Provider/clinic name, which is the name of the primary care clinic the cardholder is assigned to by the health plan company. The standard label for this field is "PCP." This information is mandatory only if the health plan company assigns a specific primary care provider to the cardholder.

(b) The following human readable data elements shall be present on the back side of the Minnesota health identification card. These elements must be left justified, and no optional data elements may be interspersed between them:

(1) Claims submission name(s) and address(es), which are the name(s) and address(es) of the entity or entities to which claims should be submitted. If different destinations are required for different types of claims, this must be labeled;

(2) Telephone number(s) and name(s); which are the telephone number(s) and name(s) of the following contact(s) with a standardized label describing the service function as applicable:

(i) eligibility and benefit information;

(ii) utilization review;

(iii) pre-certification; or

(iv) customer services.

(c) The following human readable data elements are mandatory on the back side of the card for health maintenance organizations and integrated service networks:

(1) emergency care authorization telephone number or instruction on how to receive authorization for emergency care. There is no standard label required for this information; and

(2) telephone number to call to appeal to the commissioner of health. There is no standard label required for this information.

(d) All human readable data elements not required under paragraphs (a) to (c) are optional and may be used at the issuer's discretion.

Subd. 4. [MACHINE READABLE DATA CONTENT.] *The Minnesota health care identification card may be machine readable or nonmachine readable. If the card is machine readable, the card must contain a magnetic stripe that conforms to ANSI and ISO standards for Tracks 1.*

Sec. 12. [62J.61] [RULEMAKING; IMPLEMENTATION.]

The commissioner of health is exempt from rulemaking in implementing sections 62J.50 to 62J.54, subdivision 3, and 62J.56 to 62J.59. The commissioner shall publish proposed rules in the State Register. Interested parties have 30 days to comment on the proposed rules. After the commissioner has considered all comments, the commissioner shall publish the final rules in the State Register 30 days before they are to take effect. The commissioner may use emergency and permanent rulemaking to implement the remainder of this article. The commissioner shall not adopt any rules requiring patients to provide their social security numbers unless and until federal laws are modified to allow or require such action nor shall the commissioner adopt rules which allow medical records, claims, or other treatment or clinical data to be included on the health care identification card, except as specifically provided in this chapter. The commissioner shall seek comments from the ethics and confidentiality committee of the Minnesota health data institute and the department of administration, public information policy analysis division, before adopting or publishing final rules relating to issues of patient privacy and medical records.

Sec. 13. [COMMISSIONER; CONTINUED SIMPLIFICATION.]

The commissioner of health shall continue to develop additional standard billing and administrative procedure simplification. These may include reduction or elimination of payer-required attachments to claims, standard formularies, standard format for direct patient billing, and increasing standardization of claims forms and EDI formats.

Sec. 14. [EVALUATIONS.]

Subdivision 1. [UNIQUE EMPLOYER IDENTIFICATION NUMBER.] *The commissioner of health shall evaluate the need for the development and implementation of unique employer identification numbers to identify employers or entities that provide health care coverage.*

Subd. 2. [UNIQUE "ISSUER" IDENTIFICATION NUMBER.] *The commissioner of health shall evaluate the need for the development and implementation of unique identification numbers to identify issuers of health care identification cards.*

Sec. 15. [EFFECTIVE DATE.]

Sections 1 to 14 are effective the day following final enactment.

ARTICLE 10

INSURANCE REFORM

Section 1. Minnesota Statutes 1993 Supplement, section 43A.317, is amended by adding a subdivision to read:

Subd. 12. [STATUS OF AGENTS.] *Notwithstanding section 60K.03, subdivision 5, and 72A.07, the program may use, and pay referral fees, commissions, or other compensation to, agents licensed as life and health agents under chapter 60K or licensed under section 62C.17, regardless of whether the agents are appointed to represent the particular health carriers, integrated service networks, or community integrated service networks that provide the coverage available through the program. When acting under this subdivision, an agent is not an agent of the health carrier, integrated service network, or community integrated service network, with respect to that transaction.*

Sec. 2. Minnesota Statutes 1993 Supplement, section 60K.14, subdivision 7, is amended to read:

Subd. 7. [DISCLOSURE OF COMMISSIONS.] Before selling~~, or offering to sell,~~ any ~~health insurance or a~~ health plan as defined in section 62A.011, subdivision 3, an agent shall disclose *in writing* to the prospective purchaser the amount of any commission or other compensation the agent will receive as a direct result of the sale. The disclosure may be expressed in dollars or as a percentage of the premium. The amount disclosed need not include any anticipated renewal commissions.

Sec. 3. Minnesota Statutes 1993 Supplement, section 62A.011, subdivision 3, is amended to read:

Subd. 3. [HEALTH PLAN.] "Health plan" means a policy or certificate of accident and sickness insurance as defined in section 62A.01 offered by an insurance company licensed under chapter 60A; a subscriber contract or certificate offered by a nonprofit health service plan corporation operating under chapter 62C; a health maintenance contract or certificate offered by a health maintenance organization operating under chapter 62D; a health benefit certificate offered by a fraternal benefit society operating under chapter 64B; or health coverage offered by a joint self-insurance employee health plan operating under chapter 62H. Health plan means individual and group coverage, unless otherwise specified. Health plan does not include coverage that is:

(1) limited to disability or income protection coverage;

(2) automobile medical payment coverage;

(3) supplemental to liability insurance;

(4) designed solely to provide payments on a per diem, fixed indemnity, or nonexpense-incurred basis;

(5) credit accident and health insurance as defined in section 62B.02;

(6) designed solely to provide dental or vision care;

(7) blanket accident and sickness insurance as defined in section 62A.11;

(8) accident-only coverage;

(9) a long-term care policy as defined in section 62A.46;

(10) issued as a supplement to Medicare, as defined in sections 62A.31 to 62A.44, or policies, *contracts, or certificates* that supplement Medicare issued by health maintenance organizations or those policies, *contracts, or certificates* governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended ~~through December 31, 1991~~;

(11) workers' compensation insurance; or

(12) issued solely as a companion to a health maintenance contract as described in section 62D.12, subdivision 1a, so long as the health maintenance contract meets the definition of a health plan.

Sec. 4. Minnesota Statutes 1992, section 62A.303, is amended to read:

62A.303 [PROHIBITION; SEVERING OF GROUPS.]

Section 62L.12, subdivisions ~~1, 2,~~ 3, and 4, apply to all employer group health plans, as defined in section 62A.011, regardless of the size of the group.

Sec. 5. [62A.305] [USE OF GENDER PROHIBITED.]

Subdivision 1. [APPLICABILITY.] *This section applies to all health plans as defined in section 62A.011 offered, sold, issued, or renewed, by a health carrier on or after January 1, 1995.*

Subd. 2. [PROHIBITION ON USE OF GENDER.] *No health plan described in subdivision 1 shall determine the premium rate or any other underwriting decision, including initial issuance, through a method that is in any way based upon the gender of any person covered or to be covered under the health plan. This subdivision prohibits use of marital status or generalized differences in expected costs between employees and spouses or between principal insureds and their spouses.*

Sec. 6. Minnesota Statutes 1993 Supplement, section 62A.31, subdivision 1h, is amended to read:

Subd. 1h. [LIMITATIONS ON DENIALS, CONDITIONS, AND PRICING OF COVERAGE.] No issuer of Medicare supplement policies, including policies that supplement Medicare issued by health maintenance organizations or those policies governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., in this state may impose preexisting condition limitations or otherwise deny or condition the issuance or effectiveness of any Medicare supplement insurance policy form available for sale in this state, nor may it discriminate in the pricing of such a policy, because of the health status, claims experience, receipt of health care, or medical condition of an applicant where an application for such insurance is submitted during the six-month period beginning with the first month in which an individual first enrolled for benefits under Medicare Part B. This paragraph applies regardless of whether the individual has attained the age of 65 years. *If an individual who is enrolled in Medicare Part B due to disability status is involuntarily disenrolled due to loss of disability status, the individual is eligible for the six-month enrollment period provided under this*

subdivision if the individual later becomes eligible for and enrolls again in Medicare Part B.

Sec. 7. Minnesota Statutes 1993 Supplement, section 62A.36, subdivision 1, is amended to read:

Subdivision 1. [LOSS RATIO STANDARDS.] (a) *For purposes of this section, "Medicare supplement policy or certificate" has the meaning given in section 62A.31, subdivision 3, but also includes a policy, contract, or certificate issued under a contract under section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395 et seq.* A Medicare supplement policy form or certificate form shall not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificate holders in the form of aggregate benefits, not including anticipated refunds or credits, provided under the policy form or certificate form:

(1) at least 75 percent of the aggregate amount of premiums earned in the case of group policies, and

(2) at least 65 percent of the aggregate amount of premiums earned in the case of individual policies, calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for the period and according to accepted actuarial principles and practices. An insurer shall demonstrate that the third year loss ratio is greater than or equal to the applicable percentage.

All filings of rates and rating schedules shall demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards, and aggregate loss ratio from inception of the policy or certificate shall equal or exceed the appropriate loss ratio standards.

An application form for a Medicare supplement policy or certificate, as defined in this section, must prominently disclose the anticipated loss ratio and explain what it means.

(b) An issuer shall collect and file with the commissioner by May 31 of each year the data contained in the National Association of Insurance Commissioners Medicare Supplement Refund Calculating form, for each type of Medicare supplement benefit plan.

If, on the basis of the experience as reported, the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3), then a refund or credit calculation is required. The refund calculation must be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year shall be excluded.

A refund or credit shall be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a de minimis level. The refund shall include interest from the end of the calendar year to the date of the refund or credit at a rate specified

by the secretary of health and human services, but in no event shall it be less than the average rate of interest for 13-week treasury bills. A refund or credit against premiums due shall be made by September 30 following the experience year on which the refund or credit is based.

(c) An issuer of Medicare supplement policies and certificates in this state shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy or certificate duration for approval by the commissioner according to the filing requirements and procedures prescribed by the commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. An expected third-year loss ratio which is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than three years.

As soon as practicable, but before the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this state shall file with the commissioner, in accordance with the applicable filing procedures of this state:

(1) a premium adjustment that is necessary to produce an expected loss ratio under the policy or certificate that will conform with minimum loss ratio standards for Medicare supplement policies or certificates. No premium adjustment that would modify the loss ratio experience under the policy or certificate other than the adjustments described herein shall be made with respect to a policy or certificate at any time other than on its renewal date or anniversary date;

(2) if an issuer fails to make premium adjustments acceptable to the commissioner, the commissioner may order premium adjustments, refunds, or premium credits considered necessary to achieve the loss ratio required by this section;

(3) any appropriate riders, endorsements, or policy or certificate forms needed to accomplish the Medicare supplement insurance policy or certificate modifications necessary to eliminate benefit duplications with Medicare. The riders, endorsements, or policy or certificate forms shall provide a clear description of the Medicare supplement benefits provided by the policy or certificate.

(d) The commissioner may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of a refund or credit for the reporting period. Public notice of the hearing shall be furnished in a manner considered appropriate by the commissioner.

(e) An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with, and approved by, the commissioner according to the filing requirements and procedures prescribed by the commissioner.

Sec. 8. Minnesota Statutes 1993 Supplement, section 62A.65, subdivision 2, is amended to read:

Subd. 2. [GUARANTEED RENEWAL.] No individual health plan may be offered, sold, issued, or renewed to a Minnesota resident unless the health plan provides that the plan is guaranteed renewable at a premium rate that does not take into account the claims experience or any change in the health status of any covered person that occurred after the initial issuance of the health plan to the person. The premium rate upon renewal must also otherwise comply with this section. *A health carrier must not refuse to renew* an individual health plan ~~may be subject to refusal to renew only under the conditions provided in chapter 62L for health benefit plans~~ *prior to enrollment in Medicare Parts A and B, except for nonpayment of premiums, fraud, or misrepresentation.*

Sec. 9. Minnesota Statutes 1993 Supplement, section 62A.65, subdivision 3, is amended to read:

Subd. 3. [PREMIUM RATE RESTRICTIONS.] No individual health plan may be offered, sold, issued, or renewed to a Minnesota resident unless the premium rate charged is determined in accordance with the ~~rating and premium restrictions provided under chapter 62L, except that the minimum loss ratio applicable to an individual health plan is as provided in section 62A.021. All rating and premium restrictions of chapter 62L apply to the individual market, unless clearly inapplicable to the individual market.~~ *following requirements:*

(a) Premium rates must be no more than 25 percent above and no more than 25 percent below the index rate charged to individuals for the same or similar coverage, adjusted pro rata for rating periods of less than one year. The premium variations permitted by this paragraph must be based only upon health status, claims experience, and occupation. For purposes of this paragraph, health status includes refraining from tobacco use or other actuarially valid lifestyle factors associated with good health, provided that the lifestyle factor and its effect upon premium rates have been determined by the commissioner to be actuarially valid and have been approved by the commissioner. Variations permitted under this paragraph must not be based upon age or applied differently at different ages. This paragraph does not prohibit use of a constant percentage adjustment for factors permitted to be used under this paragraph.

(b) Premium rates may vary based upon the ages of covered persons only as provided in this paragraph. In addition to the variation permitted under paragraph (a), each health carrier may use an additional premium variation based upon age of up to plus or minus 50 percent of the index rate.

(c) A health carrier may request approval by the commissioner to establish no more than three geographic regions and to establish separate index rates for each region, provided that the index rates do not vary between any two regions by more than 20 percent. Health carriers that do not do business in the Minneapolis/St. Paul metropolitan area may request approval for no more than two geographic regions, and clauses (2) and (3) do not apply to approval of requests made by those health carriers. The commissioner may grant approval if the following conditions are met:

(1) the geographic regions must be applied uniformly by the health carrier;

(2) one geographic region must be based on the Minneapolis/St. Paul metropolitan area;

(3) for each geographic region that is rural, the index rate for that region must not exceed the index rate for the Minneapolis/St. Paul metropolitan area; and

(4) the health carrier provides actuarial justification acceptable to the commissioner for the proposed geographic variations in index rates, establishing that the variations are based upon differences in the cost to the health carrier of providing coverage.

(d) Health carriers may use rate cells and must file with the commissioner the rate cells they use. Rate cells must be based upon the number of adults or children covered under the policy and may reflect the availability of medicare coverage. The rates for different rate cells must not in any way reflect generalized differences in expected costs between principal insureds and their spouses.

(e) In developing its index rates and premiums for a health plan, a health carrier shall take into account only the following factors:

(1) actuarially valid differences in rating factors permitted under paragraphs (a) and (b); and

(2) actuarially valid geographic variations if approved by the commissioner as provided in paragraph (c).

(f) All premium variations must be justified in initial rate filings and upon request of the commissioner in rate revision filings. All rate variations are subject to approval by the commissioner.

(g) The loss ratio must comply with the section 62A.021 requirements for individual health plans.

(h) The rates must not be approved, unless the commissioner has determined that the rates are reasonable. In determining reasonableness, the commissioner shall consider the growth rates applied under section 62J.04, subdivision 1, paragraph (b), to the calendar year or years that the proposed premium rate would be in effect, actuarially valid changes in risks associated with the enrollee populations, and actuarially valid changes as a result of statutory changes in Laws 1992, chapter 549.

Sec. 10. Minnesota Statutes 1993 Supplement, section 62A.65, subdivision 4, is amended to read:

Subd. 4. [GENDER RATING PROHIBITED.] No individual health plan offered, sold, issued, or renewed to a Minnesota resident may determine the premium rate or any other underwriting decision, including initial issuance, ~~on~~ *through a method that is in any way based upon* the gender of any person covered or to be covered under the health plan. *This subdivision prohibits the use of marital status or generalized differences in expected costs between principal insureds and their spouses.*

Sec. 11. Minnesota Statutes 1993 Supplement, section 62A.65, subdivision 5, is amended to read:

Subd. 5. [PORTABILITY OF COVERAGE.] (a) No individual health plan may be offered, sold, issued, or with respect to children age 18 or under

renewed, to a Minnesota resident that contains a preexisting condition limitation or exclusion *or exclusionary rider*, unless the limitation or exclusion ~~would be~~ *is* permitted under ~~chapter 62L~~ *this subdivision*, provided that, except for children age 18 or under, underwriting restrictions may be retained on individual contracts that are issued without evidence of insurability as a replacement for prior individual coverage that was sold before May 17, 1993. The individual may be ~~treated as a late entrant, as defined in chapter 62L~~ *subjected to an 18-month preexisting condition limitation*, unless the individual has maintained continuous coverage as defined in ~~chapter 62L~~ *section 62L.02. The individual must not be subjected to an exclusionary rider.* An individual who has maintained continuous coverage may be subjected to a one-time preexisting condition limitation ~~as permitted under chapter 62L for persons who are not late entrants,~~ *of up to 12 months, with credit for time covered under qualifying coverage as defined in section 62L.02,* at the time that the individual first is covered under an individual health plan by any health carrier. *The individual must not be subjected to an exclusionary rider.* Thereafter, the individual must not be subject to any preexisting condition limitation *or exclusion or exclusionary rider* under an individual health plan by any health carrier, except an unexpired portion of a limitation under prior coverage, so long as the individual maintains continuous coverage.

(b) A health carrier must offer an individual health plan to any individual previously covered under a group health ~~benefit~~ plan issued by that health carrier, *regardless of the size of the group,* so long as the individual maintained continuous coverage as defined in ~~chapter 62L~~ *section 62L.02. The offer must not be subject to underwriting, except as permitted under this paragraph.* A health plan issued under this paragraph must be a qualified plan and must not contain any preexisting condition limitation or exclusion *or exclusionary rider*, except for any unexpired limitation or exclusion under the previous coverage. *The individual health plan must cover pregnancy on the same basis as any other covered illness under the individual health plan.* The initial premium rate for the individual health plan must comply with subdivision 3. The premium rate upon renewal must comply with subdivision 2. In no event shall the premium rate exceed 90 percent of the premium charged for comparable individual coverage by the Minnesota comprehensive health association, *and the premium rate must be less than that amount if necessary to otherwise comply with this section. An individual health plan offered under this paragraph to a person satisfies the health carrier's obligation to offer conversion coverage under section 62E.16, with respect to that person. Section 72A.20, subdivision 28, applies to this paragraph.*

Sec. 12. Minnesota Statutes 1993 Supplement, section 62A.65, is amended by adding a subdivision to read:

Subd. 8. [CESSATION OF INDIVIDUAL BUSINESS.] *Notwithstanding the provisions of subdivisions 1 to 7, a health carrier may elect to cease doing business in the individual market if it complies with the requirements of this subdivision. A health carrier electing to cease doing business in the individual market shall notify the commissioner 180 days prior to the effective date of the cessation. The cessation of business does not include the failure of a health carrier to offer or issue new business in the individual market or continue an existing product line, provided that a health carrier does not terminate, cancel, or fail to renew its current individual business or other product lines. A health carrier electing to cease doing business in the individual market shall provide 120 days' written notice to each policyholder covered by a health plan*

issued by the health carrier. A health carrier that ceases to write new business in the individual market shall continue to be governed by this section with respect to continuing individual business conducted by the carrier. A health carrier that ceases to do business in the individual market after July 1, 1994, is prohibited from writing new business in the individual market in this state for a period of five years from the date of notice to the commissioner. This subdivision applies to any health maintenance organization that ceases to do business in the individual market in one service area with respect to that service area only. Nothing in this subdivision prohibits an affiliated health maintenance organization from continuing to do business in the individual market in that same service area. The right to cancel or refuse to renew an individual health plan under this subdivision does not apply to individual health plans originally issued prior to July 1, 1993, on a guaranteed renewable basis.

Sec. 13. Minnesota Statutes 1993 Supplement, section 62D.12, subdivision 17, is amended to read:

Subd. 17. [DISCLOSURE OF COMMISSIONS.] Any person receiving commissions for the sale of coverage or enrollment in *a health plan, as defined in section 62A.011, offered by* a health maintenance organization shall, before selling ~~or offering to sell~~ coverage or enrollment, disclose *in writing* to the prospective purchaser the amount of any commission or other compensation the person will receive as a direct result of the sale. The disclosure may be expressed in dollars or as a percentage of the premium. The amount disclosed need not include any anticipated renewal commissions.

Sec. 14. Minnesota Statutes 1992, section 62E.141, is amended to read:

62E.141 [INCLUSION IN EMPLOYER-SPONSORED PLAN.]

No employee, or dependent of an employee, of an employer ~~who~~ *that* offers a health ~~benefit~~ plan, under which the employee or dependent is eligible ~~to enroll under chapter 62L~~ *for coverage*, is eligible to enroll, or continue to be enrolled, in the comprehensive health association, except for enrollment or continued enrollment necessary to cover conditions that are subject to an unexpired preexisting condition limitation or exclusion *or exclusionary rider* under the employer's health ~~benefit~~ plan. This section does not apply to persons enrolled in the comprehensive health association as of June 30, 1993. *With respect to persons eligible to enroll in the health plan of an employer that has more than 29 current employees, as defined in section 62L.02, this section does not apply to persons enrolled in the comprehensive health association as of December 31, 1994.*

Sec. 15. Minnesota Statutes 1992, section 62E.16, is amended to read:

62E.16 [POLICY CONVERSION RIGHTS.]

Every program of self-insurance, policy of group accident and health insurance or contract of coverage by a health maintenance organization written or renewed in this state, shall include, in addition to the provisions required by section 62A.17, the right to convert to an individual coverage qualified plan without the addition of underwriting restrictions if the individual insured leaves the group regardless of the reason for leaving the group or if an employer member of a group ceases to remit payment so as to terminate coverage for its employees, or upon cancellation or termination of the coverage for the group except where uninterrupted and continuous group

coverage is otherwise provided to the group. If the health maintenance organization has canceled coverage for the group because of a loss of providers in a service area, the health maintenance organization shall arrange for other health maintenance or indemnity conversion options that shall be offered to enrollees without the addition of underwriting restrictions. The required conversion contract must treat pregnancy the same as any other covered illness under the conversion contract. The person may exercise this right to conversion within 30 days of leaving the group or within 30 days following receipt of due notice of cancellation or termination of coverage of the group or of the employer member of the group and upon payment of premiums from the date of termination or cancellation. Due notice of cancellation or termination of coverage for a group or of the employer member of the group shall be provided to each employee having coverage in the group by the insurer, self-insurer or health maintenance organization canceling or terminating the coverage except where reasonable evidence indicates that uninterrupted and continuous group coverage is otherwise provided to the group. Every employer having a policy of group accident and health insurance, group subscriber or contract of coverage by a health maintenance organization shall, upon request, provide the insurer or health maintenance organization a list of the names and addresses of covered employees. Plans of health coverage shall also include a provision which, upon the death of the individual in whose name the contract was issued, permits every other individual then covered under the contract to elect, within the period specified in the contract, to continue coverage under the same or a different contract without the addition of underwriting restrictions until the individual would have ceased to have been entitled to coverage had the individual in whose name the contract was issued lived. An individual conversion contract issued by a health maintenance organization shall not be deemed to be an individual enrollment contract for the purposes of section 62D.10. *An individual health plan offered under section 62A.65, subdivision 5, paragraph (b), to a person satisfies the health carrier's obligation to offer conversion coverage under this section with respect to that person.*

Sec. 16. Minnesota Statutes 1993 Supplement, section 62L.02, subdivision 8, is amended to read:

Subd. 8. [COMMISSIONER.] "Commissioner" means the commissioner of commerce for health carriers subject to the jurisdiction of the department of commerce or the commissioner of health for health carriers subject to the jurisdiction of the department of health, or the relevant commissioner's designated representative. For purposes of sections 62L.13 to 62L.22, "commissioner" means the commissioner of commerce *or that commissioner's designated representative.*

Sec. 17. Minnesota Statutes 1992, section 62L.02, subdivision 9, is amended to read:

Subd. 9. [CONTINUOUS COVERAGE.] "Continuous coverage" means the maintenance of continuous and uninterrupted qualifying ~~prior~~ coverage ~~by an eligible employee or dependent~~. An ~~eligible employee or dependent~~ *individual* is considered to have maintained continuous coverage if the individual requests enrollment in ~~a health benefit plan~~ *qualifying coverage* within 30 days of termination of ~~the~~ qualifying ~~prior~~ coverage.

Sec. 18. Minnesota Statutes 1992, section 62L.02, is amended by adding a subdivision to read:

Subd. 9a. [CURRENT EMPLOYEE.] *"Current employee" means an employee, as defined in this section, other than a retiree or handicapped former employee.*

Sec. 19. Minnesota Statutes 1993 Supplement, section 62L.02, subdivision 11, is amended to read:

Subd. 11. [DEPENDENT.] "Dependent" means an eligible employee's spouse, unmarried child who is under the age of 19 years, unmarried child under the age of 25 years who is a full-time student as defined in section 62A.301 ~~and financially dependent upon the eligible employee, or~~, dependent child of any age who is handicapped and who meets the eligibility criteria in section 62A.14, subdivision 2, *or any other person whom state or federal law requires to be treated as a dependent for purposes of health plans.* For the purpose of this definition, a child may include a child for whom the employee or the employee's spouse has been appointed legal guardian.

Sec. 20. Minnesota Statutes 1992, section 62L.02, subdivision 13, is amended to read:

Subd. 13. [ELIGIBLE EMPLOYEE.] "Eligible employee" means an ~~individual employed by a small employer for at least 20 hours per week and~~ *employee* who has satisfied all employer participation and eligibility requirements~~, including, but not limited to, the satisfactory completion of a probationary period of not less than 30 days but no more than 90 days. The term includes a sole proprietor, a partner of a partnership, or an independent contractor, if the sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer, but does not include employees who work on a temporary, seasonal, or substitute basis~~.

Sec. 21. Minnesota Statutes 1992, section 62L.02, is amended by adding a subdivision to read:

Subd. 13a. [EMPLOYEE.] *"Employee" means an individual employed for at least 20 hours per week and includes a sole proprietor or a partner of a partnership, if the sole proprietor or partner is included under a health benefit plan of the employer, but does not include individuals who work on a temporary, seasonal, or substitute basis. "Employee" also includes a retiree or a handicapped former employee required to be covered under sections 62A.147 and 62A.148.*

Sec. 22. Minnesota Statutes 1992, section 62L.02, is amended by adding a subdivision to read:

Subd. 14a. [GUARANTEED ISSUE.] *"Guaranteed issue" means that a health carrier shall not decline an application by a small employer for any health benefit plan offered by that health carrier and shall not decline to cover under a health benefit plan any eligible employee or eligible dependent, including persons who become eligible employees or eligible dependents after initial issuance of the health benefit plan, subject to the health carrier's right to impose preexisting condition limitations permitted under this chapter.*

Sec. 23. Minnesota Statutes 1993 Supplement, section 62L.02, subdivision 15, is amended to read:

Subd. 15. [HEALTH BENEFIT PLAN.] "Health benefit plan" means a policy, contract, or certificate *offered, sold,* issued, *or renewed* by a health carrier to a small employer for the coverage of medical and hospital benefits.

Health benefit plan includes a small employer plan. Health benefit plan does not include coverage that is:

(1) limited to disability or income protection coverage;

(2) automobile medical payment coverage;

(3) supplemental to liability insurance;

(4) designed solely to provide payments on a per diem, fixed indemnity, or nonexpense-incurred basis;

(5) credit accident and health insurance as defined in section 62B.02;

(6) designed solely to provide dental or vision care;

(7) blanket accident and sickness insurance as defined in section 62A.11;

(8) accident-only coverage;

(9) a long-term care policy as defined in section 62A.46;

(10) issued as a supplement to Medicare, as defined in sections 62A.31 to 62A.44, or policies, *contracts, or certificates* that supplement Medicare issued by health maintenance organizations or those policies, *contracts, or certificates* governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended ~~through December 31, 1991~~;

(11) workers' compensation insurance; or

(12) issued solely as a companion to a health maintenance contract as described in section 62D.12, subdivision 1a, so long as the health maintenance contract meets the definition of a health benefit plan.

For the purpose of this chapter, a health benefit plan issued to *eligible* employees of a small employer who meets the participation requirements of section 62L.03, subdivision 3, is considered to have been issued to a small employer. A health benefit plan issued on behalf of a health carrier is considered to be issued by the health carrier.

Sec. 24. Minnesota Statutes 1993 Supplement, section 62L.02, subdivision 16, is amended to read:

Subd. 16. [HEALTH CARRIER.] "Health carrier" means an insurance company licensed under chapter 60A to offer, sell, or issue a policy of accident and sickness insurance as defined in section 62A.01; a health service plan licensed under chapter 62C; a health maintenance organization licensed under chapter 62D; a fraternal benefit society operating under chapter 64B; a joint self-insurance employee health plan operating under chapter 62H; and a multiple employer welfare arrangement, as defined in United States Code, title 29, section 1002(40), as amended ~~through December 31, 1991~~. *For purposes of sections 62L.01 to 62L.12, but not for purposes of sections 62L.13 to 62L.22, "health carrier" includes a community integrated service network or integrated service network licensed under chapter 62N. Any use of this definition in another chapter by reference does not include a community integrated service network or integrated service network, unless otherwise specified.* For the purpose of this chapter, companies that are affiliated companies or that are eligible to file a consolidated tax return must be treated as one health carrier, except that any insurance company or health service plan

corporation that is an affiliate of a health maintenance organization located in Minnesota, or any health maintenance organization located in Minnesota that is an affiliate of an insurance company or health service plan corporation, or any health maintenance organization that is an affiliate of another health maintenance organization in Minnesota, may treat the health maintenance organization as a separate health carrier.

Sec. 25. Minnesota Statutes 1992, section 62L.02, subdivision 17, is amended to read:

Subd. 17. [HEALTH PLAN.] "Health plan" means a health ~~benefit~~ plan ~~issued by a health carrier, except that it may be issued:~~

~~(1) to a small employer;~~

~~(2) to an employer who does not satisfy the definition of a small employer as defined under subdivision 26; or~~

~~(3) to an individual purchasing an individual or conversion policy of health care coverage issued by a health carrier~~ *as defined in section 62A.011 and includes individual and group coverage regardless of the size of the group, unless otherwise specified.*

Sec. 26. Minnesota Statutes 1993 Supplement, section 62L.02, subdivision 19, is amended to read:

Subd. 19. [LATE ENTRANT.] "Late entrant" means an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer following the initial enrollment period applicable to the employee or dependent under the terms of the health benefit plan, provided that the initial enrollment period must be a period of at least 30 days. However, an eligible employee or dependent must not be considered a late entrant if:

(1) the individual was covered under qualifying ~~existing~~ coverage at the time the individual was eligible to enroll in the health benefit plan, declined enrollment on that basis, and presents to the *health* carrier a certificate of termination of the qualifying ~~prior~~ coverage, due to loss of eligibility for that coverage, provided that the individual maintains continuous coverage. For purposes of this clause, ~~eligibility for prior coverage does not include eligibility for~~ *an individual is not a late entrant if the individual elects coverage under the health benefit plan rather than accepting* continuation coverage ~~required~~ *for which the individual is eligible* under state or federal law *with respect to the individual's previous qualifying coverage*;

(2) the individual has lost coverage under another group health plan due to the expiration of benefits available under the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law Number 99-272, as amended, and any state continuation laws applicable to the employer or *health* carrier, provided that the individual maintains continuous coverage;

(3) the individual is a new spouse of an eligible employee, provided that enrollment is requested within 30 days of becoming legally married;

(4) the individual is a new dependent child of an eligible employee, provided that enrollment is requested within 30 days of becoming a dependent;

(5) the individual is employed by an employer that offers multiple health

benefit plans and the individual elects a different plan during an open enrollment period; or

(6) a court has ordered that coverage be provided for a *former spouse or* dependent child under a covered employee's health benefit plan and request for enrollment is made within 30 days after issuance of the court order.

Sec. 27. Minnesota Statutes 1992, section 62L.02, subdivision 24, is amended to read:

Subd. 24. [QUALIFYING ~~PRIOR~~ COVERAGE ~~OR QUALIFYING EXISTING COVERAGE~~.] "Qualifying ~~prior~~ coverage" ~~or "qualifying existing coverage"~~ means health benefits or health coverage provided under:

(1) a health plan, as defined in this section;

(2) Medicare;

(3) medical assistance under chapter 256B;

(4) general assistance medical care under chapter 256D;

(5) MCHA;

(6) a self-insured health plan;

(7) the ~~health right~~ *MinnesotaCare* ~~plan~~ *program* established under section 256.9352, when the plan includes inpatient hospital services as provided in section 256.9353;

(8) a plan provided under section 43A.316, *43A.317, or 471.617*; or

(9) a plan similar to any of the above plans provided in this state or in another state as determined by the commissioner.

Sec. 28. Minnesota Statutes 1993 Supplement, section 62L.02, subdivision 26, is amended to read:

Subd. 26. [SMALL EMPLOYER.] *(a)* "Small employer" means a person, firm, corporation, partnership, association, or other entity actively engaged in business ~~who~~, *including a political subdivision of the state, that*, on at least 50 percent of its working days during the preceding ~~calendar year~~ *12 months*, employed no fewer than two nor more than 29 ~~eligible~~, *or after June 30, 1995, more than 49, current* employees, the majority of whom were employed in this state. If an employer has only two eligible employees and one is the spouse, child, sibling, parent, or grandparent of the other, the employer must be a Minnesota domiciled employer and have paid social security or self-employment tax on behalf of both eligible employees. *If an employer has only one eligible employee who has not waived coverage, the sale of a health plan to or for that eligible employee is not a sale to a small employer and is not subject to this chapter and may be treated as the sale of an individual health plan.* A small employer plan may be offered through a domiciled association to self-employed individuals and small employers who are members of the association, even if the self-employed individual or small employer has fewer than two *current* employees. Entities that are eligible to file a combined tax return for purposes of state tax laws are considered a single employer for purposes of determining the number of ~~eligible~~ *current* employees. Small employer status must be determined on an annual basis as of the renewal date of the health benefit plan. The provisions of this chapter continue to apply to

an employer who no longer meets the requirements of this definition until the annual renewal date of the employer's health benefit plan.

(b) Where an association, described in section 62A.10, subdivision 1, comprised of employers contracts with a health carrier to provide coverage to its members who are small employers, the association shall be considered to be a small employer, with respect to those employers in the association that employ no fewer than two nor more than 29 ~~eligible~~, *or after June 30, 1995, more than 49, current* employees, even though the association provides coverage to its members that do not qualify as small employers. An association in existence prior to July 1, 1993, is exempt from this chapter with respect to small employers that are members as of that date. However, in providing coverage to new ~~groups~~ *employers* after July 1, 1993, the existing association must comply with all requirements of this chapter. Existing associations must register with the commissioner of commerce prior to July 1, 1993. *With respect to small employers having not fewer than 30 nor more than 49 current employees, the July 1, 1993 date in this paragraph becomes July 1, 1995, and the reference to "after" that date becomes "on or after."*

(c) If an employer has employees covered under a trust ~~established~~ *specified* in a collective bargaining agreement under the federal Labor-Management Relations Act of 1947, United States Code, title 29, section 141, et seq., as amended, *or employees whose health coverage is determined by a collective bargaining agreement and, as a result of the collective bargaining agreement, is purchased separately from the health plan provided to other employees,* those employees are excluded in determining whether the employer qualifies as a small employer. *Those employees are considered to be a separate small employer if they constitute a group that would qualify as a small employer in the absence of the employees who are not subject to the collective bargaining agreement.*

Sec. 29. Minnesota Statutes 1992, section 62L.03, subdivision 1, is amended to read:

Subdivision 1. [GUARANTEED ISSUE AND REISSUE.] Every health carrier shall, as a condition of authority to transact business in this state in the small employer market, affirmatively market, offer, sell, issue, and renew any of its health benefit plans, *on a guaranteed issue basis,* to any small employer *that meets the participation and contribution requirements of subdivision 3,* as provided in this chapter. *This requirement does not apply to a health benefit plan designed for a small employer to comply with a collective bargaining agreement, provided that the health benefit plan otherwise complies with this chapter and is not offered to other small employers, except for other small employers that need it for the same reason.* Every health carrier participating in the small employer market shall make available both of the plans described in section 62L.05 to small employers and shall fully comply with the underwriting and the rate restrictions specified in this chapter for all health benefit plans issued to small employers. A health carrier may cease to transact business in the small employer market as provided under section 62L.09.

Sec. 30. Minnesota Statutes 1993 Supplement, section 62L.03, subdivision 3, is amended to read:

Subd. 3. [MINIMUM PARTICIPATION AND CONTRIBUTION.] (a) A small employer that has at least 75 percent of its eligible employees who have not waived coverage participating in a health benefit plan and that contributes at least 50 percent toward the cost of coverage of eligible employees must be

guaranteed coverage *on a guaranteed issue basis* from any health carrier participating in the small employer market. The participation level of eligible employees must be determined at the initial offering of coverage and at the renewal date of coverage. A health carrier ~~may~~ *must* not increase the participation requirements applicable to a small employer at any time after the small employer has been accepted for coverage. For the purposes of this subdivision, waiver of coverage includes only waivers due to: *(1)* coverage under another group health plan; *(2) coverage under Medicare parts A and B; or (3) coverage under MCHA permitted under section 62E.141.*

(b) If a small employer does not satisfy the contribution or participation requirements under this subdivision, a health carrier may voluntarily issue or renew individual ~~coverage~~ *health plans*, or a health benefit plan which~~, except for guaranteed issue,~~ must fully comply with this chapter. A health carrier that provides ~~group coverage~~ *a health benefit plan* to a small employer that does not meet the contribution or participation requirements of this subdivision must maintain this information in its files for audit by the commissioner. A health carrier may not offer *an* individual ~~coverage~~ *health plan*, purchased through an arrangement between the employer and the health carrier, to any employee unless the health carrier also offers ~~coverage~~ *the individual health plan*, on a guaranteed issue basis, to all other employees of the same employer.

(c) Nothing in this section obligates a health carrier to issue coverage to a small employer that currently offers coverage through a health benefit plan from another health carrier, unless the new coverage will replace the existing coverage and not serve as one of two or more health benefit plans offered by the employer.

Sec. 31. Minnesota Statutes 1993 Supplement, section 62L.03, subdivision 4, is amended to read:

Subd. 4. [UNDERWRITING RESTRICTIONS.] Health carriers may apply underwriting restrictions to coverage for health benefit plans for small employers, including any preexisting condition limitations, only as expressly permitted under this chapter. For purposes of this ~~subdivision~~ *section*, "underwriting restrictions" means any refusal of the health carrier to issue or renew coverage, any premium rate higher than the lowest rate charged by the health carrier for the same coverage, ~~or~~ any preexisting condition limitation or exclusion, *or any exclusionary rider*. Health carriers may collect information relating to the case characteristics and demographic composition of small employers, as well as health status and health history information about employees, *and dependents of employees*, of small employers. Except as otherwise authorized for late entrants, preexisting conditions may be excluded by a health carrier for a period not to exceed 12 months from the effective date of coverage of an eligible employee or dependent, *but exclusionary riders must not be used*. When calculating a preexisting condition limitation, a health carrier shall credit the time period an eligible employee or dependent was previously covered by qualifying prior coverage, provided that the individual maintains continuous coverage. Late entrants may be subject to a preexisting condition limitation not to exceed 18 months from the effective date of coverage of the late entrant, *but must not be subject to any exclusionary rider or exclusion.* ~~Late entrants may also be excluded from coverage for a period not to exceed 18 months, provided that if a health carrier imposes an exclusion from coverage and a preexisting condition limitation, the combined time period for both the coverage exclusion and preexisting condition limitation must not exceed 18 months.~~ A health carrier shall, at the time of first issuance

or renewal of a health benefit plan on or after July 1, 1993, credit against any preexisting condition limitation or exclusion permitted under this section, the time period prior to July 1, 1993, during which an eligible employee or dependent was covered by qualifying ~~existing~~ coverage ~~or qualifying prior coverage~~, if the person has maintained continuous coverage.

Sec. 32. Minnesota Statutes 1993 Supplement, section 62L.03, subdivision 5, is amended to read:

Subd. 5. [CANCELLATIONS AND FAILURES TO RENEW.] (a) No health carrier shall cancel, decline to issue, or fail to renew a health benefit plan as a result of the claim experience or health status of the persons covered or to be covered by the health benefit plan. A health carrier may cancel or fail to renew a health benefit plan:

(1) for nonpayment of the required premium;

(2) for fraud or misrepresentation by the small employer, or, with respect to coverage of an individual eligible employee or dependent, fraud or misrepresentation by the eligible employee or dependent, with respect to eligibility for coverage or any other material fact;

(3) if eligible employee participation during the preceding calendar year declines to less than 75 percent, subject to the waiver of coverage provision in subdivision 3;

(4) if the employer fails to comply with the minimum contribution percentage ~~legally~~ required ~~by the health carrier~~ *under subdivision 3*;

(5) if the health carrier ceases to do business in the small employer market under section 62L.09; ~~or~~

(6) *if a failure to renew is based upon the health carrier's decision to discontinue the health benefit plan form previously issued to the small employer, but only if the health carrier permits each small employer covered under the prior form to switch to its choice of any other health benefit plan offered by the health carrier, without any underwriting restrictions that would not have been permitted for renewal purposes; or*

(7) for any other reasons or grounds expressly permitted by the respective licensing laws and regulations governing a health carrier, including, but not limited to, service area restrictions imposed on health maintenance organizations under section 62D.03, subdivision 4, paragraph (m), to the extent that these grounds are not expressly inconsistent with this chapter.

(b) A health carrier need not renew a health benefit plan, and shall not renew a small employer plan, if an employer ceases to qualify as a small employer as defined in section 62L.02. If a health benefit plan, other than a small employer plan, provides terms of renewal that do not exclude an employer that is no longer a small employer, the health benefit plan may be renewed according to its own terms. If a health carrier issues or renews a health plan to an employer that is no longer a small employer, without interruption of coverage, the health plan is subject to section 60A.082.

Sec. 33. Minnesota Statutes 1992, section 62L.03, subdivision 6, is amended to read:

Subd. 6. [MCHA ENROLLEES.] Health carriers shall offer coverage to any eligible employee or dependent enrolled in MCHA at the time of the health

carrier's issuance or renewal of a health benefit plan to a small employer. The health benefit plan must require that the employer permit MCHA enrollees to enroll in the small employer's health benefit plan as of the first date of renewal of a health benefit plan occurring on or after July 1, 1993, *and as of each date of renewal after that*, or, in the case of a new group, as of the initial effective date of the health benefit plan *and as of each date of renewal after that*. Unless otherwise permitted by this chapter, health carriers must not impose any underwriting restrictions, including any preexisting condition limitations or exclusions, on any eligible employee or dependent previously enrolled in MCHA and transferred to a health benefit plan so long as continuous coverage is maintained, provided that the health carrier may impose any unexpired portion of a preexisting condition limitation under the person's MCHA coverage. An MCHA enrollee is not a late entrant, so long as the enrollee has maintained continuous coverage.

Sec. 34. Minnesota Statutes 1993 Supplement, section 62L.04, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY OF CHAPTER REQUIREMENTS.] *(a)* Beginning July 1, 1993, health carriers participating in the small employer market must offer and make available *on a guaranteed issue basis* any health benefit plan that they offer, including both of the small employer plans provided in section 62L.05, to all small employers ~~who~~ *that* satisfy the small employer participation and contribution requirements specified in this chapter. Compliance with these requirements is required as of the first renewal date of any small employer group occurring after July 1, 1993. For new small employer business, compliance is required as of the first date of offering occurring after July 1, 1993.

(b) Compliance with these requirements is required as of the first renewal date occurring after July 1, 1994, with respect to employees of a small employer who had been issued individual coverage prior to July 1, 1993, administered by the health carrier on a group basis. Notwithstanding any other law to the contrary, the health carrier shall offer to terminate any individual coverage for employees of small employers who satisfy the small employer participation *and contribution* requirements specified in section 62L.03 and offer to replace it with a health benefit plan. If the employer elects not to purchase a health benefit plan, the health carrier must offer all covered employees and dependents the option of maintaining their current coverage, administered on an individual basis, or replacement individual coverage. Small employer and replacement individual coverage provided under this subdivision must be without application of underwriting restrictions, provided continuous coverage is maintained.

(c) With respect to small employers having no fewer than 30 nor more than 49 current employees, all dates in this subdivision become July 1, 1995, and any reference to "after" a date becomes "on or after" July 1, 1995.

Sec. 35. Minnesota Statutes 1992, section 62L.05, subdivision 1, is amended to read:

Subdivision 1. [TWO SMALL EMPLOYER PLANS.] Each health carrier in the small employer market must make available, *on a guaranteed issue basis,* to any small employer *that satisfies the contribution and participation requirements of section 62L.03, subdivision 3,* both of the small employer plans described in subdivisions 2 and 3. Under subdivisions 2 and 3, coinsurance and deductibles do not apply to child health supervision services

and prenatal services, as defined by section 62A.047. The maximum out-of-pocket costs for covered services must be $3,000 per individual and $6,000 per family per year. The maximum lifetime benefit must be $500,000. ~~The out-of-pocket cost limits and the deductible amounts provided in subdivision 2 must be adjusted on July 1 every two years, based upon changes in the consumer price index, as of the end of the previous calendar year, as determined by the commissioner of commerce. Adjustments must be in increments of $50 and must not be made unless at least that amount of adjustment is required.~~

Sec. 36. Minnesota Statutes 1992, section 62L.05, subdivision 5, is amended to read:

Subd. 5. [PLAN VARIATIONS.] (a) No health carrier shall offer to a small employer a health benefit plan that differs from the two small employer plans described in subdivisions 1 to 4, unless the health benefit plan complies with all provisions of chapters 62A, 62C, 62D, 62E, 62H, *62N,* and 64B that otherwise apply to the health carrier, except as expressly permitted by paragraph (b).

(b) As an exception to paragraph (a), a health benefit plan is deemed to be a small employer plan and to be in compliance with paragraph (a) if it differs from one of the two small employer plans described in subdivisions 1 to 4 only by providing benefits in addition to those described in subdivision 4, provided that the health ~~care~~ benefit plan has an actuarial value that exceeds the actuarial value of the benefits described in subdivision 4 by no more than two percent. "Benefits in addition" means additional units of a benefit listed in subdivision 4 or one or more benefits not listed in subdivision 4.

Sec. 37. Minnesota Statutes 1992, section 62L.05, subdivision 8, is amended to read:

Subd. 8. [CONTINUATION COVERAGE.] Small employer plans must include the continuation of coverage provisions required by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law Number 99-272, as amended ~~through December 31, 1991~~, and by state law.

Sec. 38. Minnesota Statutes 1992, section 62L.06, is amended to read:

62L.06 [DISCLOSURE OF UNDERWRITING RATING PRACTICES.]

When offering or renewing a health benefit plan, health carriers shall disclose in all solicitation and sales materials:

(1) the case characteristics and other rating factors used to determine initial and renewal rates;

(2) the extent to which premium rates for a small employer are established or adjusted based upon actual or expected variation in claim experience;

(3) provisions concerning the health carrier's right to change premium rates and the factors other than claim experience that affect changes in premium rates;

(4) provisions relating to renewability of coverage;

(5) the use and effect of any preexisting condition provisions, if permitted; ~~and~~

(6) the application of any provider network limitations and their effect on eligibility for benefits; *and*

(7) the ability of small employers to insure eligible employees and dependents currently receiving coverage from the comprehensive health association through health benefit plans.

Sec. 39. Minnesota Statutes 1992, section 62L.07, subdivision 2, is amended to read:

Subd. 2. [WAIVERS.] Health benefit plans must require that small employers offering a health benefit plan maintain written documentation ~~of a waiver of coverage by an eligible employee or dependent and provide the documentation~~ *indicating that each eligible employee was informed of the availability of coverage through the employer and of a waiver of coverage by the eligible employee. This documentation must be provided* to the health carrier upon reasonable request.

Sec. 40. Minnesota Statutes 1992, section 62L.08, subdivision 2, is amended to read:

Subd. 2. [GENERAL PREMIUM VARIATIONS.] Beginning July 1, 1993, each health carrier must offer premium rates to small employers that are no more than 25 percent above and no more than 25 percent below the index rate charged to small employers for the same or similar coverage, adjusted pro rata for rating periods of less than one year. The premium variations permitted by this subdivision must be based only on health status, claims experience, industry of the employer, and duration of coverage from the date of issue. For purposes of this subdivision, health status includes refraining from tobacco use or other actuarially valid lifestyle factors associated with good health, provided that the lifestyle factor and its effect upon premium rates have been determined to be actuarially valid and approved by the commissioner. *Variations permitted under this subdivision must not be based upon age or applied differently at different ages. This subdivision does not prohibit use of a constant percentage adjustment for factors permitted to be used under this subdivision.*

Sec. 41. Minnesota Statutes 1993 Supplement, section 62L.08, subdivision 4, is amended to read:

Subd. 4. [GEOGRAPHIC PREMIUM VARIATIONS.] A health carrier may request approval by the commissioner to establish no more than three geographic regions and to establish separate index rates for each region, provided that the index rates do not vary between any two regions by more than 20 percent. Health carriers that do not do business in the Minneapolis/St. Paul metropolitan area may request approval for no more than two geographic regions, and clauses (2) and (3) do not apply to approval of requests made by those health carriers. A health carrier may also request approval to establish one *or more* additional geographic ~~region~~ *regions* and ~~a~~ *one or more* separate index ~~rate~~ *rates* for premiums for employees *working and* residing outside of Minnesota~~, and that index rate must not be more than 30 percent higher than the next highest index rate~~. The commissioner may grant approval if the following conditions are met:

(1) the geographic regions must be applied uniformly by the health carrier;

(2) one geographic region must be based on the Minneapolis/St. Paul metropolitan area;

(3) if one geographic region is rural, the index rate for the rural region must not exceed the index rate for the Minneapolis/St. Paul metropolitan area;

(4) the health carrier provides actuarial justification acceptable to the commissioner for the proposed geographic variations in index rates, establishing that the variations are based upon differences in the cost to the health carrier of providing coverage.

Sec. 42. Minnesota Statutes 1992, section 62L.08, subdivision 5, is amended to read:

Subd. 5. [GENDER-BASED RATES PROHIBITED.] Beginning July 1, 1993, no health carrier may determine premium rates through a method that is in any way based upon the gender of eligible employees or dependents. *Rates must not in any way reflect marital status or generalized differences in expected costs between employees and spouses.*

Sec. 43. Minnesota Statutes 1992, section 62L.08, subdivision 6, is amended to read:

Subd. 6. [RATE CELLS PERMITTED.] Health carriers may use rate cells and must file with the commissioner the rate cells they use. Rate cells must be based on the number of adults and children covered under the policy and may reflect the availability of Medicare coverage. *The rates for different rate cells must not in any way reflect marital status or differences in expected costs between employees and spouses.*

Sec. 44. Minnesota Statutes 1992, section 62L.08, subdivision 7, is amended to read:

Subd. 7. [INDEX AND PREMIUM RATE DEVELOPMENT.] *(a)* In developing its index rates and premiums, a health carrier may take into account only the following factors:

(1) actuarially valid differences in benefit designs of health benefit plans;

(2) actuarially valid differences in the rating factors permitted in subdivisions 2 and 3;

(3) actuarially valid geographic variations if approved by the commissioner as provided in subdivision 4.

(b) All premium variations permitted under this section must be based upon actuarially valid differences in expected cost to the health carrier of providing coverage. The variation must be justified in initial rate filings and upon request of the commissioner in rate revision filings. All premium variations are subject to approval by the commissioner.

Sec. 45. Minnesota Statutes 1992, section 62L.08, is amended by adding a subdivision to read:

Subd. 7a. [PARTIAL EXEMPTION; POLITICAL SUBDIVISIONS.] *(a) Health coverage provided by a political subdivision of the state to its employees, officers, retirees, and their dependents, by participation in group purchasing of health plan coverage by or through an association of political subdivisions or by or through an educational cooperative service unit created under section 123.58 or by participating in a joint self-insurance pool authorized under section 471.617, subdivision 2, is subject to this subdivision. Coverage that is subject to this subdivision may have separate index rates and*

separate premium rates, based upon data specific to the association, educational cooperative service unit, or pool, so long as the rates, including the rating bands, otherwise comply with this chapter. The association, educational cooperative service unit, or pool is not required to offer the small employer plans described in section 62L.05 and is not required to comply with this chapter for employers that are not small employers or that are not eligible for coverage through the association, educational cooperative service unit, or pool. A health carrier that offers a health plan only under this subdivision need not offer that health plan to other small employers on a guaranteed issue basis.

(b) An association, educational cooperative service unit, or pool described in paragraph (a) may elect to be treated under paragraph (a) by filing a notice of the election with the commissioner of commerce no later than January 1, 1995. The election remains in effect for three years and applies to all health coverage provided to members of the group. It may be renewed for subsequent three-year periods. An entity eligible for treatment under paragraph (a) that forms after January 1, 1995, must make the election prior to provision of coverage, and the election remains in effect until January 1, 1998, or if filed after that date, until the next regular renewal date.

Sec. 46. Minnesota Statutes 1993 Supplement, section 62L.08, subdivision 8, is amended to read:

Subd. 8. [FILING REQUIREMENT.] No later than July 1, 1993, and each year thereafter, a health carrier that offers, sells, issues, or renews a health benefit plan for small employers shall file with the commissioner the index rates and must demonstrate that all rates shall be within the rating restrictions defined in this chapter. Such demonstration must include the allowable range of rates from the index rates and a description of how the health carrier intends to use demographic factors including case characteristics in calculating the premium rates. The rates shall not be approved, unless the commissioner has determined that the rates are reasonable. In determining reasonableness, the commissioner shall consider the growth rates applied under section 62J.04, subdivision 1, paragraph (b), to the calendar year or years that the proposed premium rate would be in effect, actuarially valid changes in risk associated with the enrollee population, and actuarially valid changes as a result of statutory changes in Laws 1992, chapter 549. For premium rates proposed to go into effect between July 1, 1993 and December 31, 1993, the pertinent growth rate is the growth rate applied under section 62J.04, subdivision 1, paragraph (b), to calendar year 1994. ~~As provided in section 62A.65, subdivision 3, this subdivision applies to the individual market, as well as to the small employer market.~~

Sec. 47. Minnesota Statutes 1992, section 62L.12, is amended to read:

62L.12 [PROHIBITED PRACTICES.]

Subdivision 1. [PROHIBITION ON ISSUANCE OF INDIVIDUAL POLICIES.] A health carrier operating in the small employer market shall not knowingly offer, issue, or renew an individual ~~policy, subscriber contract, or certificate~~ *health plan* to an eligible employee ~~or dependent~~ of a small employer that meets the minimum participation *and contribution* requirements ~~defined in~~ *under* section 62L.03, subdivision 3, except as authorized under subdivision 2.

Subd. 2. [EXCEPTIONS.] (a) A health carrier may sell, issue, or renew individual conversion policies to eligible employees and dependents otherwise eligible for conversion coverage under section 62D.104 as a result of leaving a health maintenance organization's service area.

(b) A health carrier may sell, issue, or renew individual conversion policies to eligible employees and dependents otherwise eligible for conversion coverage as a result of the expiration of any continuation of group coverage required under sections 62A.146, 62A.17, 62A.21, 62C.142, 62D.101, and 62D.105.

(c) A health carrier may sell, issue, or renew conversion policies under section 62E.16 to eligible employees and dependents.

(d) A health carrier may sell, issue, or renew individual continuation policies to eligible employees and dependents as required.

(e) A health carrier may sell, issue, or renew individual ~~coverage~~ *health plans* if the coverage is appropriate due to an unexpired preexisting condition limitation or exclusion applicable to the person under the employer's group ~~coverage~~ *health plan* or due to the person's need for health care services not covered under the employer's ~~group policy~~ *group health plan*.

(f) A health carrier may sell, issue, or renew an individual ~~policy, with the prior consent of the commissioner,~~ *health plan*, if the individual has elected to buy the individual ~~coverage~~ *health plan* not as part of a general plan to substitute individual ~~coverage~~ *health plans* for *a* group ~~coverage~~ *health plan* nor as a result of any violation of subdivision 3 or 4.

(g) Nothing in this subdivision relieves a health carrier of any obligation to provide continuation or conversion coverage otherwise required under federal or state law.

(h) Nothing in this chapter restricts the offer, sale, issuance, or renewal of coverage issued as a supplement to Medicare under sections 62A.31 to 62A.44, or policies or contracts that supplement Medicare issued by health maintenance organizations, or those contracts governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395 et. seq., as amended.

(i) Nothing in this chapter restricts the offer, sale, issuance, or renewal of individual health plans necessary to comply with a court order.

Subd. 3. [AGENT'S LICENSURE.] An agent licensed under chapter ~~60A~~ *60K* or section 62C.17 who knowingly and willfully breaks apart a small group for the purpose of selling individual ~~policies~~ *health plans* to eligible employees and dependents of a small employer that meets the participation *and contribution* requirements of section 62L.03, subdivision 3, is guilty of an unfair trade practice and subject to *disciplinary action, including* the revocation or suspension of license, under section ~~60A.17, subdivision 6c,~~ *60K.11* or 62C.17. The action must be by order and subject to the notice, hearing, and appeal procedures specified in section ~~60A.17, subdivision 6d~~ *60K.11*. The action of the commissioner is subject to judicial review as provided under chapter 14.

Subd. 4. [EMPLOYER PROHIBITION.] A small employer shall not encourage or direct an employee or applicant to:

(1) refrain from filing an application for health coverage when other similarly situated employees may file an application for health coverage;

(2) file an application for health coverage during initial eligibility for coverage, the acceptance of which is contingent on health status, when other similarly situated employees may apply for health coverage, the acceptance of which is not contingent on health status;

(3) seek coverage from another *health* carrier, including, but not limited to, MCHA; or

(4) cause coverage to be issued on different terms because of the health status or claims experience of that person or the person's dependents.

Subd. 5. [SALE OF OTHER PRODUCTS.] A health carrier shall not condition the offer, sale, issuance, or renewal of a health benefit plan on the purchase by a small employer of other insurance products offered by the health carrier or a subsidiary or affiliate of the health carrier, including, but not limited to, life, disability, property, and general liability insurance. This prohibition does not apply to insurance products offered as a supplement to a health maintenance organization plan, including, but not limited to, supplemental benefit plans under section 62D.05, subdivision 6.

Sec. 48. Minnesota Statutes 1992, section 62L.21, subdivision 2, is amended to read:

Subd. 2. [ADJUSTMENT OF PREMIUM RATES.] The board of directors shall establish operating rules to allocate adjustments to the reinsurance premium charge of no more than minus 25 percent of the monthly reinsurance premium for health carriers that can demonstrate administrative efficiencies and cost-effective handling of equivalent risks. The adjustment must be made ~~annually on a retrospective basis~~ *monthly, unless the board provides for a different interval in its operating rules*. The operating rules must establish objective and measurable criteria which must be met by a health carrier in order to be eligible for an adjustment. These criteria must include consideration of efficiency attributable to case management, but not consideration of such factors as provider discounts.

Sec. 49. [REPEALER.]

(a) Minnesota Statutes 1992, sections 62E.51, 62E.52, 62E.53, 62E.531, 62E.54, and 62E.55 are repealed.

(b) Minnesota Statutes 1992, section 62A.02, subdivision 5, is repealed.

Sec. 50. [REVISOR INSTRUCTIONS.]

(a) The revisor of statutes shall change the name of the private employers insurance program established in Minnesota Statutes, section 43A.317 to the Minnesota employees insurance program, and the private employers insurance trust fund to the Minnesota employees insurance trust fund, wherever either term occurs in Minnesota Statutes or Minnesota Rules.

(b) The revisor of statutes shall renumber Minnesota Statutes 1992, section 62L.23, as section 62L.08, subdivision 11, and shall change all references to that section in Minnesota Statutes or Minnesota Rules accordingly.

Sec. 51. [EFFECTIVE DATES.]

Sections 1, 3, 4, 6, 8, 10, 16 to 27, 29, 30, 32, 34 to 37, 40 to 45, and 47 to 50 are effective the day following final enactment. Sections 2, 12, 13, 33, 38, and 39 are effective July 1, 1994. Sections 5, 7, 9, 11, 14, 15, 28, 31, and 46 are effective January 1, 1995.

ARTICLE 11

HEALTH CARE COOPERATIVES

Section 1. [62R.01] [STATEMENT OF LEGISLATIVE PURPOSE AND INTENT.]

The legislature finds that the goals of containing health care costs, improving the quality of health care, and increasing the access of Minnesota citizens to health care services reflected under chapters 62J and 62N may be further enhanced through the promotion of health care cooperatives. The legislature further finds that locally based and controlled efforts among health care providers, local businesses, units of local government, and health care consumers, can promote the attainment of the legislature's goals of health care reform, and takes notice of the long history of successful operations of cooperative organizations in this state. Therefore, in order to encourage cooperative efforts which are consistent with the goals of health care reform, including efforts among health care providers as sellers of health care services and efforts of consumers as buyers of health care services and health plan coverage, and to encourage the formation of and increase the competition among health plans in Minnesota, the legislature enacts the Minnesota health care cooperative act.

Sec. 2. [62R.02] [CITATION.]

This chapter may be cited as the "Minnesota health care cooperative act."

Sec. 3. [62R.03] [APPLICABILITY OF OTHER LAWS.]

Subdivision 1. [MINNESOTA COOPERATIVE LAW.] *A health care cooperative is subject to chapter 308A unless otherwise provided in this chapter. After incorporation, a health care cooperative shall enjoy the powers and privileges and shall be subject to the duties and liabilities of other cooperatives organized under chapter 308A, to the extent applicable and except as limited or enlarged by this chapter. If any provision of this chapter conflicts with a provision of chapter 308A, the provision of this chapter takes precedence.*

Subd. 2. [HEALTH PLAN LICENSURE AND OPERATION.] *A health care network cooperative must be licensed as a health maintenance organization licensed under chapter 62D, a nonprofit health service plan corporation licensed under chapter 62C, or a community integrated service network or an integrated service network licensed under chapter 62N, at the election of the health care network cooperative. The health care network cooperative shall be subject to the duties and liabilities of health plans licensed pursuant to the chapter under which the cooperative elects to be licensed, to the extent applicable and except as limited or enlarged by this chapter. If any provision of any chapter under which the cooperative elects to be licensed conflicts with the provisions of this chapter, the provisions of this chapter take precedence. A health care network cooperative, upon licensure as provided in this subdivision, is a contributing member of the Minnesota comprehensive health association, on the same basis as other entities having the same licensure.*

Subd. 3. [HEALTH PROVIDER COOPERATIVES.] *A health provider cooperative shall not be considered a mutual insurance company under chapter 60A, a health maintenance organization under chapter 62D, a nonprofit health services corporation under chapter 62C, or a community integrated service network or an integrated service network under chapter 62N. A health provider network shall not be considered to violate any limitations on the corporate practice of medicine. Health care service contracts under section 62R.06 shall not be considered to violate section 62J.23.*

Sec. 4. [62R.04] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *For purposes of this chapter, the terms defined in this section have the meanings given.*

Subd. 2. [HEALTH CARE COOPERATIVE.] *"Health care cooperative" means a health care network cooperative or a health provider cooperative.*

Subd. 3. [HEALTH CARE NETWORK COOPERATIVE.] *"Health care network cooperative" means a corporation organized under this chapter and licensed in accordance with section 62R.03, subdivision 2. A health care network cooperative shall not have more than 50,000 enrollees, unless exceeding the enrollment limit is necessary to comply with guaranteed issue or guaranteed renewal requirements of chapter 62L or section 62A.65.*

Subd. 4. [HEALTH PROVIDER COOPERATIVE.] *"Health provider cooperative" means a corporation organized under this chapter and operated on a cooperative plan to market health care services to purchasers of those services.*

Subd. 5. [COMMISSIONER.] *Unless otherwise specified, "commissioner" means the commissioner of health for a health care network cooperative licensed under chapter 62D or 62N and the commissioner of commerce for a health care network cooperative licensed under chapter 62C.*

Subd. 6. [HEALTH CARRIER.] *"Health carrier" has the meaning provided in section 62A.011.*

Subd. 7. [HEALTH CARE PROVIDING ENTITY.] *"Health care providing entity" means a participating entity that provides health care to enrollees of a health care cooperative.*

Sec. 5. [62R.05] [POWERS.]

In addition to the powers enumerated under section 308A.201, a health care cooperative shall have all of the powers granted a nonprofit corporation under section 317A.161, except to the extent expressly inconsistent with the provisions of chapter 308A.

Sec. 6. [62R.06] [HEALTH CARE SERVICE CONTRACTS.]

Subdivision 1. [PROVIDER CONTRACTS.] *A health provider cooperative and its licensed members may execute marketing and service contracts requiring the provider members to provide some or all of their health care services through the provider cooperative to the enrollees, members, subscribers, or insureds, of a health care network cooperative, community integrated service network, integrated service network, nonprofit health service plan, health maintenance organization, accident and health insurance company, or any other purchaser, including the state of Minnesota and its agencies,*

instruments, or units of local government. Each purchasing entity is authorized to execute contracts for the purchase of health care services from a health provider cooperative in accordance with this section. Any contract between a provider cooperative and a purchaser must provide for payment by the purchaser to the health provider cooperative on a substantially capitated or similar risk-sharing basis. Each contract between a provider cooperative and a purchaser shall be filed by the provider network cooperative with the commissioner of health and is subject to the provisions of section 62D.19.

Subd. 2. [NO NETWORK LIMITATION.] *A health care network cooperative may contract with any health provider cooperative and may contract with any other licensed health care provider to provide health care services for its enrollees.*

Subd. 3. [RESTRAINT OF TRADE.] *Subject to section 62R.08, a health care provider cooperative is not a combination in restraint of trade, and any contracts or agreements between a health care provider cooperative and its members regarding the price the cooperative will charge to purchasers of its services, or regarding the prices the members will charge to the cooperative, or regarding the allocation of gains or losses among the members, or regarding the delivery, quality, allocation, or location of services to be provided, are not contracts that unreasonably restrain trade.*

Sec. 7. [62R.07] [RELICENSURE.]

(a) A health care network cooperative licensed under chapter 62C or 62D may relinquish that license and be granted a new license as a community integrated service network or an integrated service network under chapter 62N in accordance with this section, provided that the cooperative meets all requirements for licensure as a network under chapter 62N, to the extent not expressly inconsistent with the provisions of chapter 308A.

(b) The relicensure shall be effective at the time specified in the plan of relicensure, which must not be earlier than the date upon which the previous license is surrendered.

(c) Upon the relicensure of the cooperative as a community integrated service network or an integrated service network:

(1) all existing group and individual enrollee benefit contracts in force on the effective date of the relicensure shall continue in effect and with the same terms and conditions, notwithstanding the cooperative's new licensure as a network, until the date of each contract's next renewal or amendment, but no later than one year from the date of the relicensure. At this time, each benefit contract then in force must be amended to comply with all statutory and regulatory requirements for network benefit contracts as of that date; and

(2) all contracts between the cooperative and any health care providing entity, including a health care provider cooperative, in force on the effective date of relicensure shall remain in effect under the cooperative's new licensure as a network until the date of the next renewal or amendment of that contract, but no later than one year from the date of relicensure.

(d) Except as otherwise provided in this section, nothing in the relicensure of a health care network cooperative shall in any way affect its corporate existence or any of its contracts, rights, privileges, immunities, powers or franchises, debts, duties or other obligations or liabilities.

Sec. 8. [62R.08] [PROHIBITED PRACTICES.]

(a) It shall be unlawful for any person, company, or corporation, or any agent, officer, or employee thereof, to coerce or require any person to agree, either in writing or orally, not to join or become or remain a member of, any health care provider cooperative, as a condition of securing or retaining a contract for health care services with the person, firm, or corporation.

(b) It shall be unlawful for any person, company, or corporation, or any combination of persons, companies, or corporations, or any agents, officers, or employees thereof, to engage in any acts of coercion, intimidation, or boycott of, or any refusal to deal with, any health care providing entity arising from that entity's actual or potential participation in a health care network cooperative or health care provider cooperative.

(c) It shall be unlawful for any health care network cooperative, other than a health care network cooperative operating on an employed, staff model basis, to require that its participating providers provide health care services exclusively to or through the health care network cooperative. It shall be unlawful for any health care provider cooperative to require that its members provide health care services exclusively to or through the health care provider cooperative.

(d) It shall be unlawful for any health care provider cooperative to engage in any acts of coercion, intimidation, or boycott of, or any concerted refusal to deal with, any health plan company seeking to contract with the cooperative on a competitive, reasonable, and nonexclusive basis.

(e) The prohibitions in this section are in addition to any conduct that violates sections 325D.49 to 325D.66.

(f) This section shall be enforced in accordance with sections 325D.56 to 325D.65.

Sec. 9. Minnesota Statutes 1992, section 308A.005, is amended by adding a subdivision to read:

Subd. 8a. [HEALTH CARE COOPERATIVE.] *"Health care cooperative" has the meaning given in section 62R.04, subdivision 2.*

Sec. 10. [308A.503] [HEALTH CARE COOPERATIVE MEMBERS.]

Subdivision 1. [HEALTH CARE NETWORK COOPERATIVE.] *For a health care network cooperative, the policyholder is the member provided that if the policyholder is an individual enrollee, the individual enrollee is the member, and if the policyholder is an employer or other group type, entity, or association, the group policyholder is the member.*

Subd. 2. [HEALTH PROVIDER COOPERATIVE.] *For a health provider cooperative, the licensed health care provider, professional corporation, partnership, hospital, or other licensed provider is the member, as provided in the articles or bylaws.*

Subd. 3. [STATE AND HOSPITAL MEMBERS AUTHORIZED.] *The state, or any agency, instrumentality, or political subdivision of the state, may be a member of a health care cooperative. Any governmental hospital authorized, organized or operated under chapters 158, 250, 376, or 397 or under sections 246A.10 to 246A.27, 412.221, 447.05 to 447.13, or 471.50, or*

under any special law authorizing or establishing a hospital or hospital district, may be a member of a health care provider cooperative.

Sec. 11. Minnesota Statutes 1992, section 308A.635, is amended by adding a subdivision to read:

Subd. 5. [HEALTH CARE COOPERATIVE.] *Notwithstanding the provisions of this section, the requirements and procedures for membership voting for a health care cooperative shall be as provided in the bylaws.*

ARTICLE 12

RURAL HEALTH INITIATIVES

Section 1. Minnesota Statutes 1993 Supplement, section 62N.23, is amended to read:

62N.23 [TECHNICAL ASSISTANCE; LOANS.]

(a) The commissioner shall provide technical assistance to parties interested in establishing or operating *a community integrated service network or* an integrated service network. This shall be known as the integrated service network technical assistance program (ISNTAP).

The technical assistance program shall offer seminars on the establishment and operation of *community integrated service networks or* integrated service networks in all regions of Minnesota. The commissioner shall advertise these seminars in local and regional newspapers, and attendance at these seminars shall be free.

The commissioner shall write a guide to establishing and operating *a community integrated service network or* an integrated service network. The guide must provide basic instructions for parties wishing to establish *a community integrated service network or* an integrated service network. The guide must be provided free of charge to interested parties. The commissioner shall update this guide when appropriate.

The commissioner shall establish a toll-free telephone line that interested parties may call to obtain assistance in establishing or operating *a community integrated service network or* an integrated service network.

(b) The commissioner~~, in consultation with the commission, shall provide recommendations for the creation of a loan program that would provide loans or grants to entities forming integrated service networks or to networks less than one year old. The commissioner shall propose criteria for the loan program.~~ *shall grant loans for organizational and start-up expenses to entities forming community integrated service networks or integrated service networks, or to networks less than one year old, to the extent of any appropriation for that purpose. The commissioner shall allocate the available funds among applicants based upon the following criteria, as evaluated by the commissioner within the commissioner's discretion:*

(1) the applicant's need for the loan;

(2) the likelihood that the loan will foster the formation or growth of a network; and

(3) the likelihood of repayment.

The commissioner shall determine any necessary application deadlines and forms and is exempt from rulemaking in doing so.

Sec. 2. Minnesota Statutes 1993 Supplement, section 144.1464, is amended to read:

144.1464 [SUMMER HEALTH CARE INTERNS.]

Subdivision 1. [SUMMER INTERNSHIPS.] The commissioner of health, through a contract with a nonprofit organization as required by subdivision 4, shall award grants to hospitals and clinics to establish a *secondary and post-secondary* summer health care intern program. The purpose of the program is to expose interested ~~high school~~ *secondary and post-secondary* pupils to various careers within the health care profession.

Subd. 2. [CRITERIA.] (a) The commissioner, through the organization under contract, shall award grants to hospitals and clinics that agree to:

(1) provide *secondary and post-secondary* summer health care interns with formal exposure to the health care profession;

(2) provide an orientation for *the secondary and post-secondary* summer health care interns;

(3) pay one-half the costs of employing ~~a~~ *the secondary and post-secondary* summer health care intern, based on an overall hourly wage that is at least the minimum wage but does not exceed $6 an hour; and

(4) interview and hire *secondary and post-secondary* pupils for a minimum of six weeks and a maximum of 12 weeks.

(b) In order to be eligible to be hired as a *secondary* summer health intern by a hospital or clinic, a pupil must:

(1) intend to complete high school graduation requirements and be between the junior and senior year of high school;

(2) be from a school district in proximity to the facility; and

(3) provide the facility with a letter of recommendation from a health occupations or science educator.

(c) *In order to be eligible to be hired as a post-secondary summer health care intern by a hospital or clinic, a pupil must:*

(1) intend to complete a two-year or four-year degree program and be planning on enrolling in or be enrolled in that degree program;

(2) be from a school district or attend an educational institution in proximity to the facility; and

(3) provide the facility with a letter of recommendation from a health occupations or science educator.

(d) Hospitals and clinics awarded grants may employ pupils as *secondary and post-secondary* summer health care interns beginning on or after June 15, 1993, if they agree to pay the intern, during the period before disbursement of state grant money, with money designated as the facility's 50 percent contribution towards internship costs.

Subd. 3. [GRANTS.] The commissioner, through the organization under contract, shall award *separate* grants to hospitals and clinics meeting the requirements of subdivision 2. The grants must be used to pay one-half of the costs of employing ~~a pupil~~ *secondary and post-secondary pupils* in a hospital

or clinic during the course of the program. No more than five pupils may be selected from any ~~one high school~~ *secondary or post-secondary institution* to participate in the program and no more than one-half of the number of pupils selected may be from the seven-county metropolitan area.

Subd. 4. [CONTRACT.] The commissioner shall contract with a statewide, nonprofit organization representing facilities at which *secondary and post-secondary* summer health care interns will serve, to administer the grant program established by this section. The organization awarded the grant shall provide the commissioner with any information needed by the commissioner to evaluate the program, in the form and at the times specified by the commissioner.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective July 1, 1994.

ARTICLE 13

FINANCING

Section 1. Minnesota Statutes 1993 Supplement, section 256.9352, subdivision 3, is amended to read:

Subd. 3. [FINANCIAL MANAGEMENT.] *(a)* The commissioner shall manage spending for the ~~health right plan~~ *MinnesotaCare program* in a manner that maintains a minimum reserve equal to five percent of the expected cost of state premium subsidies. The commissioner must make a quarterly assessment of the expected expenditures for the covered services for the remainder of the current fiscal year and for the following two fiscal years. The estimated expenditure shall be compared to an estimate of the revenues that will be deposited in the health care access fund. Based on this comparison, and after consulting with the chairs of the house ways and means committee and the senate finance committee, and the legislative commission on health care access, the commissioner shall make adjustments as necessary to ensure that expenditures remain within the limits of available revenues. The adjustments the commissioner may use must be implemented in this order: first, stop enrollment of single adults and households without children; second, upon 45 days' notice, stop coverage of single adults and households without children already enrolled in the ~~health right plan~~ *MinnesotaCare program*; third, upon 90 days' notice, decrease the premium subsidy amounts by ten percent for families with gross annual income above 200 percent of the federal poverty guidelines; fourth, upon 90 days' notice, decrease the premium subsidy amounts by ten percent for families with gross annual income at or below 200 percent; and fifth, require applicants to be uninsured for at least six months prior to eligibility in the ~~health right plan~~ *MinnesotaCare program*. If these measures are insufficient to limit the expenditures to the estimated amount of revenue, the commissioner may further limit enrollment or decrease premium subsidies.

The reserve referred to in this subdivision is appropriated to the commissioner but may only be used upon approval of the commissioner of finance, if estimated costs will exceed the forecasted amount of available revenues after all adjustments authorized under this subdivision have been made.

By February 1, ~~1994~~ *1995*, the department of human services and the department of health shall develop a plan to adjust benefit levels, eligibility

guidelines, or other steps necessary to ensure that expenditures for the MinnesotaCare program are contained within the two percent ~~provider tax~~ *taxes imposed under section 295.52* and the ~~one percent HMO~~ gross premiums tax *imposed under section 60A.15, subdivision 1, paragraph (e),* for ~~the 1996-1997 biennium~~ *fiscal year 1997.* ~~Notwithstanding any law to the contrary, no further enrollment in MinnesotaCare, and no additional hiring of staff for the departments shall take place after June 1, 1994, unless a plan to balance the MinnesotaCare budget for the 1996-1997 biennium has been passed by the 1994 legislature.~~

(b) Notwithstanding paragraph (a), the commissioner shall proceed with the enrollment of single adults and households without children in accordance with section 256.9354, subdivision 5, paragraph (a), even if the expenditures do not remain within the limits of available revenues through fiscal year 1997 to allow the departments of human services and health to develop the plan required under paragraph (a).

Sec. 2. Minnesota Statutes 1993 Supplement, section 256.9354, subdivision 5, is amended to read:

Subd. 5. [ADDITION OF SINGLE ADULTS AND HOUSEHOLDS WITH NO CHILDREN.] *(a)* Beginning ~~July~~ *October* 1, 1994, "eligible persons" ~~means~~ *shall include* all ~~families and~~ individuals *and households with no children who have gross family incomes that are equal to or less than 125 percent of the federal poverty guidelines and* who are not eligible for medical assistance *without a spenddown* under chapter 256B.

(b) Beginning October 1, 1995, "eligible persons" means all individuals and families who are not eligible for medical assistance without a spenddown under chapter 256B.

(c) ~~These persons~~ *All eligible persons under paragraphs (a) and (b)* are eligible for coverage through the MinnesotaCare ~~plan~~ *program* but must pay a premium as determined under sections 256.9357 and 256.9358. Individuals and families whose income is greater than the limits established under section 256.9358 may not enroll in the MinnesotaCare ~~plan~~ *program.*

Sec. 3. Minnesota Statutes 1992, section 256.9355, is amended by adding a subdivision to read:

Subd. 4. [APPLICATION PROCESSING.] *The commissioner of human services shall determine an applicant's eligibility for MinnesotaCare no more than 30 days from the date that the application is received by the department of human services. This requirement shall be suspended for four months following the dates in which single adults and families without children become eligible for the program.*

Sec. 4. Minnesota Statutes 1993 Supplement, section 256.9356, subdivision 3, is amended to read:

Subd. 3. [ADMINISTRATION AND COMMISSIONER'S DUTIES.] Premiums are dedicated to the commissioner for MinnesotaCare. The commissioner shall make an annual redetermination of continued eligibility and identify people who may become eligible for medical assistance. The commissioner shall develop and implement procedures to: (1) require enrollees to report changes in income; (2) adjust sliding scale premium payments, based upon changes in enrollee income; and (3) disenroll enrollees from MinnesotaCare for failure to pay required premiums. Premiums are calculated

on a calendar month basis and may be paid on a monthly, quarterly, or annual basis, with the first payment due upon notice from the commissioner of the premium amount required. Premium payment is required before enrollment is complete and to maintain eligibility in MinnesotaCare. Nonpayment of the premium will result in disenrollment from the plan within one calendar month after the due date. Persons disenrolled for nonpayment may not reenroll until four calendar months have elapsed. *Persons disenrolled for nonpayment may not reenroll for four calendar months unless the person demonstrates good cause for nonpayment. Good cause does not exist if a person chooses to pay other family expenses instead of the premium. The commissioner shall define good cause in rule.*

Sec. 5. Minnesota Statutes 1992, section 256.9358, subdivision 4, is amended to read:

Subd. 4. [INELIGIBILITY.] ~~An individual or family~~ *Families with children* whose gross monthly income is above the amount specified in subdivision 3 ~~is~~ *are* not eligible for the plan. *Beginning October 1, 1994, an individual or households with no children whose gross monthly income is greater than $767 for a single individual and $1,025 for a married couple without children are ineligible for the plan. Beginning October 1, 1995, an individual or families whose gross monthly income is above the amount specified in subdivision 3 are not eligible for the plan.*

Sec. 6. Minnesota Statutes 1992, section 295.50, is amended by adding a subdivision to read:

Subd. 2a. [DELIVERED OUTSIDE OF MINNESOTA.] *"Delivered outside of Minnesota" means property which the seller delivers to a common carrier for delivery outside Minnesota, places in the United States mail or parcel post directed to the purchaser outside Minnesota, or delivers to the purchaser outside Minnesota by means of the seller's own delivery vehicles, and which is not later returned to a point within Minnesota, except in the course of interstate commerce.*

Sec. 7. Minnesota Statutes 1993 Supplement, section 295.50, subdivision 3, is amended to read:

Subd. 3. [GROSS REVENUES.] "Gross revenues" are total amounts received in money or otherwise by:

(1) a resident hospital for patient services;

(2) a resident surgical center for patient services;

(3) a nonresident hospital for patient services provided to patients domiciled in Minnesota;

(4) a nonresident surgical center for patient services provided to patients domiciled in Minnesota;

(5) a resident health care provider, other than a staff model health carrier, for patient services;

(6) a nonresident health care provider for patient services provided to an individual domiciled in Minnesota;

(7) a wholesale drug distributor for sale or distribution of ~~prescription~~ *legend* drugs that are delivered: (i) to a Minnesota resident by a wholesale

drug distributor who is a nonresident pharmacy directly, by common carrier, or by mail; or (ii) in Minnesota by the wholesale drug distributor, by common carrier, or by mail, unless the ~~prescription~~ *legend* drugs are delivered to another wholesale drug distributor *who sells legend drugs exclusively at wholesale*. ~~Prescription~~ *Legend* drugs do not include nutritional products as defined in Minnesota Rules, part 9505.0325;

(8) a staff model health ~~carrier~~ *plan company* as gross premiums for enrollees, copayments, deductibles, coinsurance, and fees for patient services covered under its contracts with groups and enrollees;

(9) a resident pharmacy for medical supplies, appliances, and equipment; and

(10) a nonresident pharmacy for medical supplies, appliances, and equipment.

Sec. 8. Minnesota Statutes 1992, section 295.50, is amended by adding a subdivision to read:

Subd. 6a. [HOSPICE CARE SERVICES.] *"Hospice care services" are services:*

(1) as defined in Minnesota Rules, part 9505.0297; and

(2) provided at a recipient's residence, if the recipient does not live in a hospital, nursing facility as defined in section 62A.46, subdivision 3, or intermediate care facility for persons with mental retardation as defined in section 256B.055, subdivision 12, paragraph (d).

Sec. 9. Minnesota Statutes 1992, section 295.50, is amended by adding a subdivision to read:

Subd. 15. [LEGEND DRUG.] *"Legend drug" means a legend drug as defined in section 151.01, subdivision 17.*

Sec. 10. Minnesota Statutes 1993 Supplement, section 295.52, subdivision 5, is amended to read:

Subd. 5. [VOLUNTEER AMBULANCE SERVICES.] ~~Licensed~~ *Volunteer* ambulance services ~~for which all the ambulance attendants are "volunteer ambulance attendants" as defined in section 144.8091, subdivision 2,~~ are not subject to the tax under this section. *For purposes of this requirement, "volunteer ambulance service" means an ambulance service in which all of the individuals whose primary responsibility is direct patient care meet the definition of volunteer under section 144.8091, subdivision 2. The ambulance service may employ administrative and support staff, and remain eligible for this exemption, if the primary responsibility of these staff is not direct patient care.*

Sec. 11. Minnesota Statutes 1993 Supplement, section 295.53, subdivision 1, is amended to read:

Subdivision 1. [EXEMPTIONS.] The following payments are excluded from the gross revenues subject to the hospital, surgical center, or health care provider taxes under sections 295.50 to 295.57:

(1) payments received for services provided under the Medicare program, including payments received from the government, and organizations governed by sections 1833 and 1876 of title XVIII of the federal Social Security

Act, United States Code, title 42, section 1395, and enrollee deductibles, coinsurance, and copayments, whether paid by the individual or by insurer or other third party. Payments for services not covered by Medicare are taxable;

(2) medical assistance payments including payments received directly from the government or from a prepaid plan;

(3) payments received for home health care services;

(4) payments received from hospitals or surgical centers for goods and services on which liability for tax is imposed under section 295.52 or the source of funds for the payment is exempt under clause (1), (2), (7), (8), or (10);

(5) payments received from health care providers for goods and services on which liability for tax is imposed under sections 295.52 to 295.57 or the source of funds for the payment is exempt under clause (1), (2), (7), (8), or (10);

(6) amounts paid for ~~prescription~~ *legend* drugs, other than nutritional products, to a wholesale drug distributor reduced by reimbursements received for ~~prescription~~ *legend* drugs under clauses (1), (2), (7), and (8);

(7) payments received under the general assistance medical care program including payments received directly from the government or from a prepaid plan;

(8) payments received for providing services under the MinnesotaCare program including payments received directly from the government or from a prepaid plan and enrollee deductibles, coinsurance, and copayments;

(9) payments received by a resident health care provider or the wholly owned subsidiary of a resident health care provider for care provided outside Minnesota to a patient who is not domiciled in Minnesota;

(10) payments received from the chemical dependency fund under chapter 254B;

(11) payments received in the nature of charitable donations that are not designated for providing patient services to a specific individual or group;

(12) payments received for providing patient services if the services are incidental to conducting medical research;

(13) payments received from any governmental agency for services benefiting the public, not including payments made by the government in its capacity as an employer or insurer;

(14) payments received for services provided by community residential mental health facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, community support programs and family community support programs approved under Minnesota Rules, parts 9535.1700 to 9535.1760, and community mental health centers as defined in section 245.62, subdivision 2; ~~and~~

(15) government payments received by a regional treatment center;

(16) payments received for hospice care services;

(17) payments received by a resident health care provider or the wholly

owned subsidiary of a resident health care provider for medical supplies, appliances and equipment delivered outside of Minnesota;

(18) payments received for services provided by community supervised living facilities for persons with mental retardation or related conditions licensed under Minnesota Rules, parts 4665.0100 to 4665.9900;

(19) payments received by a post-secondary educational institution from student tuition, student activity fees, health care service fees, government appropriations, donations, or grants. Fee for service payments and payments for extended coverage are taxable; and

(20) payments received for services provided by: residential care homes licensed under chapter 144B; board and lodging establishments providing only custodial services, that are licensed under chapter 157 and registered under section 157.031 to provide supportive services or health supervision services; and assisted living programs, congregate housing programs, and other senior housing options.

Sec. 12. Minnesota Statutes 1993 Supplement, section 295.53, subdivision 2, is amended to read:

Subd. 2. [DEDUCTIONS FOR STAFF MODEL HEALTH ~~CARRIERS~~ *PLAN COMPANY.*] In addition to the exemptions allowed under subdivision 1, a staff model health ~~carrier~~ *plan company* may deduct from its gross revenues for the year:

(1) amounts paid to hospitals, surgical centers, and health care providers that are not employees of the staff model health ~~carrier~~ *plan company* for services on which liability for the tax is imposed under section 295.52;

(2) amounts added to reserves, if total reserves do not exceed 200 percent of the statutory net worth requirement, the calculation of which may be determined on a consolidated basis, taking into account the amounts held in reserve by affiliated staff model health ~~carriers~~ *plan companies*;

(3) assessments for the comprehensive health insurance plan under section 62E.11; and

(4) amounts spent for administration as reported as total administration to the department of health in the statement of revenues, expenses, and net worth pursuant to section 62D.08, subdivision 3, clause (a).

Sec. 13. Minnesota Statutes 1993 Supplement, section 295.53, subdivision 5, is amended to read:

Subd. 5. [DEDUCTIONS FOR PHARMACIES.] *(a)* Pharmacies may deduct from their gross revenues subject to tax payments for medical supplies, appliances, and devices that are exempt under subdivision 1, except payments under subdivision 1, clauses (3), (6), (9), (11), and (14).

(b) Resident pharmacies may deduct from their gross revenues subject to tax payments received for medical supplies, appliances, and equipment delivered outside of Minnesota.

Sec. 14. Minnesota Statutes 1993 Supplement, section 295.54, is amended to read:

295.54 [CREDIT FOR TAXES PAID ~~TO ANOTHER STATE~~.]

Subdivision 1. [TAXES PAID TO ANOTHER STATE.] A resident hospital, resident surgical center, pharmacy, or resident health care provider who is liable for taxes payable to another state or province or territory of Canada measured by gross receipts and is subject to tax under section 295.52 is entitled to a credit for the tax paid to another state or province or territory of Canada to the extent of the lesser of (1) the tax actually paid to the other state or province or territory of Canada, or (2) the amount of tax imposed by Minnesota on the gross receipts subject to tax in the other taxing jurisdictions.

Subd. 2. [PHARMACY CREDIT.] *A resident pharmacy may claim a quarterly credit against the total amount of tax the pharmacy owes during that quarter under section 295.52, subdivision 1b, as provided in this subdivision. The credit shall equal two percent of the amount paid by the pharmacy to a wholesale drug distributor subject to tax under section 295.52, subdivision 3, for legend drugs delivered by the pharmacy outside of Minnesota. If the amount of the credit exceeds the tax liability of the pharmacy under section 295.52, subdivision 1b, the commissioner shall provide the pharmacy with a refund equal to the excess amount.*

Sec. 15. Minnesota Statutes 1992, section 295.55, subdivision 2, is amended to read:

Subd. 2. [ESTIMATED TAX; HOSPITALS*; SURGICAL CENTERS*.] (a) Each hospital *or surgical center* must make estimated payments of the taxes for the calendar year in monthly installments to the commissioner within ten days after the end of the month.

(b) Estimated tax payments are not required *of hospitals or surgical centers* if the tax for the calendar year is less than $500 or if ~~the~~ *a* hospital has been allowed a grant under section 144.1484, subdivision 2, for the year.

(c) Underpayment of estimated installments bear interest at the rate specified in section 270.75, from the due date of the payment until paid or until the due date of the annual return at the rate specified in section 270.75. An underpayment of an estimated installment is the difference between the amount paid and the lesser of (1) 90 percent of one-twelfth of the tax for the calendar year or (2) the tax for the actual gross revenues received during the month.

Sec. 16. Minnesota Statutes 1992, section 295.55, subdivision 3, is amended to read:

Subd. 3. [ESTIMATED TAX; OTHER TAXPAYERS.] (a) Each taxpayer, other than a hospital *or surgical center*, must make estimated payments of the taxes for the calendar year in quarterly installments to the commissioner by April 15, July 15, October 15, and January 15 of the following calendar year.

(b) Estimated tax payments are not required if the tax for the calendar year is less than $500.

(c) Underpayment of estimated installments bear interest at the rate specified in section 270.75, from the due date of the payment until paid or until the due date of the annual return at the rate specified in section 270.75. An underpayment of an estimated installment is the difference between the amount paid and the lesser of (1) 90 percent of one-quarter of the tax for the calendar year or (2) the tax for the actual gross revenues received during the quarter.

Sec. 17. Minnesota Statutes 1993 Supplement, section 295.58, is amended to read:

295.58 [DEPOSIT OF REVENUES AND PAYMENT OF REFUNDS.]

The commissioner shall deposit all revenues, including penalties and interest, derived from the taxes imposed by sections 295.50 to 295.57 and from the insurance premiums tax on health maintenance organizations, *community integrated service networks, integrated service networks,* and nonprofit health service *plan* corporations in the health care access fund in the state treasury. Refunds of overpayments must be paid from the health care access fund in the state treasury. *There is annually appropriated from the health care access fund to the commissioner of revenue the amount necessary to make any refunds required under section 295.54.*

Sec. 18. Minnesota Statutes 1993 Supplement, section 295.582, is amended to read:

295.582 [AUTHORITY.]

(a) A hospital, surgical center, pharmacy, or health care provider that is subject to a tax under section 295.52, *or a pharmacy that has paid additional expense transferred under this section by a wholesale drug distributor,* may transfer additional expense generated by section 295.52 obligations on to all third-party contracts for the purchase of health care services on behalf of a patient or consumer. The expense must not exceed two percent of the gross revenues received under the third-party contract, ~~including~~ *plus two percent of* copayments and deductibles paid by the individual patient or consumer. The expense must not be generated on revenues derived from payments that are excluded from the tax under section 295.53. All third-party purchasers of health care services including, but not limited to, third-party purchasers regulated under chapter 60A, 62A, 62C, 62D, *62H, 62N,* 64B, ~~or 62H,~~ *65A, 65B, 79, or 79A, or under section 471.61 or 471.617,* must pay the transferred expense in addition to any payments due under existing ~~or future~~ contracts with the hospital, surgical center, pharmacy, or health care provider, to the extent allowed under federal law. *A third-party purchaser of health care services includes, but is not limited to, a health carrier, integrated service network, or community integrated service network that pays for health care services on behalf of patients or that reimburses, indemnifies, compensates, or otherwise insures patients for health care services. A third-party purchaser shall comply with this section regardless of whether the third-party purchaser is a for-profit, not-for-profit, or nonprofit entity. A wholesale drug distributor may transfer additional expense generated by section 295.52 obligations to entities that purchase from the wholesaler, and the entities must pay the additional expense.* Nothing in this ~~subdivision~~ *section* limits the ability of a hospital, surgical center, pharmacy, *wholesale drug distributor,* or health care provider to recover all or part of the section 295.52 obligation by other methods, including increasing fees or charges.

(b) Each third-party purchaser regulated under any chapter cited in paragraph (a) shall include with its annual renewal for certification of authority or licensure documentation indicating compliance with paragraph (a). If the commissioner responsible for regulating the third-party purchaser finds at any time that the third-party purchaser has not complied with paragraph (a) the commissioner may by order fine or censure the third-party purchaser or revoke or suspend the certificate of authority or license of the third-party purchaser to do business in this state. The third-party purchaser

may appeal the commissioner's order through a contested case hearing in accordance with chapter 14.

Sec. 19. Laws 1992, chapter 549, article 9, section 22, is amended to read:

Sec. 22. [*GROSS RECEIPTS TAX;* EFFECTIVE DATE.]

Sections 1 and 16 to 21 are effective the day following final enactment. Section 4 is effective for taxable years beginning after December 31, 1992. Section 7, subdivision 1, is effective for gross revenues generated by services performed and goods sold after December 31, 1992. Section 7, subdivisions 2 to 4, are effective for gross revenues generated by services performed and goods sold after December 31, 1993. *Section 8 is effective for hospitals and surgical centers for gross revenues generated by services performed and goods sold after December 31, 1992, except the exclusion under subdivision 1, clause (6) applies to payments for prescription drug purchases made after December 31, 1993. Section 8 is effective for health care providers for gross revenues generated by services performed and goods sold after December 31, 1993, except the exclusion under subdivision 1, clause (6) applies to payments for prescription drug purchases made after December 31, 1993.* Sections 14 and 15 are effective July 1, 1992.

Sec. 20. [STATEMENT OF INTENT.]

The amendment in section 19 clarifies an effective date in the 1992 legislation enacting the gross receipts tax on hospitals and health care providers. This legislation imposed a gross receipts tax on hospitals effective January 1, 1993, and on health care providers and wholesale drug distributors effective January 1, 1994. To avoid double taxation or pyramiding of the tax burden, hospitals and health care providers were allowed an exclusion for amounts paid to wholesale drug distributors for prescription drugs. These amounts would already be taxed to the wholesale drug distributors. The section creating this exclusion did not contain an effective date. As a result, under Minnesota Statutes, section 645.02, the law may permit hospitals to deduct these amounts for prescription drugs purchased during 1993, even though no tax was imposed on the wholesale drug distributor and no double taxation or pyramiding of the tax could occur. Section 19 clarifies that the exclusion applies only after the wholesale drug distributor tax goes into effect.

Sec. 21. [EFFECTIVE DATE.]

Sections 1, 2, 5, 12, 15 to 17, 19, and 20 are effective the day following final enactment.

Sections 3 and 4 are effective July 1, 1994.

Sections 6 to 11, 13, 14, and 18 are retroactively effective from January 1, 1994.

ARTICLE 14

APPROPRIATIONS

Section 1. [APPROPRIATIONS; SUMMARY.]

Except as otherwise provided in this act, the sums set forth in the columns designated "fiscal year 1994" and "fiscal year 1995" are appropriated from the general fund, or other named fund, to the agencies for the purposes

specified in this act and are added to or subtracted from the appropriations for the fiscal years ending June 30, 1994, and June 30, 1995, in Laws 1993, chapter 345, or another named law.

SUMMARY BY FUND

APPROPRIATIONS	1994	1995
General Fund	-0-	$4,844,000
Health Care Access Fund	(10,828,000)	(17,562,000)
State Government Special Revenue	-0-	99,000

Subdivision 1. DEPARTMENT OF HUMAN SERVICES

Health Care Access Fund	(8,974,000)	(14,436,000)

Of this appropriation, $150,000 the second year is for administration of the MinnesotaCare program. The appropriation for the MinnesotaCare subsidized health care plan is reduced by $8,974,000 in the first year and $14,586,000 in the second year.

Subd. 2. DEPARTMENT OF EMPLOYEE RELATIONS

Health Care Access Fund	(1,854,000)	(6,125,000)

This reduction is to the appropriation in Laws 1993, chapter 345, article 14, section 9, due to a negotiation of a third-party carrier contract for Minnesota employers insurance program.

Subd. 3. DEPARTMENT OF HEALTH

State Government Special Revenue	-0-	99,000
Health Care Access Fund	-0-	2,999,000

Of this appropriation, $100,000 is for the purpose of making a grant to the school of medicine at the Duluth campus of the University of Minnesota for planning to meet the increasing need for rural family physicians.

Of this appropriation, $150,000 shall be transferred to the general fund and appropriated from the general fund to the commissioner of human services for a consumer satisfaction survey. Any federal matching money received through the medical assistance program is appropriated to the commissioner for this purpose.

The commissioner of human services shall contract with the commissioner of health to conduct the consumer satisfaction survey.

Of this appropriation, $8,000 in fiscal year 1995 is appropriated to the commissioner of health to fund a rural ambulance demonstration project. The purpose of the project is to reduce the ambulance response times in the Rail Prairie and Scandia Valley townships. The commissioner of health shall grant the funds to the ambulance license holder for this area contingent on receiving a written statement from the license holder, describing the methods to be used to implement the demonstration projects.

Unexpended money appropriated for summer health care interns for fiscal year 1994 does not cancel and shall be available for that purpose in fiscal year 1995.

At the request of the Minnesota Health Care Commission, the commissioners of revenue, finance, health, human services, commerce, and employee relations shall provide assistance with research, policy analysis, modeling, cost and revenue projections, actuarial analysis, and other technical support for the financing study required under article 6, section 7. Under the direction of the commission, money from this appropriation may be transferred by the commissioner of health to other state agencies to cover the costs of technical support provided to the commission.

Money appropriated before fiscal year 1995 to the commissioner of health for the administrative functions in connection with the data institute may be used by the data institute for the administration of the consumer satisfaction survey to the extent that there are matching financial contributions from the private sector.

Subd. 4. LEGISLATIVE AUDITOR

General Fund	-0-	65,000

This appropriation is in addition to the appropriation in Laws 1993, chapter 192, section 2, subdivision 5, for the purpose of conducting a single payer study.

Subd. 5. ATTORNEY GENERAL

General Fund	-0-	200,000

This appropriation is in addition to the appropriation in Laws 1993, chapter 192, section 11, subdivision 4. The attorney general shall work cooperatively with the commissioner of health in an effort to increase Minnesota's Medicare reimbursement rate.

Sec. 2. TRANSFERS

Notwithstanding Laws 1993, chapter 345, article 14, section 10, the commissioner of finance shall transfer $3,963,000 in fiscal year 1994 and $11,101,000 in fiscal year 1995 from the health care access fund to the general fund.

Of this amount transferred in fiscal year 1995, $4,579,000 is appropriated to the commissioner of human services for general assistance medical care grants."

Delete the title and insert:

"A bill for an act relating to health; MinnesotaCare; establishing and regulating community integrated service networks; defining terms; creating a reinsurance and risk adjustment association; classifying data; requiring reports; mandating studies; modifying provisions relating to the regulated all-payer option; modifying provisions relating to nursing facilities; requiring administrative rulemaking; setting timelines and requiring plans for implementation; designating essential community providers; establishing an expedited fact finding and dispute resolution process; requiring proposed legislation; establishing task forces; providing for demonstration models; mandating universal coverage; requiring insurance reforms; providing grant programs; establishing the Minnesota health care administrative simplification act; implementing electronic data interchange standards; creating the Minnesota center for health care electronic data interchange; providing standards for the Minnesota health care identification card; appropriating money; providing penalties; amending Minnesota Statutes 1992, sections 60A.02, subdivision 3; 60A.15, subdivision 1; 62A.303; 62A.48, subdivision 1; 62D.02, subdivision 4; 62D.04, by adding a subdivision; 62E.02, subdivisions 10, 18, 20, and 23; 62E.10, subdivisions 1, 2, and 3; 62E.141; 62E.16; 62J.03, by adding a subdivision; 62J.04, by adding a subdivision; 62J.05, subdivision 2; 62L.02, subdivisions 9, 13, 17, 24, and by adding subdivisions; 62L.03, subdivisions 1 and 6; 62L.05, subdivisions 1, 5, and 8; 62L.06; 62L.07, subdivision 2; 62L.08, subdivisions 2, 5, 6, 7, and by adding a subdivision; 62L.12; 62L.21, subdivision 2; 62M.02, subdivisions 5 and 21; 62M.03, subdivisions 1, 2, and 3; 62M.05, subdivision 3; 62M.06, subdivision 3; 72A.20, by adding a subdivision; 144.1485; 144.335, by adding a subdivision; 144.581, subdivision 2; 145.64, subdivision 1; 256.9355, by adding a subdivision; 256.9358, subdivision 4; 295.50, by adding subdivisions; 295.55, subdivisions 2 and 3; 308A.005, by adding a subdivision; 308A.635, by adding a subdivision; and 318.02, by adding a subdivision; Minnesota Statutes 1993 Supplement,

sections 43A.317, by adding a subdivision; 60K.14, subdivision 7; 61B.20, subdivision 13; 62A.011, subdivision 3; 62A.31, subdivision 1h; 62A.36, subdivision 1; 62A.65, subdivisions 2, 3, 4, 5, and by adding a subdivision; 62D.12, subdivision 17; 62J.03, subdivision 6; 62J.04, subdivisions 1 and 1a; 62J.09, subdivisions 1a and 2; 62J.23, subdivision 4; 62J.2916, subdivision 2; 62J.32, subdivision 4; 62J.33, by adding subdivisions; 62J.35, subdivisions 2 and 3; 62J.38; 62J.41, subdivision 2; 62J.45, subdivision 11, and by adding subdivisions; 62L.02, subdivisions 8, 11, 15, 16, 19, and 26; 62L.03, subdivisions 3, 4, and 5; 62L.04, subdivision 1; 62L.08, subdivisions 4 and 8; 62N.01; 62N.02, subdivisions 1, 8, and by adding a subdivision; 62N.06, subdivision 1; 62N.065, subdivision 1; 62N.10, subdivisions 1 and 2; 62N.22; 62N.23; 62P.01; 62P.03; 62P.04; 62P.05; 144.1464; 144.1486; 144.335, subdivision 3a; 144.802, subdivision 3b; 144A.071, subdivision 4a, as amended; 151.21, subdivisions 7 and 8; 256.9352, subdivision 3; 256.9353, subdivisions 3 and 7; 256.9354, subdivisions 1, 4, 5, 6, and by adding a subdivision; 256.9356, subdivision 3; 256.9357, subdivision 2; 256.9362, subdivision 6; 256.9363, subdivisions 6, 7, and 9; 256.9657, subdivision 3; 256.9695, subdivision 3, as amended; 256B.0917, subdivision 2; 295.50, subdivisions 3, 4, and 12b; 295.52, subdivision 5; 295.53, subdivisions 1, 2, and 5; 295.54; 295.58; and 295.582; H.F. 3210, article 1, section 2, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 62A; 62J; 62N; 62P; 144; 308A; and 317A; proposing coding for new law as Minnesota Statutes, chapters 62Q and 62R; repealing Minnesota Statutes 1992, sections 62A.02, subdivision 5; 62E.51; 62E.52; 62E.53; 62E.531; 62E.54; 62E.55; and 256.362, subdivision 5; Minnesota Statutes 1993 Supplement, sections 62J.04, subdivision 8; 62N.07; 62N.075; 62N.08; 62N.085; and 62N.16; Laws 1992, chapter 549, article 9, section 22."

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

Senate Conferees: (Signed) Linda Berglin, Duane D. Benson, Pat Piper, Dallas C. Sams, Sheila M. Kiscaden

House Conferees: (Signed) Lee Greenfield, Roger Cooper, Pamela Neary, Stephanie Klinzing, Steven Smith

Ms. Berglin moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2192 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. 2192 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.

Mr. Moe, R.D. moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 35 and nays 26, as follows:

Those who voted in the affirmative were:

Anderson	Cohen	Krentz	Murphy	Reichgott Junge
Beckman	Dille	Kroening	Oliver	Riveness
Benson, D.D.	Flynn	Luther	Pappas	Robertson
Benson, J.E.	Hottinger	Marty	Piper	Sams
Berglin	Janezich	Moe, R.D.	Pogemiller	Spear
Betzold	Johnson, J.B.	Mondale	Price	Stumpf
Chandler	Kiscaden	Morse	Ranum	Terwilliger

Those who voted in the negative were:

Adkins	Finn	Laidig	Merriam	Stevens
Belanger	Frederickson	Langseth	Neuville	Vickerman
Berg	Hanson	Larson	Olson	
Bertram	Johnson, D.J.	Lesewski	Pariseau	
Chmielewski	Johnston	Lessard	Runbeck	
Day	Knutson	McGowan	Samuelson	

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

MOTIONS AND RESOLUTIONS – CONTINUED

S.F. No. 2015 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2015

A bill for an act relating to metropolitan government; providing for a regional administrator and a management team; imposing organizational requirements; imposing duties; clarifying existing provisions and making conforming changes; amending Minnesota Statutes 1992, sections 6.76; 15.0597, subdivision 1; 15A.081, subdivision 7; 15A.082, subdivision 3; 16B.58, subdivision 7; 116.16, subdivision 2; 116.182, subdivision 1; 161.173; 161.174; 169.781, subdivision 1; 169.791, subdivision 5; 169.792, subdivision 11; 221.022; 221.041, subdivision 4; 221.071, subdivision 1; 221.295; 297B.09, subdivision 1; 352.03, subdivision 1; 352.75; 422A.01, subdivision 9; 422A.101, subdivision 2a; 471A.02, subdivision 8; 473.121, subdivisions 5a and 24; 473.123, subdivisions 1, 2a, and 4; 473.129; 473.13, subdivision 4; 473.146, subdivisions 1 and 4; 473.149, subdivision 3; 473.1623, subdivision 2; 473.164; 473.168, subdivision 2; 473.173, subdivisions 3 and 4; 473.223; 473.303, subdivisions 2, 3a, 4, 4a, 5, and 6; 473.371, subdivision 1; 473.375, subdivisions 11, 12, 13, 14, and 15; 473.382; 473.384, subdivisions 1, 3, 4, 5, 6, 7, and 8; 473.385; 473.386, subdivisions 1, 2, 3, 4, 5, and 6; 473.387, subdivisions 2, 3, and 4; 473.388, subdivisions 2, 3, 4, and 5; 473.39, subdivisions 1, 1a, 1b, and by adding a subdivision; 473.391; 473.392; 473.394; 473.399, as amended; 473.405, subdivisions 1, 3, 4, 5, 9, 10, 12, and 15; 473.408, subdivisions 1, 2, 2a, 4, 6, and 7; 473.409; 473.411, subdivisions 3 and 4; 473.415, subdivisions 1, 2, and 3; 473.416; 473.418; 473.42; 473.436, subdivisions 2, 3, and 6; 473.446, subdivisions 1, 1a, 2, 3, and 7; 473.448; 473.449; 473.504, subdivisions 4, 5, 6, 9, 10, 11, and 12; 473.511, subdivisions 1, 2, 3, and 4; 473.512, subdivision 1; 473.513; 473.515, subdivisions 1, 2, and 3; 473.5155, subdivisions 1 and 3; 473.516, subdivisions 2, 3, 4, and 5; 473.517, subdivisions 1, 2, 3, 6, and 9; 473.519; 473.521, subdivisions 1, 2, 3, and 4; 473.523, subdivisions 1 and 2; 473.535; 473.541, subdivision 2; 473.542; 473.543, subdivisions 1, 2, 3, and 4; 473.545; 473.547; 473.549; 473.553, subdivisions 1, 2, 4, 5, and by adding subdivisions; 473.561; 473.595, subdivision 3; 473.605, subdivision 2; 473.823, subdivision 3; and 473.852, subdivisions 8 and 10; Minnesota Statutes 1993 Supplement, sections 10A.01, subdivision 18; 15A.081, subdivision 1; 115.54; 174.32, subdivision 2; 216C.15, subdivision 1; 221.025; 221.031, subdivision 3a; 275.065, subdivisions 3 and 5a; 352.01, subdivisions 2a and 2b; 352D.02, subdivision 1; 353.64, subdivision 7a; 400.08, subdivision 3; 473.13, subdivision 1; 473.1623, subdivision 3; 473.167, subdivision 1; 473.386, subdivision 2a; 473.3994, subdivision 10; 473.3997; 473.4051; 473.407, subdivisions 1, 2, 3, 4, 5, and 6; 473.411, subdivision 5; 473.446,

subdivision 8; and 473.516, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 1992, sections 115A.03, subdivision 20; 115A.33; 174.22, subdivision 4; 473.121, subdivisions 14a, 15, and 21; 473.122; 473.123, subdivisions 3, 5, and 6; 473.141, as amended; 473.146, subdivisions 2, 2a, 2b, and 2c; 473.153; 473.161; 473.163; 473.181, subdivision 3; 473.325, subdivision 5; 473.373, as amended; 473.375, subdivisions 1, 2, 3, 4, 5, 6, 7, 10, 16, 17, and 18; 473.377; 473.38; 473.384, subdivision 9; 473.388, subdivision 6; 473.404, as amended; 473.405, subdivisions 2, 6, 7, 8, 11, 13, and 14; 473.417; 473.435; 473.436, subdivision 7; 473.445, subdivisions 1 and 3; 473.501, subdivision 2; 473.503; 473.504, subdivisions 1, 2, 3, 7, and 8; 473.511, subdivision 5; 473.517, subdivision 8; 473.543, subdivision 5; and 473.553, subdivision 4a; Minnesota Statutes 1993 Supplement, section 473.3996, subdivisions 1 and 2.

May 4, 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. 2015, 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. 2015 be further amended as follows:

Delete page 2, line 31 to page 13, line 5, and insert:

"ARTICLE 1

METROPOLITAN COUNCIL ORGANIZATION

Section 1. Minnesota Statutes 1993 Supplement, section 15A.081, subdivision 1, is amended to read:

Subdivision 1. [SALARY RANGES.] The governor shall set the salary rate within the ranges listed below for positions specified in this subdivision, upon approval of the legislative commission on employee relations and the legislature as provided by section 43A.18, subdivisions 2 and 5:

Salary Range
Effective
July 1, 1987

$57,500-$78,500

Commissioner of finance;

Commissioner of education;

Commissioner of transportation;

Commissioner of human services;

Commissioner of revenue;

Commissioner of public safety;

Executive director; state board of investment;

$50,000-$67,500

Commissioner of administration;

Commissioner of agriculture;

Commissioner of commerce;

Commissioner of corrections;

Commissioner of jobs and training;

Commissioner of employee relations;

Commissioner of health;

Commissioner of labor and industry;

Commissioner of natural resources;

Commissioner of trade and economic development;

Chief administrative law judge; office of administrative hearings;

Commissioner, pollution control agency;

Director, office of waste management;

Commissioner, housing finance agency;

Executive director, public employees retirement association;

Executive director, teacher's retirement association;

Executive director, state retirement system;

~~Chair, metropolitan council;~~

Chair, regional transit board;

$42,500-$60,000

Commissioner of human rights;

Commissioner, department of public service;

Commissioner of veterans affairs;

Commissioner, bureau of mediation services;

Commissioner, public utilities commission;

Member, transportation regulation board;

Ombudsman for corrections;

Ombudsman for mental health and retardation.

Sec. 2. Minnesota Statutes 1992, section 15A.082, subdivision 3, is amended to read:

Subd. 3. [SUBMISSION OF RECOMMENDATIONS.] *(a)* By May 1 in each odd-numbered year, the compensation council shall submit to the speaker of the house of representatives and the president of the senate salary recommendations for constitutional officers, legislators, justices of the supreme court, and judges of the court of appeals, district court, county court, and county municipal court. The recommended salary for each office must take effect on July 1 of the next odd-numbered year, with no more than one adjustment, to take effect on July 1 of the year after that. The salary recommendations for legislators, judges, and constitutional officers take effect if an appropriation of money to pay the recommended salaries is enacted after the recommendations are submitted and before their effective date. Recommendations may be expressly modified or rejected. The salary recommendations for legislators are subject to additional terms that may be adopted according to section 3.099, subdivisions 1 and 3.

(b) The council shall also submit to the speaker of the house of representatives and the president of the senate recommendations for the salaries of members of the metropolitan council.

Sec. 3. Minnesota Statutes 1993 Supplement, section 352D.02, subdivision 1, is amended to read:

Subdivision 1. [COVERAGE.] (a) Employees enumerated in paragraph (b), if they are in the unclassified service of the state *or metropolitan council* and are eligible for coverage under the general state employees retirement plan under chapter 352, are participants in the unclassified program under this chapter unless the employee gives notice to the executive director of the Minnesota state retirement system within one year following the commencement of employment in the unclassified service that the employee desires coverage under the general state employees retirement plan. For the purposes of this chapter, an employee who does not file notice with the executive director is deemed to have exercised the option to participate in the unclassified plan.

(b) Enumerated employees are:

(1) an employee in the office of the governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general, or an employee of the state board of investment;

(2) the head of a department, division, or agency created by statute in the unclassified service, an acting department head subsequently appointed to the position, or an employee enumerated in section 15A.081, subdivision 1 or 15A.083, subdivision 4;

(3) a permanent, full-time unclassified employee of the legislature or a commission or agency of the legislature or a temporary legislative employee having shares in the supplemental retirement fund as a result of former employment covered by this chapter, whether or not eligible for coverage under the Minnesota state retirement system;

(4) a person other than an employee of the state board of technical colleges who is employed in a position established under section 43A.08, subdivision 1, clause (3), or subdivision 1a, or in a position authorized under a statute creating or establishing a department or agency of the state, which is at the deputy or assistant head of department or agency or director level;

(5) the chair, chief administrator, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan waste control commission as designated by the commission; the chair, executive director, and not to exceed three positions at the division director or assistant to the chair level of the regional transit board; a chief administrator who is an employee of the metropolitan transit commission; ~~and the chair,~~ executive director, and not to exceed nine positions at the division director or administrative deputy level of the metropolitan council as designated by the council; provided that upon initial designation of all positions provided for in this clause, no further designations or redesignations may be made without approval of the board of directors of the Minnesota state retirement system;

(6) the executive director, associate executive director, and not to exceed nine positions of the higher education coordinating board in the unclassified service, as designated by the higher education coordinating board before January 1, 1992, or subsequently redesignated with the approval of the board of directors of the Minnesota state retirement system, unless the person has elected coverage by the individual retirement account plan under chapter 354B;

(7) the clerk of the appellate courts appointed under article VI, section 2, of the Constitution of the state of Minnesota;

(8) the chief executive officers of correctional facilities operated by the department of corrections and of hospitals and nursing homes operated by the department of human services;

(9) an employee whose principal employment is at the state ceremonial house;

(10) an employee of the Minnesota educational computing corporation;

(11) an employee of the world trade center board;

(12) an employee of the state lottery board who is covered by the managerial plan established under section 43A.18, subdivision 3;

(13) an employee of the state board of technical colleges employed in a position established under section 43A.08, subdivision 1, clause (3), or 1a, unless the person has elected coverage by the individual retirement account plan under chapter 354B; and

(14) an employee of the higher education board in a position established under section 136E.04, subdivision 2, unless the person has elected coverage by the individual retirement account plan under chapter 354B.

Sec. 4. Minnesota Statutes 1992, section 473.123, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] A metropolitan council with jurisdiction in the metropolitan area is ~~created~~ *established as a public corporation and political subdivision of the state*. It shall be under the supervision and control of 17 members, all of whom shall be residents of the metropolitan area.

Sec. 5. Minnesota Statutes 1992, section 473.123, subdivision 2a, is amended to read:

Subd. 2a. [TERMS.] Following each apportionment of council districts, as provided under subdivision 3a, council members must be appointed from

newly drawn districts as provided in subdivision 3a. *Each council member, other than the chair, must reside in the council district represented. Each council district must be represented by one member of the council.* The terms of members ~~are as follows: members representing even-numbered districts for terms ending the first Monday in January of the year ending in the numeral "7"; members representing odd-numbered districts for terms ending the first Monday in January of the year ending in the numeral "5." Thereafter the term of each member is four years, with terms ending the first Monday in January~~ *end with the term of the governor*, except that all terms expire on the effective date of the next apportionment. *A member serves at the pleasure of the governor.* A member shall continue to serve the member's district until a successor is appointed and qualified; except that, following each apportionment, the member shall continue to serve at large until the governor appoints 16 council members, one from each of the newly drawn council districts as provided under subdivision 3a, to serve terms as provided under this section. The appointment to the council must be made by the first Monday in March of the year in which the term ends.

Sec. 6. Minnesota Statutes 1992, section 473.123, subdivision 4, is amended to read:

Subd. 4. [CHAIR; APPOINTMENT, *OFFICERS, SELECTION;* DUTIES *AND COMPENSATION.*] (a) The chair of the metropolitan council shall be appointed by the governor as the 17th voting member thereof by and with the advice and consent of the senate to serve at the pleasure of the governor *to represent the metropolitan area at large.* Senate confirmation shall be as provided by section 15.066. ~~The chair shall be a person experienced in the field of municipal and urban affairs with administrative training and executive ability.~~

~~(b)~~ The chair of the metropolitan council shall, *if present,* preside at ~~the~~ meetings of the ~~metropolitan~~ council ~~and shall act as principal executive officer. The chair shall organize the work of the metropolitan council, appoint all officers and employees thereof, subject to the approval of the metropolitan council, and be responsible for carrying out all policy decisions of the metropolitan council. The chair's salary shall be as provided in section 15A.081. The chair shall be eligible for expenses in the same manner and amount as state employees~~, *have the primary responsibility for meeting with local elected officials, serve as the principal legislative liaison, present to the governor and the legislature, after council approval, the council's plans for regional governance and operations, serve as the principal spokesperson of the council, and perform other duties assigned by the council or by law.*

(b) The metropolitan council shall elect other officers as it deems necessary for the conduct of its affairs for a one-year term. A secretary and treasurer need not be members of the metropolitan council. Meeting times and places shall be fixed by the metropolitan council and special meetings may be called by a majority of the members of the metropolitan council or by the chair. The chair and each metropolitan council member shall be reimbursed for actual and necessary expenses. The annual budget of the council shall provide as a separate account anticipated expenditures for compensation, travel, and associated expenses for the chair and members, and compensation or reimbursement shall be made to the chair and members only when budgeted.

(c) Each member of the council shall attend and participate in council meetings and meet regularly with local elected officials and legislative

members from the council member's district. Each council member shall serve on at least one division committee for transportation, environment, or community development.

(d) In the performance of its duties the metropolitan council may adopt policies and procedures governing its operation, establish committees, and, when specifically authorized by law, make appointments to other governmental agencies and districts.

Sec. 7. Minnesota Statutes 1992, section 473.123, is amended by adding a subdivision to read:

Subd. 7. [PERFORMANCE AND BUDGET ANALYST.] *The council, other than the chair, may hire a performance and budget analyst to assist the 16 council members with policy and budget analysis and evaluation of the council's performance. The analyst may recommend and the council may hire up to two additional analysts to assist the council with performance evaluation and budget analysis. The analyst and any additional analysts hired shall serve at the pleasure of the council members. The 16 members of the council may prescribe all terms and conditions for the employment of the analyst and any additional analysts hired, including, but not limited to, the fixing of compensation, benefits, and insurance. The analyst shall prepare the budget for the provisions of this section and submit the budget for council approval and inclusion in the council's overall budget.*

Sec. 8. [SALARIES OF MEMBERS.]

Until changed in law after recommendation by the compensation council as provided in Minnesota Statutes, section 15A.082, the chair of the metropolitan council shall receive a salary of $52,500 per year, and the other members shall receive a salary of $20,000 per year.

Sec. 9. [METROPOLITAN COUNCIL EXECUTIVE DIRECTOR.]

The executive director of the metropolitan council, appointed as provided in Minnesota Statutes 1992, section 473.123, subdivision 6, shall serve as the regional administrator at the pleasure of the council.

Sec. 10. [REPEALER.]

Minnesota Statutes 1992, section 473.123, subdivisions 5 and 6, are repealed.

Sec. 11. [APPLICATION.]

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

Sec. 12. [EFFECTIVE DATE.]

This article is effective the first Monday in January 1995.

ARTICLE 2

REGIONAL ADMINISTRATOR; TRANSITIONAL ORGANIZATION

Section 1. Minnesota Statutes 1992, section 473.123, is amended by adding a subdivision to read:

Subd. 8. [GENERAL COUNSEL.] *The council may appoint a general counsel to serve at the pleasure of the council.*

Sec. 2. [473.125] [REGIONAL ADMINISTRATOR.]

The metropolitan council shall appoint a regional administrator to serve at the council's pleasure as the principal administrative officer for the metropolitan council. The regional administrator shall organize the work of the council staff. The regional administrator shall appoint on the basis of merit and fitness, and discipline and discharge all employees in accordance with the council's personnel policy, except (1) the performance and budget analysts provided for in section 473.123, subdivision 7, (2) the general counsel, as provided in section 473.123, subdivision 8, (3) employees of the offices of wastewater services and transit operations, who are appointed, disciplined, and discharged in accordance with council personnel policies by their respective operations managers, and (4) as provided in sections 3 and 4. The regional administrator must ensure that all policy decisions of the council are carried out. The regional administrator shall attend meetings of the council and may take part in discussions but may not vote. The regional administrator shall recommend to the council for adoption measures deemed necessary for efficient administration of the council, keep the council fully apprised of the financial condition of the council, and prepare and submit an annual budget to the council for approval. The regional administrator shall prepare and submit for approval by the council an administrative code organizing and codifying the policies of the council, and perform other duties as prescribed by the council. The regional administrator may be chosen from among the citizens of the nation at large, and shall be selected on the basis of training and experience in public administration.

Sec. 3. [TRANSITIONAL ORGANIZATION.]

Subdivision 1. [PERIOD OF EFFECT.] *Except as otherwise expressly provided in this section, this section is effective June 1, 1994, and expires the first Monday in January 1996.*

Subd. 2. [DIVISIONS.] *The metropolitan council has four divisions:*

(1) transportation;

(2) environment;

(3) community development; and

(4) administration.

Subd. 3. [REGIONAL ADMINISTRATOR AND MANAGEMENT TEAM.] *(a) The regional administrator must recommend for council approval persons to serve in the positions enumerated in this paragraph:*

(1) the director of the transportation division;

(2) the director of the environment division;

(3) the director of the community development division;

(4) the director of the administration division;

(5) the manager of transit operations;

(6) the manager of wastewater services; and

(7) the general counsel.

(b) Except for the general counsel, the persons appointed to the positions enumerated in paragraph (a) may be removed by the regional administrator without the approval of the council.

(c) The regional administrator is the head of the metropolitan council's senior management team made up of the regional administrator and at least the persons serving in the positions enumerated in paragraph (a).

(d) The manager of transit operations and the manager of wastewater services appoints, disciplines, and discharges the employees of the manager's respective office in accordance with the council's personnel policy.

(e) The management team shall advise the regional administrator on the overall operation of the metropolitan council.

(f) This subdivision is effective the first Monday in January 1995.

Subd. 4. [COUNCIL COMMITTEES.] *The council must have a transportation division committee, an environment division committee, a community development committee, and other committees it considers appropriate. Each division committee must meet regularly to oversee the operations of its respective division and recommend policy to the full council with respect to its division.*

Subd. 5. [INTERAGENCY MONEY TRANSFERS.] *Except to reimburse the council for costs incurred by the council in the discharge of its responsibilities relating to the office of wastewater services or the office of transit operations, no money may be transferred from a fund or account of a metropolitan agency abolished by section 4 or its successor fund or account, to a fund or account of another agency abolished by section 4, or its successor fund or account, or to a fund or account of the metropolitan council during the period this section is effective without ten days' written notice of the proposed action to each council member and approval of three-fourths of the full membership of the council.*

Sec. 4. [ABOLISHED AGENCIES, SUCCESSORS, PERSONNEL.]

Subdivision 1. [REGIONAL TRANSIT BOARD.] *The terms of the regional transit board members and chair expire October 1, 1994. Permanent or regular staff employed as of March 1, 1994, by the regional transit board may not be terminated by discharge, except for cause, or by layoff before the first Monday in January 1995. The regional transit board described in Minnesota Statutes 1992, section 473.373, is abolished. Its duties and responsibilities are transferred to the metropolitan council. Its activities are assumed by the transportation division of the metropolitan council. Policy with respect to those activities must be recommended by the transportation division committee of the metropolitan council to the full council. The metropolitan council is the successor entity to the regional transit board with respect to all of the board's property, interests, and obligations.*

Subd. 2. [METROPOLITAN TRANSIT COMMISSION.] *The terms of the metropolitan transit commission members expire July 1, 1994. Permanent or regular staff employed as of March 1, 1994, by the metropolitan transit commission may not be terminated by discharge, except for cause, or by layoff before the first Monday in January 1996. The metropolitan transit commission described in Minnesota Statutes 1992, section 473.404, is abolished. Its duties*

and responsibilities are transferred to the metropolitan council. Its activities are assumed by the transportation division of the metropolitan council. Policy with respect to those activities must be recommended by the transportation division committee of the metropolitan council to the full council. The metropolitan council is the successor entity to the metropolitan transit commission with respect to all of the commission's property, interests, and obligations. All of the operations managed by the commission are transferred to the office of transit operations of the transportation division of the metropolitan council.

Subd. 3. [METROPOLITAN WASTE CONTROL COMMISSION.] *The terms of the metropolitan waste control commission members and chair expire July 1, 1994. Permanent or regular staff employed as of March 1, 1994, by the metropolitan waste control commission may not be terminated by discharge, except for cause, or by layoff before the first Monday in January 1996. The metropolitan waste control commission described in Minnesota Statutes 1992, section 473.503, is abolished. Its duties and responsibilities are transferred to the metropolitan council. Its activities are assumed by the environment division of the metropolitan council. Policy with respect to those activities must be recommended by the environment division committee of the metropolitan council to the full council. The metropolitan council is the successor entity to the metropolitan waste control commission with respect to all the commission's property, interests, obligations, and rules. All of the operations managed by the commission are transferred to the office of wastewater services of the environment division of the metropolitan council.*

Subd. 4. [METROPOLITAN COUNCIL EMPLOYEES.] *Permanent or regular staff employed by the metropolitan council as of March 1, 1994, may not be terminated by discharge, except for cause, or by layoff before the first Monday in January 1996. This act does not abrogate or change any rights enjoyed by the employees of the metropolitan council under the terms of a collective bargaining agreement that is authorized by Minnesota Statutes, section 179A.20, and that is in effect on March 1, 1994.*

Subd. 5. [UNION RIGHTS PRESERVED.] *This act does not abrogate or change any rights enjoyed by employees of agencies abolished by this section under the terms of a collective bargaining agreement that is authorized by Minnesota Statutes, section 179A.20 and that is in effect on March 1, 1994.*

Sec. 5. [APPLICATION.]

This article applies in the counties of Anoka, Carver, Dakota, Ramsey, Scott, and Washington.

Sec. 6. [EFFECTIVE DATES.]

Sections 1 and 2 are effective the first Monday in January 1995. Section 3 is effective as provided in section 3. Section 4, subdivision 1, is effective October 1, 1994. The remainder of section 4 is effective July 1, 1994.''

Page 51, line 14, strike ''of the metropolitan council''

Page 73, after line 29, insert:

''Sec. 60. Minnesota Statutes 1992, section 473.373, subdivision 1a, is amended to read:

Subd. 1a. [DUTIES OF THE BOARD.] (a) The duties of the board are:

(1) to foster effective delivery of existing transit services and encourage innovation in transit service;

(2) to increase transit service in suburban areas;

(3) to prepare implementation and financial plans for the metropolitan transit system;

(4) to set policies and standards for implementing the transit policies and programs of the state and the transit policies of the metropolitan council in the metropolitan area;

(5) to advise and work cooperatively with local governments, regional rail authorities, and other public agencies, transit providers, developers, and other persons in order to coordinate all transit modes and to increase the availability of transit services;

(6) to conduct transit research and evaluation; and

(7) to administer state and metropolitan transit subsidies.

(b) *Except as provided in section 473.386,* the board shall arrange with others for the delivery and provision of transit services and facilities. To the greatest extent possible, the board shall avoid direct operational planning, administration, and management of specific transit services and facilities.

(c) The board shall advise the council, the council's transportation advisory board, the department of transportation, political subdivisions, and private developers on the transit aspects and effects of proposed transportation plans and development projects and on methods of improving the coordination, availability, and use of transit services as part of an efficient and effective overall transportation system.

Sec. 61. Minnesota Statutes 1992, section 473.375, subdivision 4, is amended to read:

Subd. 4. [PROPERTY.] The board may acquire by purchase, lease, gift, or grant property and interests in property necessary for the accomplishment of its purposes and may sell or otherwise dispose of property which it no longer requires. The board may not rent or lease any premises from a recipient of financial assistance from the board. Except for the rental or lease of its office space, the board may not acquire or hold any permanent or temporary right, title, or interest in or to real property, including easements or development rights. *Except as provided in section 473.386,* the board may not acquire or hold any permanent or temporary right, title, or interest in or to transit vehicles."

Page 75, after line 13, insert:

"Sec. 67. Minnesota Statutes 1992, section 473.375, subdivision 18, is amended to read:

Subd. 18. [OPERATIONS.] The board may not own or operate transit services, *except as provided in section 473.386.*"

Pages 80 to 82, delete section 75, and insert:

"Sec. 78. Minnesota Statutes 1992, section 473.386, subdivision 2, is amended to read:

Subd. 2. [SERVICE CONTRACTS; MANAGEMENT; TRANSPORTATION ACCESSIBILITY ADVISORY COMMITTEE.] (a) The board ~~shall~~ *may* contract for services necessary for the provision of special transportation. ~~All~~ Transportation service ~~must be~~ provided under a contract ~~between the board and the provider which specifies~~ *must specify* the service to be provided, the standards that must be met, and the rates for operating and providing special transportation services.

(b) The board shall establish management policies for the service ~~but shall~~ *and may* contract with a service administrator for day-to-day administration and management of the service. ~~The~~ *Any* contract must delegate to the service administrator clear authority to administer and manage the delivery of the service pursuant to board management policies and must establish performance and compliance standards for the service administrator. *The board may provide directly day to day administration and management of the service and may own or lease vehicles used to provide the service.*

(c) *The metropolitan council shall review and approve the board's proposed action under paragraph (a) or (b).*

(d) The board shall ensure that the service administrator establishes a system for registering and expeditiously responding to complaints by users, informing users of how to register complaints, and requiring providers to report on incidents that impair the safety and well-being of users or the quality of the service. The board shall annually report to the commissioner of transportation and the legislature on complaints and provider reports, the response of the service administrator, and steps taken by the board and the service administrator to identify causes and provide remedies to recurring problems.

~~(d)~~ *(e)* ~~Within 90 days following August 1, 1987, the board shall hold a public hearing on standards for provider eligibility, selection, performance, compliance, and evaluation; the terms of provider contracts and the contract with the service administrator and related contract management policies and procedures of the board; fare policies; service areas, hours, standards, and procedures; and similar matters relating to implementation of the service.~~ Each year before renewing contracts with providers and the service administrator, the board shall provide an opportunity for the transportation accessibility advisory committee, users, and other interested persons to testify before the board concerning providers, contract terms, and other matters relating to board policies and procedures for implementing the service.

~~(e)~~ *(f)* The board shall establish a transportation accessibility advisory committee. The transportation accessibility advisory committee must include elderly and handicapped persons, other users of special transportation service, representatives of persons contracting to provide special transportation services, and representatives of appropriate agencies for elderly and handicapped persons to advise the board on management policies for the service. At least half the transportation accessibility advisory committee members must be disabled or elderly persons or the representatives of disabled or elderly persons. Two of the appointments to the transportation accessibility advisory committee shall be made by the council on disability in consultation with the chair of the regional transit board."

Page 149, after line 26, insert:

"Sec. 202. Minnesota Statutes 1993 Supplement, section 473.604, subdivision 1, is amended to read:

Subdivision 1. [COMPOSITION.] The commission consists of:

(1) the mayor of each of the cities, or a qualified voter appointed by the mayor, for the term of office as mayor;

(2) eight members, ~~one appointed from each of the agency districts provided for in section 473.141, subdivision 2, for terms as provided in section 473.141, subdivision 4a~~ *appointed by the governor from each of the following agency districts:*

(i) district A, consisting of council districts 1 and 2;

(ii) district B, consisting of council districts 3 and 4;

(iii) district C, consisting of council districts 5 and 6;

(iv) district D, consisting of council districts 7 and 8;

(v) district E, consisting of council districts 9 and 10;

(vi) district F, consisting of council districts 11 and 12;

(vii) district G, consisting of council districts 13 and 14; and

(viii) district H, consisting of council districts 15 and 16.

Each member shall be a resident of the district represented. ~~The members shall be appointed by the governor.~~ Before making an appointment, the governor shall consult with each member of the legislature from the district for which the member is to be appointed, to solicit the legislator's recommendation on the appointment;

(3) four members appointed *by the governor* from outside of the metropolitan area to reflect fairly the various regions and interests throughout the state that are affected by the operation of the commission's major airport and airport system. Two of these members must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as a key airport. The other two must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as an intermediate airport. The members must be appointed by the governor as follows: one for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. All of the terms start on July 1, 1989. The successors of each member must be appointed to four-year terms commencing on the first Monday in January of each fourth year after the expiration of the original term. Before making an appointment, the governor shall consult each member of the legislature representing the municipality or county from which the member is to be appointed, to solicit the legislator's recommendation on the appointment; and

(4) a chair appointed by the governor for a term of four years. The chair may be removed at the pleasure of the governor."

Page 152, after line 20, insert:

"Sec. 208. [REGIONAL PARKS APPROPRIATION; CONSULTATION.]

The metropolitan council must consult with the city of Eden Prairie and must consider using part of an appropriation, if made, to the council for regional parks, for the acquisition of 226 acres in Eden Prairie that contain oak savannah, native prairie, and maple basswood forest, for use as a regional nature preserve.''

Page 152, delete lines 22 to 36

Page 153, delete lines 1 to 4, and insert:

''*(a) Minnesota Statutes 1992, sections 115A.03, subdivision 20; 115A.33; 174.22, subdivision 4; 473.121, subdivisions 15 and 21; 473.122; 473.146, subdivisions 2, 2a, 2b, and 2c; 473.153; 473.161; 473.163; 473.181, subdivision 3; 473.325, subdivision 5; 473.384, subdivision 9; 473.388, subdivision 6; 473.404, as amended by Laws 1993, chapter 119, section 1; 473.405, subdivisions 2, 6, 7, 8, 11, 13, and 14; 473.417; 473.435; 473.436, subdivision 7; 473.445, subdivisions 1 and 3; 473.501, subdivision 2; 473.503; 473.504, subdivisions 1, 2, 3, 7, and 8; 473.511, subdivision 5; 473.517, subdivision 8; 473.543, subdivision 5; and 473.553, subdivision 4a, are repealed.*

(b) Minnesota Statutes 1992, sections 473.121, subdivision 14a; 473.141, as amended by Laws 1993, chapter 314, sections 3 and 4; 473.373, as amended by Laws 1993, chapter 314, section 5; 473.375, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 10, 16, 17, and 18; 473.377; 473.38; Minnesota Statutes 1993 Supplement, section 473.3996, are repealed.''

Page 153, after line 7, insert:

''Sec. 211. [INSTRUCTION TO REVISOR.]

In the next publication of Minnesota Statutes after October 1, 1994, the revisor of statutes shall delete ''board'' and insert ''council'' wherever it appears in Minnesota Statutes, section 473.386, subdivision 2.''

Page 153, delete lines 9 and 10, and insert:

''*Sections 1, 4, 10, 11, 15, 16, 18 to 25, 32, 43, 48, 49, 52, 62 to 66, and 68 to 73, 75 to 77, 79 to 86, 88, 90, 97, 98, 100, 136, 138, 140, and 207 are effective October 1, 1994. Section 41 is effective January 1, 1995. Sections 60, 61, 67, and 78 are effective the day after final enactment. Section 209, paragraph (a) is effective July 1, 1994, except that the repeal of those provisions relating to the powers and duties of the regional transit board is not effective as applied to the regional transit board until October 1, 1994. Section 209, paragraph (b) is effective October 1, 1994. The remainder of this article is effective July 1, 1994, except that those provisions providing for changes in the powers and duties of the regional transit board are not effective as applied to the regional transit board until October 1, 1994.*''

Renumber the sections in sequence and correct internal references

Amend the title as follows:

Page 1, line 2, after the semicolon, insert ''abolishing certain agencies;''

Page 1, line 16, delete ''and 4'' and insert ''4, and by adding subdivisions''

Page 1, line 21, after the second semicolon, insert ''473.373, subdivision 1a;''

Page 1, line 22, after "subdivisions" insert "4," and delete "and 15" and insert "15, and 18"

Page 2, line 11, delete "and" and after "1;" insert "and 473.604, subdivision 1;"

Page 2, line 16, delete "3, 5," and insert "5"

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

Senate Conferees: (Signed) Carol Flynn, Pat Pariseau, Ted A. Mondale

House Conferees: (Signed) Myron Orfield, Phil Carruthers, Charlie Weaver

Ms. Flynn moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2015 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. 2015 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 57 and nays 4, as follows:

Those who voted in the affirmative were:

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

Ms. Johnston, Mr. Neuville, Mses. Olson and Runbeck voted in the negative.

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

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. 3041: Messrs. Pogemiller, Luther, Ms. Wiener, Messrs. Terwilliger and Mondale.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS – CONTINUED

S.F. No. 2913 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2913

A bill for an act relating to state government; supplementing appropriations for public safety; the environment and natural resources; the general legislative, judicial, and administrative expenses of state government; community development; and human services; fixing and limiting the amount of fees, penalties, and other costs to be collected in certain cases; transferring certain duties and functions; amending Minnesota Statutes 1992, sections 3.737, subdivisions 1 and 4; 16A.124, subdivisions 2 and 7; 16A.127, as amended; 16A.15, subdivision 3; 16B.01, subdivision 4; 16B.05, subdivision 2; 16B.06, subdivisions 1 and 2; 41A.09, subdivisions 2 and 5; 43A.37, subdivision 1; 60K.06; 60K.19, subdivision 8; 62A.046; 62A.048; 62A.27; 62D.102; 82.20, subdivisions 7 and 8; 82.21, by adding a subdivision; 82B.08, subdivisions 4 and 5; 82B.09, subdivision 1; 82B.19, subdivision 1; 83.25; 84.0887, by adding subdivisions; 84A.32, subdivision 1; 85A.02, subdivision 17; 144.804, subdivision 1; 144A.47; 171.06, subdivision 3; 176.102, subdivisions 3a and 14; 176.611, subdivision 6a; 204B.27, by adding a subdivision; 221.041, by adding a subdivision; 221.171, subdivision 2; 245.97, subdivision 1; 246.18, by adding a subdivision; 252.025, by adding a subdivision; 256.74, by adding a subdivision; 256.9365, subdivisions 1 and 3; 256B.056, by adding a subdivision; 256B.0625, subdivision 25, and by adding a subdivision; 256B.0641, subdivision 1; 256B.431, subdivision 17; 256H.05, subdivision 6; 257.62, subdivisions 1, 5, and 6; 257.64, subdivision 3; 257.69, subdivisions 1 and 2; 296.02, subdivision 7; 354.06, subdivision 1; 462A.05, by adding a subdivision; 477A.12; 504.33, subdivision 4; 504.35; 518.171, subdivision 5; and 518.613, subdivision 7; Minnesota Statutes 1993 Supplement, sections 15.50, subdivision 2; 41A.09, subdivision 3; 62A.045; 82.21, subdivision 1; 82.22, subdivisions 6 and 13; 82.34, subdivision 3; 97A.028, subdivisions 1 and 3; 116J.966, subdivision 1; 138.763, subdivision 1; 144A.071, subdivisions 3 and 4a; 239.785, subdivision 2, and by adding a subdivision; 245.97, subdivision 6; 246.18, subdivision 4; 252.46, subdivision 6, and by adding a subdivision; 256.969, subdivision 24; 256B.431, subdivision 24; 256I.04, subdivision 3; 257.55, subdivision 1; 257.57, subdivision 2; 268.98, subdivision 1; 477A.13; 477A.14; 504.33, subdivision 7; 518.171, subdivisions 1, 3, 4, 7, and 8; 518.611, subdivisions 2 and 4; 518.613, subdivision 2; and 518.615, subdivision 3; Laws 1993, chapter 369, section 5, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 62A; 145; 148; 268; and 518; repealing Minnesota Statutes 1992, sections 16A.06, subdivision 8; 16A.124, subdivision 6; 43A.21, subdivision 5; 62C.141; 62C.143; 62D.106; 62E.04, subdivisions 9 and 10; 268.32; 268.551; 268.552; 355.04; and 355.06; Laws 1985, First Special Session chapter 12, article 11, section 19.

May 4, 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. 2913, 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. 2913 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

PUBLIC SAFETY

Section 1. [PUBLIC SAFETY; APPROPRIATIONS.]

The sums set forth in the columns headed "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the commissioner of public safety for the purposes specified and are to be added to or reduced from appropriations for the fiscal years ending June 30, 1994, and June 30, 1995, in Laws 1993, chapter 266.

	APPROPRIATIONS Available for the Year Ending June 30	
	1994	1995
Sec. 2. PUBLIC SAFETY	$ (393,000)	$ 4,884,000
SUMMARY BY FUND		
General Fund	15,000	59,000
Special Revenue Fund		4,300,000
Trunk Highway Fund	(408,000)	525,000
(a) Emergency Management	15,000	59,000
These appropriations are added to the appropriations in Laws 1993, chapter 266, section 5, subdivision 7, and are to pay 50 percent of the costs of three regional office support positions.		
(b) State Patrol	(408,000)	4,825,000
These appropriations are changes to the appropriations in Laws 1993, chapter 266, section 5, subdivision 3. A reduction of $408,000 the first year is for radio communication consolidation and an increase of $525,000 the second year is to maintain full staffing at the ten state patrol communication centers. These appropriations are from the trunk highway fund.		
Of this appropriation $4,300,000 is from the state patrol motor vehicle account in		

the transportation services fund for purchasing motor vehicles used by state troopers. Of this amount, up to $54,000 in fiscal year 1995 may be used by the department for the implementation of the title registration fee change in section 4.

Sec. 3. [TRAFFIC ESCORT SERVICES REPORT.]

The commissioner of public safety shall report to the chairs of the transportation policy and finance committees of the senate and house of representatives by October 1, 1994, on the usage of the Minnesota state patrol for traffic escort services when a special permit is required for over-sized loads. The report shall include usage from July 1, 1990, until June 30, 1994, and report time worked and amounts paid to patrol officers, amounts reimbursed to the state, accident claims, and all expenses associated with special permit traffic escort services incurred by the state. The report should also include any special training and safety procedures followed for mobile traffic control.

Sec. 4. Minnesota Statutes 1992, section 168A.29, subdivision 1, is amended to read:

Subdivision 1. [AMOUNTS.] *(a)* The department shall be paid the following fees:

(1) for filing an application for and the issuance of an original certificate of title, the sum of $2;

(2) for each security interest when first noted upon a certificate of title, including the concurrent notation of any assignment thereof and its subsequent release or satisfaction, the sum of $2;

(3) for the transfer of the interest of an owner and the issuance of a new certificate of title, the sum of $2;

(4) for each assignment of a security interest when first noted on a certificate of title, unless noted concurrently with the security interest, the sum of $1;

(5) for issuing a duplicate certificate of title, the sum of $4.

(b) In addition to each of the fees required under paragraph (a), clauses (1) and (3), the department shall be paid:

(1) from July 1, 1994, to June 30, 1997, $3.50; but then

(2) after June 30, 1997, $1.

The additional fee collected under this paragraph must be deposited in the transportation services fund and credited to the state patrol motor vehicle account established in section 299D.10.

Sec. 5. Minnesota Statutes 1992, section 171.06, subdivision 3, is amended to read:

Subd. 3. [CONTENTS OF APPLICATION; OTHER INFORMATION.] An application must state the full name, date of birth, sex and residence address of the applicant, a description of the applicant in such manner as the commissioner may require, and must state whether or not the applicant has

theretofore been licensed as a driver; and, if so, when and by what state or country and whether any such license has ever been suspended or revoked, or whether an application has ever been refused; and, if so, the date of and reason for such suspension, revocation, or refusal, together with such facts pertaining to the applicant and the applicant's ability to operate a motor vehicle with safety as may be required by the commissioner. An application for a Class CC, Class B, or Class A driver's license also must state the applicant's social security number. *An application for a Class C driver's license must have a space for the applicant's social security number and state that providing the number is optional, or otherwise convey that the applicant is not required to enter the social security number.* The application form must contain a space where the applicant may indicate a desire to make an anatomical gift. If the applicant does not indicate a desire to make an anatomical gift when the application is made, the applicant must be offered a donor document in accordance with section 171.07, subdivision 5. The application form must contain statements sufficient to comply with the requirements of the uniform anatomical gift act (1987), sections 525.921 to 525.9224, so that execution of the application or donor document will make the anatomical gift as provided in section 171.07, subdivision 5, for those indicating a desire to make an anatomical gift. The application form must contain a notification to the applicant of the availability of a living will designation on the license under section 171.07, subdivision 7. The application must be in the form prepared by the commissioner.

The application form must be accompanied by a pamphlet containing relevant facts relating to:

(1) the effect of alcohol on driving ability;

(2) the effect of mixing alcohol with drugs;

(3) the laws of Minnesota relating to operation of a motor vehicle while under the influence of alcohol or a controlled substance; and

(4) the levels of alcohol-related fatalities and accidents in Minnesota and of arrests for alcohol-related violations.

The application form must also be accompanied by a pamphlet describing Minnesota laws regarding anatomical gifts and the need for and benefits of anatomical gifts.

Sec. 6. [299D.10] [STATE PATROL MOTOR VEHICLE ACCOUNT.]

The state patrol motor vehicle account is created in the transportation services fund, consisting of the fees collected under section 168A.29, subdivision 1, paragraph (b).

Sec. 7. [EFFECTIVE DATE.]

This article is effective July 1, 1994, except that any provisions appropriating money for fiscal year 1994 are effective the day following final enactment.

ARTICLE 2

ENVIRONMENT AND NATURAL RESOURCES

Section 1. [APPROPRIATIONS.]

Except as otherwise provided in this article, the sums set forth in the columns designated "1994 and 1995 APPROPRIATION CHANGE" are appropriated from the general fund, or other named fund, to the agencies for the purposes specified in this article and are to be added to or reduced from appropriations for the fiscal years ending June 30, 1994 and June 30, 1995, in Laws 1993, chapter 172, or another named law. Amounts to be reduced are designated by parentheses.

SUMMARY BY FUND

	1994	1995
General	$	$ 6,666,000
Game and Fish	(1,206,000)	(3,207,000)
Environmental Trust	1,346,000	
Minnesota Future Resources	1,404,000	
TOTAL	1,544,000	3,459,000

	APPROPRIATIONS Available for the Year Ending June 30	
	1994	1995
	$	$
Sec. 2. BOARD OF WATER AND SOIL RESOURCES	-0-	1,135,000
$1,005,000 is appropriated for implementation of the state revolving fund. Of this amount, $865,000 is for local implementation of the state revolving fund, which provides grants to soil and water conservation districts (SWCDs). The SWCDs must use the grants to hire staff to assist landowners to implement a variety of conservation practices.		
$130,000 is appropriated for fiscal year 1995 to the board of water and soil resources to fund a cooperative effort with the Minnesota extension service to work on groundwater education efforts with local units of government and landowners and for grants under the groundwater education activities program.		
Sec. 3. POLLUTION CONTROL	-0-	2,373,000
(a) Feedlot Assistance and Compliance		
$1,800,000 is appropriated in fiscal year 1995, for feedlot compliance and local assistance.		
Of this amount, $900,000 is for grants for county administration of the feedlot permit program, to be administered by the		

board of water and soil resources in accordance with Minnesota Statutes, section 103B.3369, in cooperation with the pollution control agency. Grants must be matched with a combination of local cash or in-kind contributions. Counties receiving these grants shall submit an annual report to the pollution control agency regarding activities conducted under the grant, expenditure made, and local match contributions. First priority for funding shall be given to counties that have requested and received delegation from the pollution control agency for processing of animal feedlot permit applications under Minnesota Statutes, section 116.07, subdivision 7. Delegated counties shall be eligible to receive a grant of $5,000 plus either: $5 multiplied by the number of livestock or poultry farms with sales greater than $10,000, as reported in the 1992 Census of Agriculture, published by the United States Bureau of Census; or $15 multiplied by the number of feedlots with greater than ten animal units as determined by a level 2 or level 3 feedlot inventory conducted in accordance with the Feedlot Inventory Guidebook published by the board of water and soil resources, dated June 1991.

To receive the additional funding that is based on the county feedlot inventory, the county shall submit a copy of the inventory to the board of water and soil resources.

Any remaining money is transferred to the board of water and soil resources for distribution to counties on a competitive basis through the challenge grant process for the conducting of feedlot inventories, development of delegated county feedlot programs, and for information and education or technical assistance efforts to reduce feedlot-related pollution hazards.

(b) Nonpoint Source Implementation

$300,000 is appropriated in fiscal year 1995, for administrative support for nonpoint source pollution activities, including storm water assistance, individual septic tank systems, and partnerships with local entities to abate nonpoint source pollution.

(c) City of Morton Loan Forgiveness

The city of Morton need not repay money advanced to the city under the municipal litigation loan pilot project established in Laws 1988, chapter 686, article 1, section 69.

(d) External Cost Study

$200,000 is appropriated for an independent study of the external costs of electricity generation in the state. The commissioner must consult with the department of public service, utilities, environmental groups, and other interested persons in the design and scope of the study and selection of a study contractor. Unless the commissioner determines another methodology is more appropriate, the study must include a literature search and peer review of the data; and employ one or more of the following methodologies based upon the commissioner's consultation with interested persons: (1) damage cost; (2) cost of control; and (3) willingness to pay.

The study must be completed by July 1, 1995, and must be transmitted by the commissioner to the public utilities commission for use in its consideration of environmental cost values under Minnesota Statutes, section 216B.2422, subdivision 2. The commission must not make a final decision on cost value until it has considered the study prepared under this section.

This appropriation may not be spent until the commissioner of the pollution control agency has submitted a work plan to the legislative commission on Minnesota resources and the commission has approved the work plan.

(e) Citizens Lake-Monitoring Program

$73,000 is appropriated for the fiscal year ending June 30, 1995, to continue the citizens lake-monitoring program and the electronic lakes bulletin board.

Sec. 4. AGRICULTURE -0- 1,200,000

$750,000 is added to the appropriation in Laws 1993, chapter 172, section 7, to provide assistance to feedlot operators,

and to implement best management practices for animal waste and sound nutrient management practices. $50,000 is for grants under Laws 1993, chapter 172, section 7, subdivision 4.

$175,000 is added to the appropriation in Laws 1993, chapter 172, section 7, subdivision 4, and is for the administrative costs of implementing a rural and agriculture loan program for water quality improvement practices.

$50,000 is appropriated in fiscal year 1995 for farm safety programs.

$50,000 is appropriated for fiscal year 1995 to the commissioner of agriculture for coordination and outreach activities relating to sustainable agriculture and integrated pest management programs.

$100,000 is appropriated for fiscal year 1995 to the commissioner of agriculture for demonstration grants on sustainable agriculture and integrated pest management projects. The appropriation is available until expended.

Notwithstanding Minnesota Statutes, section 41A.09, subdivision 3, and Laws 1993, chapter 172, section 7, subdivision 3, the total payments from the ethanol development account to all producers may not exceed $14,800,000 for the biennium ending June 30, 1995.

$75,000 is appropriated for fiscal year 1995 for use in the enforcement and management of the recombinant bovine growth hormone labeling program under Minnesota Statutes, section 32.75.

The department of agriculture and the department of natural resources shall jointly conduct an assessment and report recommendations on developing an integrated pest management program for urban areas. The department shall submit its report to the environment and natural resources finance division of the senate and the environment and natural resources finance committee of the house of representatives by February 15, 1995.

The department of agriculture shall involve technical colleges and other institu-

tions of higher learning in the planning process for the manure-testing program and shall assess the feasibility of including their current or potentially updated laboratories in the future testing program and also study potential curricula for training technicians in the future.

Sec. 5. NATURAL RESOURCES

Subdivision 1. Total Appropriation Change	(1,206,000)	(1,677,000)
Summary by Fund		
General	-0-	1,530,000
Game and Fish	(1,206,000)	(3,207,000)

The unallotment by the commissioner, as presented to the legislature in the commissioner's March 14, 1994, correspondence, to the game and fish fund appropriation for fiscal year 1994 is void.

Subd. 2. Water Resources Management	-0-	145,000

$50,000 is appropriated in fiscal year 1995 to the commissioner of natural resources for a grant to the southwest regional development commission to pay for the activities described in section 65, subdivision 2, paragraph (a), clauses (1) to (4).

$35,000 is appropriated in fiscal year 1995 for reimbursement of the cost of emergency flood damage repairs to the dike on the Root river in Houston county.

$60,000 is appropriated in fiscal year 1995 under Minnesota Statutes, section 103G.701, to the commissioner of natural resources for a grant, requiring no local match, to Morrison county for improving water flow along the easterly shoreline of the Mississippi river near Highway 10 in Morrison county, notwithstanding Minnesota Statutes, section 103G.701, subdivision 4.

The remaining balance of the shoreland grant made by the commissioner of natural resources to the city of Laporte may be used by the city for administration of the city's shoreland ordinance.

The commissioner of natural resources shall conduct a study of dams on waters

of the state. The study must investigate the type and number of impoundments that exist, their condition, and their probable future life span. The study also must examine dam issues and make recommendations for policies regarding Minnesota dams, including renovation versus removal, the impact on the ecology of the waterway, any need for additional construction, and the potential for hydropower or drinking water supplies. The commissioner must report back to the house and senate environment committees by February 15, 1995.

Subd. 3. Forest Management	-0-	75,000

This appropriation is to the commissioner of natural resources to plan and begin restoration and enhancement of Oak Forest and Oak Savannah natural communities in St. Paul's Indian Mounds Park and Battle Creek regional park.

Subd. 4. Parks and Recreation	-0-	270,000
Subd. 5. Trails and Waterways	(25,000)	650,000

Summary by Fund

General	-0-	675,000
Game and Fish	(25,000)	(25,000)

$600,000 is appropriated in fiscal year 1995 for grant-in-aid snowmobile trail maintenance and construction during the fiscal year ending June 30, 1995. This amount shall not be considered a base increase for fiscal year 1996.

$75,000 is appropriated in fiscal year 1995 for completion of the shore and pier fishing project on the Mississippi River in South St. Paul.

Subd. 6. Fish and Wildlife Management	(938,000)	(2,197,000)

Summary by Fund

General	-0-	177,000
Game and Fish	(938,000)	(2,374,000)

$87,000 is appropriated in fiscal year 1995 for forest and prairie ecologists, to provide research, inventory, and analysis services necessary in the natural heritage

program of the department of natural resources.

$90,000 is appropriated in fiscal year 1995 for field resource ecologists. These positions shall work with local units of government to aid in protecting rare and endangered natural areas where development pressure and resource use is high. They also shall interpret county biological survey data for local units.

Subd. 7. Enforcement	(100,000)	(308,000)

These reductions are from the game and fish fund.

Subd. 8. Operations Support	(143,000)	(312,000)

Summary by Fund

General	-0-	188,000
Game and Fish	(143,000)	(500,000)

$150,000 is added to the appropriation in Laws 1993, chapter 172, section 5, subdivision 9, to the commissioner of natural resources for transfer to the environmental quality board. The money must be used for activities related to achieving the sustainable economic development and environmental protection goals of the environmental quality board's sustainable development initiative.

$38,000 is appropriated in fiscal year 1995 to the commissioner of natural resources to pay Marshall county road reimbursement costs under Laws 1993, chapter 172, section 89, and Minnesota Statutes, section 84A.32, subdivision 1, paragraph (d).

Sec. 6. MINNESOTA RESOURCES	2,750,000

Summary by Fund

Minnesota Future Resources Fund	1,404,000
Minnesota Environment and Natural Resources Trust Fund	1,346,000

The following amounts are appropriated from the Minnesota future resources fund and the Minnesota environment and natu-

ral resources trust fund. The appropriations are available immediately following enactment and are otherwise subject to the provisions of Laws 1993, chapter 172, section 14.

State Park Betterment	650,000	
This amount is added to the appropriation contained in Laws 1993, chapter 172, section 14, subdivision 10, paragraph (a).		
Lake Minnetonka Water Access Acquisition	850,000	
This amount is added to the appropriation contained in Laws 1993, chapter 172, section 14, subdivision 10, paragraph (n).		
Of this amount, $154,000 is from the Minnesota future resources fund and $696,000 is from the environmental trust fund.		
Silver Bay Harbor	1,000,000	
This amount is added to the appropriation contained in Laws 1993, chapter 172, section 14, subdivision 10, paragraph (o).		
Local Recreation Grants	250,000	
This appropriation is from the Minnesota future resources fund to the commissioner of natural resources to provide matching grants of $100,000 each to the White Earth and Leech Lake Reservations and $50,000 to the Nett Lake Reservation for community recreation facilities in communities with disproportionate incidences of juvenile delinquency.		
Sec. 7. CITIZEN'S COUNCIL ON VOYAGEURS NATIONAL PARK	-0-	58,000
Sec. 8. OFFICE OF STRATEGIC AND LONG RANGE PLANNING	-0-	300,000
$250,000 is appropriated for the fiscal year ending June 30, 1995. This is a one-time appropriation for a grant to the Northern Counties Land Use Coordinating Board.		
$50,000 is appropriated for fiscal year 1995 to the environmental quality board through the director of the office of strategic and long-range planning for the		

purposes of groundwater protection coordination.

Sec. 9. OFFICE OF WASTE MANAGEMENT	-0-	70,000

$70,000 is appropriated in fiscal year 1995 for the purposes of conducting the annual solid waste composition studies.

Sec. 10. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 6a. [AGRICULTURE BEST MANAGEMENT PRACTICES LOAN PROGRAM.] *Data collected by the commissioner on applicants or borrowers for the agriculture best management practices loan program are governed by section 17.117.*

Sec. 11. [17.117] [AGRICULTURE BEST MANAGEMENT PRACTICES LOAN PROGRAM.]

Subdivision 1. [PURPOSE.] *The purpose of the agriculture best management practices loan program is to provide low or no interest financing to farmers, agriculture supply businesses, and rural landowners for the implementation of agriculture best management practices.*

Subd. 2. [AUTHORITY.] *The commissioner shall establish, adopt rules for, and implement a program to work with local units of government, federal authorities, lending institutions, and other appropriate organizations to provide loans to landowners and businesses for facilities, fixtures, equipment, or other sustainable practices that prevent or mitigate sources of nonpoint source water pollution. The commissioner shall establish pilot projects to develop procedures for implementing the program. The commissioner shall develop administrative guidelines to implement the pilot projects specifying criteria, standards, and procedures for making loans.*

Subd. 3. [APPROPRIATIONS.] *Up to $20,000,000 of the balance in the water pollution control revolving fund in section 446A.07, as determined by the public facilities authority, is appropriated to the commissioner for the establishment of this program.*

Subd. 4. [DEFINITIONS.] *For the purposes of this section, the terms defined in this subdivision have the meanings given them.*

(a) "Applicant" means a county or a local government unit designated by a county under subdivision 8, paragraph (a).

(b) "Authority" means the Minnesota public facilities authority as established in section 446A.03.

(c) "Best management practices" has the meaning given in sections 103F.711, subdivision 3, and 103H.151, subdivision 2.

(d) "Chair" means the chair of the board of water and soil resources or the designee of the chair.

(e) "Borrower" means an individual farmer, an agriculture supply business, or rural landowner applying for a low-interest loan.

(f) "Commissioner" means the commissioner of agriculture or the designee of the commissioner.

(g) "Comprehensive water management plan" means a state approved and locally adopted plan authorized under section 103B.231, 103B.255, 103B.311, 103C.331, 103D.401, or 103D.405.

(h) "County allocation request" means a loan allocation request from an applicant to implement agriculturally related best management practices defined in paragraph (c).

(i) "Lender agreement" means an agreement entered into between the commissioner and a local lender. The agreement will contain terms and conditions of the loan that will include but need not be limited to general loan provisions, loan management requirements, application of payments, loan term limits, allowable expenses, and fee limitations.

(j) "Local government unit" means a county, soil and water conservation district, or an organization formed for the joint exercise of powers under section 471.59.

(k) "Local lender" means a local government unit as defined in paragraph (j), a state or federally chartered bank, a savings and loan association, a state or federal credit union, or Farm Credit Services.

(l) "Nonpoint source" has the meaning given in section 103F.711, subdivision 6.

Subd. 5. [USES OF FUNDS.] *Use of funds under this section must be in compliance with the federal Water Pollution Control Act, section 446A.07, and eligible activities listed in the intended use plan authorized in section 446A.07, subdivision 4.*

Subd. 6. [APPLICATION.] *(a) The commissioner must prescribe forms and establish an application process for applicants to apply for a county allocation request. The application must include but need not be limited to (1) the geographic area served; (2) the type and estimated cost of activities or projects for which they are seeking a loan allocation; (3) a ranking of proposed activities or projects; and (4) the designation of the local lender and lending practices the applicant intends to use to issue the loans to the borrowers, if a local lender other than the applicant is to be used.*

(b) In an area of the state where a county allocation request has not been requested or has been rejected, application forms must be available for a borrower to apply directly to the commissioner for a loan under this program.

(c) If a county allocation request is rejected, the applicant must be notified in writing as to the reasons for the rejection and given 30 days to submit a revised application. The revised application shall be reviewed according to the same procedure used to review the initial application.

Subd. 7. [PAYMENTS.] *Payments made from the water pollution control revolving fund must be made in accordance with applicable state and federal laws and rules governing the payments.*

Subd. 8. [APPLICANT; BORROWERS.] *(a) A county may submit a county allocation request as defined in subdivision 4, paragraph (h). A county or a group of counties may designate another local government unit as defined in subdivision 4, paragraph (j), to submit a county allocation request.*

(b) If a county does not submit a county allocation request, and does not designate another local government unit, a soil and water conservation district may submit a county allocation request. In all instances, there may be only one request from a county. The applicant must coordinate and submit requests on behalf of other units of government within the geographic jurisdiction of the applicant.

(c) Borrowers may apply directly to the commissioner if the commissioner does not receive or approve a county allocation request from the county, designated local government unit, or soil and water conservation district in which the proposed activities would be carried out.

Subd. 9. [REVIEW AND RANKING OF ALLOCATION REQUESTS.] *(a) The commissioner shall chair the subcommittee established in section 103F.761, subdivision 2, paragraph (b), for purposes of reviewing and ranking county allocation requests. The rankings must be in order of priority and shall provide financial assistance within the limits of the funds available. In carrying out the review and ranking, the subcommittee must consist of, at a minimum, the chair, representatives of the pollution control agency, United States Department of Agricultural Stabilization and Conservation Service, United States Department of Agriculture Soil Conservation Service, Association of Minnesota Counties, and other agencies or associations as the commissioner, the chair, and agency determine are appropriate. The review and ranking shall take into consideration other related state or federal programs.*

(b) The subcommittee shall use the criteria listed below in carrying out the review and ranking:

(1) whether the proposed activities are identified in a comprehensive water management plan as priorities;

(2) whether the applicant intends to establish a revolving loan program under subdivision 10, paragraph (b);

(3) the potential that the proposed activities have for improving or protecting surface and groundwater quality;

(4) the extent that the proposed activities support areawide or multijurisdictional approaches to protecting water quality based on defined watershed;

(5) whether the activities are needed for compliance with existing water related laws or rules;

(6) whether the proposed activities demonstrate participation, coordination, and cooperation between local units of government and other public agencies;

(7) whether there is coordination with other public and private funding sources and programs; and

(8) whether there are off-site public benefits such as preventing downstream degradation and siltation.

Subd. 10. [AUTHORITY OF APPLICANTS.] *(a) Applicants may enter into agreements with borrowers to finance projects under this section.*

(b) Applicants may establish revolving loan programs to finance projects under this section.

(c) In approving county allocation requests, the commissioner shall allow applicants to provide loans under revolving loan programs established under paragraph (b), until 50 percent of the amount appropriated and available under subdivision 3 has been allocated to applicants establishing these programs. In approving any additional county allocation requests, the commissioner may allow applicants to provide loans under these programs.

Subd. 11. [BORROWER ELIGIBILITY; TERMS; REPAYMENT.] *(a) Local lenders shall use the following criteria in addition to other criteria they deem necessary in determining the eligibility of borrowers for loans:*

(1) whether the activity is certified by a local unit of government as meeting priority needs identified in a comprehensive water management plan and is in compliance with accepted standards, specifications, or criteria;

(2) whether the activity is certified as eligible under Environmental Protection Agency or other applicable guidelines; and

(3) whether the repayment is assured from the borrower.

(b) Local lenders shall set the terms and conditions of loans. In all instances, local lenders must provide for sufficient collateral or protection for the loan principal. They are responsible for collecting repayments by borrowers. For direct loans, the borrower must provide sufficient collateral and repay the loan according to a mutually prearranged schedule with the commissioner.

(c) A local lender is responsible for repaying the principal of a loan to the commissioner. The terms of repayment will be identified in the lender agreement. If defaults occur, it is the responsibility of the local lender to obtain repayment from the borrower. For revolving loan programs established under subdivision 10, paragraph (b), the lender agreement must provide that:

(1) repayment of principal to the commissioner must begin ten years after the date the applicant receives the allocation; and

(2) the applicant shall report to the commissioner annually regarding the intended uses of the money in the revolving loan program.

Subd. 12. [DATA PRIVACY.] *The following data on applicants or borrowers collected by the commissioner under this section, are private for data on individuals as provided in section 13.02, subdivision 12, or nonpublic for data not on individuals as provided in section 13.02, subdivision 9: financial information, including, but not limited to, credit reports, financial statements, tax returns and net worth calculations received or prepared by the commissioner.*

Subd. 13. [ESTABLISHMENT OF ACCOUNT.] *The authority shall establish an account called the agriculture best management practices revolving fund to provide loans and other forms of financial assistance authorized under section 446A.07. The fund must be credited with repayments.*

Subd. 14. [FEES; LOAN SERVICES.] *Origination fees charged directly to borrowers by local lenders upon executing a loan shall not exceed one-half of one percent of the loan amount. Servicing fees assessed to loan repayments must not exceed two percent interest on outstanding principal amounts if the local lender is a local government unit, or three percent interest on outstanding principal amounts if the local lender is a state or federally*

chartered bank, savings and loan association, a state or federal credit union, or an entity of Farm Credit Services.

Subd. 15. [REPORT.] *(a) The commissioner and chair shall prepare and submit a report to the legislative water commission by October 15, 1994, and October 15, 1995. thereafter, the report shall be submitted by October 15 of each odd-numbered year.*

(b) The report shall include, but need not be limited to, matters such as loan allocations and uses, the extent to which the financial assistance is helping implement local water planning priorities, the integration or coordination that has occurred with related programs, and other matters deemed pertinent to the implementation of the program.

Subd. 16. [ASSESSMENT AGAINST REAL PROPERTY.] *A county may assess and charge against real property amounts loaned and servicing fees for projects funded under this section. The auditor of the county where the project is located shall extend the amounts assessed and charged on the tax roll of the county against the real property on which the project is located.*

Sec. 12. Minnesota Statutes 1992, section 17B.15, subdivision 1, is amended to read:

Subdivision 1. [ADMINISTRATION; APPROPRIATION.] The fees for inspection and weighing shall be fixed by the commissioner and be a lien upon the grain. The commissioner shall set fees for all inspection and weighing in an amount adequate to pay the expenses of carrying out and enforcing the purposes of sections 17B.01 to 17B.23, including the portion of general support costs and statewide indirect costs of the agency attributable to that function, with a reserve sufficient for up to six months. The commissioner shall review the fee schedule twice each year. Fee adjustments are not subject to chapter 14. Payment shall be required for services rendered. If the grain is in transit, the fees shall be paid by the carrier and treated as advance charges, and, if received for storage, the fees shall be paid by the warehouse operator, and added to the storage charges.

All fees collected and all fines and penalties for violation of any provision of this chapter shall be deposited in the grain inspection and weighing account, which is created in the state treasury for carrying out the purpose of sections 17B.01 to 17B.23. The money in the account, *including interest earned on the account,* is annually appropriated to the commissioner of agriculture to administer the provisions of sections 17B.01 to 17B.23.

Sec. 13. Minnesota Statutes 1992, section 32.103, is amended to read:

32.103 [INSPECTION OF DAIRIES.]

(a) At times the commissioner determines proper, the commissioner shall cause to be inspected all places where dairy products are made, stored, or served as food for pay, and all places where cows are kept by persons engaged in the sale of milk, and shall require the correction of all insanitary conditions and practices found. *During routine inspections or as necessary, the commissioner shall inspect for evidence of use of rBGH in violation of section 32.75, by producers providing affidavits of nontreatment under that section.*

(b) A refusal or physical threat that prevents the completion of an inspection or neglect to obey a lawful direction of the commissioner or the commissioner's agent given while carrying out this section may result in the suspension

of the offender's permit or certification. The offender is required to meet with a representative of the offender's plant or marketing organization and a representative of the commissioner within 48 hours excluding holidays or weekends or the suspension will take effect. A producer may request a hearing before the commissioner or the commissioner's agent if a serious concern exists relative to the retention of the offender's permit or certification to sell milk.

Sec. 14. [32.75] [RECOMBINANT BOVINE GROWTH HORMONE LABELING.]

Subdivision 1. [DEFINITION.] *For purposes of this section and sections 32.103, 151.01, and 151.15, "recombinant bovine growth hormone" or "rBGH" means a growth hormone, intended for use in bovine animals, that has been produced through recombinant DNA techniques, described alternately as recombinant bovine somatotropin, or rBST.*

Subd. 2. [LABELING.] *(a) Products offered for wholesale or retail sale in this state which contain milk, cream, or any product or by-product of milk or cream, which have been processed and handled pursuant to the requirements of this section, may be labeled: "Milk in this product is from cows not treated with rBGH." Labeling of dairy products under this section which are offered for sale within this state may also include an indication that the milk used is "farmer certified rBGH-free." Products offered for wholesale or retail sale in this state need not contain any further label information relative to the use of rBGH in milk production.*

(b) The label described in paragraph (a) may appear on the principal display panel, as defined in section 31.01, subdivision 22, of a packaged product, be conspicuously attached to the container of a bulk product, or appear in any advertisement, as defined in section 31.01, subdivision 26, for a product, including media advertising, or displays or placards posted in retail stores.

Subd. 3. [AFFIDAVIT; RECORDS.] *(a) A dairy plant purchasing milk or cream to be used in products labeled pursuant to subdivision 2 shall require an affidavit approved by the commissioner from producers supplying such milk. This affidavit must be signed by the producer or authorized representative and state that all cows used in the producer's dairy operations have not and will not be treated with rBGH, without advanced written notice of at least 30 days to the dairy plant.*

(b) Dairy plants shall keep original affidavits on file for a period of not less than two years after receiving written notice from the producer of anticipated rBGH use, as provided in paragraph (a). These affidavits and corresponding records must be made available for inspection by the commissioner. Dairy plants supplying milk or cream to a processor or manufacturer of a product to be labeled pursuant to subdivision 2, for use in that product, shall supply a certification to that processor or manufacturer stating that producers of the supplied milk or cream have executed and delivered affidavits pursuant to paragraph (a).

Subd. 4. [SEPARATION OF NONTREATED COWS AND MILK.] *All milk or cream from non-rBGH-treated cows used in manufacturing or processing of products labeled pursuant to subdivision 2, or milk or cream supplied by a producer under an affidavit pursuant to subdivision 3, must be kept fully separate from any other milk or cream through all stages of storage,*

transportation, and processing until the milk or resulting dairy products are in final packaged form in a properly labeled container. Records of the separation must be kept by the dairy plant and product processor or manufacturer at all stages and made available to the commissioner for inspection.

Sec. 15. Minnesota Statutes 1992, section 41A.09, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For purposes of this section the terms defined in this subdivision have the meanings given them.

(a) "Ethanol" means agriculturally derived fermentation ethyl alcohol derived from *agricultural products, including* potatoes, cereal, grains, cheese whey, *and* sugar beets, forest products, or other renewable resources, *including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable resources,* that:

(1) meets all of the specifications in ASTM specification D 4806-88; and

(2) is denatured with unleaded gasoline or rubber hydrocarbon solvent as defined in Code of Federal Regulations, title 27, parts 211 and 212, as adopted by the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department.

(b) "Wet alcohol" means agriculturally derived fermentation ethyl alcohol having a purity of at least 50 percent but less than 99 percent.

Sec. 16. Minnesota Statutes 1993 Supplement, section 41A.09, subdivision 3, is amended to read:

Subd. 3. [PAYMENTS FROM ACCOUNT.] *(a)* The commissioner of agriculture shall make cash payments from the account to producers of ethanol or wet alcohol located in the state. These payments shall apply only to ethanol or wet alcohol fermented in the state. The amount of the payment for each producer's annual production shall be as follows:

~~(a)~~ *(1)* for each gallon of ethanol produced on or before June 30, ~~2000~~ *1995*, 20 cents per gallon~~.~~*;*

~~(b)~~ *(2) for each gallon of ethanol produced on or before June 30, 2010, 25 cents per gallon; and*

(3) for each gallon produced of wet alcohol on or before June 30, ~~2000~~ *2010*, a payment in cents per gallon calculated by the formula "alcohol purity in percent divided by five," and rounded to the nearest cent per gallon, but not less than 11 cents per gallon.

The producer payment for wet alcohol under this section may be paid to either the original producer of wet alcohol or the secondary processor, at the option of the original producer, but not to both.

~~(c)~~ *(b) The commissioner shall make payments to producers of ethanol in the amount of 1.5 cents for each kilowatt hour of electricity generated using closed-loop biomass in a cogeneration facility at an ethanol plant located in the state. Payments under this paragraph shall be made only for electricity generated at cogeneration facilities that begin operation by June 30, 2000. The payments apply to electricity generated on or before the date ten years*

after the producer first qualifies for payment under this paragraph. Total payments under this paragraph in any fiscal year may not exceed $750,000. For the purposes of this paragraph:

(1) "closed-loop biomass" means any organic material from a plant that is planted exclusively for purposes of being used to generate electricity; and

(2) "cogeneration" means the combined generation of:

(i) electrical or mechanical power; and

(ii) steam or forms of useful energy, such as heat, that are used for industrial, commercial, heating, or cooling purposes.

(c) The total payments from the account to all producers may not exceed ~~$10,000,000~~ *$20,000,000* in any fiscal year during the period beginning July 1, ~~1993~~ *1994*, and ending June 30, ~~2000~~ *2010*. Total payments from the account to any producer ~~in any fiscal year~~ *under paragraph (a)* may not exceed*:*

(1) $3,000,000 *in fiscal year 1995; and*

(2) $3,750,000 in fiscal year 1996 and subsequent fiscal years.

(d) By the last day of October, January, April, and July, each producer shall file a claim for payment for production during the preceding three calendar months. The volume of production must be verified by a certified financial audit performed by an independent certified public accountant using generally accepted accounting procedures.

(e) Payments shall be made November 15, February 15, May 15, and August 15.

Sec. 17. Minnesota Statutes 1992, section 41A.09, subdivision 5, is amended to read:

Subd. 5. [EXPIRATION.] This section expires July 1, ~~2000~~ *2010*, and the unobligated balance of each appropriation under this section on that date reverts to the general fund.

Sec. 18. Minnesota Statutes 1992, section 84.0887, is amended by adding a subdivision to read:

Subd. 7. [GROUP HEALTH AND ACCIDENTAL DEATH INSURANCE.] *The commissioner may provide group health and accidental death insurance coverage for youth and young adult corps members through an insurance carrier under contract with the National Association of Service and Conservation Corps.*

Sec. 19. Minnesota Statutes 1992, section 84.0887, is amended by adding a subdivision to read:

Subd. 8. [EDUCATION AWARDS.] *(a) A person employed as a corps member for one year of continuous service, as determined by standards adopted by the commissioner, and who receives a satisfactory evaluation upon termination of employment may be provided an incentive award of $500 or an education certificate in an amount not less than $1,000 nor more than stipulated in the National and Community Service Act (Public Law Number 101-610, United States Code, title 42, sections 12501 through 12681).*

(b) The commissioner may authorize a partial incentive award or education certificate to a person employed as a corps member who receives a satisfactory evaluation upon termination of employment if the person is employed as a corps member for less than one year of continuous employment if the commissioner determines that employment was terminated because of special circumstances beyond the control of the corps member. Partial awards may also be made if the person is employed as a corps member for at least ten months but less than one year and the commissioner determines that employment was terminated in order to enable the person to attend an institution of higher education, vocational institution, or other training program or to enable the person to obtain other employment.

(c) The education certificate is valid for seven years after the date of issuance for the payment of tuition, related educational expenses, and required program activity fees at any institution of higher education which accepts the certificate. In instances where a corps member has attained a degree or certificate from an institution of higher education and has an education loan outstanding, the education certificate may be used to repay that loan. The commissioner shall authorize payment to the institution of face value of the certificate upon presentation.

Sec. 20. Minnesota Statutes 1993 Supplement, section 84.872, is amended to read:

84.872 [YOUTHFUL SNOWMOBILE OPERATORS; PROHIBITIONS.]

Subdivision 1. [RESTRICTIONS ON OPERATION.] Notwithstanding anything in section 84.87 to the contrary, no person under 14 years of age shall make a direct crossing of a trunk, county state-aid, or county highway as the operator of a snowmobile, or operate a snowmobile upon a street or highway within a municipality. A person 14 years of age or older, but less than 18 years of age, may make a direct crossing of a trunk, county state-aid, or county highway only if the person has in immediate possession a valid snowmobile safety certificate issued by the commissioner or a valid motor vehicle operator's license issued by the commissioner of public safety or the drivers license authority of another state. No person under the age of 14 years shall operate a snowmobile on any public land, *public easements,* or water ~~under the jurisdiction of the commissioner~~ unless accompanied by one of the following listed persons on the same or an accompanying snowmobile, or on a device towed by the same or an accompanying snowmobile: the person's parent, legal guardian, or other person 18 years of age or older. However, a person 12 years of age or older may operate a snowmobile on public lands, *public easements,* and waters ~~under the jurisdiction of the commissioner~~ if the person has in immediate possession a valid snowmobile safety certificate issued by the commissioner.

Subd. 2. [OWNER DUTIES.] It is unlawful for any person who is *the owner or* in lawful control of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this section.

Subd. 3. [REPORTING CONVICTIONS; SUSPENSIONS.] When the judge of a juvenile court, or any of its duly authorized agents, shall determine that any person, while less than 18 years of age, has violated the provisions of sections 84.81 to 84.88, or any other state or local law or ordinance regulating the operation of snowmobiles, the judge, or duly authorized agent, shall immediately report ~~such~~ *this* determination to the commissioner and may recommend the suspension of the person's snowmobile safety certificate. The

commissioner is hereby authorized to suspend the certificate, without a hearing.

Sec. 21. Minnesota Statutes 1992, section 85.015, subdivision 1, is amended to read:

Subdivision 1. [ACQUISITION.] (a) The commissioner of natural resources shall establish, develop, maintain, and operate the trails designated in this section. Each trail shall have the purposes assigned to it in this section. The commissioner of natural resources may acquire lands by gift or purchase, in fee or easement, for the trail and facilities related to the trail.

(b) *Notwithstanding the offering to public entities, referral to executive council, public sale and related notice and publication requirements of sections 94.09 to 94.165,* the commissioner of natural resources, in the name of the state, may sell surplus lands not needed for trail purposes *at private sale* to adjoining property owners and leaseholders. The conveyance must be by quitclaim in a form approved by the attorney general for a consideration not less than the appraised value.

Sec. 22. Minnesota Statutes 1992, section 94.09, subdivision 5, is amended to read:

Subd. 5. On or before November 15 of each even numbered year the commissioner of administration shall report to the governor and the legislature for the two-year period immediately preceding the following:

(a) The lands which state departments and agencies have certified as no longer needed.

(b) The lands which have been determined to be no longer needed for state purposes, regarding which the executive council has been formally notified.

(c) The lands which have been publicly sold.

(d) The trail lands which have been privately sold to adjoining property owners and leaseholders under section 85.015, subdivision 1, paragraph (b).

Sec. 23. Minnesota Statutes 1993 Supplement, section 97A.028, subdivision 3, is amended to read:

Subd. 3. [EMERGENCY DETERRENT MATERIALS ASSISTANCE.] (a) For the purposes of this subdivision, "cooperative damage management agreement" means an agreement between a landowner and the commissioner that establishes a program for addressing the problem of destruction of specialty crops by wild animals on the landowner's property.

(b) A person may apply to the commissioner for emergency deterrent materials assistance in controlling destruction of specialty crops by wild animals. Subject to the availability of money appropriated for this purpose, the commissioner shall provide suitable deterrent materials, up to $3,000 in value per individual or corporation, when the commissioner determines that:

(1) immediate action is necessary to prevent significant damage from continuing; and

(2) a cooperative damage management agreement cannot be implemented immediately.

(c) As a condition of receiving emergency deterrent materials assistance under this subdivision, a landowner shall enter into a cooperative damage management agreement with the commissioner. Deterrent materials provided by the commissioner may include repellents, fencing materials, or other materials recommended in the agreement to alleviate the damage problem. *If requested by a landowner, any fencing materials provided must be capable of providing long-term protection of specialty crops.* A landowner may not receive emergency deterrent materials assistance under this subdivision more than once. A landowner who receives emergency deterrent materials assistance under this subdivision shall comply with the terms of the cooperative damage management agreement.

Sec. 24. Minnesota Statutes 1992, section 97A.441, is amended by adding a subdivision to read:

Subd. 6a. [TAKING SMALL GAME; DISABLED VETERANS.] *A person authorized to issue licenses must issue, without a fee, a license to take small game to a resident who is a veteran, as defined in section 197.447, and who has a 100 percent service connected disability as defined by the United States Veterans Administration upon being furnished satisfactory evidence.*

Sec. 25. Minnesota Statutes 1992, section 97A.485, subdivision 8, is amended to read:

Subd. 8. [REDEMPTION OF UNSOLD LICENSES.] The commissioner must redeem unsold licenses submitted within the redemption time prescribed by the commissioner. Licenses that are not submitted for redemption within the prescribed time are considered to have been sold and the auditor or county to whom the licenses were furnished are accountable for them. A county auditor must refund the license fees prepaid by the auditor's subagent for unsold licenses submitted within a time period established by the commissioner. *Unsold resident and nonresident 24-hour angling licenses held by a subagent may not be returned prior to the end of the license year unless the appointment of the subagent is revoked under subdivision 3, or voluntarily terminated by the subagent.*

Sec. 26. Minnesota Statutes 1993 Supplement, section 97B.071, is amended to read:

97B.071 [BLAZE ORANGE REQUIREMENTS.]

(a) Except as provided in paragraph (b), a person may not hunt or trap during the open season ~~in a zone or area~~ where deer may be taken by firearms *under applicable laws and ordinances,* unless the visible portion of the person's cap and outer clothing above the waist, excluding sleeves and gloves, is blaze orange. Blaze orange includes a camouflage pattern of at least 50 percent blaze orange within each foot square. This section does not apply to migratory waterfowl hunters on waters of this state or in a stationary shooting location.

~~This section is effective for the 1994 firearms deer season and subsequent firearms deer seasons. The commissioner of natural resources shall, by way of public service announcements and other means, inform the public of the provisions of this section.~~

(b) The commissioner may, by rule, prescribe an alternative color in cases where paragraph (a) would violate the Religious Freedom Restoration Act of 1993, Public Law Number 103-141.

Sec. 27. Minnesota Statutes 1992, section 103F.725, is amended by adding a subdivision to read:

Subd. 1a. [FINANCIAL ASSISTANCE; LOANS.] *(a) Up to $10,000,000 of the balance in the water pollution control revolving fund in section 446A.07, as determined by the public facilities authority shall be appropriated to the commissioner for the establishment of a clean water partnership loan program.*

(b) The agency may award loans for up to 100 percent of the costs associated with activities identified by the agency as best management practices pursuant to section 319 and section 320 of the federal Water Quality Act of 1987, as amended, including associated administrative costs.

(c) Loans may be used to finance clean water partnership grant project eligible costs not funded by grant assistance.

(d) The interest rate, at or below market rate, and the term, not to exceed 20 years, shall be determined by the agency in consultation with the public facilities authority.

(e) The repayment must be deposited in the water pollution control revolving fund under section 446A.07.

(f) The local unit of government receiving the loan is responsible for repayment of the loan.

Sec. 28. Minnesota Statutes 1992, section 103F.745, is amended to read:

103F.745 [RULES.]

(a) The agency shall adopt rules necessary to implement sections 103F.701 to 103F.761. The rules shall contain at a minimum:

(1) procedures to be followed by local units of government in applying for technical or financial assistance or both;

(2) conditions for the administration of assistance;

(3) procedures for the development, evaluation, and implementation of best management practices;

(4) requirements for a diagnostic study and implementation plan;

(5) criteria for the evaluation and approval of a diagnostic study and implementation plan;

(6) criteria for the evaluation of best management practices;

(7) criteria for the ranking of projects in order of priority for assistance;

(8) criteria for defining and evaluating eligible costs and cost-sharing by local units of government applying for assistance; and

(9) other matters as the agency and the commissioner find necessary for the proper administration of sections 103F.701 to 103F.761, including any rules determined by the commissioner to be necessary for the implementation of federal programs to control nonpoint source water pollution.

(b) For financial assistance by loan under section 103F.725, subdivision 1a, criteria established by rule for the clean water partnership grants program shall guide requirements and administrative procedures for the loan

program until January 1, 1996, or the effective date of the administrative rules for the clean water partnership loan program, whichever occurs first.

Sec. 29. Minnesota Statutes 1992, section 103F.761, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] *(a)* The project coordination team shall advise the agency in preparation of rules, evaluate projects, and recommend to the commissioner those projects that the team believes should receive financial or technical assistance or both from the agency. After approval of assistance for a project by the agency, the team shall review project activities and assist in the coordination of the state program with other state and federal resource management programs.

(b) For state agencies or departments receiving funding under section 446A.07, subdivision 6, the project coordination team shall provide guidance for the allocation of water pollution control fund nonpoint source pollution funding with consideration to statewide environmental priorities including priorities for types of projects and geographic or watershed priorities. A subcommittee of the project coordination team will be formed for each of the separate funding areas under section 446A.07, subdivision 6, and shall be chaired by the appropriate lead state agency or department. Each subcommittee shall evaluate and rank projects within its area with consideration given to the guidance provided by the project coordination team.

Sec. 30. Minnesota Statutes 1992, section 115A.5501, subdivision 2, is amended to read:

Subd. 2. [MEASUREMENT; PROCEDURES.] To measure the overall percentage of packaging in the statewide solid waste stream, the ~~commissioner~~ *director* and the chair of the metropolitan council, in consultation with the ~~director~~ *commissioner*, shall each conduct an annual ~~four-season~~ solid waste composition study in the nonmetropolitan and metropolitan areas respectively or shall develop an alternative method that is as statistically reliable as a waste composition study to measure the percentage of packaging in the waste stream.

~~Beginning in 1993,~~ The chair of the council shall submit the results from the metropolitan area to the ~~commissioner~~ *director* by ~~March~~ *May* 1 of each year. The ~~commissioner~~ *director* shall average the nonmetropolitan and metropolitan results and submit the statewide percentage, along with a statistically reliable margin of error, to the ~~director by April 1 of each year. The director shall report the information to the~~ legislative commission on waste management by July 1 of each year.

Sec. 31. Minnesota Statutes 1992, section 116.07, is amended by adding a subdivision to read:

Subd. 11. [PERMITS; LANDFARMING CONTAMINATED SOIL.] *(a) If the agency receives an application for a permit to spread soil contaminated by a harmful substance as defined in section 115B.25, subdivision 7a, on land in a township other than the township of origin of the soil, the agency must notify the board of the township where the spreading would occur at least 60 days prior to issuing the permit.*

(b) The agency must not issue a permit to spread contaminated soil on land outside the township of origin if, by resolution, the township board of the

township where the soil is to be spread requests that the agency not issue a permit.

Sec. 32. Minnesota Statutes 1992, section 116.182, subdivision 2, is amended to read:

Subd. 2. [APPLICABILITY.] This section governs the commissioner's certification of ~~applications for~~ *projects seeking* financial assistance under section *103F.725, subdivision 1a,* 446A.07, or 446A.071.

Sec. 33. Minnesota Statutes 1992, section 116.182, subdivision 3, is amended to read:

Subd. 3. [PROJECT REVIEW.] The commissioner shall review a municipality's proposed project ~~and financial assistance application~~ to determine whether ~~they meet~~ *it meets* the criteria in this section and the rules adopted under this section. The review must include a determination of the essential project components *for wastewater treatment projects.*

Sec. 34. Minnesota Statutes 1992, section 116.182, subdivision 4, is amended to read:

Subd. 4. [CERTIFICATION OF APPROVED PROJECTS.] The commissioner shall certify to the authority each approved ~~application~~ *project,* including *for wastewater treatment projects* a statement of the essential project components and associated costs.

Sec. 35. Minnesota Statutes 1992, section 116.182, subdivision 5, is amended to read:

Subd. 5. [RULES.] The agency shall adopt rules for the administration of the financial assistance program. *For wastewater treatment projects,* the rules must include:

(1) application requirements;

(2) criteria for the ranking of projects in order of priority based on factors including the type of project and the degree of environmental impact, and scenic and wild river standards; and

(3) criteria for determining essential project components.

Sec. 36. Minnesota Statutes 1992, section 151.01, subdivision 28, is amended to read:

Subd. 28. [VETERINARY LEGEND DRUG.] "Veterinary legend drug" means ~~biosynthetic bovine somatotropin (BST) until June 12, 1992, or~~ a drug that is required by federal law to bear the following statement: "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."

Sec. 37. Minnesota Statutes 1992, section 151.15, subdivision 3, is amended to read:

Subd. 3. [UNLICENSED PERSONS; VETERINARY LEGEND DRUGS.] It shall be unlawful for any person other than a licensed veterinarian or pharmacist to compound or dispense veterinary legend drugs except as provided in this chapter. ~~Until June 12, 1992, a veterinarian or veterinarian's assistant may use biosynthetic bovine somatotropin (BST) for medical or research purposes only. Biosynthetic bovine somatotropin (BST) may not be~~

~~dispensed to, used by, or administered by a person who is not a licensed veterinarian or a veterinarian's assistant under the veterinarian's supervision.~~

Sec. 38. Minnesota Statutes 1992, section 151.25, is amended to read:

151.25 [REGISTRATION OF MANUFACTURERS; FEE; PROHIBITIONS.]

The board shall require and provide for the annual registration of every person engaged in manufacturing drugs, medicines, chemicals, or poisons for medicinal purposes, now or hereafter doing business with accounts in this state. Upon a payment of a fee as set by the board, the board shall issue a registration certificate in such form as it may prescribe to such manufacturer. Such registration certificate shall be displayed in a conspicuous place in such manufacturer's or wholesaler's place of business for which it is issued and expire on the date set by the board. It shall be unlawful for any person to manufacture drugs, medicines, chemicals, or poisons for medicinal purposes unless such a certificate has been issued to the person by the board. It shall be unlawful for any person engaged in the manufacture of drugs, medicines, chemicals, or poisons for medicinal purposes, or the person's agent, to sell legend drugs ~~or biosynthetic bovine somatotropin (BST) until June 12, 1992,~~ to other than a pharmacy, except as provided in this chapter.

Sec. 39. Minnesota Statutes 1992, section 296.02, subdivision 7, is amended to read:

Subd. 7. [TAX CREDIT FOR AGRICULTURAL ALCOHOL GASOLINE.] *Until October 1, 1997,* a distributor shall be allowed a credit on each gallon of denatured ethanol commercially blended with gasoline or blended in a tank truck with gasoline on which the tax imposed by subdivision 1 is due and payable. Denatured ethanol is defined in section 296.01, subdivision 13. ~~After June 30, 1987,~~ The amount of the credit for every gallon of denatured ethanol blended with gasoline to produce agricultural alcohol gasoline is:

(1) until October 1, 1994, 20 cents;

(2) until October 1, 1995, 15 cents;

(3) until October 1, 1996, ten cents; and

(4) until October 1, 1997, five cents.

The credit allowed a distributor must not exceed the total tax liability under subdivision 1. The tax credit received by a distributor on denatured ethanol blended with motor fuels shall be passed on to the retailer.

Sec. 40. Minnesota Statutes 1992, section 446A.02, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY.] For the purposes of ~~sections 446A.01 to 446A.09~~ *this chapter*, the terms in this section have the meanings given them.

Sec. 41. Minnesota Statutes 1992, section 446A.02, is amended by adding a subdivision to read:

Subd. 1a. [AGENCY.] *"Agency" means the Minnesota pollution control agency.*

Sec. 42. Minnesota Statutes 1993 Supplement, section 446A.03, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] The Minnesota public facilities authority consists of the commissioner of trade and economic development, the commissioner of finance, the commissioner of the pollution control agency, *the commissioner of agriculture,* and ~~three additional members appointed by the governor from the general public with the advice and consent of the senate~~ *the commissioner of health.*

Sec. 43. Minnesota Statutes 1992, section 446A.03, is amended by adding a subdivision to read:

Subd. 3a. [DELEGATION.] *In addition to any powers to delegate that members of the authority have as commissioners, they may delegate to the commissioner of trade and economic development their responsibilities as members of the authority for reviewing and approving financing of eligible projects that have been certified to the authority.*

Sec. 44. Minnesota Statutes 1992, section 446A.07, subdivision 4, is amended to read:

Subd. 4. [INTENDED USE PLAN.] The pollution control agency shall annually prepare and submit to the United States Environmental Protection Agency an intended use plan. The plan must identify the intended uses of the amounts available to the water pollution control revolving fund, including a list of wastewater treatment *and storm water* projects and *all* other eligible activities to be funded during the fiscal year. *Information regarding eligible activities must be submitted to the pollution control agency by the appropriate state agency or department within 30 days of written notification by the pollution control agency.* The *pollution control* agency may not submit the plan until it has received the review and comment of the authority or until 30 days have elapsed since the plan was submitted to the authority, whichever occurs first.

Sec. 45. Minnesota Statutes 1992, section 446A.07, subdivision 6, is amended to read:

Subd. 6. [AWARD AND TERMS OF LOANS.] The authority shall award loans to those municipalities and other entities certified by the *pollution control* agency. *or shall provide funding for the appropriate state agency or department to make loans for eligible activities certified by the pollution control agency provided the use of funds and* the terms and conditions of the loans ~~must be~~ *are* in conformance with the Federal Water Pollution Control Act, this section, and rules of the *pollution control* agency, and *the* authority adopted under this section.

Sec. 46. Minnesota Statutes 1992, section 446A.07, subdivision 8, is amended to read:

Subd. 8. [OTHER USES OF REVOLVING FUND.] The water pollution control revolving fund may be used as provided in title VI of the Federal Water Pollution Control Act, including the following uses:

(1) to buy or refinance the debt obligation of governmental units for treatment works where debt was incurred and construction begun after March 7, 1985, at or below market rates;

(2) to guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates;

(3) to provide a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the authority if the bond proceeds are deposited in the fund;

(4) to provide loan guarantees, *loans, or set-aside* for similar revolving funds established by a governmental unit other than state agencies, *or state agencies under sections 11, 27, 116J.403, 116J.617, and 462A.05; provided that no more than $2,000,000 of the balance in the fund may be used for the small cities block grant program under section 116J.403 and the tourism loan program under section 116J.617, taken together, and no more than $2,000,000 of the balance in the fund may be used for home improvement loan programs under section 462A.05*;

(5) to earn interest on fund accounts; and

(6) to pay the reasonable costs incurred by the authority and the agency of administering the fund and conducting activities required under the Federal Water Pollution Control Act, including water quality management planning under section 205(j) of the act and water quality standards continuing planning under section 303(e) of the act.

Amounts spent under clause (6) may not exceed the amount allowed under the Federal Water Pollution Control Act.

Sec. 47. Minnesota Statutes 1992, section 446A.07, subdivision 9, is amended to read:

Subd. 9. [PAYMENTS.] Payments from the fund must be made in accordance with the applicable state and federal law governing the payments, except that *for projects other than those funded under section 11, 27, 116J.403, 116J.617, or 462A.05,* no payment for a project may be made to a governmental unit until and unless the authority has determined the total estimated cost of the project and ascertained that financing of the project is assured by:

(1) a loan authorized by state law or the appropriation of proceeds of bonds or other money of the governmental unit to a fund for the construction of the project; and

(2) an irrevocable undertaking, by resolution of the governing body of the governmental unit, to use all money made available for the project exclusively for the project, and to pay any additional amount by which the cost of the project exceeds the estimate by the appropriation to the construction fund of additional money or the proceeds of additional bonds to be issued by the governmental unit.

Sec. 48. Minnesota Statutes 1992, section 446A.07, subdivision 11, is amended to read:

Subd. 11. [RULES OF THE AGENCY.] The agency shall adopt rules relating to the procedure for preparation of the annual intended use plan and other matters that the agency considers necessary for proper loan administration. *Eligible activities are those required under the federal Water Pollution Control Act of 1987, as amended.*

Sec. 49. Minnesota Statutes 1992, section 446A.071, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF THE PROGRAM.] (a) The authority shall establish the wastewater infrastructure funding program to provide supplemental assistance, as provided in rules of the authority, to municipalities that receive loans or other assistance from the water pollution control revolving fund under section 446A.07 *for wastewater treatment projects excluding storm water projects.*

(b) The authority may secure funds for the wastewater infrastructure funding program through state appropriations; any source identified in section 446A.04 which may be designated by the authority for the purposes of this section; and any federal funding appropriated by Congress that may be used for the purposes of this section.

(c) The authority may set aside up to ten percent of the money appropriated to the wastewater infrastructure funding program for wastewater projects that are necessary to accommodate economic development projects.

Sec. 50. [446A.081] [DRINKING WATER REVOLVING FUND.]

Subdivision 1. [DEFINITIONS.] *(a) For the purposes of this section, the terms in this subdivision have the meanings given them.*

(b) "Act" means the federal Drinking Water Infrastructure Financing Act.

(c) "Department" means the department of health.

Subd. 2. [ESTABLISHMENT OF FUND.] *The authority shall establish a drinking water revolving fund to provide loans and other forms of financial assistance authorized by the act, as determined by the authority under the rules adopted under this section for the purposes and eligible costs authorized under the act. The fund must be credited with repayments. The act requires that the fund corpus must be managed so as to be available in perpetuity for the financing of drinking water systems in the state. At a minimum, 15 percent of the funds received each federal fiscal year shall be available solely for providing loans to public water systems which regularly serve fewer than 10,000 individuals.*

Subd. 3. [STATE FUNDS.] *A state matching fund is established to be used in compliance with federal matching requirements specified in the act.*

Subd. 4. [CAPITALIZATION GRANT AGREEMENT.] *The authority shall enter into an agreement with the administrator of the United States Environmental Protection Agency to receive capitalization grants for the fund. The authority and the department may exercise the powers necessary to comply with the requirements specified in the agreement.*

Subd. 5. [INTENDED USE PLAN.] *The authority shall annually prepare and submit to the United States Environmental Protection Agency an intended use plan. The plan must identify the intended uses of the amounts available to the drinking water revolving loan fund. The department shall provide a prioritized list of drinking water projects and other eligible activities to be considered for funding by the authority. The plan may be amended by the authority and include additional eligible projects proposed by the department.*

Subd. 6. [APPLICATIONS.] *Applications by municipalities, privately owned public water systems, and eligible entities identified in the annual*

intended use plan for loans from the fund must be made to the authority on the forms prescribed by the rules of the authority and the rules of the department adopted under this section. The authority shall forward the application to the department within ten days of receipt. The department shall approve those applications that appear to meet the criteria in the act, this section, and the rules of the department or the authority.

Subd. 7. [AWARD AND TERMS OF LOANS.] *The authority shall award loans to those municipalities, privately owned public water systems, and other eligible entities approved by the department, provided that the applicant is able to comply with the terms and conditions of the authority loan, which must be in conformance with the act, this section, and the rules of the authority adopted under this section.*

Subd. 8. [LOAN CONDITIONS.] *(a) When making loans from the drinking water revolving fund, the authority shall comply with the conditions of the act, including the criteria in paragraphs (b) to (e).*

(b) Loans must be made at or below market interest rates, including zero interest loans, for terms not to exceed 20 years.

(c) The annual principal and interest payments must begin no later than one year after completion of the project. Loans must be amortized no later than 20 years after project completion.

(d) A loan recipient must identify and establish a dedicated source of revenue for repayment of the loan, and provide for a source of revenue to properly operate, maintain, and repair the water system.

(e) The fund must be credited with all payments of principal and interest on all loans, except the costs as permitted under section 446A.04, subdivision 5, paragraph (a).

Subd. 9. [OTHER USES OF FUND.] *The drinking water revolving loan fund may be used as provided in the act, including the following uses:*

(1) to buy or refinance the debt obligations, at or below market rates, of public water systems for drinking water systems, where such debt was incurred after the date of enactment of the act, for the purposes of construction of the necessary improvements to comply with the national primary drinking water regulations under the federal Safe Drinking Water Act;

(2) to purchase or guarantee insurance for local obligations to improve credit market access or reduce interest rates;

(3) to provide a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the authority if the bond proceeds are deposited in the fund;

(4) to provide loans or loan guarantees for similar revolving funds established by a governmental unit or state agency;

(5) to earn interest on fund accounts; and

(6) to pay the reasonable costs incurred by the authority and the department for conducting activities as authorized and required under the act up to the limits authorized under the act.

Subd. 10. [PAYMENTS.] *Payments from the fund to borrowers must be in accordance with the applicable state and federal laws governing such payments, except no payment for a project may be made to a borrower until and unless the authority has determined that the total estimated cost of the project and the financing of the project are assured by:*

(1) a loan authorized by state law or appropriation of proceeds of bonds or other money of the borrower to a fund for the construction of the project; and

(2) an irrevocable undertaking, by resolution of the governing body of the borrower, to use all money made available for the project exclusively for the project, and to pay any additional amount by which the cost of the project exceeds the estimate by the appropriation to the construction fund of additional money or proceeds of additional bonds to be issued by the borrower.

Subd. 11. [RULES OF THE AUTHORITY.] *The commissioner of trade and economic development shall adopt rules containing the procedures for the administration of the authority's duties as provided by this section that include: setting of interest rates, which shall take into account the financial need of the applicant; the amount of project financing to be provided; the collateral required for public drinking water systems and for privately owned public water systems; dedicated sources of revenue or income streams to ensure repayment of loans; and the requirements to ensure proper operation, maintenance, and repair of the water systems financed by the authority.*

Subd. 12. [RULES OF THE DEPARTMENT.] *The department shall adopt rules relating to the procedures for administration of the department's duties under the act and this section. The department and the commissioner of the department of trade and economic development may adopt a single set of rules for the program.*

Sec. 51. Minnesota Statutes 1992, section 446A.11, subdivision 1, is amended to read:

Subdivision 1. [POWERS.] In implementing the purposes and the programs ~~transferred to the authority by section 446A.10, subdivision 2~~ *described in this chapter*, the authority has the powers in this section.

Sec. 52. Minnesota Statutes 1992, section 446A.12, subdivision 1, is amended to read:

Subdivision 1. [BONDING AUTHORITY.] The authority may issue negotiable bonds in a principal amount that the authority determines necessary to provide sufficient funds for achieving its purposes, including the making of loans and purchase of securities, the payment of interest on bonds of the authority, the establishment of reserves to secure its bonds, the payment of fees to a third party providing credit enhancement, and the payment of all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers, but not including the making of grants. Bonds of the authority may be issued as bonds or notes or in any other form authorized by law. The principal amount of bonds issued and outstanding under this section at any time may not exceed ~~$250,000,000~~ *$350,000,000*.

Sec. 53. Minnesota Statutes 1992, section 446A.15, subdivision 6, is amended to read:

Subd. 6. [CERTIFICATION AND BUDGET REQUEST.] To assure the payment of the principal of and interest on bonds of the authority *issued prior to January 1, 1994*, and the continued maintenance of all debt service reserve funds created and established for that payment, the authority shall annually determine and certify to the governor, on or before December 1, the following amounts:

(1) the amount then needed to restore each debt service reserve fund *securing in whole or in part the payment of principal of and interest on bonds of the authority issued prior to January 1, 1994*, to the minimum amount required by the resolution or indenture establishing the fund, but not exceeding the maximum amount of principal and interest to become due and payable in any later year on all bonds *issued prior to January 1, 1994*, that are then outstanding and secured by the fund; and

(2) the amount determined by the authority to be needed in the immediately ensuing fiscal year, with other funds pledged and estimated to be received during that year, for the payment of the principal and interest due and payable in that year on all then outstanding bonds secured by a debt service reserve fund *securing in whole or in part the payment of principal of and interest on bonds of the authority issued prior to January 1, 1994*, the amount of which is then less than the minimum amount agreed, *but not exceeding the maximum amount of principal and interest to become due and payable in the immediately ensuing fiscal year on bonds prior to January 1, 1994.*

The governor shall include in the proposed biennial budget for the following fiscal year, or in a supplemental budget if the biennial budget has previously been approved, the amounts certified by the authority in accordance with this subdivision.

Sec. 54. Minnesota Statutes 1992, section 477A.12, is amended to read:

477A.12 [ANNUAL APPROPRIATIONS; LANDS ELIGIBLE; CERTIFICATION OF ACREAGE.]

There is annually appropriated to the commissioner of natural resources from the general fund for payment to counties within the state an amount equal to:

(1) for acquired natural resources land, $3 multiplied by the number of acres ~~of acquired natural resources land~~, *or three-fourths of one percent of the appraised value, whichever is greater;*

(2) ~~75~~ *85* cents multiplied by the number of acres of county-administered other natural resources land~~,~~; and

(3) ~~37.5~~ *42* cents multiplied by the number of acres of commissioner-administered other natural resources land located in each county as of July 1 of each year.

Lands for which payments in lieu are made pursuant to section 97A.061, subdivision 3, and Laws 1973, chapter 567, shall not be eligible for payments under this section. Each county auditor shall certify to the department of natural resources during July of each year the number of acres of county-administered other natural resources land within the county. The department of natural resources may, in addition to the certification of acreage, require descriptive lists of land so certified. The commissioner of natural resources shall determine and certify the number of acres of acquired natural resources

land and commissioner-administered natural resources land within each county.

For the purposes of this section, the appraised value of acquired natural resources land is the purchase price for the first five years after acquisition. The appraised value of acquired natural resources land received as a donation is the value determined for the commissioner of natural resources by a licensed appraiser, or the county assessor's estimated market value if no appraisal is done. The appraised value must be determined by the county assessor every five years after the land is acquired.

Sec. 55. Minnesota Statutes 1993 Supplement, section 477A.14, is amended to read:

477A.14 [USE OF FUNDS.]

Forty percent of the total payment to the county shall be deposited in the county general revenue fund to be used to provide property tax levy reduction. The remainder shall be distributed by the county in the following priority:

(a) ~~37.5~~ *42.5* cents for each acre of county-administered other natural resources land shall be deposited in a resource development fund to be created within the county treasury for use in resource development, forest management, game and fish habitat improvement, and recreational development and maintenance of county-administered other natural resources land. Any county receiving less than $5,000 annually for the resource development fund may elect to deposit that amount in the county general revenue fund;

(b) From the funds remaining, within 30 days of receipt of the payment to the county, the county treasurer shall pay each organized township 30 cents per acre of acquired natural resources land and ~~7.5~~ *8.5* cents per acre of other natural resources land located within its boundaries. Payments for natural resources lands not located in an organized township shall be deposited in the county general revenue fund. Payments to counties and townships pursuant to this paragraph shall be used to provide property tax levy reduction. Provided that, if the total payment to the county pursuant to section 477A.12 is not sufficient to fully fund the distribution provided for in this clause, the amount available shall be distributed to each township and the county general revenue fund on a pro rata basis; and

(c) Any remaining funds shall be deposited in the county general revenue fund. Provided that, if the distribution to the county general revenue fund exceeds $35,000, the excess shall be used to provide property tax levy reduction.

Sec. 56. [SUSTAINABLE ECONOMIC DEVELOPMENT AND ENVIRONMENTAL PROTECTION TASK FORCE; STAFF.]

Subdivision 1. [PURPOSE; TASK FORCE MEMBERSHIP.] *In order to build a consensus on how to achieve the sustainable economic development and environmental protection goals of the environmental quality board sustainable development initiative throughout the state, the sustainable economic development and environmental protection task force is established. The task force consists of 17 members who serve at the pleasure of the appointing authority as follows:*

(1) six legislators, including three members of the senate appointed by the subcommittee on committees of the committee on rules and administration,

and three members of the house of representatives appointed by the speaker of the house; and

(2) 11 public members who are residents of the state, appointed by the chair of the environmental quality board. Of the 11 members appointed by the chair of the environmental quality board, at least one member shall represent towns, one member shall represent cities, one member shall represent counties, and one shall represent regional development commissions.

At least one legislator from each house appointed under clause (1) must be a member of the minority caucus.

Subd. 2. [CHAIRS.] *The legislative appointing authorities shall designate a legislative appointee to serve as co-chair of the task force and the chair of the environmental quality board shall designate one of the 11 public members as the other co-chair.*

Subd. 3. [STAFF.] *The environmental quality board shall provide coordination and staff support for the task force.*

Subd. 4. [SUNSET.] *The task force shall expire on June 30, 1995, at which time a final report and recommendation are due.*

Sec. 57. [DUTIES.]

The task force shall research and recommend:

(1) what policies or goals are of statewide interest relating to sustainable communities and land use that should guide decision making at state, regional, and local levels;

(2) what planning framework and process will enhance collaboration at all levels to help achieve the goals; and

(3) how the planning framework will incorporate the following nonexclusive list of issues: sustainable economic development, protection of natural resources, urban-rural linkages, and citizen involvement.

Sec. 58. [PUBLIC INVOLVEMENT.]

The environmental quality board and the task force shall ensure extensive, broad-based involvement of citizens and both public and private sectors in the recommendations. The environmental quality board may contract with facilitators or other consultants to help ensure extensive public participation and to help incorporate public comments into the process.

Sec. 59. [REPORT.]

By January 1, 1995, the environmental quality board and the task force shall submit to the governor and the legislature an initial report of the task force's and the board's findings and recommendations for legislation.

Sec. 60. [PAYMENTS IN LIEU OF TAXES; ACQUIRED NATURAL RESOURCES LANDS.]

(a) The payments required to be made in July 1994 under section 54 must be made as provided in this section.

(b) In July 1994, the commissioner of natural resources shall make payments to counties based on the per-acre amounts in section 54.

(c) By December 1, 1994, each county auditor shall certify the total appraised value of natural resources land acquired in the county prior to July 1, 1990, or shall certify that the county will accept payment of $3 per acre of acquired natural resources land in the county as payment in full of amounts due under section 54, clause (1). The commissioner shall make payments of any additional amounts due under section 54, clause (1), by March 1, 1995.

Sec. 61. [ST. LOUIS COUNTY WASTE LOANS.]

Any outstanding St. Louis county obligations for grants and loans for construction or operation of the Babbitt waste tire facility under Minnesota Statutes 1986, section 116M.07, or Minnesota Statutes, section 115A.54, subdivision 2a, or 298.22, are canceled. If the Babbitt waste tire facility is sold, and if the revenue from the sale exceeds the outstanding principal and interest owed to St. Louis county, the excess revenue must be paid to the state.

Sec. 62. [WINONA COUNTY SOLID WASTE GRANT OR LOAN FORGIVEN.]

Notwithstanding Minnesota Statutes 1992, section 115A.54, subdivision 3, the awarding resolution, or the agreement between Winona county and the state acting through the office of waste management, formerly the waste management board, Winona county need not repay the outstanding balance of the grant or loan made to it under Minnesota Statutes, section 115A.54, subdivision 2.

Sec. 63. [OVERHEAD POWER LINE RELOCATION.]

An electric public utility company having overhead electric power lines within Indian Mounds Park in the city of Saint Paul must remove the support structures and remove, relocate, or bury the power lines by October 1, 1995.

Sec. 64. [MINNESOTA ZOOLOGICAL BOARD STUDY.]

The Minnesota Zoological board shall study alternatives to the two free days per month requirement in Minnesota Statutes 1992, section 85A.02, subdivision 17. Alternatives to be considered shall include, but not be limited to:

(1) distributing free admission tickets equal to ten percent of the average total yearly admissions; and

(2) limiting the number of admissions on free days.

Alternatives to be considered must promote zoo visits by low-income residents of Minnesota, and shall include proposals for transporting visitors to and from the zoo.

By January 1, 1995, the board shall submit a report to the house committee on environment and natural resources finance and the senate environment and natural resources finance division. The report must include an implementation plan for the 1995 season.

Sec. 65. [LEWIS AND CLARK PROJECT.]

Subdivision 1. [NEGOTIATIONS; COORDINATION.] *(a) The governor or an agency designated by the governor may enter into negotiations with appropriate officials and agencies of the United States for purposes of obtaining financial support for the construction of the proposed Lewis and Clark rural water system in southwestern Minnesota.*

(b) The governor or designated agency shall cooperate with local project sponsors of the Lewis and Clark rural water system to coordinate state water policy issues and respond to proposals to establish federal financial participation. Local sponsors shall contribute funds in combination with the state in order to match funds provided by the United States. The state cost share shall not exceed 50 percent of the total nonfederal match required for Minnesota project features. The amount contributed by the state of Minnesota for project construction shall be subject to the express appropriation of the legislature.

Subd. 2. [WORK PROGRAM; PROGRESS REPORTS.] *(a) The southwest regional development commission shall submit a work program for approval by the commissioner before spending any money appropriated for the purposes of this paragraph under section 5, subdivision 2. The work program shall indicate the activities to be undertaken by the Lewis and Clark rural water system and the four participating Minnesota systems in the following areas:*

(1) water conservation activities including leak detection, water use restrictions, water pricing policies, and public education;

(2) groundwater protection activities, including public education programs and technical assistance provided to local water systems;

(3) reporting and coordination of water exploration activity with the Minnesota geological survey and the department of natural resources;

(4) evaluation of constructed or restored wetlands options to address wastewater disposal and interbasin transfer issues at the city of Worthington. The options to be evaluated shall, at a minimum, include establishment of constructed or restored wetlands in the Okabena-Ocheda and Middle Des Moines watershed districts.

(b) An annual progress report on the work program elements shall be prepared by the southwest regional development commission in cooperation with the Lewis and Clark rural water system and the participating Minnesota systems and shall be submitted to the commissioner of natural resources and the legislative water commission by February 15 each year.

Sec. 66. [NONSEVERABILITY.]

Sections 15 to 17 and 39 are not severable. If the appropriation in section 16 is vetoed, sections 15 to 17 and 39 are void.

Sec. 67. [REPEALER.]

Minnesota Statutes 1992, sections 446A.03, subdivision 3, and 446A.08, are repealed.

Sec. 68. [EFFECTIVE DATE.]

(a) Except as provided in paragraph (c), this article is effective the day following final enactment.

(b) Section 31 applies to an application for a permit for land spreading of contaminated soil received by the pollution control agency on or after the effective date of section 31 or that is pending on that date.

(c) Section 16, paragraph (b), is effective July 1, 1995, and applies to electricity generated on or after that date.

ARTICLE 3

STATE GOVERNMENT

Section 1. [STATE GOVERNMENT APPROPRIATIONS.]

The sums set forth in the columns headed "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies for the purposes specified in this article and are added to appropriations for the fiscal years ending June 30, 1994, and June 30, 1995, in Laws 1993, chapter 192, or another named law.

SUMMARY BY FUND

	1994	1995
General Fund	$ 95,000	$17,987,000

	APPROPRIATIONS Available for the Year Ending June 30 1994	1995
Sec. 2. LEGISLATURE	$	$ 200,000
This amount is for the legislative auditor to conduct a best practices review.		
Sec. 3. BOARD OF JUDICIAL STANDARDS	60,000	24,000
These appropriations are added to the appropriations in Laws 1993, chapter 192, section 6, and are for professional and technical services involving the investigations of complaints presented to the board.		
Sec. 4. SECRETARY OF STATE		
Voter Information Telephone Line		80,000
Sec. 5. ATTORNEY GENERAL		
(a) Intellectual Property Agreements		161,000
This appropriation is to carry out the attorney general's duties under new Minnesota Statutes, section 16B.482.		
(b) Long-Term Care Appeals		
The commissioner of human services is directed to transfer $178,000 in fiscal year 1994 and $178,000 in fiscal year 1995, to the special revenue fund to fund the appropriation from the special project account created in Minnesota Statutes, section 256.01, subdivision 2, clause (15),		

for costs incurred in the resolution of long-term care appeals in Laws of 1993, chapter 192, section 11, subdivision 3.

Sec. 6. OFFICE OF STRATEGIC AND LONG-RANGE PLANNING		823,000

$563,000 is added to the appropriation in Laws 1993, chapter 192, section 14, and is to support the state's contribution and final payment to the Great Lakes protection fund.

$100,000 is for the purpose of maintaining a computerized database of the results of groundwater quality monitoring required in Minnesota Statutes, section 103H.175.

$150,000 is for a study by the environmental quality board of the option of including the University of Minnesota heating system in a thermal network that would include one or more of the existing thermal network energy systems in Minneapolis and St. Paul.

$10,000 is for a study by the environmental quality board of the issue of environmental justice as defined by the United States Environmental Protection Agency and as described in Executive Order No. 12898, issued February 11, 1994. The board shall make recommendations by January 1, 1995, to the environment and natural resources committees of the senate and house of representatives.

Sec. 7. ADMINISTRATION	5,000	683,000

$107,000 in fiscal year 1995 is for agency relocations.

$126,000 in fiscal year 1995 is to pay real estate taxes due and payable against history center property for the year 1986.

$400,000 is added to the appropriation in Laws 1993, chapter 192, section 15, subdivision 7, and is to support activities related to the information access council created in Minnesota Statutes, section 15.95.

$25,000 is for transfer to the University of Minnesota, for purposes of convening a planning group related to an information and telecommunications institute. The

planning group shall develop and submit to the state government finance divisions in the house of representatives and the senate by December 1, 1994, a legislative proposal for establishing the institute. The proposal must be developed in consultation with other post-secondary education institutions, entities that provide telecommunication and information services for elementary and secondary educational institutions, libraries, Minnesota Technology, Inc., the department of trade and economic development, telephone companies and telecommunication carriers, potential users of improved telecommunications technology, and other interested persons. The report must include at least: a proposed structure for the institute, including its physical location; proposed membership in the institute; proposed scope of authorities and responsibilities of the institute; and proposed financing for the institute.

$25,000 is for the central Minnesota STARS region to install and administer a regional telecommunications pilot project to validate the STARS telecommunications regions' development study findings; to replicate the creation of a regional telecommunications network statewide as set forth in Laws 1992, chapter 513, article 4, section 13; and to develop a master plan for regional telecommunications. The funds must be matched in-kind or monetarily dollar-for-dollar by the region. This appropriation is available until June 30, 1995.

The master plan must include a technology assessment that compares the function, performance, benefits, and costs of available telecommunications technologies, including full and fractional DS1 narrowband communications, DS3 wideband communications, and AM and FM video on fiber optics. The master plan should review regional requirements for telecommunications and make recommendations on the standardization of telecommunications architecture in relation to the technology assessment. The master plan must establish a policy for participation in a regional communications system.

Selection of participants must be based on geographical proximity and natural connections within the general regional areas surrounding St. Cloud, Willmar, and Brainerd. Participants must be by those entities in the following categories: education, state and local governments, and other public service entities including, but not limited to, libraries, courts and criminal justice agencies, health and human services agencies, community and economic development organizations, and cultural and nonprofit organizations or institutions.

Participants shall demonstrate collaboration with one or more other entities in making their connections to the regional system.

Participants in the pilot project and master plan must be represented on a regional advisory organization and together determine the design of the pilot and future master plan of regional telecommunications systems.

$5,000 the first year is for KSMQ-TV to conduct an engineering study for the placement of a remote transmitter to broadcast throughout the entire southeastemmost region of Minnesota. Any amount not spent in the first year is available in the second year.

$100,000 of the money appropriated in section 8 for the statewide systems project is for transfer to the information policy office for an evaluation of the statewide systems project, to be conducted by an entity not associated with the project, selected by the information policy office. The evaluation must consider the project from the point of view of the highest benefit to the state, and must make a progress report of its conclusions to the chairs of the house of representatives and senate state government finance divisions and to the legislative commission on planning and fiscal policy by January 15, 1995. Money previously appropriated to the information policy office may be used for this evaluation.

Sec. 8. FINANCE	30,000	14,845,000

$14,600,000 the second year is added to the appropriation in Laws 1993, chapter 192, section 17, subdivision 3, and is for the statewide systems project to redesign and implement the new statewide accounting, payroll, procurement, human resource, and information access systems. This appropriation is nonrecurring and is available until spent.

$30,000 the first year and $245,000 the second year are for the statewide performance and outcomes monitoring system to facilitate the compliance with Laws 1993, chapter 192, section 40.

The commissioner of finance must cancel $68,042 to the general fund or any unliquidated balance in the TRA prior year account previously maintained for satisfying the state obligation under Laws 1985, First Special Session chapter 12, article 11, section 19, which is repealed.

Sec. 9. EMPLOYEE RELATIONS 70,000

$3,500,000 the second year is transferred from the insurance trust fund created in Minnesota Statutes, section 43A.316, subdivision 9, to the general fund.

$20,000 the second year is to assist the public employees insurance task force established in section 63 in research, obtaining expert witnesses, and hiring consultants.

$50,000 the second year is for the stress program study required in section 64.

The contribution account under Minnesota Statutes, sections 355.04 and 355.06, administered by the commissioner of employee relations is eliminated through repeal, and the commissioner of finance is directed under Minnesota Statutes, section 16A.62, to transfer and cancel to the general fund any remaining balance in the FICA clearing account. The amount to be canceled is estimated to be $354,000.

The balance in the account administered by the commissioner of employee relations related to the career executive service program under Minnesota Statutes, section 43A.21, subdivision 5, which has been repealed, shall cancel to the general

fund. The amount to cancel in fiscal year 1994 is $32,709.

The commissioner of employee relations must conduct a study of the compensation policies of the Minnesota state high school league. The league must provide all information requested by the commissioner for the study. The study must evaluate all forms of compensation, including salaries, health insurance, pensions, and other benefits provided to staff. The report must be provided to the education committees of the house of representatives and the senate and to the governmental operations and gambling committee of the house and the governmental operations and reform committee of the senate by February 15, 1995.

Sec. 10. AMATEUR SPORTS COMMISSION 300,000

This amount is to be used to make a grant to the Minnesota Chippewa tribe to help offset the costs of promoting and hosting the 1995 Indigenous Games. The appropriation is available until June 30, 1995, but the grant may not be made unless matched by an equal amount from nonpublic sources.

Sec. 11. HUMAN RIGHTS 279,000

This appropriation is added to the appropriation in Laws 1993, chapter 192, section 21, and is to enhance information systems and to implement the strategic information plan submitted to the information policy office.

Sec. 12. MILITARY AFFAIRS 50,000

This appropriation is to the adjutant general for a grant to the Minnesota National Guard youth camp to set up and provide initial funding for a foundation to run the camp. The appropriation must be matched by an equal amount from nonstate sources.

Sec. 13. VETERANS AFFAIRS 472,000

(a) County Veterans Services Officers

Of this appropriation, $75,000 is to the commissioner of veterans affairs for fiscal

year 1995 for the funding of county veterans services officers.

(b) Soldiers Assistance Fund

Of this appropriation, $146,000 is to the commissioner of veterans affairs for fiscal year 1995 for the purpose of the state soldier's assistance program.

(c) Veterans' Cemetery

Of this appropriation, $250,000 is appropriated from the general fund to the department of veterans affairs for fiscal year 1995 to be transferred to the veterans' cemetery development and maintenance account of the special revenue fund of the state treasury for use in the development, operation, and maintenance of the state veterans' cemetery established in Minnesota Statutes, section 197.236. This amount is available until expended.

Of this appropriation, $1,000 is appropriated from the general fund to the department of veterans affairs for fiscal year 1995 to be transferred to the veterans' cemetery trust account of the special revenue fund of the state treasury where it shall remain permanently as principal for use as specified in Minnesota Statutes, section 197.236, subdivision 7.

Sec. 14. AMORTIZATION AID (1,000,000)

The amount appropriated for fiscal year 1995 in Laws 1993, chapter 192, section 32, for police and fire amortization aid is reduced by $1,000,000. This reduction comes from amounts otherwise payable as amortization and as supplemental amortization aid to the city of Minneapolis, and is due to excess investment earnings by the Minneapolis police and fire relief associations. This reduction is in addition to any other reduction that may be enacted by the 1994 legislature.

Sec. 15. Minnesota Statutes 1992, section 3.97, subdivision 11, is amended to read:

Subd. 11. "Audit" as used in this subdivision means a financial audit, a program evaluation, *a best practices review,* or an investigation. Data relating to an audit are not public or with respect to data on individuals are confidential until the final report of the audit has been published or the audit is no longer being actively pursued. Data that support the conclusions of the report and that the legislative auditor reasonably believes will result in litigation are not

public and with respect to data on individuals are confidential until the litigation has been completed or is no longer being actively pursued. Data on individuals that could reasonably be used to determine the identity of an individual supplying data for an audit are private if the data supplied by the individual were needed for an audit and the individual would not have provided the data to the legislative auditor without an assurance that the individual's identity would remain private, or the legislative auditor reasonably believes that the subject would not have provided the data. The definitions of terms provided in section 13.02 apply for purposes of this subdivision.

Sec. 16. Minnesota Statutes 1992, section 3.971, is amended by adding a subdivision to read:

Subd. 4. (a) To perform best practices reviews, the legislative auditor through the program evaluation division shall examine the procedures and practices used to deliver local government services, including municipalities and counties, determine the methods of local government service delivery, identify variations in cost and effectiveness, and identify practices to save money or provide more effective service delivery. The legislative auditor shall recommend to local governments, service delivery methods and practices to improve the cost-effectiveness of services. The legislative auditor and the board of government innovation and cooperation shall notify each other of projects being conducted relating to improving local government services.

(b) The commission shall identify local government services to be reviewed with advice from an advisory council whose membership shall consist of:

(1) three representatives from the Association of Minnesota Counties;

(2) three representatives from the League of Minnesota Cities; and

(3) two representatives from the Association of Metropolitan Municipalities.

(c) This subdivision expires June 30, 1999.

Sec. 17. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

Subd. 6a. [STATE DEBT COLLECTION DATA.] *Data on debtors received, collected, created, or maintained by the commissioner of finance are classified under section 16C.06.*

Sec. 18. Minnesota Statutes 1993 Supplement, section 15.91, is amended to read:

15.91 [PERFORMANCE REPORTING FOR AGENCIES OF STATE GOVERNMENT.]

Subdivision 1. [DEFINITION.] For purposes of sections 15.90 to 15.92, "agency" means a department or agency, as designated in section 15.01 *and the pollution control agency.*

Subd. 2. [PERFORMANCE REPORTS.] (a) Each agency shall develop a performance report for ~~its operations~~ *the major programs that it provides or administers.* The report shall include each of the following items or an explanation of why an item does not apply to the agency *or its individual programs*:

(1) a statement of the mission, goals, and objectives of the agency including those set forth in statute;

(2) measures ~~and goals~~ of the output and outcome of the ~~agency~~ *program*;

(3) identification of priority and other ~~service~~ populations~~, or other service measures,~~ *served by the programs* under current law and how those populations are expected to change within the period of the report;

(4) plans for how outcome information can be used as an incentive for improving state programs and program outcomes;

(5) requests for statutory flexibility needed to reach outcome goals;

(6) ~~explanation of~~ *proposals and cost estimates for collecting new* outcome information ~~that could be available with new data collection systems~~; and

(7) other information that may be required *to explain the past and projected performance of state programs*.

The ~~goals~~ *objectives* required under clause (1): (i) must be simple declarative statements of intent; (ii) should carry benchmarks for accomplishment; and (iii) should be specific enough so citizens can measure progress year to year.

(b) Each agency shall issue a ~~draft report by November 1, 1993,~~ a first annual report by September 1, 1994, and annual updated reports no later than September 1 of each year beginning in 1995. A report must cover a period of four years previous and two years in the future from the date that it is required to be issued, including previous forecasts versus actual measures.

(c) Each agency shall send a copy of each report issued to the governor, the speaker of the house of representatives, the president of the senate, the legislative commission on planning and fiscal policy, the legislative auditor, the commissioner of finance, and two copies to the legislative reference library.

(d) The legislative auditor shall review the drafts and give comments to agencies and the legislature before September 1, 1994, and shall review and give comments on annual reports on a rotating biennial schedule.

(e) State agency reports shall be compiled as required in this paragraph. The commissioner of finance, in consultation with the commissioner of administration, the legislative commission on planning and fiscal policy, and the finance committees and divisions of the house of representatives and senate, shall:

(1) develop forms and instructions *and coordinate training* for the use of the agencies in the preparation of their reports;

(2) work with individual agencies to determine acceptable measures of *staff* workload, *unit costs,* output, and outcome for use in reports; and

(3) request any needed additional information concerning any agency report submitted.

Each agency shall include citizens, agency clients, consumer and advocacy groups, worker participation committees, managers, elected officials, and contractors in its planning.

Sec. 19. [PURPOSE.]

The purposes of sections 15.95 and 15.96 are to establish a process:

(1) for improving public access to government information and data, and therefore for improving the democratic process, through the use of information technology; and

(2) for helping government become more efficient, effective, and responsive to the public through the use of information technology.

Sec. 20. [15.95] [GOVERNMENT INFORMATION ACCESS COUNCIL.]

Subdivision 1. [MEMBERSHIP.] *The government information access council consists of the following members:*

(1) all Minnesota residents who are members of the president's national information infrastructure advisory group;

(2) two commissioners of state agencies, appointed by the governor;

(3) one person appointed by the University of Minnesota board of regents;

(4) one person appointed by the higher education board;

(5) one representative of public television, appointed by the Minnesota public television association;

(6) one representative aligned with the Minnesota equal access network, appointed by the board of the network;

(7) one member appointed by the telephone company providing access to the largest number of customers within the state;

(8) one corporate executive from a company that is a member of the Minnesota business partnership, selected by the partnership;

(9) one representative of the citizens league, appointed by the league;

(10) one member of the intergovernmental information systems advisory council, appointed by the council;

(11) one member appointed by the Minnesota AFL-CIO;

(12) one member of American Federation of State, County, and Municipal Employees, council 6, appointed by the executive board of council 6;

(13) one member of the joint media committee, appointed by the committee;

(14) one member representing each of the following groups, appointed by the members of the council appointed under clauses (1) to (13): telephone companies, the cable television industry, and librarians who manage government information;

(15) four additional members representing diverse communities, or private citizens with unique perspectives regarding information policy, appointed by the members of the council appointed under clauses (1) to (14);

(16) one person representing a telecommunication carrier providing interexchange service to the largest number of customers within the state, appointed by the members of the council appointed under clauses (1) to (14);

(17) one member representing a public utility regulated under chapter 216B, appointed by the members of the council appointed under clauses (1) to (14); and

(18) one member representing nonprofit cable communication access centers serving community populations, appointed by members of the council appointed under clauses (1) to (14).

One member of the house of representatives, appointed by the speaker; 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 minority leader; and one member of the senate, appointed by the minority leader shall serve as members of the council without votes.

Subd. 2. [TERMS; COMPENSATION.] *Members serve at the pleasure of the appointing authority, and shall be appointed by September 1, 1994. Members receive compensation and expense reimbursement as provided by section 15.059, subdivision 3.*

Subd. 3. [CHAIR; MEETINGS.] *The governor shall designate the chair of the council from among its members. The chair shall schedule meetings at least quarterly. The chair must report any council recommendations or actions to the legislature, the governor, and affected state agencies, as appropriate, within one week of making the recommendation or taking the action. All meetings of the council, the executive committee, and work groups are subject to section 471.705.*

Subd. 4. [EXECUTIVE COMMITTEE; WORK GROUPS.] *(a) The council must establish and appoint an executive committee. The executive committee consists of the following members of the council: one person who is a member of the president's national information infrastructure advisory group, the University of Minnesota representative, the higher education board representative, the telephone company representative appointed under subdivision 1, clause (7), the Minnesota business partnership representative, the librarian representative, one citizen representative, the AFL-CIO representative, and one other member of the council, designated by the council. The executive committee must meet at least monthly. It must recommend organization of other committees or work groups. The executive committee must develop agenda items for the full council.*

(b) The council may establish other committees or work groups. Each committee or work group may include up to two persons who are not members of the council.

Subd. 5. [DUTIES.] *The primary mission of the council is to develop principles to assist elected officials and other government decision-makers in providing citizens with greater and more efficient access to government information, both directly and through private businesses. In developing these principles, the council must consider:*

(1) the most effective and efficient means to make information available to the public in a manner that is designed primarily from the perspective of the citizen;

(2) how to provide the greatest possible public access that is demand driven to the widest possible array of public government data and information maintained by state or local governments, including open access through libraries, schools, nonprofit organizations, businesses, and homes;

(3) what information should be made available free of charge directly from

government agencies, in addition to information that is available for inspection free of charge under section 13.03, subdivision 3;

(4) what information should be sold, either by government agencies or through private businesses, and what factors should determine the prices that government should charge to citizens for providing information directly, and to businesses who will resell information;

(5) how government can encourage private businesses to foster the creation of new private business endeavors by making digital information available for the purpose of distributing enhanced government information services to citizens;

(6) what changes need to be made in governmental operations to assure that more government information is readily available to citizens, whether provided directly by government agencies or provided through private businesses;

(7) whether digital information should be made available on an exclusive or nonexclusive basis, and how different types of information should be treated differently for this purpose;

(8) how the state and other governmental units can protect their intellectual property rights, while making government data available to the public as required in chapter 13;

(9) the impact of data collection and dissemination practices on privacy rights of individuals;

(10) what technological changes governmental agencies need to make to facilitate electronic provision of governmental information, either directly to citizens, or to private businesses who will distribute the information; and

(11) how to avoid duplicating services available from private providers, except as necessary to achieve goals set in subdivision 7.

Subd. 6. [OTHER DUTIES.] *(a) The council shall:*

(1) coordinate statewide efforts by units of state and local government to plan for and develop a system for providing the data and services in the manner envisioned by this section;

(2) make recommendations that facilitate coordination and assistance of demonstration projects;

(3) advise units of state and local government on provision of government data to citizens and businesses; and

(4) explore ways and means to improve citizen and business access to public data, including implementation of technological improvements.

(b) In fulfilling its duties under this subdivision, the council shall seek advice from the general public, government units, system users, professional associations, libraries, academic groups, and other institutions and individuals with knowledge of and interest in such areas as networking, electronic mail, public information data access, advanced telecommunications, and electronic transfer and storage of information.

Subd. 7. [ACCESS TO DATA.] *The legislature determines that the greatest possible access to certain government information and data is essential to*

allow citizens to participate fully in a democratic system of government. The principles that the council develops must assure that certain information and data, including, but not limited to the following, will be provided free of charge or for a nominal cost associated with reproducing the information or data:

(1) directories of government services and institutions;

(2) legislative and rulemaking information, including public information newsletters, bill text and summaries; bill status information, rule status information, meeting schedules, and the text of statutes and rules;

(3) official documents, releases, speeches, and other public information issued by the governor's office and constitutional officers; and

(4) the text of other government documents and publications that the council determines are important to public understanding of government activities.

The council, on a continuing basis, shall identify and take action to ensure that identified government data are available free of charge, or for a nominal cost associated with reproducing the data.

Subd. 8. [INFORMATION INSTITUTE.] *The council shall also advise the legislature on issues relating to an information institute to deal with major public policy issues involving access to government information and to foster the development of private sector information industries.*

Subd. 9. [APPROVAL OF STATE AGENCY INITIATIVES.] *No state agency may implement a new initiative for providing electronic access to state government information unless the initiative is reviewed by the council and approved by the information policy office.*

Subd. 10. [CAPITAL INVESTMENT.] *No state agency may propose or implement a capital investment plan for a state office building unless:*

(1) the agency has developed a plan for increasing telecommuting by employees who would normally work in the building, or the agency has prepared a statement describing why such a plan is not practicable; and

(2) the plan or statement has been reviewed by the council and approved by the information policy office.

Subd. 11. [SUPPORT.] *The information policy office shall provide staff and other support services to the council.*

Sec. 21. [15.96] [DUTIES OF OTHER GROUPS.]

(a) The groups in paragraphs (b) to (g) shall work with the government information access council in accomplishing its mission.

(b) The information policy office shall provide technical assistance to the council, and shall oversee state agency efforts to implement projects and programs in accordance with principles adopted by the council.

(c) The University of Minnesota shall continuously assess best practices and conduct other research to keep Minnesota in a leadership role in the area of access to and distribution of government information.

(d) The public utilities commission shall address changes needed in the

regulatory environment to facilitate access to and distribution of government information.

(e) The governor, through the state's Washington, D.C. office, shall monitor recommendations of national advisory groups, monitor legal and regulatory developments at the federal level, and review grant proposals made by Minnesota governmental entities to federal agencies.

(f) The departments of trade and economic development and education shall immediately initiate efforts to provide greater access to and distribution of their information working through the council as envisioned by section 15.95.

(g) The department of revenue shall study how tax policy might be used to facilitate entry onto the information highway.

Sec. 22. [15.97] [INFORMATION AND TELECOMMUNICATIONS INSTITUTE.]

The legislature intends to establish an institute of telecommunications technology applications and education. The institute must be structured as a collaboration between at least the computer science, health science, teacher education, and extension programs at the University of Minnesota, other post-secondary educational institutions in the state, Minnesota Technology, Inc., the department of trade and economic development, libraries, and other institutions and entities that have an interest in applications for and education on telecommunications and information technology. The mission of the institute will be to:

(1) engage in applied research in order to develop applications and methodologies for use of existing and expanded telecommunications and information resources and networks particularly in the areas of provision of health care, education, business, and employment communications and services; and

(2) provide technical assistance, education, and information to current and potential users of telecommunications networks and systems, including at least health care providers, teachers, employers, and employees and to advocate and promote appropriate and efficient use of the networks and systems to improve efficiency and flexibility of the networks and systems and of their users.

Sec. 23. [15.98] [INDOOR ICE FACILITIES.]

This section applies to an indoor ice arena operated by a political subdivision, a state agency, the University of Minnesota, a state higher education institution, or any other organization that makes an arena available to the public. If the arena provides more prime ice time to groups of one gender than to groups of the other gender, the arena may not deny a request for prime ice time from the group of the underrepresented gender, provided that the group of the underrepresented gender pays the same price charged to groups of the other gender. An underrepresented gender group must be allowed up to 15 percent of prime ice time for the 1994-1995 season, up to 30 percent by the 1995-1996 season, and up to 50 percent by the 1996-1997 season. This section does not: (1) require an arena to allocate more time to any one group than is generally allocated to other groups; or (2) affect a political subdivision's ability to grant preference to groups based in the political subdivision, provided this preference is not based on gender. For

purposes of this section, prime ice time means the hours of 4:00 p.m. to 10:00 p.m. Monday to Friday and 9:00 a.m. to 8:00 p.m. on Saturdays and Sundays. Any group that generates revenue as a result of tickets sold to persons in attendance at arena events must be excluded in determining if the arena provides more prime ice time to groups of one gender than the other.

Sec. 24. Minnesota Statutes 1992, section 16A.124, subdivision 2, is amended to read:

Subd. 2. [COMMISSIONER SUPERVISION.] The commissioner shall ~~exercise constant supervision over~~ *monitor* state agencies to insure the prompt payment of vendor obligations.

Sec. 25. Minnesota Statutes 1992, section 16A.124, subdivision 7, is amended to read:

Subd. 7. [REPORT TO LEGISLATURE.] The commissioner shall report to the legislature each year summarizing the state's payment record for the preceding year. The report shall include ~~the number and dollar amount of late payments made by each agency,~~ the amount of interest penalties ~~and collection costs paid,~~ and the specific steps being taken to reduce the incidence of late payments in the future.

Sec. 26. Minnesota Statutes 1992, section 16A.127, as amended by Laws 1993, First Special Session chapter 2, article 3, section 2, is amended to read:

16A.127 [INDIRECT COSTS.]

Subdivision 1. [STATEWIDE AND AGENCY INDIRECT COSTS.] (a) As used in this section ~~and in section 16A.128~~, "statewide indirect costs" means all ~~operating costs incurred~~ *general fund expenditures made* by ~~the treasurer and all agencies~~ *any state agency* attributable to providing *general support* services to any other *state* agency ~~except as prohibited by federal law. These operating costs include their proportionate share of costs incurred by the legislative and judicial branches~~.

(b) As used in this section, "agency indirect costs" means all general support costs within ~~the~~ *any* agency that ~~are not~~ *cannot be* directly charged to *any* agency ~~programs~~ *program*.

(c) For purposes of this section, "agency" means any entity receiving general support services.

Subd. 2. [STATEWIDE PLAN.] The commissioner shall annually prepare a plan ~~showing the kind~~ *identifying the sources* and ~~amount~~ *amounts* of each ~~executive~~ agency's statewide indirect costs for the current fiscal year. The commissioner shall ~~report~~ *submit* the plan to the *cognizant federal agency for approval, and provide copies to the* governor and the legislature.

Subd. 3. [*GENERAL* REIMBURSEMENT.] (a) ~~Under the plan,~~ *Unless indirect cost recoveries are specifically appropriated in law, agencies are obligated to reimburse the general fund for all statewide indirect costs, and that portion of agency indirect costs attributable to recoveries of general fund expenditures. However, the commissioner may, for reasons of sound financial management, waive the reimbursement under this subdivision for certain nongeneral fund activities.*

(b) The commissioner shall ~~make and~~ record the reimbursement to the general fund of the statewide *and agency* indirect costs attributable to an

~~executive~~ agency's nongeneral fund ~~receipts~~ *activities* for the ~~last~~ fiscal year. ~~Unless the commissioner determines that agency indirect cost receipts are a reimbursement for general fund expenditures, the~~ *All nonfederal agency indirect cost* receipts are appropriated to the agency to pay administrative expenses, *unless they are determined to be a reimbursement of general fund expenditures.* ~~However, the commissioner may, for reasons of sound financial management, waive the reimbursement under this subdivision for certain nongeneral fund receipts. The commissioner shall report all waivers in the next statewide indirect cost plan.~~

~~(b)~~ *Subd. 3a.* [APPROPRIATION.] There is annually appropriated from all direct appropriated nongeneral funds an amount sufficient to reimburse the general fund for *both* statewide indirect costs, *and any agency indirect costs attributable to general fund expenditures.*

Subd. 4. [FEDERAL PROPOSALS.] ~~An executive agency's application~~ *Agency applications* for federal money shall include necessary submissions to ~~get~~ *recover* both statewide and agency indirect ~~cost money~~ *costs.* The indirect cost submission must have the prior approval of the commissioner. An *agency* indirect cost ~~submission~~ *plan* is unnecessary if the ~~executive agency convinces the~~ commissioner *determines* that the ~~submission is not economical~~ *costs incurred in preparing and maintaining it exceed the benefit received by the state. If less than the entire agency proposal is federally approved, the commissioner may accept reimbursement of less than all of the federal receipts. If no federal funds are approved for indirect costs, the agency must document that fact to the commissioner.*

Subd. 5. [FEDERAL ~~SHARE~~ *REIMBURSEMENT.*] ~~The executive agency~~ *Agencies* shall reimburse the general fund for *all* federal money received ~~for~~ *as a recovery of* statewide indirect costs. ~~Unless the commissioner determines that agency indirect cost receipts are a reimbursement for general fund expenditures, the receipts are appropriated to the agency to pay administrative expenses. If less than the entire executive agency proposal is federally approved, the commissioner may accept reimbursement of less than all of the federal receipts. If no federal funds are approved for indirect costs, the executive agency must document that fact to the commissioner.~~ *All federal agency indirect cost receipts are appropriated to the agency to pay administrative expenses, unless they are determined to be a reimbursement of general fund expenditures.*

Subd. 6. [REQUIRED INFORMATION.] ~~An executive agency~~ *Agencies* must supply the information required by the commissioner, *as needed,* to carry out *the provisions of* this section.

Subd. 7. [AUDIT FEES.] The legislative auditor may recommend waiver, and the legislative audit commission may waive all or part of a fee for an audit. A state audited ~~executive~~ agency whose funds are not administered by the treasurer must transfer to the general fund the amount of the cost of the audit attributable to the ~~executive~~ agency's nongeneral fund receipts.

Subd. 8. [~~EXEMPTION~~ *EXEMPTIONS.*] (a) *No statewide or agency indirect cost liability shall be accrued to any program, appropriation, or account that is specifically exempted from the liability in federal or state law, or if the commissioner determines the funds to be held in trust, or to be a pass through, workshop, or seminar account. Accounts receiving proceeds from bond issues, and those accounts whose funds are determined by the commissioner to originate from the general fund, are also exempt from this section.*

(b) Except for the costs of the legislative auditor to conduct financial audits of federal funds, this section does not apply to the community college board, state university board, or the state board of technical colleges. ~~Indirect cost~~ Receipts attributable to financial audits conducted by the legislative auditor of federal funds administered by these post-secondary education boards shall be deposited in the general fund.

~~(b) Except for federal funds, this section does not apply to the department of natural resources for agency indirect costs.~~

Subd. 9. [~~WAIVER~~ *PROVISION FOR NATURAL RESOURCES.*] *(a) The department of natural resources is exempt from recovering agency indirect costs except where federal funds are involved.*

(b) The commissioner of natural resources need not bill the federal government, *other states, or Canadian provinces* for the indirect costs of providing emergency fire fighting services, and need not reimburse the general fund for those indirect costs~~, if the commissioner determines that the emergency fire fighting is in the best interest of the state. The commissioner of natural resources need not bill another state or Canadian province for the indirect costs of providing emergency fire fighting services, and need not reimburse the general fund for those indirect costs, if the other state or Canadian province agrees not to bill the state of Minnesota for the indirect costs of emergency fire fighting services provided by the other state~~ *if the waiver is reciprocated.*

Sec. 27. Minnesota Statutes 1992, section 16A.15, subdivision 3, is amended to read:

Subd. 3. [ALLOTMENT AND ENCUMBRANCE.] (a) A payment may not be made without prior obligation. An obligation may not be incurred against any fund, allotment, or appropriation unless the commissioner has certified a sufficient unencumbered balance *or the accounting system shows sufficient allotment or encumbrance balance* in the fund, allotment, or appropriation to meet it. *The commissioner shall determine when the accounting system may be used to incur obligations without the commissioner's certification of a sufficient unencumbered balance.* An expenditure or obligation authorized or incurred in violation of this chapter is invalid and ineligible for payment until made valid. A payment made in violation of this chapter is illegal. An employee authorizing or making the payment, or taking part in it, and a person receiving any part of the payment, are jointly and severally liable to the state for the amount paid or received. If an employee knowingly incurs an obligation or authorizes or makes an expenditure in violation of this chapter or takes part in the violation, the violation is just cause for the employee's removal by the appointing authority or by the governor if an appointing authority other than the governor fails to do so. In the latter case, the governor shall give notice of the violation and an opportunity to be heard on it to the employee and to the appointing authority. A claim presented against an appropriation without prior allotment or encumbrance may be made valid on investigation, review, and approval by the commissioner, if the services, materials, or supplies to be paid for were actually furnished in good faith without collusion and without intent to defraud. The commissioner may then draw a warrant to pay the claim just as properly allotted and encumbered claims are paid.

(b) The commissioner may approve payment for materials and supplies in excess of the obligation amount when increases are authorized by section 16B.07, subdivision 2.

(c) To minimize potential construction delay claims, an agency with a project funded by a building appropriation may allow a contractor to proceed with supplemental work within the limits of the appropriation before money is encumbered. Under this circumstance, the agency may requisition funds and allow contractors to expeditiously proceed with a construction sequence. While the contractor is proceeding, the agency shall immediately act to encumber the required funds.

Sec. 28. Minnesota Statutes 1992, section 16B.01, subdivision 4, is amended to read:

Subd. 4. [STATE CONTRACT.] "State contract" means any written instrument *or electronic document* containing the elements of offer, acceptance and consideration to which a state agency is a party.

Sec. 29. Minnesota Statutes 1992, section 16B.05, subdivision 2, is amended to read:

Subd. 2. [FACSIMILE SIGNATURES *AND ELECTRONIC APPROVALS*.] When authorized by the commissioner, facsimile signatures *and electronic approvals* may be used by personnel of the department of administration in accordance with the commissioner's delegated authority and instructions, copies of which shall be filed with the commissioner of finance, state treasurer, and the secretary of state. A facsimile signature *or electronic approval*, when used in accordance with the commissioner's delegated authority and instructions, is as effective as an original signature.

Sec. 30. Minnesota Statutes 1992, section 16B.06, subdivision 1, is amended to read:

Subdivision 1. [DUTIES OF COMMISSIONER.] (a) [CONTRACT MANAGEMENT.] The commissioner shall perform all contract management and review functions for state contracts, except those functions performed by the contracting agency, *and* the attorney general~~, or the commissioner of finance~~. All agencies shall fully cooperate with the commissioner in the management and review of state contracts. A delegation of the commissioner's duties under this section to the head of an agency *or a designated subordinate* must be filed with the secretary of state and may not, except with respect to delegations within the department of administration, exceed two years in duration.

(b) [PURCHASING.] The commissioner shall purchase, rent, or otherwise provide for the furnishing of all supplies, materials, equipment, and utility services. The commissioner may lease, rent, or sell supplies, equipment, and services to agencies. The commissioner shall purchase from the state correctional institutions, the University of Minnesota, and other state institutions all articles manufactured by them which are usable by the state. All purchase orders must be ~~made on a form~~ *prepared in a format* prescribed by the attorney general.

Sec. 31. Minnesota Statutes 1992, section 16B.06, subdivision 2, is amended to read:

Subd. 2. [VALIDITY OF STATE CONTRACTS.] *(a)* A state contract or lease is not valid and the state is not bound by it until:

(1) it has first been executed by the head of the agency *or a delegate* which is a party to the contract ~~and~~;

(2) it has been approved ~~in writing~~ by the commissioner or a delegate, under this section~~,~~;

(3) it has been approved by the attorney general or a delegate as to form and execution~~,~~; and ~~by the commissioner of finance or a delegate who shall determine that the appropriation and~~

(4) the account system shows an allotment ~~have been encumbered~~ *or encumbrance balance* for the full amount of the contract liability.

(b) Paragraph (a), clause (2), does not apply to contracts between state agencies or contracts awarding grants.

(c) The head of the agency may delegate the execution of specific contracts or specific types of contracts to a ~~deputy or assistant head~~ *designated subordinate* within the agency if the delegation has been approved by the commissioner of administration and filed with the secretary of state. ~~A~~ *The fully executed* copy of every contract or lease ~~extending for a term longer than one year~~ must be ~~filed with the commissioner of finance~~ *kept on file at the contracting agency.*

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

Subd. 3. [GIFTS.] *The commissioner may accept gifts for energy efficiency improvements in state-owned and wholly-leased buildings. Energy cost savings from these improvements, up to the cost of these improvements, shall be deposited in a special revenue fund established in the state treasury. Money in the special revenue fund is appropriated to the commissioner to implement further energy efficiency improvements in state-owned or wholly-leased buildings.*

Sec. 33. [16B.482] [INTELLECTUAL PROPERTY.]

Before executing a contract or license agreement involving intellectual property developed or acquired by the state, a state agency shall seek review and comment from the attorney general on the terms and conditions of the contract or agreement.

Sec. 34. [16B.615] [RESTROOM FACILITIES.]

Subdivision 1. [DEFINITION.] *For purposes of this section, "place of public accommodation" means a publicly or privately owned sports or entertainment arena, stadium, theater, community or convention hall, special event center, amusement facility, or special event center in a public park, that is designed for occupancy by 200 or more people.*

Subd. 2. [APPLICATION.] *This section applies only to a place of public accommodation for which construction, or alterations exceeding 50 percent of the estimated replacement value of the existing facility, begins after the effective date of this subdivision.*

Subd. 3. [RATIO.] *In a place of public accommodation subject to this section, the ratio of water closets for women to the total of water closets and urinals provided for men must be at least three to two, unless there are two or fewer fixtures for men.*

Subd. 4. [RULES.] *The commissioner of administration shall adopt rules to implement this section. The rules may provide for a greater ratio of women's to men's facilities for certain types of occupancies than is required in subdivision 3, and may apply the required ratios to categories of occupancies other than those defined as places of public accommodation under subdivision 1.*

Sec. 35. [16C.01] [CITATION AND SCOPE.]

Subdivision 1. [CITATION.] *This chapter may be cited as the "debt collection act."*

Subd. 2. [SCOPE.] *The collection procedures and remedies under this chapter are in addition to any other procedure or remedy available by law. If the referring agency's applicable state or federal law provides for the use of a particular remedy or procedure for the collection of a debt, that particular remedy or procedure governs the collection of that debt to the extent the procedure or remedy is inconsistent with this chapter.*

Sec. 36. [16C.02] [DEFINITIONS.]

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

Subd. 2. [COMMISSIONER.] *"Commissioner" means the commissioner of finance.*

Subd. 3. [DEBT.] *"Debt" means an amount owed to the state directly, or through a state agency, on account of a fee, duty, lease, direct loan, loan insured or guaranteed by the state, rent, service, sale of real or personal property, overpayment, fine, assessment, penalty, restitution, damages, interest, tax, bail bond, forfeiture, reimbursement, liability owed, an assignment to the state including assignments under sections 256.72 to 256.87, the Social Security Act, or other state or federal law, recovery of costs incurred by the state, or any other source of indebtedness to the state. Debt also includes amounts owed to individuals for which the state or state agency acts in a fiduciary capacity in providing collection services in accordance with the regulations adopted under the Social Security Act at Code of Federal Regulations, title 45, section 302.33. Debt also includes an amount owed to the courts or University of Minnesota for which the commissioner provides collection services pursuant to contract.*

Subd. 4. [DEBTOR.] *"Debtor" means an individual, corporation, partnership, an unincorporated association, a limited liability company, a trust, an estate, or any other public or private entity, including a state, local, or federal government, or an Indian tribe, that is liable for a debt or against whom there is a claim for a debt.*

Subd. 5. [DEBT QUALIFICATION PLAN.] *"Debt qualification plan" means an agreement entered into between a referring agency and the commissioner that defines the terms and conditions by which the commissioner will provide collection services to the referring agency.*

Subd. 6. [REFERRING AGENCY.] *"Referring agency" means a state agency, the University of Minnesota, or a court that has entered into a debt qualification plan with the commissioner to refer debts to the commissioner for collection.*

Subd. 7. [STATE AGENCY.] *"State agency" means a state office, officer, board, commission, bureau, division, department, authority, agency, public corporation, or other unit of state government.*

Sec. 37. [16C.03] [SUPERVISION OF STATE DEBT COLLECTION.]

Subdivision 1. [RESPONSIBILITY.] *The commissioner of finance shall supervise and report on state debt collection.*

Subd. 2. [STATE AGENCY REPORTS.] *State agencies shall report quarterly to the commissioner the debts owed to them. The commissioner, in consultation with the commissioners of revenue and human services, and the attorney general, shall establish internal guidelines for the recognition, tracking, reporting, and collection of debts owed the state. The internal guidelines must include accounting standards, performance measurements, and uniform reporting requirements applicable to all state agencies.*

Subd. 3. [REPORT OF THE COMMISSIONER.] *By January 15 of each year, the commissioner shall report on the management of debts owed the state, including performance measurements and progress of the debt collection efforts undertaken by state agencies and the commissioner. The report must be made to the governor and the chairs of the committee on finance of the senate and the committee on ways and means of the house of representatives.*

Sec. 38. [16C.04] [COLLECTION ACTIVITIES.]

Subdivision 1. [DUTIES.] *The commissioner shall provide services to the state and its agencies to collect debts owed the state. The commissioner is not a collection agency as defined by section 332.31, subdivision 3, and is not licensed, bonded, or regulated by the commissioner of commerce under sections 332.31 to 332.35 or 332.38 to 332.45. The commissioner is subject to section 332.37, except clause (9) or (10). The commissioner may contract with the commissioner of revenue for collection services.*

Subd. 2. [AGENCY PARTICIPATION.] *A state agency may, at its option, refer debts to the commissioner for collection. The ultimate responsibility for the debt, including the reporting of the debt to the commissioner and the decision with regard to the continuing collection and uncollectibility of the debt, remains with the referring state agency.*

Subd. 3. [SERVICES.] *The commissioner shall provide collection services for a state agency, and may provide for collection services for the University of Minnesota or a court, in accordance with the terms and conditions of a signed debt qualification plan.*

Subd. 4. [AUTHORITY TO CONTRACT.] *The commissioner may contract with credit bureaus, private collection agencies, and other entities as necessary for the collection of debts. A private collection agency acting under a contract with the commissioner is subject to sections 332.31 to 332.45, except that the private collection agency may indicate that it is acting under a contract with the commissioner. The commissioner may not delegate the powers provided under section 16C.08 to any nongovernmental entity.*

Sec. 39. [16C.05] [PRIORITY OF SATISFACTION OF DEBTS.]

Subdivision 1. [MULTIPLE DEBTS.] *If two or more debts owed by the same debtor are submitted to the commissioner, amounts collected on those debts must be applied as prescribed in this section.*

Subd. 2. [ENFORCEMENT OF LIENS.] *If the money received is collected on a judgment lien under chapter 550, a lien provided by chapter 514, a consensual lien or security interest, protection of an interest in property through chapter 570, by collection process provided by chapters 551 and 571, or by any other process by which the commissioner is enforcing rights in a particular debt, the money must be applied to that particular debt.*

Subd. 3. [OTHER METHODS OF COLLECTION.] *If the money is collected in any manner not specified in subdivision 2, the money collected must apply first to the satisfaction of any debts for child support. Any debts other than child support must be satisfied in the order in time in which the commissioner received the debts from the referring agency.*

Sec. 40. [16C.06] [DEBTOR INFORMATION.]

Subdivision 1. [ACCESS TO GOVERNMENT DATA NOT PUBLIC.] *Notwithstanding chapter 13 or any other state law classifying or restricting access to government data, upon request from the commissioner, state agencies, political subdivisions, and statewide systems shall disseminate not public data to the commissioner for the sole purpose of collecting debt. Not public data disseminated under this subdivision is limited to financial data of the debtor or data related to the location of the debtor or the assets of the debtor.*

Subd. 2. [DISCLOSURE OF DATA.] *Data received, collected, created, or maintained by the commissioner to collect debts are classified as private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9. The commissioner may disclose not public data:*

(1) under section 13.05;

(2) under court order;

(3) under a statute specifically authorizing access to the not public data;

(4) to provide notices required or permitted by statute;

(5) to an agent of the commissioner, including a law enforcement person, attorney, or investigator acting for the commissioner in the investigation or prosecution of a criminal or civil proceeding relating to collection of a debt;

(6) to report names of debtors, amount of debt, date of debt, and the agency to whom debt is owed to credit bureaus; and

(7) when necessary to locate the debtor, locate the assets of the debtor, or to enforce or implement the collection of a debt.

The commissioner may not disclose data that is not public to a private collection agency or other entity with whom the commissioner has contracted under section 16C.04, subdivision 4, unless disclosure is otherwise authorized by law.

Sec. 41. [16C.07] [NOTICE TO DEBTOR.]

The referring agency shall send notice to the debtor by United States mail or personal delivery at the debtor's last known address at least 20 days before the debt is referred to the commissioner. The notice must state the nature and amount of the debt, identify to whom the debt is owed, and inform the debtor of the remedies available under this chapter.

Sec. 42. [16C.08] [COLLECTION DUTIES AND POWERS.]

Subdivision 1. [DUTIES.] *The commissioner shall take all reasonable and cost-effective actions to collect debts referred to the commissioner.*

Subd. 2. [POWERS.] *In addition to the collection remedies available to private collection agencies in this state, the commissioner, with legal assistance from the attorney general, may utilize any statutory authority granted to a referring agency for purposes of collecting debt owed to that referring agency.*

Sec. 43. [16C.09] [UNCOLLECTIBLE DEBTS.]

When a debt is determined by a state agency to be uncollectible, the debt may be written off by the state agency from the state agency's financial accounting records and no longer recognized as an account receivable for financial reporting purposes. A debt is considered to be uncollectible when (1) all reasonable collection efforts have been exhausted, (2) the cost of further collection action will exceed the amount recoverable, (3) the debt is legally without merit or cannot be substantiated by evidence, (4) the debtor cannot be located, (5) the available assets or income, current or anticipated, that may be available for payment of the debt are insufficient, (6) the debt has been discharged in bankruptcy, (7) the applicable statute of limitations for collection of the debt has expired, or (8) it is not in the public interest to pursue collection of the debt. The determination of the uncollectibility of a debt must be reported by the state agency along with the basis for that decision as part of its quarterly reports to the commissioner. Determining that the debt is uncollectible does not cancel the legal obligation of the debtor to pay the debt.

Sec. 44. [16C.10] [CASE REVIEWER.]

The commissioner shall make a case reviewer available to debtors. The reviewer must be available to answer a debtor's questions concerning the collection process and to review the collection activity taken. If the reviewer reasonably believes that the particular action being taken is unreasonable or unfair, the reviewer may make recommendations to the commissioner in regard to the collection action.

Sec. 45. [RECOMMENDATION; SUPERVISION OF STATE DEBT COLLECTION.]

By February 15, 1996, the commissioners of finance, human services, and revenue and the attorney general shall conduct an evaluation and make a recommendation to the legislature regarding the appropriate state officer to supervise state debt collection under Minnesota Statutes, section 16C.04.

Sec. 46. Minnesota Statutes 1992, section 43A.316, subdivision 9, is amended to read:

Subd. 9. [INSURANCE TRUST FUND.] The insurance trust fund in the state treasury consists of deposits of the premiums received from employers participating in the plan and transfers *before July 1, 1994,* from the ~~public employees insurance reserve~~ *excess contributions* holding account established by section 353.65, subdivision 7. All money in the fund is appropriated to the commissioner to pay insurance premiums, approved claims, refunds, administrative costs, and other related service costs. Premiums paid by employers to the fund are exempt from the tax imposed by sections 60A.15 and 60A.198.

The commissioner shall reserve an amount of money to cover the estimated costs of claims incurred but unpaid. The state board of investment shall invest the money according to section 11A.24. Investment income and losses attributable to the fund must be credited to the fund.

Sec. 47. Minnesota Statutes 1992, section 43A.37, subdivision 1, is amended to read:

Subdivision 1. [~~CERTIFICATION~~ *ACCURACY OF PAYROLL.*] ~~Neither the commissioner of finance nor any other fiscal officer of this state may draw, sign, or issue, or authorize the drawing, signing, or issuing of any warrant on the treasurer or other disbursing officer of the state, nor may the treasurer or other disbursing officer of the state pay any salary or compensation to any person in the civil service, unless a payroll register for the salary or compensation containing the name of every person to be paid bears the certificate of the commissioner that the persons named in the payroll register~~ *The appointing authority shall ensure that all employees* have been appointed as required by law, rules, or administrative procedures and that the salary or compensation is within the compensation plan fixed by law. The appointing authority shall ~~certify~~ *ensure* that all employees ~~named in the payroll register~~ are performing service as required by law. This provision does not apply to positions defined in section 43A.08, subdivision 1, clauses (8), (9), (10), and (12). Employees to whom this subdivision does not apply may be paid on the state's payroll system, and the appointing authority or fiscal officer submitting their payroll register is responsible for the accuracy and legality of the payments.

Salary or compensation claims presented against existing appropriations, which have been deemed in violation of the provisions of this subdivision, may be certified for payment if, upon investigation, the commissioner determines the personal services for which payment is claimed actually have been rendered in good faith without collusion and without intent to defraud.

Sec. 48. Minnesota Statutes 1992, section 69.031, subdivision 5, is amended to read:

Subd. 5. [DEPOSIT OF STATE AID.] (1) The municipal treasurer, on receiving the fire state aid, shall within 30 days after receipt transmit it to the treasurer of the duly incorporated firefighters' relief association if there is one organized and the association has filed a financial report with the municipality; but if there is no relief association organized, or if any association dissolve, be removed, or has heretofore dissolved, or has been removed as trustees of state aid, then the treasurer of the municipality shall keep the money in the municipal treasury as provided for in section 424A.08 and shall be disbursed only for the purposes and in the manner set forth in that section.

(2) The municipal treasurer, upon receipt of the police state aid, shall disburse the police state aid in the following manner:

(a) For a municipality in which a local police relief association exists and all peace officers are members of the association, the total state aid shall be transmitted to the treasurer of the relief association within 30 days of the date of receipt, and the treasurer of the relief association shall immediately deposit the total state aid in the special fund of the relief association;

(b) For a municipality in which police retirement coverage is provided by the public employees police and fire fund and all peace officers are members

of the fund, the total state aid shall be applied toward the municipality's employer contribution to the public employees police and fire fund pursuant to section 353.65, subdivision 3, and any state aid in excess of the amount required to meet the employer's contribution pursuant to section 353.65, subdivision 3, shall be deposited in the ~~public employees insurance reserve~~ *excess contributions* holding account of the public employees retirement association; or

(c) For a municipality other than a city of the first class with a population of more than 300,000 in which both a police relief association exists and police retirement coverage is provided in part by the public employees police and fire fund, the municipality may elect at its option to transmit the total state aid to the treasurer of the relief association as provided in clause (a), to use the total state aid to apply toward the municipality's employer contribution to the public employees police and fire fund subject to all the provisions set forth in clause (b), or to allot the total state aid proportionately to be transmitted to the police relief association as provided in this subdivision and to apply toward the municipality's employer contribution to the public employees police and fire fund subject to the provisions of clause (b) on the basis of the respective number of active full-time peace officers, as defined in section 69.011, subdivision 1, clause (g).

For a city of the first class with a population of more than 300,000, in addition, the city may elect to allot the appropriate portion of the total police state aid to apply toward the employer contribution of the city to the public employees police and fire fund based on the covered salary of police officers covered by the fund each payroll period and to transmit the balance to the police relief association.

(3) The county treasurer, upon receipt of the police state aid for the county, shall apply the total state aid toward the county's employer contribution to the public employees police and fire fund pursuant to section 353.65, subdivision 3, and any state aid in excess of the amount required to meet the employer's contribution pursuant to section 353.65, subdivision 3, shall be deposited in the ~~public employees insurance reserve~~ *excess contributions* holding account of the public employees retirement association.

(4) The designated metropolitan airports commission official, upon receipt of the police state aid for the metropolitan airports commission, shall apply the total police state aid toward the commission's employer contribution to the Minneapolis employees retirement fund under section 422A.101, subdivision 2a.

Sec. 49. Minnesota Statutes 1992, section 129D.14, subdivision 5, is amended to read:

Subd. 5. [*STATE COMMUNITY SERVICE BLOCK* GRANTS.] (a) The commissioner shall determine eligibility for *block* grants and the allocation of *block* grant money on the basis of audited financial records of the station to receive the *block* grant funds for the station's fiscal year preceding the year in which the grant is made, as well as on the basis of the other requirements set forth in this section. The commissioner shall annually distribute *block* grants *equally* to all stations that comply with the eligibility requirements and for which a licensee applies for a *block* grant. The commissioner may promulgate rules to implement this section. For this purpose the commissioner may promulgate emergency rules pursuant to sections 14.29 to 14.36. ~~An applicant's share of the grant money shall be based on:~~

~~(1) The amount received in the preceding year by the station to which the grant would be distributed in private nontax generated contributions from sources within the state; no contributions made for the purpose of capital expenditures shall be counted; and~~

~~(2) The dollar value in the preceding year of contributions of volunteer time to station operations, provided that the volunteer time was not used for the purpose of raising money for the station. Volunteer time shall be valued at the federal minimum wage per hour. A station's total allocation for volunteer time shall not exceed 20 percent of its total grant pursuant to this section.~~

~~(b) The commissioner shall match every verified contribution dollar under paragraph (a), clause (1) and volunteer time dollar, as calculated under paragraph (a), clause (2), with two state dollars for each eligible applicant until the station to which the grant is distributed has received $10,000 in grant money under this section, and thereafter grant money shall be distributed on a dollar for dollar basis until the total amount appropriated for that year has been distributed equally among all stations. A station may receive state matching money only until the station's total verified contribution and volunteer time has been matched or the amount of the grant received equals one-third of the station's total operating income for the previous fiscal year.~~

~~(c)~~ *(b)* A station may use grant money under this section for any radio station expenses.

Sec. 50. Minnesota Statutes 1993 Supplement, section 144C.03, subdivision 2, is amended to read:

Subd. 2. [TRUST ACCOUNT.] *(a)* There is established in the general fund an ambulance service personnel longevity award and incentive trust account *and an ambulance service personnel longevity award and incentive suspense account.*

(b) The trust account must be credited with:

(1) general fund appropriations for that purpose~~,~~*;*

(2) transfers from the ambulance service personnel longevity award and incentive suspense account; and

(3) investment earnings on those accumulated proceeds. The assets and income of the trust account must be held and managed by the commissioner of finance and the state board of investment for the benefit of the state of Minnesota and its general creditors.

(c) The suspense account must be credited with transfers from the excess contributions holding account established in section 353.65, subdivision 7, any per-year-of-service allocation under section 144C.07, subdivision 2, paragraph (c), that was not made for an individual, and investment earnings on those accumulated proceeds. The suspense account must be managed by the commissioner of finance and the state board of investment. From the suspense account to the trust account there must be transferred to the ambulance service personnel longevity award and incentive trust account, as the suspense account balance permits, the following amounts:

(1) an amount equal to any general fund appropriation to the ambulance service personnel longevity award and incentive trust account for that fiscal year; and

(2) an amount equal to the percentage of the remaining balance in the account after the deduction of the amount under clause (1), as specified for the applicable fiscal year:

Fiscal year	*Percentage*
1995	*20*
1996	*40*
1997	*50*
1998	*60*
1999	*70*
2000	*80*
2001	*90*
2002 and thereafter	*100*

Sec. 51. Minnesota Statutes 1993 Supplement, section 144C.07, subdivision 2, is amended to read:

Subd. 2. [POTENTIAL ALLOCATIONS.] (a) On September 1, annually, the commissioner of health or the commissioner's designee under section 144C.01, subdivision 2, shall determine the amount of the allocation of the prior year's accumulation to each qualified ambulance service person. The prior year's net investment gain or loss under paragraph (b) must be allocated and that year's *general fund* appropriation, *plus any transfer from the suspense account under section 144C.03, subdivision 2, and* after deduction of administrative expenses, also must be allocated.

(b) The difference in the market value of the assets of the ambulance service personnel longevity award and incentive trust account as of the immediately previous June 30 and the June 30 occurring 12 months earlier must be reported on or before August 15 by the state board of investment. The market value gain or loss must be expressed as a percentage of the total potential award accumulations as of the immediately previous June 30, and that positive or negative percentage must be applied to increase or decrease the recorded potential award accumulation of each qualified ambulance service person.

(c) The appropriation for this purpose, after deduction of administrative expenses, must be divided by the total number of additional ambulance service personnel years of service recognized since the last allocation or 1,000 years of service, whichever is greater. *If the allocation is based on the 1,000 years of service, any allocation not made for a qualified ambulance service person must be credited to the suspense account under section 144C.03, subdivision 2.* A qualified ambulance service person must be credited with a year of service if the person is certified by the chief administrative officer of the ambulance service as having rendered active ambulance service during the 12 months ending as of the immediately previous June 30. If the person has rendered prior active ambulance service, the person must be additionally credited with one-fifth of a year of service for each year of active ambulance service rendered before June 30, 1993, but not to exceed in any year one additional year of service or to exceed in total five years of prior service. Prior active ambulance service means employment by or the provision of service to a licensed ambulance service before June 30, 1993, as determined by the person's current ambulance service based on records provided by the person that were contemporaneous to the service. The prior ambulance service must be reported on or before August 15 to the commissioner of health in an affidavit from the chief administrative officer of the ambulance service.

Sec. 52. Minnesota Statutes 1992, section 176.611, subdivision 6a, is amended to read:

Subd. 6a. [APPROPRIATIONS CONSTITUTING FUND.] The revolving fund consists of $3,437,690 appropriated from the general fund and other funds, *along with credited investment gains or losses attributable to balances in the account. The state board of investment shall invest the fund's assets according to section 11A.24.*

Sec. 53. [197.236] [VETERANS' CEMETERY.]

Subdivision 1. [ADVISORY COUNCIL; PURPOSE.] *The veterans' cemetery advisory council is established for the purpose of managing the fundraising for the veterans' cemetery trust account established in subdivision 7. The council consists of seven members appointed by and serving at the pleasure of the governor. Members serve without per diem and without reimbursement for expenses. The council and the terms of members expire December 31, 1996.*

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

Subd. 3. [OPERATION AND MAINTENANCE.] *The commissioner of veterans affairs shall supervise and control the veterans' cemetery established under this section. The commissioner may contract for the maintenance and operation of the cemetery. All personnel, equipment, and support necessary for maintenance and operation of the cemetery, must be included in the department's budget.*

Subd. 4. [ACQUISITION OF PROPERTY.] *By August 1, 1994, or as soon thereafter as practicable, the department of veterans affairs shall receive by gift and establish ownership of the site of approximately 36 acres adjacent to Camp Ripley in Morrison county that has been prepared for the purpose of a state veterans' cemetery by the Minnesota state veterans' cemetery association. Prior to the acquisition of this land, the department must obtain the approval of the Morrison county board. The department may also receive any equipment and materials granted to the state or any of its political subdivisions for this purpose.*

Subd. 5. [RULES.] *The commissioner of veterans affairs may adopt rules regarding the operation of the cemetery. If practicable, the commissioner shall require that upright granite markers be used to mark all gravesites.*

Subd. 6. [PERMANENT DEVELOPMENT AND MAINTENANCE ACCOUNT.] *A veterans' cemetery development and maintenance account is established in the special revenue fund of the state treasury. Receipts for burial fees, earnings from the veterans' cemetery trust account, designated appropriations, and any other cemetery receipts must be deposited into this account. The money in the account, including interest earned, is appropriated to the commissioner to be used for the development, operation, maintenance, and improvement of the cemetery. To the extent practicable, the commissioner of veterans affairs must apply for available federal grants for the development and operation of the cemetery.*

Subd. 7. [PERMANENT TRUST ACCOUNT.] *A veterans' cemetery trust account is established in the special revenue fund of the state treasury. All designated appropriations and monetary donations to the cemetery must be placed in this account. The principal of this account must be invested by the state board of investment and may not be spent. The income from this account must be transferred as directed by the account manager to the veterans' cemetery development and maintenance account.*

Subd. 8. [ELIGIBILITY.] *Any person who is eligible for burial in a national veterans cemetery is eligible for burial in the state veterans' cemetery.*

Subd. 9. [BURIAL FEES.] *The commissioner of veterans affairs shall establish a fee schedule, which may be adjusted from time to time, for the interment of eligible family members. The fees shall cover as nearly as practicable the actual costs of interment, excluding the value of the plot. The department may accept the social security burial allowance, if any, of the eligible family members in an amount not to exceed the actual cost of the interment. The commissioner may waive the fee in the case of an indigent eligible person.*

No plot or interment fees may be charged for the burial of eligible veterans, members of the national guard, or military reservists, except that funds available from the social security or veterans burial allowances, if any, must be paid to the commissioner in an amount not to exceed the actual cost of the interment, excluding the value of the plot.

Prior to the interment of an eligible person, the commissioner shall request the cooperation of the eligible person's next of kin in applying to the appropriate federal agencies for payment to the cemetery of any allowable interment allowance.

Subd. 10. [ALLOCATION OF PLOTS.] *A person, or survivor of a person, eligible for interment in the state veterans' cemetery may apply for a burial plot for the eligible person by submitting a request to the commissioner of veterans affairs on a form supplied by the department. The department shall allot plots on a first-come, first-served basis. To the extent that it is practical, plots must be allocated in a manner permitting the burial of eligible family members above, below, or adjacent to the eligible veteran, member of the national guard, or military reservist.*

Sec. 54. Minnesota Statutes 1992, section 204B.27, is amended by adding a subdivision to read:

Subd. 8. [VOTER INFORMATION TELEPHONE LINE.] *The secretary of state shall provide a voter information telephone line for use during the period beginning two weeks before the state primary and ending three days after the state general election. A toll-free number must be provided for use by persons residing outside the metropolitan calling area. The secretary of state shall make available information concerning voter registration, absentee voting, election results, and other election-related information considered by the secretary of state to be useful to the public.*

Sec. 55. Minnesota Statutes 1992, section 326.12, subdivision 3, is amended to read:

Subd. 3. [CERTIFIED SIGNATURE.] Each plan, specification, plat, report, or other document which under sections 326.02 to 326.15 is prepared ~~and submitted to a building official~~ by a licensed architect, licensed engineer,

licensed land surveyor, licensed landscape architect, or certified interior designer ~~shall be required to~~ *must* bear ~~only~~ the signature of the licensed or certified person preparing it, or the signature of the licensed or certified person under whose direct supervision it was prepared. Each signature shall be accompanied by a certification that the signer is licensed under sections 326.02 to 326.15, by the person's license number, and by the date on which the signature was affixed. The provisions of this paragraph shall not apply to documents of an intraoffice or intracompany nature.

Sec. 56. Minnesota Statutes 1992, section 353.65, subdivision 7, is amended to read:

Subd. 7. [EXCESS CONTRIBUTIONS HOLDING ACCOUNT.] *(a)* The ~~public employees insurance reserve~~ *excess contributions* holding account is established in the public employees retirement association. Excess contributions established by section 69.031, subdivision 5, paragraphs (2), clauses (b) and (c), and (3) must be deposited in the account. These contributions and all investment earnings associated with them must be regularly transferred ~~to the insurance trust fund established by section 43A.316, subdivision 9~~ *as provided in paragraph (b).*

(b) From the amount of the excess contributions and associated investment earnings:

(1) $1,000,000 must be transferred annually to the ambulance service personnel longevity award and incentive suspense account established by section 144C.03, subdivision 2; and

(2) any remaining balance must be transferred to the general fund.

(c) If a law is enacted creating a police officer stress reduction program, and money is appropriated for the program, an amount equal to the appropriation must be transferred from the excess contributions holding account to the stress reduction program before money is transferred to the general fund under paragraph (b), clause (2).

Sec. 57. Minnesota Statutes 1992, section 354.06, subdivision 1, is amended to read:

Subdivision 1. The management of the fund is vested in a board of eight trustees known as the board of trustees of the teachers retirement fund. It is composed of the following persons: the commissioner of education, the commissioner of finance, ~~the commissioner of commerce~~ *a representative of the Minnesota school boards association*, four members of the fund elected by the members of the fund, and one retiree elected by the retirees of the fund. The five elected members of the board of trustees must be chosen by mail ballot in a manner fixed by the board of trustees of the fund. In every odd-numbered year there shall be elected two members of the fund to the board of trustees for terms of four years commencing on the first of July next succeeding their election. In every odd-numbered year one retiree of the fund must be elected to the board of trustees for a term of two years commencing on the first of July next succeeding the election. The filing of candidacy for a retiree election must include a petition of endorsement signed by at least ten retirees of the fund. Each election must be completed by June first of each succeeding odd-numbered year. In the case of elective members, any vacancy must be filled by appointment by the remainder of the board, and the appointee shall serve until the members or retirees of the fund at the next

regular election have elected a trustee to serve for the unexpired term caused by the vacancy. No member or retiree may be appointed by the board, or elected by the members of the fund as a trustee, if the person is not a member or retiree of the fund in good standing at the time of the appointment or election.

Sec. 58. Minnesota Statutes 1992, section 570.01, is amended to read:

570.01 [ALLOWANCE OF ATTACHMENT.]

As a proceeding ancillary to a civil action for the recovery of money *and to any action brought by the attorney general under the authority of section 8.31, subdivision 1, or any other law respecting unfair, discriminatory, or other unlawful practices in business, commerce, or trade*, the claimant, at the time of commencement of the civil action or at any time ~~thereafter~~ *afterward*, may have the property of the respondent attached in the manner and in the circumstances prescribed in sections 570.01 to 570.14, as security for the satisfaction of any judgment that the claimant may recover. The order for attachment ~~shall~~ *may* be issued only by a judge of the court in the county in which the civil action is pending. All property not exempt from execution under the judgment demanded in the civil action ~~may be~~ *is* subject to attachment.

Sec. 59. Minnesota Statutes 1992, section 570.02, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS.] An order of attachment ~~which~~ *that* is intended to provide security for the satisfaction of a judgment may be issued only in the following situations:

(1) when the respondent has assigned, secreted, or disposed of, or is about to assign, secrete, or dispose of, any of the respondent's nonexempt property, with intent to delay or defraud the respondent's creditors;

(2) when the respondent has removed, or is about to remove, any of the respondent's nonexempt property from this state, with intent to delay or defraud the respondent's creditors;

(3) when the respondent has converted or is about to convert any of the respondent's nonexempt property into money or credits, for the purpose of placing the property beyond the reach of the respondent's creditors;

(4) when the respondent has committed an intentional fraud giving rise to the claim upon which the civil action is brought; ~~or~~

(5) when the respondent has committed any act or omission, for which the respondent has been convicted of a felony, giving rise to the claim upon which the civil action is brought; *or*

(6) when the respondent has violated the law of this state respecting unfair, discriminatory, and other unlawful practices in business, commerce, or trade, including but not limited to any of the statutes specifically enumerated in section 8.31, subdivision 1.

Sec. 60. Minnesota Statutes 1992, section 570.025, subdivision 2, is amended to read:

Subd. 2. [CONDITIONS.] A preliminary attachment order may be issued

~~prior to~~ *before* the hearing specified in section 570.026 only if the following conditions are met:

(1) the claimant has made a good faith effort to inform the respondent of the application for a preliminary attachment order or that informing the respondent would endanger the ability of the claimant to recover upon a judgment subsequently awarded;

(2) the claimant has demonstrated the probability of success on the merits;

(3) the claimant has demonstrated the existence of one or more of the grounds specified in section 570.02, subdivision 1, clause (1), (2), ~~or~~ (3), *or (6)*; and

(4) due to extraordinary circumstances, the claimant's interests cannot be protected pending a hearing by an appropriate order of the court, other than by directing a prehearing seizure of property.

Sec. 61. Laws 1993, chapter 192, section 17, subdivision 3, is amended to read:

Subd. 3. Accounting Services

~~19,303,000~~	~~12,711,000~~
19,378,000	*12,636,000*

~~$4,640,000~~ *$4,715,000* the first year and ~~$3,869,000~~ *$3,794,000* the second year are to implement the accounts receivable project. The commissioner of finance may transfer money to the commissioners of human services and revenue and the attorney general. Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium.

$10,300,000 the first year and $4,700,000 the second year are for the statewide systems project. If the appropriation for the statewide systems project in either year is insufficient, the appropriation for the other year is available. The commissioner of finance shall report monthly during the biennium ending June 30, 1995, to the chairs of the senate finance committee and the house of representatives ways and means committee on the expenditure of this appropriation and the progress of the statewide systems project.

$285,000 is for transfer by August 1, 1993, to the legislative commission on planning and fiscal policy for the purpose of improving legislative access to executive branch budgeting and accounting information. None of the other money appropriated in this section for the state-

wide systems project may be spent until the transfer to the legislative commission on planning and fiscal policy has occurred.

The budgeting and accounting portions of the statewide systems project must be designed so that all public data in these systems are available to the legislature at the time the data are available to executive branch agencies.

The commissioner of finance, in consultation with affected agencies, shall reengineer work processes in preparation for the new state accounting, purchasing, and personnel systems.

The commissioner shall develop a joint work plan with the department of administration to implement electronic data interchange. The commissioner shall prepare plans for migrating to open systems, and shall develop plans for an automated interface with the local government financial system. The commissioner must submit these plans to the information policy office for review and approval.

Sec. 62. [IMPROVED COORDINATION AND CITIZEN ACCESS.]

(a) The legislative coordinating commission shall make recommendations to improve coordination of public information activities between the house of representatives and the senate. The purpose of these recommendations is to eliminate unnecessary duplication in a manner that will improve citizens' access to public information concerning legislative proceedings.

(b) The commission must consider:

(1) joint mailings of material providing updates on recent house and senate activities and schedules for upcoming meetings;

(2) ensuring that house and senate public information offices each have materials produced by the other office, such as meeting schedules, information on bill introductions, and updates on recent activities, so that a citizen seeking information can obtain it in one place;

(3) ensuring continued cooperation and coordination of television production and other public outreach activities;

(4) ensuring that offices in each legislative body that have contact with the public are expected to and are able to direct citizens to offices and meetings in the other body.

(c) The commission shall make recommendations to the chairs of the governmental operations committees, the chairs of the finance committee divisions having responsibility for the legislature, the speaker of the house, and the majority leader of the senate by November 15, 1994. The recommen-

dations must include the specific topics listed in paragraph (b), and any other topics designed to improve citizen access to the legislature.

Sec. 63. [PUBLIC EMPLOYEES INSURANCE PURCHASING COOPERATIVE TASK FORCE.]

Subdivision 1. [MEMBERSHIP.] *The public employees insurance purchasing cooperative task force consists of one member each appointed by and representing:*

(1) the department of employee relations;

(2) the Minnesota school boards association;

(3) the league of Minnesota cities;

(4) the association of Minnesota counties;

(5) the American federation of state, county, and municipal employees;

(6) the Minnesota education association;

(7) the Minnesota federation of teachers;

(8) the Minnesota state building and construction trades council;

(9) the Minnesota AFL-CIO;

(10) the Minnesota teamsters;

(11) the Minnesota police and peace officers association;

(12) the Minnesota professional firefighters; and

(13) the educational cooperative service units under Minnesota Statutes, section 123.58.

The appointing authorities are responsible for costs incurred by members.

Subd. 2. [DUTIES.] *The task force shall study the feasibility of establishing a cooperative of all public employees, excluding state employees, to purchase hospital, dental, and medical insurance coverage. The task force shall identify costs associated with the establishment and operation of a cooperative, determine accessibility for public employees throughout the state, and develop a plan for implementation. The task force shall submit a report and recommendations to the committee on governmental operations and gambling of the house of representatives and the committee on governmental operations and reform of the senate by March 1, 1995. The task force expires upon submission of its report and recommendations.*

Subd. 3. [DEPARTMENT OF EMPLOYEE RELATIONS.] *The commissioner of employee relations shall coordinate the formation of the task force by the organizations listed in subdivision 1, provide administrative and staff support to the task force, and assist in preparing its report and recommendations to the legislature.*

Sec. 64. [STRESS DETECTION, PREVENTION, REDUCTION, AND ACCOMMODATION PROGRAM FEASIBILITY STUDY.]

(a) The commissioner of employee relations shall conduct a feasibility study for the establishment of a program in state government to be known as the Minnesota police officers stress program. This program is intended to provide

expertise and resources for the prevention of job-related stress in police work. It must also provide a treatment program for posttraumatic stress as experienced by police officers who are certified and licensed by the police officers standards and training board.

(b) Results of the study required under paragraph (a) must be reported to the chairs of the senate governmental operations and reform committee, the house of representatives governmental operations and gambling committee, the senate finance committee, and the house of representatives ways and means committee by January 5, 1995.

Sec. 65. [REPEALER.]

Minnesota Statutes 1992, sections 10.11, subdivision 1; 10.12; 10.14; 10.15; 16A.06, subdivision 8; 16A.124, subdivision 6; 197.235; 355.04; and 355.06, are repealed.

Laws 1985, First Special Session chapter 12, article 11, section 19, is repealed.

Sec. 66. [EFFECTIVE DATE.]

Sections 35 to 44 are effective July 1, 1994, and apply to the collection of any debt arising before, on, or after that date.

Section 34, subdivisions 1 to 3, are effective July 1, 1995.

ARTICLE 4

COMMUNITY DEVELOPMENT

Section 1. [COMMUNITY DEVELOPMENT APPROPRIATIONS.]

The sums set forth in the columns headed "APPROPRIATIONS" are appropriated from the general fund, or other named fund, to the agencies for the purposes specified in this article and are added to or, if shown in parenthesis, are subtracted from appropriations for the fiscal years ending June 30, 1994 and June 30, 1995, in Laws 1993, chapter 369, or another named law.

SUMMARY BY FUND

	1994	1995
General Fund	$123,000	$2,694,000
Workers' Compensation Fund		50,000
TOTAL	$123,000	$2,694,000

	APPROPRIATIONS Available for the Year Ending June 30	
	1994	1995
Sec. 2. TRADE AND ECONOMIC DEVELOPMENT	$	$1,550,000
(a) Minnesota Film Board		40,000
This appropriation is added to the appropriation in Laws 1993, chapter 369, section 2, subdivision 4, for the Minnesota film board. This appropriation is available		

only upon receipt by the board of $1 in matching money or in-kind contributions from nonstate sources for every $3 provided by this appropriation.

(b) Community Development

The $6,000,000 to be transferred under the appropriation in Laws 1993, chapter 369, section 2, subdivision 2, in fiscal year 1994 to the regional revolving loan fund account in the special revenue fund is to be transferred instead to the rural rehabilitation account in the special revenue fund.

(c) Job Skills Partnership 500,000

This appropriation is added to the appropriations made in Laws 1993, chapter 369, section 2, subdivision 5, and the total is the budget base for the next biennium. The appropriation is added to the $1,088,000 for fiscal year 1995 for the job skills partnership. The purpose for the original $1,088,000 and the additional appropriation is for the job skills partnership program under Minnesota Statutes, chapter 116L.

(d) Phalen Corridor 450,000

This appropriation is to make a grant to the city of Saint Paul for the first phase of development and for infrastructure analysis of the Phalen corridor, a redevelopment program to transform an underutilized railroad corridor into a 100-acre industrial park for, primarily, manufacturing and industrial employment. This appropriation is not available unless matched by an equal amount from nonstate sources.

(e) Women-Owned Businesses 25,000

This appropriation is to conduct a study of women-owned businesses.

(f) North Metro Business Retention and Development Commission 35,000

This appropriation is added to the grant authorized in Laws 1993, chapter 369, section 2, subdivision 5, for the North Metro Business Retention and Development Commission, and is for the purpose of including the cities of New Brighton

and Mounds View in the pilot project. This grant is available only on a demonstration of a dollar-for-dollar cash match from the commission.		
(g) Agricultural Processing Facility		500,000
This appropriation is for a grant to a city that is the site of an agricultural processing facility with a project cost estimated to be at least $100,000,000. The grant shall be made only if such a facility is located in the city. The grant must be used to pay costs related to the project.		
Sec. 3. LABOR INTERPRETIVE CENTER	45,000	140,000
These general fund appropriations for operational expenditures are in addition to the appropriations transferred in Laws 1993, chapter 369, section 26.		
Any unencumbered balance remaining in the first year does not cancel but is available for the second year.		
The commissioner of administration shall manage and control the land acquired pursuant to Laws 1987, chapter 400, section 61, until funds are appropriated and construction is authorized by the legislature to begin on the labor interpretive center.		
Of the money appropriated for 1994, up to $10,000 is available immediately to repay any amount owed the bond proceeds fund.		
Sec. 4. MINNESOTA TECHNOLOGY INCORPORATED	-0-	200,000
This appropriation is added to the appropriation for transfer from the general fund to the Minnesota Technology, Inc. fund in Laws 1993, chapter 369, section 3, and is for state match for the first year of a federal grant for a defense conversion consortium.		
Sec. 5. JOBS AND TRAINING		
Total Appropriation	-0-	600,000
(a) This appropriation is added to the appropriation in Laws 1993, chapter 369, section 5.		
(b) Supported Employment		150,000

$75,000 of this appropriation must be used to fund direct services for persons with severe disabilities. $75,000 of this appropriation is for staff salary cost of living adjustments to extended employment program grants for extended employment and long-term employment under Minnesota Statutes, section 268A.09.

(c) Displaced homemaker 165,000

This appropriation is for the purpose of the displaced homemaker program under Minnesota Statutes, section 268.96.

(d) Minnesota Youth Programs 235,000

This appropriation is for the summer youth program under Minnesota Statutes, sections 268.56 and 268.561, for a grant of $150,000 to the Minneapolis park and recreation board and $85,000 to the city of St. Paul for demonstration programs in hiring youth for summer jobs. These grants must be matched from nonstate sources. The demonstration programs must otherwise comply with Minnesota Statutes, sections 268.56 and 268.561.

(e) Employment Services for Persons With Mental Illness 50,000

Of this appropriation, $50,000 is appropriated from the general fund to the commissioner of jobs and training for fiscal year 1995 for the grants under Minnesota Statutes, section 268A.13, and the development of a statewide plan for establishing a statewide system to reimburse providers for employment support services for persons with mental illness.

Sec. 6. LABOR AND INDUSTRY -0- 50,000

SUMMARY BY FUND

General Fund	$ -0-	$ -0-
Workers' Compensation Special fund	-0-	50,000
(a) OSHA Supplement Fund		50,000

This appropriation is from the special compensation fund and is added to the appropriation in Laws 1993, chapter 369, section 9, subdivision 3.

(b) OSHA Inspectors

Notwithstanding Minnesota Statutes, section 79.253, $90,000 is appropriated for fiscal year 1995 from the assigned risk safety account in the special compensation fund to the commissioner of labor and industry for the purpose of hiring two occupational safety and health inspectors. The inspectors shall perform safety consultations for employers through labor-management committees as defined in section 179.81, subdivision 2, under an interagency agreement entered into between the commissioners of labor and industry and mediation services.

Sec. 7. COMMERCE -0- 8,000

This appropriation is for a study, in consultation with the attorney general, of the pawnbroker industry in Minnesota. The commissioner shall study:

(1) current licensing and regulation of pawnbrokers by political subdivisions, the effectiveness of that licensing, and the need, if any, for licensing and regulation by the state; and

(2) rates of interest or fees charged on pawnbroker loans in Minnesota and other states, and whether the state should establish a maximum rate of interest or fee for such loans.

The commissioner shall report findings, conclusions, and recommendations of the study to the legislature by December 1, 1994.

Sec. 8. PUBLIC SERVICE -0- (220,000)

This reduction is to the appropriation in Laws 1993, chapter 369, section 11, subdivision 5, for transfer to the energy and conservation account under Minnesota Statutes, section 216B.241, subdivision 2a, for programs administered by the commissioner of jobs and training to improve the energy efficiency of residential LP gas heating equipment in low-income households, and when necessary, to provide weatherization services to the homes.

Sec. 9. MINNESOTA WORLD TRADE CENTER CORPORATION 78,000 111,000

The appropriation for the first year is from the balance reduction in the export

finance working capital account under Minnesota Statutes, section 116J.9673, subdivision 4. The appropriation for the second year is not available unless matched $1 for every $2 of the state appropriation by the St. Paul business community.

The appropriation is for the purposes of paying the accrued debt of the World Trade Center Corporation.

Sec. 10. MINNESOTA HISTORICAL SOCIETY	-0-	150,000
(a) Archaeology		50,000

This appropriation is for the state archaeology function and purpose.

(b) Museum of the National Guard	25,000

This appropriation is for a contribution from the state to the Museum of the National Guard in Washington D.C.

(c) Grand Meadow Chert Quarry	35,000

This appropriation is for a grant to the Mower county historical society for acquisition of the historic Grand Meadow chert quarry.

(d) Minnesota Transportation Museum	10,000

This appropriation is for restoration of a president's conference committee street car, and must be matched on a one-for-one basis from private sources, including in-kind contributions.

(e) St. Anthony Falls Area	60,000

Of this appropriation, $35,000 is for a grant to the Minneapolis parks and recreation board, to be used by the board as a grant to further develop the great river road project in the central Mississippi riverfront park. A grant made by the board from this appropriation is not subject to the matching requirements of Minnesota Statutes, section 138.766. Of this appropriation, $25,000 is for a grant to the St. Anthony Falls heritage board for board operating costs.

(f) Hinckley Fire Museum	10,000

This appropriation is for a grant to the

Pine county historical society for renovation of the Hinckley fire museum.		
(g) Kee Theatre		10,000
This appropriation is for a grant for the restoration of the Kee theatre in Kiester.		
(h) Cloquet-Moose Lake Forest Fire Center		(50,000)
The appropriation in Laws 1993, chapter 369, section 12, subdivision 6, paragraph (g), is canceled.		
Sec. 11. BOARD OF THE ARTS	-0-	115,000
This appropriation is for a grant to the city of Minneapolis for capital improvements to the Hennepin center for the arts. The city may give this money as a grant to the governing body of the Hennepin center for the arts.		
Sec. 12. COUNCIL ON AFFAIRS OF SPANISH SPEAKING PEOPLE	-0-	10,000
This appropriation is for (1) making the position of the council's ombudsperson for families a full-time position, and (2) statewide outreach.		
The council shall report to the legislature by February 1, 1995, on the results and effects of the statewide outreach.		
Sec. 13. COUNCIL ON BLACK MINNESOTANS	-0-	10,000
This appropriation is for (1) making the position of the council's ombudsperson for families a full-time position, and (2) statewide outreach.		
The council shall report to the legislature by February 1, 1995, on the results and effects of the statewide outreach.		
Sec. 14. COUNCIL ON ASIAN-PACIFIC MINNESOTANS	-0-	10,000
This appropriation is for (1) making the position of the council's ombudsperson for families a full-time position, and (2) statewide outreach.		
The council shall report to the legislature by February 1, 1995, on the results and effects of the statewide outreach.		
Sec. 15. INDIAN AFFAIRS COUNCIL	-0-	10,000

This appropriation is for (1) making the position of the council's ombudsperson for families a full-time position, and (2) statewide outreach.

The council shall report to the legislature by February 1, 1995, on the results and effects of the statewide outreach.

Sec. 16. [STUDY; WOMEN-OWNED BUSINESSES.]

The commissioner of trade and economic development, in consultation with the commissioner of commerce, shall conduct a study of the status of women-owned businesses in Minnesota. The commissioner shall:

(1) identify and compile information on trends in women business ownership and trends in the size of women-owned businesses;

(2) identify the distribution of women-owned businesses by industry and the demographic profile of women business owners;

(3) identify the current and prospective needs of women-owned businesses for all types of credit and capital, including start-up capital, expansion capital, and working capital, considering the number and type of women-owned businesses and the rate of formation of women-owned businesses;

(4) identify and document the availability of all types of credit and financing for women-owned businesses;

(5) describe any barriers that exist that limit women-owned businesses' access to capital and credit;

(6) examine and document the use of publicly funded capital subsidy programs by women-owned businesses, including business loan and grant programs, interest subsidy programs, and loan insurance and loan guarantee programs;

(7) evaluate the effectiveness of the community reinvestment act in Minnesota as one method of addressing the credit needs of women-owned businesses;

(8) compare the relative access to credit of women-owned businesses in Minnesota and women-owned businesses in other states or regions;

(9) provide recommendations to improve, as necessary, access to credit by, and the availability of credit for, women-owned businesses;

(10) identify the level of participation by women-owned businesses in state procurement programs; and

(11) identify the barriers, by industry, which inhibit the ability of women to compete for and obtain contracts.

The commissioner shall use the most current and reliable information available, including information the commissioner obtains through a survey of Minnesota's women-owned corporations, partnerships, limited liability companies, and sole proprietorships. Any state agency with information or expertise required for the study shall cooperate by supplying data or assistance as requested by the commissioner. The commissioner shall prepare

a report summarizing the findings and recommendations and present it to the legislature by January 30, 1995.

Sec. 17. [MICRO BUSINESS LOANS.]

The commissioner of trade and economic development shall evaluate ways to encourage micro business loans for small start-up businesses. The commissioner shall report to the legislature as part of the biennial budget process on ways to meet the capital needs of small start-up businesses, including proposed measures of the effectiveness of these loans.

Sec. 18. Minnesota Statutes 1993 Supplement, section 15.50, subdivision 2, is amended to read:

Subd. 2. [CAPITOL AREA PLAN.] (a) The board shall prepare, prescribe, and from time to time, after a public hearing, amend a comprehensive use plan for the capitol area, called the area in this subdivision, which consists of that portion of the city of Saint Paul comprehended within the following boundaries: Beginning at the point of intersection of the center line of the Arch-Pennsylvania freeway and the center line of Marion Street, thence southerly along the center line of Marion Street extended to a point 50 feet south of the south line of Concordia Avenue, thence southeasterly along a line extending 50 feet from the south line of Concordia Avenue to a point 125 feet from the west line of John Ireland Boulevard, thence southwesterly along a line extending 125 feet from the west line of John Ireland Boulevard to the south line of Dayton Avenue, thence northeasterly from the south line of Dayton Avenue to the west line of John Ireland Boulevard, thence northeasterly to the center line of the intersection of Old Kellogg Boulevard and Summit Avenue, thence northeasterly along the center line of Summit Avenue to the center line of the new West Kellogg Boulevard, thence southerly along the east line of the new West Kellogg Boulevard, to the center line of West Seventh Street, thence northeasterly along the center line of West Seventh Street to the center line of the Fifth Street ramp, thence northwesterly along the center line of the Fifth Street ramp to the east line of the right-of-way of Interstate Highway 35-E, thence northeasterly along the east line of the right-of-way of Interstate Highway 35-E to the south line of the right-of-way of Interstate Highway 94, thence easterly along the south line of the right-of-way of Interstate Highway 94 to the west line of St. Peter Street, thence southerly to the south line of Eleventh Street, thence easterly along the south line of Eleventh Street to the west line of Cedar Street, thence southeasterly along the west line of Cedar Street to the center line of Tenth Street, thence northeasterly along the center line of Tenth Street to the center line of Minnesota Street, thence northwesterly along the center line of Minnesota Street to the center line of Eleventh Street, thence northeasterly along the center line of Eleventh Street to the center line of Jackson Street, thence northwesterly along the center line of Jackson Street to the center line of the Arch-Pennsylvania freeway extended, thence westerly along the center line of the Arch-Pennsylvania freeway extended and Marion Street to the point of origin. If construction of the labor interpretive center does not commence prior to December 31, ~~1996~~ *1998*, at the site recommended by the board, the boundaries of the capitol area revert to their configuration as of 1992.

Under the comprehensive plan, or a portion of it, the board may regulate, by means of zoning rules adopted under the administrative procedure act, the kind, character, height, and location, of buildings and other structures constructed or used, the size of yards and open spaces, the percentage of lots

that may be occupied, and the uses of land, buildings and other structures, within the area. To protect and enhance the dignity, beauty, and architectural integrity of the capitol area, the board is further empowered to include in its zoning rules design review procedures and standards with respect to any proposed construction activities in the capitol area significantly affecting the dignity, beauty, and architectural integrity of the area. No person may undertake these construction activities as defined in the board's rules in the capitol area without first submitting construction plans to the board, obtaining a zoning permit from the board, and receiving a written certification from the board specifying that the person has complied with all design review procedures and standards. Violation of the zoning rules is a misdemeanor. The board may, at its option, proceed to abate any violation by injunction. The board and the city of St. Paul shall cooperate in assuring that the area adjacent to the capitol area is developed in a manner that is in keeping with the purpose of the board and the provisions of the comprehensive plan.

(b) The commissioner of administration shall act as a consultant to the board with regard to the physical structural needs of the state. The commissioner shall make studies and report the results to the board when it requests reports for its planning purpose.

(c) No public building, street, parking lot, or monument, or other construction may be built or altered on any public lands within the area unless the plans for the project conform to the comprehensive use plan as specified in paragraph (d) and to the requirement for competitive plans as specified in paragraph (e). No alteration substantially changing the external appearance of any existing public building approved in the comprehensive plan or the exterior or interior design of any proposed new public building the plans for which were secured by competition under paragraph (e) may be made without the prior consent of the board. The commissioner of administration shall consult with the board regarding internal changes having the effect of substantially altering the architecture of the interior of any proposed building.

(d) The comprehensive plan must show the existing land uses and recommend future uses including: areas for public taking and use; zoning for private land and criteria for development of public land, including building areas, open spaces, monuments, and other memorials; vehicular and pedestrian circulation; utilities systems; vehicular storage; elements of landscape architecture. No substantial alteration or improvement may be made to public lands or buildings in the area without the written approval of the board.

(e) The board shall secure by competitions plans for any new public building. Plans for any comprehensive plan, landscaping scheme, street plan, or property acquisition that may be proposed, or for any proposed alteration of any existing public building, landscaping scheme or street plan may be secured by a similar competition. A competition must be conducted under rules prescribed by the board and may be of any type which meets the competition standards of the American Institute of Architects. Designs selected become the property of the state of Minnesota, and the board may award one or more premiums in each competition and may pay the costs and fees that may be required for its conduct. At the option of the board, plans for projects estimated to cost less than $1,000,000 may be approved without competition provided the plans have been considered by the advisory committee described in paragraph (h). Plans for projects estimated to cost less than $400,000 and for construction of streets need not be considered by the advisory committee if in conformity with the comprehensive plan.

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

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

(h) The board may not adopt any plan under paragraph (e) unless it first receives the comments and criticism of an advisory committee of three persons, each of whom is either an architect or a planner, who have been selected and appointed as follows: one by the board of the arts, one by the board, and one by the Minnesota Society of the American Institute of Architects. Members of the committee may not be contestants under paragraph (e). The comments and criticism must be a matter of public information. The committee shall advise the board on all architectural and planning matters. For that purpose, the committee must be kept currently informed concerning, and have access to, all data, including all plans, studies, reports and proposals, relating to the area as the data are developed or in the process of preparation, whether by the commissioner of administration, the commissioner of trade and economic development, the metropolitan council, the city of Saint Paul, or by any architect, planner, agency or organization, public or private, retained by the board or not retained and engaged in any work or planning relating to the area, and a copy of any data prepared by any public employee or agency must be filed with the board promptly upon completion.

The board may employ stenographic or technical help that may be reasonable to assist the committee to perform its duties.

When so directed by the board, the committee may serve as, and any member or members of the committee may serve on, the jury or as professional advisor for any architectural competition, and the board shall select the architectural advisor and jurors for any competition with the advice of the committee.

The city of Saint Paul shall advise the board.

(i) The comprehensive plan for the area must be developed and maintained in close cooperation with the commissioner of trade and economic development, the planning department and the council for the city of Saint Paul, and the board of the arts, and no plan or amendment of a plan may be effective without 90 days' notice to the planning department of the city of Saint Paul and the board of the arts and without a public hearing with opportunity for public testimony.

(j) The board and the commissioner of administration, jointly, shall prepare, prescribe, and from time to time revise standards and policies governing the repair, alteration, furnishing, appearance, and cleanliness of the public and ceremonial areas of the state capitol building. The board shall consult with and

receive advice from the director of the Minnesota state historical society regarding the historic fidelity of plans for the capitol building. The standards and policies developed under this paragraph are binding upon the commissioner of administration. The provisions of sections 14.02, 14.04 to 14.36, 14.38, and 14.44 to 14.45 do not apply to this paragraph.

(k) The board in consultation with the commissioner of administration shall prepare and submit to the legislature and the governor no later than October 1 of each even-numbered year a report on the status of implementation of the comprehensive plan together with a program for capital improvements and site development, and the commissioner of administration shall provide the necessary cost estimates for the program. The board shall report any changes to the comprehensive plan adopted by the board to the committee on governmental operations and gambling of the house of representatives and the committee on governmental operations and reform of the senate and upon request shall provide testimony concerning the changes. The board shall also provide testimony to the legislature on proposals for memorials in the capitol area as to their compatibility with the standards, policies, and objectives of the comprehensive plan.

(l) The state shall, by the attorney general upon the recommendation of the board and within appropriations available for that purpose, acquire by gift, purchase, or eminent domain proceedings any real property situated in the area described in this section, and it may also acquire an interest less than a fee simple interest in the property, if it finds that the property is needed for future expansion or beautification of the area.

(m) The board is the successor of the state veterans' service building commission, and as such may adopt rules and may reenact the rules adopted by its predecessor under Laws 1945, chapter 315, and amendments to it.

(n) The board shall meet at the call of the chair and at such other times as it may prescribe.

(o) The commissioner of administration shall assign quarters in the state veterans service building to (1) the department of veterans affairs, of which a part that the commissioner of administration and commissioner of veterans affairs may mutually determine must be on the first floor above the ground, and (2) the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Military Order of the Purple Heart, United Spanish War Veterans, and Veterans of World War I, and their auxiliaries, incorporated, or when incorporated, under the laws of the state, and (3) as space becomes available, to other state departments and agencies as the commissioner may deem desirable.

Sec. 19. Minnesota Statutes 1993 Supplement, section 16B.06, subdivision 2a, is amended to read:

Subd. 2a. [EXCEPTION.] The requirements of subdivision 2 do not apply to state *contracts of the department of jobs and training distributing state and federal funds for the purpose of subcontracting the provision of program services to eligible recipients. For these contracts, the commissioner of jobs and training is authorized to directly enter into state contracts and encumber available funds. For* contracts distributing state or federal funds pursuant to the federal Economic Dislocation and Worker Adjustment Assistance Act, United States Code, title 29, section 1651 et seq.; or Minnesota Statutes, sections 268.977, 268.9771, 268.978, 268.9781, and 268.9782. ~~For these~~

~~contracts~~, the commissioner of jobs and training is authorized to directly enter into state contracts with approval of the governor's job training council and encumber available funds to ensure a rapid response to the needs of dislocated workers. The commissioner *of jobs and training* shall adopt internal procedures to administer and monitor funds distributed under these contracts.

Sec. 20. Minnesota Statutes 1993 Supplement, section 16B.08, subdivision 7, is amended to read:

Subd. 7. [SPECIFIC PURCHASES.] (a) The following may be purchased without regard to the competitive bidding requirements of this chapter:

(1) merchandise for resale at state park refectories or facility operations;

(2) farm and garden products, which may be sold at the prevailing market price on the date of the sale;

(3) meat for other state institutions from the technical college maintained at Pipestone by independent school district No. 583; and

(4) products and services from the Minnesota correctional facilities.

(b) Supplies, materials, equipment, and utility services for use by a community-based residential facility operated by the commissioner of human services may be purchased or rented without regard to the competitive bidding requirements of this chapter.

(c) Supplies, materials, or equipment to be used in the operation of a hospital licensed under sections 144.50 to 144.56 that are purchased under a shared service purchasing arrangement whereby more than one hospital purchases supplies, materials, or equipment with one or more other hospitals, either through one of the hospitals or through another entity, may be purchased without regard to the competitive bidding requirements of this chapter if the following conditions are met:

(1) the hospital's governing authority authorizes the arrangement;

(2) the shared services purchasing program purchases items available from more than one source on the basis of competitive bids or competitive quotations of prices; and

(3) the arrangement authorizes the hospital's governing authority or its representatives to review the purchasing procedures to determine compliance with these requirements.

(d) Supplies, materials, equipment, and utility services to be used or purchased by the iron range resources and rehabilitation board are subject to the competitive bidding requirements of this chapter only as described in section 298.2211, subdivision 3a.

Sec. 21. Minnesota Statutes 1993 Supplement, section 44A.025, is amended to read:

44A.025 [DUTIES.]

The board shall:

(1) promote and market the Minnesota world trade center *corporation*;

(2) sponsor conferences or other promotional events in the conference and service center;

(3) adopt bylaws governing operation of the corporation by November 1, 1987;

(4) conduct public relations, *marketing,* and liaison activities between the corporation, *the Minnesota trade office,* and the international business community;

(5) establish and maintain an office in the Minnesota world trade center; ~~and~~

(6) not duplicate programs or services provided by the ~~commissioner of trade and economic development, the Minnesota trade division, or the~~ commissioner of agriculture; *and*

(7) enter into administrative, programming, and service partnerships with the commissioner of trade and economic development.

Sec. 22. Minnesota Statutes 1992, section 44A.0311, is amended to read:

44A.0311 [WORLD TRADE CENTER CORPORATION ACCOUNT.]

The world trade center corporation account is in the special revenue fund. All money received by the corporation, including money generated from the use of the conference and service center, ~~except money generated from the use of the center by the Minnesota trade division and by the sale of the assets or ownership of the corporation under section 44A.12,~~ must be deposited in the account. Money in the account including interest earned is appropriated to the board and must be used exclusively for corporation purposes. Any money remaining in the account after sale of the assets or ownership of the corporation under section 44A.12 shall revert to the general fund.

Sec. 23. Minnesota Statutes 1992, section 60A.14, subdivision 1, is amended to read:

Subdivision 1. [FEES OTHER THAN EXAMINATION FEES.] In addition to the fees and charges provided for examinations, the following fees must be paid to the commissioner for deposit in the general fund:

(a) by township mutual fire insurance companies:

(1) for filing certificate of incorporation $25 and amendments thereto, $10;

(2) for filing annual statements, $15;

(3) for each annual certificate of authority, $15;

(4) for filing bylaws $25 and amendments thereto, $10.

(b) by other domestic and foreign companies including fraternals and reciprocal exchanges:

(1) for filing certified copy of certificate of articles of incorporation, $100;

(2) for filing annual statement, $225;

(3) for filing certified copy of amendment to certificate or articles of incorporation, $100;

(4) for filing bylaws, $75 or amendments thereto, $75;

(5) for each company's certificate of authority, $575, annually.

(c) the following general fees apply:

(1) for each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, $25;

(2) for each copy of paper on file in the commissioner's office 50 cents per page, and $2.50 for certifying the same;

(3) for license to procure insurance in unadmitted foreign companies, $575;

(4) ~~for receiving and forwarding each notice, proof of loss, summons, complaint or other process served upon the commissioner of commerce, as attorney for service of process upon any nonresident agent or insurance company, including reciprocal exchanges, $15 plus the cost of effectuating service by certified mail, which amount must be paid by the party serving the notice and may be taxed as other costs in the action;~~

~~(5)~~ for valuing the policies of life insurance companies, one cent per $1,000 of insurance so valued, provided that the fee shall not exceed $13,000 per year for any company. The commissioner may, in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission, to do business in this state, accept a certificate of valuation from the company's own actuary or from the commissioner of insurance of the state or territory in which the company is domiciled;

~~(6)~~ *(5)* for receiving and filing certificates of policies by the company's actuary, or by the commissioner of insurance of any other state or territory, $50;

~~(7) for issuing an initial license to an individual agent, $30 per license, for issuing an initial agent's license to a partnership or corporation, $100, and for issuing an amendment (variable annuity) to a license, $50, and for renewal of amendment, $25;~~

~~(8)~~ *(6)* for each appointment of an agent filed with the commissioner, a domestic insurer shall remit $5 and all other insurers shall remit $3;

~~(9) for renewing an individual agent's license, $30 per year per license, and for renewing a license issued to a corporation or partnership, $60 per year;~~

~~(10) for issuing and renewing a surplus lines agent's license, $250;~~

~~(11) for issuing duplicate licenses, $10;~~

~~(12) for issuing licensing histories, $20;~~

~~(13)~~ *(7)* for filing forms and rates, $50 per filing;

~~(14)~~ *(8)* for annual renewal of surplus lines insurer license, $300.

The commissioner shall adopt rules to define filings that are subject to a fee.

Sec. 24. Minnesota Statutes 1992, section 60A.19, subdivision 4, is amended to read:

Subd. 4. [~~FEES~~ *SERVICE OF PROCESS.*] ~~The commissioner shall be entitled to charge and receive a fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause (4), for each notice, proof of loss, summons, or other process served under the provisions of this subdivision and subdivision 3, to be paid by the persons serving the same.~~ The service of process authorized by this section shall be made in compliance with section 45.028, subdivision 2.

Sec. 25. Minnesota Statutes 1993 Supplement, section 60A.198, subdivision 3, is amended to read:

Subd. 3. [PROCEDURE FOR OBTAINING LICENSE.] A person licensed as an agent in this state pursuant to other law may obtain a surplus lines license by doing the following:

(a) filing an application in the form and with the information the commissioner may reasonably require to determine the ability of the applicant to act in accordance with sections 60A.195 to 60A.209;

(b) maintaining an agent's license in this state;

(c) delivering to the commissioner a financial guarantee bond from a surety acceptable to the commissioner for the greater of the following:

(1) $5,000; or

(2) the largest semiannual surplus lines premium tax liability incurred by the applicant in the immediately preceding five years; ~~and~~

(d) agreeing to file with the commissioner of revenue no later than February 15 and August 15 annually, a sworn statement of the charges for insurance procured or placed and the amounts returned on the insurance canceled under the license for the preceding six-month period ending December 31 and June 30 respectively, and at the time of the filing of this statement, paying the commissioner a tax on premiums equal to three percent of the total written premiums less cancellations;

(e) ~~annually~~ paying a fee as prescribed by section ~~60A.14~~ *60K.06*, subdivision ~~1~~ 2, paragraph ~~(c)~~ *(a)*, clause ~~(10)~~ *(4)*; and

(f) paying penalties imposed under section 289A.60, subdivision 1, as it relates to withholding and sales or use taxes, if the tax due under clause (d) is not timely paid.

Sec. 26. Minnesota Statutes 1992, section 60A.21, subdivision 2, is amended to read:

Subd. 2. [SERVICE OF PROCESS UPON UNAUTHORIZED INSURER.] (1) Any of the following acts in this state effected by mail or otherwise by an unauthorized foreign or alien insurer: (a) the issuance or delivery of contracts of insurance to residents of this state or to corporations authorized to do business therein; (b) the solicitation of applications for such contracts; (c) the collection of premiums, membership fees, assessments, or other considerations for such contracts; or (d) any other transaction of insurance business, is equivalent to and shall constitute an appointment by such insurer of the commissioner of commerce and the commissioner's successor or successors in office to be its true and lawful attorney upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer.

(2) Such service of process shall be made in compliance with section 45.028, subdivision 2 ~~and the payment of a filing fee as prescribed by section 60A.14, subdivision 1, paragraph (c), clause (4)~~.

(3) Service of process in any such action, suit, or proceeding shall in addition to the manner provided in clause (2) of this subdivision be valid if served upon any person within this state who, in this state on behalf of such insurer, is: (a) soliciting insurance, or (b) making, issuing, or delivering any contract of insurance, or (c) collecting or receiving any premium, membership fee, assessment, or other consideration for insurance; and if a copy of such process is sent within ten days thereafter by certified mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant and the defendant's receipt, or the receipt issued by the post office with which the letter is certified showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the administrator of the court in which such action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

(4) No plaintiff or complainant shall be entitled to a judgment by default under this subdivision until the expiration of 30 days from the date of the filing of the affidavit of compliance.

(5) Nothing in this subdivision contained shall limit or abridge the right to serve any process, notice, or demand upon any insurer in any other manner now or hereafter permitted by law.

(6) The provisions of this section shall not apply to surplus line insurance lawfully effectuated under Minnesota law, or to reinsurance, nor to any action or proceeding against an unauthorized insurer arising out of:

(a) Wet marine and transportation insurance;

(b) Insurance on or with respect to subjects located, resident, or to be performed wholly outside this state, or on or with respect to vehicles or aircraft owned and principally garaged outside this state;

(c) Insurance on property or operations of railroads engaged in interstate commerce; or

(d) Insurance on aircraft or cargo of such aircraft, or against liability, other than employer's liability, arising out of the ownership, maintenance, or use of such aircraft, where the policy or contract contains a provision designating the commissioner as its attorney for the acceptance of service of lawful process in any action or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such policy, or where the insurer enters a general appearance in any such action.

Sec. 27. Minnesota Statutes 1992, section 60K.03, subdivision 1, is amended to read:

Subdivision 1. [PROCEDURE.] An application for a license to act as an insurance agent shall be made to the commissioner by the person who seeks to be licensed. The application for license shall be accompanied by a written appointment from an admitted insurer authorizing the applicant to act as its agent under one or both classes of license. The insurer must also submit its check payable to the state treasurer for the amount of the appointment fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause ~~(9)~~ *(6)*, at the time the agent becomes licensed. The application and appointment must be on forms prescribed by the commissioner.

If the applicant is a natural person, no license shall be issued until that natural person has become qualified.

If the applicant is a partnership or corporation, no license shall be issued until at least one natural person who is a partner, director, officer, stockholder, or employee shall be licensed as an insurance agent.

Sec. 28. Minnesota Statutes 1992, section 60K.03, subdivision 5, is amended to read:

Subd. 5. [SUBSEQUENT APPOINTMENTS.] A person who holds a valid agent's license from this state may solicit applications for insurance on behalf of an admitted insurer with which the licensee does not have a valid appointment on file with the commissioner; provided that the licensee has permission from the insurer to solicit insurance on its behalf and, provided further, that the insurer upon receipt of the application for insurance submits a written notice of appointment to the commissioner accompanied by its check payable to the state treasurer in the amount of the appointment fee prescribed by section 60A.14, subdivision 1, paragraph (c), clause ~~(9)~~ *(6)*. The notice of appointment must be on a form prescribed by the commissioner.

Sec. 29. Minnesota Statutes 1992, section 60K.03, subdivision 6, is amended to read:

Subd. 6. [AMENDMENT OF LICENSE.] An application to the commissioner to amend a license to reflect a change of name, or to include an additional class of license, or for any other reason, shall be on forms provided by the commissioner and shall be accompanied by the applicant's surrendered license and a check payable to the state treasurer for the amount of fee specified in section ~~60A.14~~ *60K.06*, subdivision ~~1~~ 2, paragraph ~~(c)~~ *(a)*.

An applicant who surrenders an insurance license pursuant to this subdivision retains licensed status until an amended license is received.

Sec. 30. Minnesota Statutes 1992, section 60K.06, is amended to read:

60K.06 [~~RENEWAL FEE~~ *FEES*.]

Subdivision 1. [RENEWAL FEES.] (a) Each agent licensed pursuant to section 60K.03 shall ~~annually~~ pay in accordance with the procedure adopted by the commissioner a renewal fee as prescribed by ~~section 60A.14,~~ subdivision ~~1, paragraph (c), clause (10)~~ 2.

(b) Every agent, corporation, *limited liability company,* and partnership *renewal* license ~~expires on October 31 of the year for which period a license is issued~~ *is valid for a period of 24 months. The commissioner may stagger the implementation of the 24-month licensing program so that approximately one-half of the licenses will expire on October 31 of each even-numbered year and the other half on October 31 of each odd-numbered year. Those licensees who will receive a 12-month license on November 1, 1994, because of the staggered implementation schedule, will pay for the license a fee reduced by an amount equal to one-half the fee for renewal of the license.*

(c) Persons whose applications have been properly and timely filed who have not received notice of denial of renewal are approved for renewal and may continue to transact business whether or not the renewed license has been received on or before November 1. Applications for renewal of a license are timely filed if received by the commissioner on or before October 15 of the year due, on forms duly executed and accompanied by appropriate fees. An

application mailed is considered timely filed if addressed to the commissioner, with proper postage, and postmarked by October 15.

~~(d) The commissioner may issue licenses for agents, corporations, or partnerships for a three year period. If three year licenses are issued, the fee is three times the annual license fee.~~

Subd. 2. [LICENSING FEES.] *(a) In addition to the fees and charges provided for examinations, each agent licensed pursuant to section 60K.03 shall pay to the commissioner:*

(1) a fee of $60 per license for an initial license issued to an individual agent, and a fee of $60 for each renewal;

(2) a fee of $160 for an initial license issued to a partnership, limited liability company, or corporation, and a fee of $120 for each renewal;

(3) a fee of $75 for an initial amendment (variable annuity) to a license, and a fee of $50 for each renewal;

(4) a fee of $500 for an initial surplus lines agent's license, and a fee of $500 for each renewal;

(5) for issuing a duplicate license, $10; and

(6) for issuing licensing histories, $20.

(b) Persons whose applications have been properly and timely filed who have not received notice of denial of renewal are approved for renewal and may continue to transact business whether or not the renewed license has been received on or before November 1 of the renewal year. Applications for renewal of a license are timely filed if received by the commissioner on or before the 15th day preceding the license renewal date of the applicant on forms duly executed and accompanied by appropriate fees. An application mailed is considered timely filed if addressed to the commissioner, with proper postage, and postmarked on or before the 15th day preceding the licensing renewal date of the applicant.

(c) Initial licenses issued under this section must be valid for a period not to exceed two years. The commissioner shall assign an expiration date to each initial license so that approximately one-half of all licenses expire each year. Each initial license must expire on October 31 of the expiration year assigned by the commissioner.

(d) All fees shall be retained by the commissioner and are nonreturnable, except that an overpayment of any fee must be refunded upon proper application.

Subd. 3. [INITIAL LICENSE EXPIRATION; FEE REDUCTION.] *If an initial license issued under subdivision 2, paragraph (a), expires less than 12 months after issuance, the license fee must be reduced by an amount equal to one-half the fee for a renewal of the license.*

Sec. 31. Minnesota Statutes 1992, section 60K.19, subdivision 8, is amended to read:

Subd. 8. [MINIMUM EDUCATION REQUIREMENT.] Each person subject to this section shall complete ~~annually~~ a minimum of ~~15~~ *30* credit hours of courses accredited by the commissioner *during each 24-month licensing period after the expiration of his or her initial licensing period. At*

least 15 of the 30 credit hours must be completed during the first 12 months of the 24-month licensing period. Any person whose initial licensing period extends more than six months shall complete 15 hours of courses accredited by the commissioner during the initial license period. Any person teaching or lecturing at an accredited course qualifies for 1-1/2 times the number of credit hours that would be granted to a person completing the accredited course. No more than ~~7-1/2~~ *15* credit hours per ~~year~~ *licensing period* may be credited to a person for courses sponsored by, offered by, or affiliated with an insurance company or its agents. *Continuing education must be earned no later than September 30 of the renewal year.* Courses sponsored by, offered by, or affiliated with an insurance company or agent may restrict its students to agents of the company or agency.

Sec. 32. Minnesota Statutes 1992, section 82.20, subdivision 7, is amended to read:

Subd. 7. [EFFECTIVE DATE OF LICENSE.] ~~Every license issued~~ *Licenses renewed* pursuant to this chapter ~~shall expire on the June 30 next following the issuance of said license.~~ *are valid for a period of 24 months. New licenses issued during a 24-month licensing period will expire on June 30 of the expiration year assigned to the license. Implementation of the 24-month licensing program must be staggered so that approximately one-half of the licenses will expire on June 30 of each even-numbered year and the other one-half on June 30 of each odd-numbered year. Those licensees who will receive a 12-month license on July 1, 1995, because of the staggered implementation schedule will pay for the license a fee reduced by an amount equal to one-half the fee for renewal of the license.*

Sec. 33. Minnesota Statutes 1992, section 82.20, subdivision 8, is amended to read:

Subd. 8. [RENEWALS.] (a) Persons whose applications have been properly and timely filed who have not received notice of denial of renewal are deemed to have been approved for renewal and may continue to transact business either as a real estate broker, salesperson, or closing agent whether or not the renewed license has been received on or before July 1 *of the renewal year*. Application for renewal of a license shall be deemed to have been timely filed if received by the commissioner by, or mailed with proper postage and postmarked by, June 15 ~~in each~~ *of the renewal* year. Applications for renewal shall be deemed properly filed if made upon forms duly executed and sworn to, accompanied by fees prescribed by this chapter and contain any information which the commissioner may require.

(b) Persons who have failed to make a timely application for renewal of a license and who have not received the renewal license as of July 1 *of the renewal year*, shall be unlicensed until such time as the license has been issued by the commissioner and is received.

Sec. 34. Minnesota Statutes 1993 Supplement, section 82.21, subdivision 1, is amended to read:

Subdivision 1. [AMOUNTS.] The following fees shall be paid to the commissioner:

(a) A fee of ~~$100 per year~~ *$150* for each initial individual broker's license, and a fee of ~~$50 per year~~ *$100* for each renewal thereof;

(b) A fee of ~~$50 per year~~ *$70* for each initial salesperson's license, and a fee of ~~$20 per year~~ *$40* for each renewal thereof;

(c) A fee of ~~$55 per year~~ *$85* for each initial real estate closing agent license, and a fee of ~~$30 per year~~ *$60* for each renewal *thereof*;

(d) A fee of ~~$100 per year~~ *$150* for each initial corporate, *limited liability company,* or partnership license, and a fee of ~~$50 per year~~ *$100* for each renewal thereof;

(e) A fee ~~of $40 per year~~ for payment to the education, research and recovery fund in accordance with section 82.34;

(f) A fee of $20 for each transfer;

(g) A fee of $50 for a corporation, *limited liability company,* or partnership name change;

(h) A fee of $10 for an agent name change;

(i) A fee of $20 for a license history;

(j) A fee of $10 for a duplicate license;

(k) A fee of $50 for license reinstatement;

(l) A fee of $20 for reactivating a corporate, *limited liability company,* or partnership license without land;

(m) A fee of $100 for course coordinator approval; and

(n) A fee of $20 for each hour or fraction of one hour of course approval sought.

Sec. 35. Minnesota Statutes 1992, section 82.21, is amended by adding a subdivision to read:

Subd. 4. [INITIAL LICENSE EXPIRATION; FEE REDUCTION.] *If an initial license issued under subdivision 1, paragraph (a), (b), (c), or (d) expires less than 12 months after issuance, the license fee shall be reduced by an amount equal to one-half the fee for a renewal of the license.*

Sec. 36. Minnesota Statutes 1993 Supplement, section 82.22, subdivision 6, is amended to read:

Subd. 6. [INSTRUCTION; NEW LICENSES.] (a) Every applicant for a salesperson's license shall be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner before taking the examination specified in subdivision 1. Every applicant for a salesperson's license shall be required to successfully complete an additional course of study in the real estate field consisting of 60 hours of instruction approved by the commissioner, of which three hours shall consist of training in state and federal fair housing laws, regulations, and rules, *and of which two hours must consist of training in laws and regulations on agency representation and disclosure,* before filing an application for the license. Every salesperson shall, within one year of licensure, be required to successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner.

(b) The commissioner may approve courses of study in the real estate field offered in educational institutions of higher learning in this state or courses of

study in the real estate field developed by and offered under the auspices of the national association of realtors, its affiliates, or private real estate schools. The commissioner shall not approve any course offered by, sponsored by, or affiliated with any person or company licensed to engage in the real estate business. The commissioner may by rule prescribe the curriculum and qualification of those employed as instructors.

(c) An applicant for a broker's license must successfully complete a course of study in the real estate field consisting of 30 hours of instruction approved by the commissioner, of which three hours shall consist of training in state and federal fair housing laws, regulations, and rules. The course must have been completed within six months prior to the date of application for the broker's license.

(d) An applicant for a real estate closing agent's license must successfully complete a course of study relating to closing services consisting of eight hours of instruction approved by the commissioner.

Sec. 37. Minnesota Statutes 1993 Supplement, section 82.22, subdivision 13, is amended to read:

Subd. 13. [CONTINUING EDUCATION.] (a) *After their first renewal date,* all real estate salespersons and all real estate brokers shall be required to successfully complete ~~15~~ *30* hours of real estate *continuing* education, either as a student or a lecturer, in courses of study approved by the commissioner, ~~each year after their initial annual renewal date or after the expiration of their currently assigned three year continuing education due date~~ *during each 24-month license period. At least 15 of the 30 credit hours must be completed during the first 12 months of the 24-month licensing period. Salespersons and brokers whose initial license period extends more than 12 months are required to complete 15 hours of real estate continuing education during the initial license period.* All ~~salespersons and brokers shall report~~ continuing education ~~on an annual basis~~ *must be earned* no later than May 31 *of the renewal year.* ~~Hours in excess of 15 earned in any one year may be carried forward to the following year.~~ *Those licensees who will receive a 12-month license on July 1, 1995, because of the staggered implementation schedule must complete 15 hours of real estate continuing education as a requirement for renewal on July 1, 1996.*

(b) The commissioner shall adopt rules defining the standards for course and instructor approval, and may adopt rules for the proper administration of this subdivision.

(c) Any program approved by Minnesota continuing legal education shall be approved by the commissioner of commerce for continuing education for real estate brokers and salespeople if the program or any part thereof relates to real estate.

(d) As part of the continuing education requirements of this section, the commissioner shall require that all real estate brokers and salespersons receive:

(1) at least two hours of training ~~every year~~ *during each license period* in courses in laws or regulations on agency representation and disclosure; and

(2) at least two hours of training ~~every even-numbered year~~ *during each license period* in courses in state and federal fair housing laws, regulations, and rules, or other antidiscrimination laws.

Clause (1) does not apply to real estate salespersons and real estate brokers engaged solely in the commercial real estate business who file with the commissioner a verification of this status ~~on an annual basis no later than May 31 as part of the annual report~~ *along with the continuing education report required* under paragraph (a).

Sec. 38. Minnesota Statutes 1993 Supplement, section 82.34, subdivision 3, is amended to read:

Subd. 3. [FEE FOR REAL ESTATE FUND.] Each real estate broker, real estate salesperson, and real estate closing agent entitled under this chapter to renew a license shall pay in addition to the appropriate renewal fee a further fee of ~~$25 per year~~ *$50 per licensing period* which shall be credited to the real estate education, research, and recovery fund. Any person who receives an initial license shall pay ~~the fee of $50~~, in addition to all other fees payable, *a fee of $75 if the license expires more than 12 months after issuance, $50 if the license expires less than 12 months after issuance.*

Sec. 39. Minnesota Statutes 1992, section 82B.08, subdivision 4, is amended to read:

Subd. 4. [EFFECTIVE DATE OF LICENSE.] ~~A license~~ *Initial licenses* issued under this chapter ~~expires on the August 31 next following the issuance of the license~~ *are valid for a period not to exceed two years. The commissioner shall assign an expiration date to each initial license so that approximately one-half of all licenses expire each year. Each initial license must expire on August 31 of the expiration year assigned by the commissioner.*

Sec. 40. Minnesota Statutes 1992, section 82B.08, subdivision 5, is amended to read:

Subd. 5. [RENEWALS.] (a) *Licenses renewed under this chapter are valid for a period of 24 months.* Persons whose applications have been properly and timely filed who have not received notice of denial of renewal are considered to have been approved for renewal and may continue to transact business as a real estate appraiser whether or not the renewed license has been received on or before September 1 *of the renewal year*. Application for renewal of a license is considered to have been timely filed if received by the commissioner by, or mailed with proper postage and postmarked by, August 1 ~~in each~~ *of the renewal* year. Applications for renewal are considered properly filed if made upon forms duly executed and sworn to, accompanied by fees prescribed by this chapter and containing information the commissioner requires.

(b) Persons who have failed to make a timely application for renewal of a license and who have not received the renewal license as of September 1 *of the renewal year* are unlicensed until the time the license has been issued by the commissioner and is received.

Sec. 41. Minnesota Statutes 1992, section 82B.09, subdivision 1, is amended to read:

Subdivision 1. [AMOUNTS.] The following fees must be paid to the commissioner:

(1) ~~a fee of $100~~ for each initial individual real estate appraiser's license*: $150 if the license expires more than 12 months after issuance, $100 if the license expires less than 12 months after issuance;* and a fee of ~~$50~~ *$100* for each ~~annual~~ renewal;

(2) a fee of $10 for a change in personal name or trade name or personal address or business location;

(3) a fee of $10 for a license history;

(4) a fee of $25 for a duplicate license;

(5) a fee of $100 for appraiser course coordinator approval; and

(6) a fee of $10 for each hour or fraction of one hour of course approval sought.

Sec. 42. Minnesota Statutes 1992, section 82B.19, subdivision 1, is amended to read:

Subdivision 1. [LICENSE RENEWALS.] A licensed real estate appraiser shall present evidence satisfactory to the commissioner of having met the continuing education requirements of this chapter before the commissioner renews a license.

The basic continuing education requirement for renewal of a license is the completion by the applicant either as a student or as an instructor, during the immediately preceding term of licensing, of at least ~~15~~ *30* classroom hours ~~per year,~~ of instruction in courses or seminars that have received the approval of the commissioner. *If the applicant's immediately preceding term of licensing consisted of 12 or more months, but fewer than 24 months, the applicant must provide evidence of completion of 15 hours of instruction during the license period. If the immediately preceding term of licensing consisted of fewer than 12 months, no continuing education need be reported.*

Sec. 43. Minnesota Statutes 1992, section 83.25, is amended to read:

83.25 [LICENSE REQUIRED.]

Subdivision 1. No person shall offer or sell in this state any interest in subdivided lands without having obtained:

(1) a license under chapter 82; and

(2) an additional license to offer or dispose of subdivided lands. This license may be obtained by submitting an application in writing to the commissioner upon forms prepared and furnished by the commissioner. Each application shall be signed and sworn to by the applicant and accompanied by a license fee of $10 *per year*. The commissioner may also require an additional examination for this license.

Subd. 2. Every license issued pursuant to this section ~~expires on June 30 following the date of issuance. It may~~ *must* be renewed, transferred, suspended, revoked or denied in the same manner as provided in chapter 82 for licenses issued pursuant to that chapter.

Subd. 3. This section does not apply to persons offering or disposing of interests in subdivided lands which are registered as securities pursuant to chapter 80A.

Sec. 44. Minnesota Statutes 1993 Supplement, section 115C.09, subdivision 1, is amended to read:

Subdivision 1. [REIMBURSABLE COSTS.] (a) The board shall provide partial reimbursement to eligible responsible persons for reimbursable costs incurred after June 4, 1987.

(b) The following costs are reimbursable for purposes of this section:

(1) corrective action costs incurred by the responsible person and documented in a form prescribed by the board, except the costs related to the physical removal of a tank;

(2) costs that the responsible person is legally obligated to pay as damages to third parties for bodily injury ~~or~~, property damage, *or corrective action costs incurred by a third party* caused by a release ~~if~~ *where* the responsible person's liability for the costs has been established by a court order ~~or a~~, consent decree, *or a court-approved stipulation of settlement approved before the effective date of this section for which the responsible party has assigned its rights to reimbursement under this section to a third-party claimant*; and

(3) up to 180 days worth of interest costs, incurred after May 25, 1991, associated with the financing of corrective action. Interest costs are not eligible for reimbursement to the extent they exceed two percentage points above the adjusted prime rate charged by banks, as defined in section 270.75, subdivision 5, at the time the financing contract was executed.

(c) A cost for liability to a third party is incurred by the responsible person when an order or consent decree establishing the liability is entered. Except as provided in this paragraph, reimbursement may not be made for costs of liability to third parties until all eligible corrective action costs have been reimbursed. If a corrective action is expected to continue in operation for more than one year after it has been fully constructed or installed, the board may estimate the future expense of completing the corrective action and, after subtracting this estimate from the total reimbursement available under subdivision 3, reimburse the costs for liability to third parties. The total reimbursement may not exceed the limit set forth in subdivision 3.

Sec. 45. Minnesota Statutes 1993 Supplement, section 116J.966, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] (a) The commissioner shall promote, develop, and facilitate trade and foreign investment in Minnesota. In furtherance of these goals, and in addition to the powers granted by section 116J.035, the commissioner may:

(1) locate, develop, and promote international markets for Minnesota products and services;

(2) arrange and lead trade missions to countries with promising international markets for Minnesota goods, technology, services, and agricultural products;

(3) promote Minnesota products and services at domestic and international trade shows;

(4) organize, promote, and present domestic and international trade shows featuring Minnesota products and services;

(5) host trade delegations and assist foreign traders in contacting appropriate Minnesota businesses and investments;

(6) develop contacts with Minnesota businesses and gather and provide information to assist them in locating and communicating with international trading or joint venture counterparts;

(7) provide information, education, and counseling services to Minnesota businesses regarding the economic, commercial, legal, and cultural contexts of international trade;

(8) provide Minnesota businesses with international trade leads and information about the availability and sources of services relating to international trade, such as export financing, licensing, freight forwarding, international advertising, translation, and custom brokering;

(9) locate, attract, and promote foreign direct investment and business development in Minnesota to enhance employment opportunities in Minnesota;

(10) provide foreign businesses and investors desiring to locate facilities in Minnesota information regarding sources of governmental, legal, real estate, financial, and business services; ~~and~~

(11) enter into contracts or other agreements with private persons and public entities, including agreements to establish and maintain offices and other types of representation in foreign countries, to carry out the purposes of promoting international trade and attracting investment from foreign countries to Minnesota and to carry out this section, without regard to sections 16B.07 and 16B.09;

(12) enter into administrative, programming, and service partnerships with the Minnesota world trade center; and

(13) market trade-related materials to businesses and organizations, and the proceeds of which must be placed in a special revolving account and are appropriated to the commissioner to prepare and distribute trade-related materials.

(b) The programs and activities of the commissioner of trade and economic development and the Minnesota trade division may not duplicate programs and activities of the commissioner of agriculture or the Minnesota world trade center corporation.

(c) The commissioner shall notify the chairs of the senate finance and house appropriations committees of each agreement under this subdivision to establish and maintain an office or other type of representation in a foreign country.

Sec. 46. Minnesota Statutes 1992, section 116J.9673, subdivision 4, is amended to read:

Subd. 4. [WORKING CAPITAL ACCOUNT.] An export finance authority working capital account is created as a special account in the state treasury. All premiums and interest collected under subdivision 3, clause (6), must be deposited into this account. Fees collected must be credited to the general fund. The balance in the account may exceed *$918,000 on June 30, 1994, and* $1,000,000 *on June 30 of each subsequent year* through accumulated earnings. Any balance in excess of *$918,000 on June 30, 1994, and* $1,000,000 on June 30 of every *subsequent* year must be transferred to the general fund. Money in the account including interest earned and appropriations made by the legislature for the purposes of this section, is appropriated annually to the finance authority for the purposes of this section. The balance in the account may decline below *$918,000 on June 30, 1994, and* $1,000,000

on June 30 of each subsequent year as required to pay defaults on guaranteed loans.

Sec. 47. Minnesota Statutes 1992, section 138.01, subdivision 1, is amended to read:

Subdivision 1. ~~For the purposes of Laws 1925, chapter 426, the Minnesota state historical society shall be construed to be an agency of the state government.~~ All appropriations made to the Minnesota historical society shall be subject to the charter of the Minnesota historical society of 1849 and as amended in 1856.

Sec. 48. Minnesota Statutes 1992, section 138.34, is amended to read:

138.34 [ADMINISTRATION OF THE ACT.]

The ~~Minnesota historical society~~ *state archaeologist* shall act as the ~~agency~~ *agent* of the state to administer and enforce the provisions of sections 138.31 to 138.42. Some enforcement provisions are shared with the ~~state archaeologist~~ *society*.

Sec. 49. Minnesota Statutes 1992, section 138.35, subdivision 1, is amended to read:

Subdivision 1. [APPOINTMENT.] The state archaeologist shall be a professional archaeologist who ~~is~~ *meets the United States secretary of the interior's professional qualification standards in Code of Federal Regulations, title 36, part 61, appendix A. The state archaeologist shall be paid a salary in the range of salaries paid to comparable state employees in the classified service. The state archaeologist may* not *be* employed by the Minnesota historical society ~~and~~. *The state archaeologist* shall be appointed by the board of the Minnesota historical society in consultation with the Indian affairs council for a four-year term.

Sec. 50. Minnesota Statutes 1992, section 138.38, is amended to read:

138.38 [REPORTS OF STATE ARCHAEOLOGIST.]

The state archaeologist shall consult with and keep the *Indian affairs council and the* director of the historical society informed as to significant field archaeology, projected or in progress, and as to significant discoveries made. Annually, and also upon leaving office, the state archaeologist shall file with the *Indian affairs council and the* director of the historical society a full report of the office's activities including a summary of the activities of licensees, from the effective date hereof or from the date of the last full report of the state archaeologist.

Sec. 51. Minnesota Statutes 1992, section 138.40, subdivision 3, is amended to read:

Subd. 3. When significant archaeological or historic sites are known or suspected to exist on public lands or waters, the agency or department controlling said lands or waters shall submit construction or development plans to the state archaeologist and the director of the society for review prior to the time bids are advertised. The state archaeologist and the society shall promptly review such plans and make recommendations for the preservation of archaeological or historic sites which may be endangered by construction or development activities. When archaeological or historic sites are related to Indian history or religion, the *state archaeologist shall submit the plans to the*

Indian affairs council ~~must be afforded the opportunity to~~ *for the council's* review and recommend action.

Sec. 52. Minnesota Statutes 1993 Supplement, section 138.763, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] There is a St. Anthony Falls heritage board consisting of ~~17~~ *19* members with the director of the Minnesota historical society as chair. The members include the mayor, the chair of the Hennepin county board of commissioners or the chair's designee, *the president of the Minneapolis park and recreation board or the president's designee, the superintendent of the park board,* two members each from the house of representatives appointed by the speaker, the senate appointed by the rules committee, the city council, the Hennepin county board, and the park board, and one each from the preservation commission, the preservation office, Hennepin county historical society, and the society.

Sec. 53. Minnesota Statutes 1992, section 138.94, is amended by adding a subdivision to read:

Subd. 3. [CONTRACTUAL SERVICES.] *The society may contract with existing state departments and agencies or other entities for materials and services as may be necessary for the history center.*

Sec. 54. Minnesota Statutes 1992, section 154.11, subdivision 1, is amended to read:

Subdivision 1. [EXAMINATION OF NONRESIDENTS.] A person who meets all of the requirements for licensure in this chapter and either has a license, certificate of registration, or an equivalent as a practicing barber or instructor of barbering from another state or country which in the discretion of the board has substantially the same requirements for licensing or registering barbers and instructors of barbering as required by this chapter or can prove by sworn affidavits practice as a barber or instructor of barbering in another state or country for at least five years immediately prior to making application in this state, shall, upon payment of the required fee, be ~~called by the board for~~ *issued a certificate of registration without* examination ~~to determine fitness to receive a certificate of registration to practice barbering or to instruct in barbering~~, *provided that the other state or country grants the same privileges to holders of Minnesota certificates of registration.*

Sec. 55. Minnesota Statutes 1992, section 154.12, is amended to read:

154.12 [EXAMINATION OF NONRESIDENT APPRENTICES.]

A person who meets all of the requirements for licensure in this chapter who has a license, a certificate of registration, or their equivalent as an apprentice in a state or country which in the discretion of the board has substantially the same requirements for registration as an apprentice as is provided by this chapter shall, upon payment of the required fee, be ~~called by the board for~~ *issued a certificate of registration without* examination ~~to determine fitness to receive a certificate of registration as an apprentice. A person failing to pass the required examination must conform to the requirements of section 154.06 before being permitted to take another examination~~, *provided that the other state or country grants the same privileges to holders of Minnesota certificates of registration.*

Sec. 56. [154.161] [REGISTRATION; ISSUANCE, REVOCATION, SUSPENSION, DENIAL.]

Subdivision 1. [PROCEEDINGS.] *If the board, or a complaint committee if authorized by the board, has a reasonable basis for believing that a person has engaged in or is about to engage in a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the board or complaint committee may proceed as provided in subdivision 2 or 3. Except as otherwise provided in this section, all hearings must be conducted in accordance with the administrative procedure act.*

Subd. 2. [LEGAL ACTIONS.] *(a) When necessary to prevent an imminent violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the board, or a complaint committee if authorized by the board, may bring an action in the name of the state in the district court of Ramsey county in which jurisdiction is proper to enjoin the act or practice and to enforce compliance with the statute, rule, or order. On a showing that a person has engaged in or is about to engage in an act or practice that constitutes a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the court shall grant a permanent or temporary injunction, restraining order, or other appropriate relief.*

(b) For purposes of injunctive relief under this subdivision, irreparable harm exists when the board shows that a person has engaged in or is about to engage in an act or practice that constitutes violation of a statute, rule or order that the board has adopted or issued or is empowered to enforce.

(c) Injunctive relief granted under paragraph (a) does not relieve an enjoined person from criminal prosecution by a competent authority, or from action by the board under subdivision 3, 4, 5, or 6 with respect to the persons' license, certificate, or application for examination, license, or renewal.

Subd. 3. [CEASE AND DESIST ORDERS.] *(a) The board, or compliance committee if authorized by the board, may issue and have served upon an unlicensed person, or a holder of a certificate of registration or a shop registration card, an order requiring the person to cease and desist from an act or practice that constitutes a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce. The order must (1) give reasonable notice of the rights of the person named in the order to request a hearing, and (2) state the reasons for the entry of the order. No order may be issued under this subdivision until an investigation of the facts has been conducted under section 214.10.*

(b) Service of the order under this subdivision is effective when the order is personally served on the person or counsel of record, or served by certified mail to the most recent address provided to the board for the person or counsel of record.

(c) The board must hold a hearing under this subdivision not later than 30 days after the board receives the request for the hearing, unless otherwise agreed between the board, or compliance committee if authorized by the board, and the person requesting the hearing.

(d) Notwithstanding any rule to the contrary, the administrative law judge must issue a report within 30 days of the close of the contested case hearing. Within 30 days after receiving the report and subsequent exceptions and argument, the board shall issue a further order vacating, modifying, or

making permanent the cease and desist order. If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until modified or vacated by the board.

Subd. 4. [LICENSE ACTIONS.] *(a) With respect to a person who is a holder of or applicant for a licensee or shop registration card under this chapter, the board may by order deny, refuse to renew, suspend, temporarily suspend, or revoke the application, certificate of registration, or shop registration card, censure or reprimand the person, refuse to permit the person to sit for examination, or refuse to release the person's examination grades, if the board finds that such an order is in the public interest and that, based on a preponderance of the evidence presented, the person has:*

(1) violated a statute, rule, or order that the board has adopted or issued or is empowered to enforce;

(2) engaged in conduct or acts that are fraudulent, deceptive, or dishonest, whether or not the conduct or acts relate to the practice of barbering, if the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the person's ability or fitness to engage in the practice of barbering;

(3) engaged in conduct or acts that constitute malpractice, are negligent, demonstrate incompetence, or are otherwise in violation of the standards in the rules of the board, where the conduct or acts relate to the practice of barbering;

(4) employed fraud or deception in obtaining a certificate of registration, shop registration card, renewal, or reinstatement, or in passing all or a portion of the examination;

(5) had a certificate of registration or shop registration card, right to examine, or other similar authority revoked in another jurisdiction;

(6) failed to meet any requirement for issuance or renewal of the person's certificate of registration or shop registration card;

(7) practiced as a barber while having an infectious or contagious disease;

(8) advertised by means of false or deceptive statements;

(9) demonstrated intoxication or indulgence in the use of drugs, including but not limited to narcotics as defined in section 152.01 or in United States Code, title 26, section 4731, barbiturates, amphetamines, benzedrine, dexedrine, or other sedatives, depressants, stimulants, or tranquilizers;

(10) demonstrated unprofessional conduct or practice, or conduct or practice that violates any provision of chapter 186;

(11) permitted an employee or other person under the person's supervision or control to practice as a registered barber, registered apprentice, or registered instructor of barbering unless that person has (i) a current certificate of registration as a registered barber, registered apprentice, or registered instructor of barbering, (ii) a temporary apprentice permit, or (iii) a temporary permit as an instructor of barbering;

(12) practices, offered to practice, or attempted to practice by misrepresentation;

(13) failed to display a certificate of registration as required by section 154.14;

(14) used any room or place of barbering that is also used for any other purpose, or used any room or place of barbering that violates the board's rules governing sanitation;

(15) in the case of a barber, apprentice, or other person working in or in charge of any barber shop, or any person in a barber school engaging in the practice of barbering, failed to use separate and clean towels for each customer or patron, or to discard and launder each towel after being used once;

(16) in the case of a barber or other person in charge of any barber shop or barber school, (i) failed to supply in a sanitary manner clean hot and cold water in quantities necessary to conduct the shop or barbering service for the school, (ii) failed to have water and sewer connections from the shop or barber school with municipal water and sewer systems where they are available for use, or (iii) failed or refused to maintain a receptacle for hot water of a capacity of at least five gallons;

(17) refused to permit the board to make an inspection permitted or required by this chapter, or failed to provide the board or the attorney general on behalf of the board with any documents or records they request;

(18) failed promptly to renew a certificate of registration or shop registration card when remaining in practice, pay the required fee, or issue a worthless check;

(19) failed to supervise a registered apprentice or temporary apprentice, or permitted the practice of barbering by a person not registered with the board or not holding a temporary permit;

(20) refused to serve a customer because of race, color, creed, religion, disability, national origin, or sex;

(21) failed to comply with a provision of chapter 141 or a provision of another chapter that relates to barber schools; or

(22) with respect to temporary suspension orders, has committed an act, engaged in conduct, or committed practices that the board, or complaint committee if authorized by the board, has determined may result or may have resulted in an immediate threat to the public.

(b) In lieu of or in addition to any remedy under paragraph (a), the board may as a condition of continued registration, termination of suspension, reinstatement of registration, examination, or release of examination results, require that the person:

(1) submit to a quality review of the person's ability, skills, or quality of work, conducted in a manner and by a person or entity that the board determines; or

(2) complete to the board's satisfaction continuing education as the board requires.

(c) Service of an order under this subdivision is effective if the order is served personally on, or is served by certified mail to the most recent address provided to the board by, the licensee, certificate holder, applicant, or counsel of record. The order must state the reason for the entry of the order.

(d) Except as provided in subdivision 5, paragraph (c), all hearings under this subdivision must be conducted in accordance with the administrative procedure act.

Subd. 5. [TEMPORARY SUSPENSION.] *(a) When the board, or complaint committee if authorized by the board, issues a temporary suspension order, the suspension provided for in the order is effective on service of a written copy of the order on the licensee, certificate holder, or counsel of record. The order must specify the statute, rule, or order violated by the licensee or certificate holder. The order remains in effect until the board issues a final order in the matter after a hearing, or on agreement between the board and the licensee or certificate holder.*

(b) An order under this subdivision may (1) prohibit the licensee or certificate holder from engaging in the practice of barbering in whole or in part, as the facts require, and (2) condition the termination of the suspension on compliance with a statute, rule, or order that the board has adopted or issued or is empowered to enforce. The order must state the reasons for entering the order and must set forth the right to a hearing as provided in this subdivision.

(c) Within ten days after service of an order under this subdivision the licensee or certificate holder may request a hearing in writing. The board must hold a hearing before its own members within five working days of the request for a hearing. The sole issue at such a hearing must be whether there is a reasonable basis to continue, modify, or terminate the temporary suspension. The hearing is not subject to the administrative procedure act. Evidence presented to the board or the licensee or certificate holder may be in affidavit form only. The licensee, certificate holder, or counsel of record may appear for oral argument.

(d) Within five working days after the hearing, the board shall issue its order and, if the order continues the suspension, shall schedule a contested case hearing within 30 days of the issuance of the order. Notwithstanding any rule to the contrary, the administrative law judge shall issue a report within 30 days after the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving the report.

Subd. 6. [VIOLATIONS; PENALTIES; COSTS.] *(a) The board may impose a civil penalty of up to $2,000 per violation on a person who violates a statute, rule, or order that the board has adopted or issued or is empowered to enforce.*

(b) In addition to any penalty under paragraph (a), the board may impose a fee to reimburse the board for all or part of the cost of (1) the proceedings resulting in disciplinary action authorized under this section, (2) the imposition of a civil penalty under paragraph (a), or (3) the issuance of a cease and desist order. The board may impose a fee under this paragraph when the board shows that the position of the person who has violated a statute, rule, or order that the board has adopted or issued or is empowered to enforce is not substantially justified unless special circumstances make such a fee unjust, notwithstanding any rule to the contrary. Costs under this paragraph include, but are not limited to, the amount paid by the board for services from the office of administrative hearings, attorneys' fees, court reporter costs, witness costs, reproduction of records, board members' compensation, board staff time, and expense incurred by board members and staff.

(c) All hearings under this subdivision must be conducted in accordance with the administrative procedure act.

Subd. 7. [REINSTATEMENT.] *The board may reinstate a suspended, revoked, or surrendered certificate of registration or shop registration card, on petition of the former or suspended registrant. The board may in its sole discretion place any conditions on reinstatement of a suspended, revoked, or surrendered certificate of registration or shop registration card that it finds appropriate and necessary to ensure that the purposes of this chapter are met. No certificate of registration or shop registration card may be reinstated until the former registrant has completed at least one-half of the suspension period.*

Sec. 57. Minnesota Statutes 1992, section 176.102, subdivision 3a, is amended to read:

Subd. 3a. [DISCIPLINARY ACTIONS.] The panel has authority to discipline qualified rehabilitation consultants and vendors and may impose a penalty of up to $1,000 per violation, *payable to the special compensation fund,* and may suspend or revoke certification. Complaints against registered qualified rehabilitation consultants and vendors shall be made to the commissioner who shall investigate all complaints. If the investigation indicates a violation of this chapter or rules adopted under this chapter, the commissioner may initiate a contested case proceeding under the provisions of chapter 14. In these cases, the rehabilitation review panel shall make the final decision following receipt of the report of an administrative law judge. The decision of the panel is appealable to the workers' compensation court of appeals in the manner provided by section 176.421. The panel shall continuously study rehabilitation services and delivery, develop and recommend rehabilitation rules to the commissioner, and assist the commissioner in accomplishing public education.

The commissioner may appoint alternates for one-year terms to serve as a member when a member is unavailable. The number of alternates shall not exceed one labor member, one employer or insurer member, and one member representing medicine, chiropractic, or rehabilitation.

Sec. 58. Minnesota Statutes 1992, section 176.102, subdivision 14, is amended to read:

Subd. 14. [FEES.] The commissioner shall impose fees under section ~~16A.128~~ *16A.1285* sufficient to cover the cost of approving and monitoring qualified rehabilitation consultants, consultant firms, and vendors of rehabilitation services. *These fees are payable to the special compensation fund.*

Sec. 59. [181.9641] [ENFORCEMENT.]

The department of labor and industry shall enforce sections 181.960 to 181.964. The department may assess a fine of up to $5,000 for a violation of sections 181.960 to 181.964.

The fine, together with costs and attorney fees, may be recovered in a civil action in the name of the department brought in the district court of the county where the violation is alleged to have occurred or where the commissioner has an office.

The fine provided by this section is in addition to any other remedy provided by law.

Sec. 60. Minnesota Statutes 1993 Supplement, section 239.785, subdivision 2, is amended to read:

Subd. 2. [DUE DATES FOR FILING OF RETURNS AND PAYMENT.] The fee must be remitted monthly on a form prescribed by the commissioner of revenue for deposit in the ~~general fund~~ *liquefied petroleum gas account established in subdivision 6*. The fee must be paid and the return filed on or before the 23rd day of each month following the month in which the liquefied petroleum gas was delivered or received.

Sec. 61. Minnesota Statutes 1993 Supplement, section 239.785, is amended by adding a subdivision to read:

Subd. 6. [LIQUEFIED PETROLEUM GAS ACCOUNT.] *A liquefied petroleum gas account in the special revenue fund is established in the state treasury. Fees and penalties collected under this section must be deposited in the state treasury and credited to the liquefied petroleum gas account. Money in that account, including interest earned, is appropriated to the commissioner of jobs and training for programs to improve the energy efficiency of residential liquefied petroleum gas heating equipment in low-income households, and, when necessary, to provide weatherization services to the homes.*

Sec. 62. Minnesota Statutes 1993 Supplement, section 257.0755, is amended to read:

257.0755 [OFFICE OF OMBUDSPERSON; CREATION; QUALIFICATIONS; FUNCTION.]

~~An ombudsperson for families~~ *Subdivision 1.* [CREATION.] *One ombudsperson* shall ~~be appointed to~~ operate independently *from* but ~~under the auspices of~~ *in collaboration with* each of the following groups: the Indian Affairs Council, the Spanish-Speaking Affairs Council, the Council on Black Minnesotans, and the Council on Asian-Pacific Minnesotans. ~~Each of these groups shall select its own ombudsperson subject to final approval by the advisory board established under section 257.0768.~~

Subd. 2. [SELECTION; QUALIFICATIONS.] *The ombudsperson for each community shall be selected by the applicable community-specific board established in section 257.0768.* Each ombudsperson ~~shall serve~~ *serves in the unclassified service* at the pleasure of the ~~advisory~~ *community-specific* board~~, shall be in the unclassified service, shall~~ *and may be removed only for just cause. Each ombudsperson must* be selected without regard to political affiliation, and shall be a person highly competent and qualified to analyze questions of law, administration, and public policy regarding the protection and placement of children from families of color. In addition, the ombudsperson must be experienced in dealing with communities of color and knowledgeable about the needs of those communities. No individual may serve as ombudsperson while holding any other public office. ~~The ombudsperson shall have the authority to investigate decisions, acts, and other matters of an agency, program, or facility providing protection or placement services to children of color.~~

Subd. 3. [APPROPRIATION.] Money appropriated for each ombudsperson from the general fund or the special fund authorized by section 256.01, subdivision 2, clause (15), is under the control of ~~the office of~~ *each* ombudsperson for which it is appropriated.

Sec. 63. Minnesota Statutes 1992, section 257.0762, subdivision 2, is amended to read:

Subd. 2. [POWERS.] *Each ombudsperson has the authority to investigate decisions, acts, and other matters of an agency, program, or facility providing protection or placement services to children of color.* In carrying out *this authority and* the duties in subdivision 1, each ombudsperson has the power to:

(1) prescribe the methods by which complaints are to be made, reviewed, and acted upon;

(2) determine the scope and manner of investigations to be made;

(3) investigate, upon a complaint or upon personal initiative, any action of any agency;

(4) request and be given access to any information in the possession of any agency deemed necessary for the discharge of responsibilities. The ombudsperson is authorized to set reasonable deadlines within which an agency must respond to requests for information. Data obtained from any agency under this clause shall retain the classification which it had under section 13.02 and shall be maintained and disseminated by the ombudsperson according to chapter 13;

(5) examine the records and documents of an agency;

(6) enter and inspect, during normal business hours, premises within the control of an agency; and

(7) subpoena any agency personnel to appear, testify, or produce documentary or other evidence which the ombudsperson deems relevant to a matter under inquiry, and may petition the appropriate state court to seek enforcement with the subpoena; provided, however, that any witness at a hearing or before an investigation as herein provided, shall possess the same privileges reserved to such a witness in the courts or under the laws of this state. The ombudsperson may compel nonagency individuals to testify or produce evidence according to procedures developed by the advisory board.

Sec. 64. Minnesota Statutes 1992, section 257.0768, is amended to read:

257.0768 [~~OMBUDSPERSON'S ADVISORY COMMITTEE~~ *COMMUNITY-SPECIFIC BOARDS.*]

Subdivision 1. [MEMBERSHIP.] ~~The appointment of each ombudsperson is subject to approval by an advisory committee consisting of no more than 17 members. Members of the advisory committee shall be appointed by~~ *Four community-specific boards are created. Each board consists of five members.* The *chair of each of the* following groups *shall appoint the board for the community represented by the group*: the Indian Affairs Council; the Spanish-Speaking Affairs Council; the Council on Black Minnesotans; and the Council on Asian-Pacific Minnesotans. ~~The committee shall provide advice and counsel to each ombudsperson.~~ *In making appointments, the chair must consult with other members of the council.*

Subd. 2. [COMPENSATION; CHAIR.] Members do not receive compensation but are entitled to receive reimbursement for reasonable and necessary expenses incurred. ~~The members shall designate four rotating chairs to serve annually at the pleasure of the members.~~

Subd. 3. [MEETINGS.] ~~The committee~~ *Each board* shall meet ~~at least four times a year~~ *regularly* at the request of ~~its~~ *the appointing* chair or the ~~ombudspersons~~ *ombudsperson.*

Subd. 4. [DUTIES.] ~~The committee~~ *Each board shall appoint the ombudsperson for its community. Each board* shall advise and assist the ~~ombudspersons~~ *ombudsperson for its community* in selecting matters for attention; developing policies, plans, and programs to carry out the ombudspersons' functions and powers; establishing protocols for working with the communities of color; developing procedures for the ombudspersons' use of the subpoena power to compel testimony and evidence from nonagency individuals; and making reports and recommendations for changes designed to improve standards of competence, efficiency, justice, and protection of rights. ~~The committee shall function as an advisory body.~~

Subd. 5. [TERMS, COMPENSATION, REMOVAL, AND EXPIRATION.] The membership terms, compensation, and removal of members of ~~the committee~~ *each board* and the filling of membership vacancies are governed by section 15.0575.

Subd. 6. [JOINT MEETINGS.] *The members of the four community-specific boards shall meet jointly at least four times each year to advise the ombudspersons on overall policies, plans, protocols, and programs for the office.*

Sec. 65. Minnesota Statutes 1992, section 268.53, subdivision 5, is amended to read:

Subd. 5. [FUNCTIONS; POWERS.] A community action agency shall:

(a) Plan systematically for an effective community action program; develop information as to the problems and causes of poverty in the community; determine how much and how effectively assistance is being provided to deal with those problems and causes; and establish priorities among projects, activities and areas as needed for the best and most efficient use of resources;

(b) Encourage agencies engaged in activities related to the community action program to plan for, secure, and administer assistance available under section 268.52 or from other sources on a common or cooperative basis; provide planning or technical assistance to those agencies; and generally, in cooperation with community agencies and officials, undertake actions to improve existing efforts to reduce poverty, such as improving day-to-day communications, closing service gaps, focusing resources on the most needy, and providing additional opportunities to low-income individuals for regular employment or participation in the programs or activities for which those community agencies and officials are responsible;

(c) Initiate and sponsor projects responsive to needs of the poor which are not otherwise being met, with particular emphasis on providing central or common services that can be drawn upon by a variety of related programs, developing new approaches or new types of services that can be incorporated into other programs, and filling gaps pending the expansion or modification of those programs;

(d) Establish effective procedures by which the poor and area residents concerned will be enabled to influence the character of programs affecting their interests, provide for their regular participation in the implementation of those programs, and provide technical and other support needed to enable the

poor and neighborhood groups to secure on their own behalf available assistance from public and private sources;

(e) Join with and encourage business, labor and other private groups and organizations to undertake, together with public officials and agencies, activities in support of the community action program which will result in the additional use of private resources and capabilities, with a view to developing new employment opportunities, stimulating investment that will have a measurable impact on reducing poverty among residents of areas of concentrated poverty, and providing methods by which residents of those areas can work with private groups, firms, and institutions in seeking solutions to problems of common concern.

Community action agencies, the Minnesota migrant council, and the Indian reservations, may enter into cooperative purchasing agreements and self-insurance programs with local units of government. *Nothing in this section expands or limits the current private or public nature of a local community action agency.*

Sec. 66. [268.56] [MINNESOTA YOUTH PROGRAM; DEFINITIONS.]

Subdivision 1. [SCOPE.] *For the purposes of sections 268.56 and 268.561, the terms defined in this section have the meanings given them.*

Subd. 2. [COMMISSIONER.] *"Commissioner" means the commissioner of jobs and training.*

Subd. 3. [ELIGIBLE APPLICANT.] *"Eligible applicant" means an individual who is between the ages of 14 and 21 and economically disadvantaged.*

An at-risk youth who is classified as a family of one is deemed economically disadvantaged. For purposes of eligibility determination the following individuals are considered at risk:

(1) a pregnant or parenting youth;

(2) a youth with limited English proficiency;

(3) a potential or actual school dropout;

(4) a youth in an offender or diversion program;

(5) a public assistance recipient or a recipient of group home services;

(6) a youth with disabilities including learning disabilities;

(7) a chemically dependent youth or child of drug or alcohol abusers;

(8) a homeless or runaway youth;

(9) a youth with basic skills deficiency;

(10) a youth with an educational attainment of one or more levels below grade level appropriate to age; or

(11) a foster child.

Subd. 4. [EMPLOYER.] *"Employer" means a private or public employer.*

Sec. 67. [268.561] [MINNESOTA YOUTH PROGRAM.]

Subdivision 1. [PURPOSE.] *The Minnesota youth program is established to:*

(1) improve the employability of eligible applicants through exposure to public or private sector work;

(2) enhance the basic educational skills of eligible applicants;

(3) encourage the completion of high school or equivalency;

(4) assist eligible applicants to enter employment, school-to-work transition programs, the military, or post-secondary education or training;

(5) enhance the citizenship skills of eligible applicants through community service and service learning; and

(6) provide educational, career, and life skills counseling.

Subd. 2. [WAGE RATE.] *The rate of pay for Minnesota youth program positions with public, private nonprofit, and private for-profit employers is the minimum wage. Employers may use their own funds to increase the participants' hourly wage rates. Youths designated as supervisors may be paid at a higher level to be determined by the local contractor.*

Subd. 3. [EMPLOYMENT CONTRACTS.] *The commissioner may enter into arrangements with existing public and private nonprofit organizations and agencies with experience in administering youth employment programs for the purpose of providing employment opportunities for eligible applicants in furtherance of sections 268.56 and 268.561. The department of jobs and training shall retain ultimate responsibility for the administration of this employment program.*

Subd. 4. [CONTRACT ADMINISTRATION.] *Preference shall be given to local contractors with experience in administering youth employment and training programs and those who have demonstrated efforts to coordinate state and federal youth programs locally.*

Subd. 5. [ALLOCATION FORMULA.] *Seventy percent of Minnesota youth program funds must be allocated based on the county's share of economically disadvantaged youth. The remaining 30 percent must be allocated based on the county's share of population ages 14 to 21.*

Subd. 6. [ALLOWABLE COST CATEGORIES.] *Of the total allocation, up to 15 percent may be used for administrative purposes and the remainder may be used for a combination of training and participant support activities.*

Subd. 7. [REPORTS.] *Each contractor shall report to the commissioner on a quarterly basis in a format to be determined by the commissioner.*

Data collected on individuals under this subdivision are private data on individuals as defined in section 13.02, subdivision 12, except that summary data may be provided under section 13.05, subdivision 7.

Subd. 8. [PART-TIME EMPLOYMENT.] *Wages and subsidies under this section may be paid for part-time employment.*

Subd. 9. [LAYOFFS; WORKER REDUCTIONS.] *An employer may not lay off, terminate, or reduce the working hours of an employee for the purpose of hiring an individual with funds provided by this section. An employer may not hire an individual with funds available under this section if any other individual is laid off from the same or a substantially equivalent job.*

Subd. 10. [RULES.] *The commissioner may adopt rules to implement this section.*

Sec. 68. [268.9783] [RETRAINING AND TARGETED TRAINING GRANTS.]

Subdivision 1. [ESTABLISHED.] *The commissioner may make grants to substate grantees or other eligible organizations designed to provide for the employment of dislocated workers or targeted training assistance to workers at risk of dislocation. The focus of the grants must be on the provision of skill-based training required by the worker's employer or prospective employer. The grants must be developed to meet the worker training needs of employers individually or together. Two or more organizations may jointly apply for a grant.*

Subd. 2. [RETRAINING GRANTS.] *An organization interested in applying for a grant to retrain workers who are at risk of becoming dislocated workers must apply to the commissioner. As part of the application process, an applicant must provide:*

(1) a statement of need that identifies the causes contributing to the workers being at risk of dislocation, the prospects for reemployment of the workers in the employer's industry or the worker's occupation, and the employer's past record of permanently laying off workers;

(2) a description of the current skill level of the workers targeted for training and the skills needed by the workers to significantly reduce their vulnerability to becoming displaced from employment;

(3) a description of the actions and investments made and planned by the employer to avert or minimize worker dislocation, including the adoption of high performance workplace and worker participation systems and practices;

(4) a training plan that details who will receive training, the type and scope of training assistance to be provided to workers, the providers of the training, and any impact on worker wages;

(5) evidence that the proposal has the support and involvement of labor; and

(6) any other relevant information the commissioner requires in the grant application.

Subd. 3. [TARGETED TRAINING GRANTS.] *An organization interested in applying for a grant to target training for dislocated workers being hired by an employer must apply to the commissioner. As part of the application process, applicants must provide:*

(1) a statement of need;

(2) a description of local labor market characteristics, including the area's unemployment rate, types of workers available to be employed in terms of occupation, and the local availability of workers in the industry of the employer or employers;

(3) a description of the actions and investments made and planned by the employer or employers to create and retain jobs, including past employment history, wages paid for the same or similar work, and whether high

performance workplace and worker participation systems and practices have been adopted;

(4) a description of the type of work to be performed, the work-related skills needed, projected wages, and the target group of workers requiring the training assistance;

(5) a training plan that details who will receive training, the type and scope of training assistance to be provided workers, and the providers of the training;

(6) evidence that the proposal has the support and involvement of labor; and

(7) any other relevant information the commissioner requires in the grant application.

Subd. 4. [CRITERIA.] *The criteria used to award targeted training grants must include the severity of need, the target group of workers, training assistance, worker wages, utilization of resources, cost effectiveness, grantee management capability, and other considerations adopted by the commissioner.*

Subd. 5. [COVERAGE.] *Persons eligible to receive retraining assistance under this section include workers at risk of dislocation from employment and dislocated workers as defined in Minnesota Statutes, section 268.975, subdivision 3. Workers are considered to be at risk of dislocation as evidenced by a pattern of worker layoffs from an employer, a pattern of substantial layoffs or plant closures in the same or related industry, or where worker skills needed by the employer have become obsolete due to advances in technology.*

Subd. 6. [FUNDING.] *The commissioner may award retraining and targeted training grants, if approved by the governor's job training council, through a request for proposal process if:*

(1) employers benefiting from a retraining and targeted training grant provide a match of at least one for one that may be in the form of funding, equipment, staff, instructors, and work release time for workers enrolled in training;

(2) employers benefiting from a retraining and targeted training grant to retrain workers at risk of dislocation maintain their past rate of expenditure from other sources for that training during the grant period; and

(3) employers benefiting from a retraining and targeted training grant to train new workers do not have workers in layoff status, unless it can be documented the layoff is temporary or seasonal.

Subd. 7. [LIMITATION.] *No more than five percent of the amount available under Minnesota Statutes, section 268.022, subdivision 2, paragraph (e), may be used for the grants authorized under this section. The funds must be used from the allocation under section 268.022, subdivision 2, paragraph (e), clause (2).*

Subd. 8. [SUNSET.] *This section expires June 30, 1996.*

Sec. 69. Minnesota Statutes 1993 Supplement, section 268.98, subdivision 1, is amended to read:

Subdivision 1. [PERFORMANCE STANDARDS.] The commissioner shall establish performance standards for the programs and activities administered or funded under sections 268.975 to 268.98. The commissioner may use, when appropriate, existing federal performance standards or, if the commissioner determines that the federal standards are inadequate or not suitable, may formulate new performance standards to ensure that the programs and activities of the dislocated worker program are effectively administered.

The commissioner shall, at a minimum, establish performance standards which appropriately gauge the program's effectiveness at achieving the following objectives:

(1) placement of dislocated workers in employment;

(2) replacing lost income resulting from worker dislocation from employment;

(3) early intervention with workers shortly after becoming displaced from employment; and

(4) retraining of workers from one occupation or industry to another.

The standards shall be applied to plans or grants authorized under sections 268.9781, 268.9782, 268.9783 and for other activities the commissioner considers appropriate.

Sec. 70. Minnesota Statutes 1992, section 298.2211, is amended by adding a subdivision to read:

Subd. 3a. [CONTRACTS AND PURCHASES.] *Contracts entered into and purchases made by the board are subject to the competitive bidding requirements of chapter 16B, except that bids must be first advertised within the tax relief areas as defined in section 273.134. If the commissioner finds that an acceptable bidder or contractor cannot be found in the tax relief area, the commissioner may ask the board for permission to advertise for bids as otherwise provided in chapter 16B. This subdivision is effective for contracts entered into and purchases made after the effective date of this subdivision.*

Sec. 71. [268A.13] [EMPLOYMENT SUPPORT SERVICES FOR PERSONS WITH MENTAL ILLNESS.]

The commissioner of jobs and training, in cooperation with the commissioner of human services, shall develop a statewide program of grants to provide services for persons with mental illness in supported employment. Projects funded under this section must: (1) assist persons with mental illness in obtaining and retaining employment; (2) emphasize individual community placements for clients; (3) ensure interagency collaboration at the local level between vocational rehabilitation field offices, county service agencies, community support programs operating under the authority of section 245.4712, and community rehabilitation providers, in assisting clients; and (4) involve clients in the planning, development, oversight, and delivery of support services. Project funds may not be used to provide services in segregated settings such as long-term employment or work activity programs as defined in section 268A.01.

The commissioner of jobs and training, in consultation with the commissioner of human services, shall develop a request for proposals which is consistent with the requirements of this section and which specifies the types of services that must be provided by grantees. Projects shall be funded for

state fiscal year 1995 and priority for funding shall be given to organizations with experience in developing innovative employment support services for persons with mental illness. Each applicant for funds under this section shall submit an evaluation protocol as part of the grant application.

Sec. 72. [268A.14] [PLAN FOR A STATEWIDE REIMBURSEMENT SYSTEM.]

The commissioner of jobs and training, in cooperation with the commissioner of human services, shall develop a detailed plan for establishing a statewide system to reimburse providers for employment support services for persons with mental illness. The plan must include the following: (1) protocols for certifying eligible providers; (2) standards for determining client eligibility for the service; (3) a list of reimbursable services with the proposed reimbursement level for each service; and (4) a description of the systems, including necessary computer systems, that will be used by the state agency for payment of reimbursement to eligible providers. The plan must also include projected total biennial costs for the new reimbursement system, recommendations on the nature of appeal rights which shall be provided to clients and providers, and recommendations on the necessity for agency rulemaking prior to implementation of the new reimbursement system.

Sec. 73. Minnesota Statutes 1992, section 345.47, subdivision 4, is amended to read:

Subd. 4. [TITLE TO PROPERTY.] The purchaser at any sale conducted by the commissioner pursuant to sections 345.31 to 345.60 *and the Minnesota historical society under subdivision 5* shall receive title to the property purchased *or selected*, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The commissioner shall execute all documents necessary to complete the transfer of title.

Sec. 74. Minnesota Statutes 1992, section 462A.05, is amended by adding a subdivision to read:

Subd. 39. [YOUTH EMPLOYMENT AND TRAINING.] *The agency may make matching grants for the purpose of employing and training resident youths or youths residing in the surrounding neighborhood in the construction, maintenance, or rehabilitation of multifamily housing financed by the agency.*

Sec. 75. Minnesota Statutes 1992, section 466.01, subdivision 1, is amended to read:

Subdivision 1. [MUNICIPALITY.] For the purposes of sections 466.01 to 466.15, "municipality" means any city, whether organized under home rule charter or otherwise, any county, town, public authority, public corporation, special district, school district, however organized, county agricultural society organized pursuant to chapter 38, joint powers board or organization created under section 471.59 or other statute, public library, regional public library system, multicounty multitype library system, ~~or~~ other political subdivision, *or community action agency.*

Sec. 76. Minnesota Statutes 1993 Supplement, section 504.33, subdivision 5, is amended to read:

Subd. 5. [LOW-INCOME HOUSING.] (a) "Low-income housing" means either:

(1) rental housing with a rent less than or equal to 30 percent of 50 percent of the median income for the county in which the rental housing is located, adjusted by size, *except that housing which receives a low-income housing credit under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1990, is considered low-income housing, if such rent levels do not exceed 30 percent of 60 percent of the median income for the metropolitan area as defined in section 473.121, subdivision 2, adjusted by size;* or

(2) rental housing occupied by households with income below 30 percent of the median for the metropolitan area as defined in section 473.121, subdivision 2, adjusted by size.

(b) "Low-income housing" also includes rental housing that has been vacant for less than ~~two years~~ *one year*, that was low-income housing when it was last occupied, and that is not condemned as being unfit for human habitation by the applicable government unit.

Sec. 77. Minnesota Statutes 1993 Supplement, section 504.33, subdivision 7, is amended to read:

Subd. 7. [REPLACEMENT HOUSING.] (a) "Replacement housing" means rental housing that is:

(1) the lesser of (i) the number and corresponding size of low-income housing units displaced, or (ii) sufficient in number and corresponding size of those low-income housing units displaced to meet the demand for those units. Notwithstanding subclauses (i) and (ii), if the housing impact statement shows demonstrated need, displaced units may be replaced by fewer, larger units of comparable total size, except that ~~efficiency and~~ single room occupancy units may not be replaced by units of a larger size;

(2) low-income housing for at least 15 years. This section does not prohibit increases in rent to cover operating expenses;

(3) in at least standard condition; and

(4) located in the city where the displaced low-income housing units were located *or in the surrounding metropolitan area as defined in section 473.121.*

(b) Replacement housing provided in a different city shall have a preference for residents of the city where displacement occurred. The government unit providing such replacement housing shall affirmatively market the replacement housing to such residents.

(c) Replacement housing may be provided as newly constructed housing, or rehabilitated housing that was ~~previously unoccupied or vacant and in condemnable condition or rent subsidized existing housing that does not already qualify as low-income housing.~~*:*

(1) previously unoccupied or vacant and in condemnable condition; or

(2) in condemnable condition and required substantial rehabilitation equal to or in excess of 50 percent of the prerehabilitation value of the unit; or

(3) rent-subsidized, existing housing that does not already qualify as low-income housing; or

(4) rent-subsidized housing in the form of either project-based assistance or portable vouchers, including the use of new Section 8 certificates or vouchers,

which reduce rents on units to meet the definitions of low-income housing under subdivision 5, paragraph (a), clause (1).

~~(b)~~ *(d)* Notwithstanding the requirements in ~~paragraph~~ *paragraphs* (a) *to (c)*, public housing units which are a part of a disposition plan approved by the Department of Housing and Urban Development automatically qualify as replacement housing for public housing units which are displaced.

(e) "Replacement housing" may also mean owner-occupied housing which creates a home ownership opportunity for people whose income is at or below 50 percent of the median for the metropolitan area as defined in section 473.121, subdivision 2, adjusted for family size.

Sec. 78. Minnesota Statutes 1993 Supplement, section 504.34, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL REPORT REQUIRED.] A government unit, *or in the case of a government unit located in the metropolitan area as defined in section 473.121, the government unit and the metropolitan council,* shall prepare a housing impact report either:

(1) for each year in which the government unit displaces ten or more units of low-income housing in a city of the first class as defined in section 410.01; or

(2) when a specific project undertaken by a government unit for longer than one year displaces a total of ten or more units of low-income housing in a city of the first class as defined in section 410.01.

Sec. 79. Minnesota Statutes 1993 Supplement, section 504.34, subdivision 2, is amended to read:

Subd. 2. [DRAFT ANNUAL HOUSING IMPACT REPORT.] *As provided in subdivision 1,* a government unit *or a government unit participating with the metropolitan council* subject to this section must prepare a draft annual housing impact report for review and comment by interested persons. The draft report must be completed by January 31 of the year immediately following a year in which the government unit has displaced ten or more units of low-income housing in a city. For a housing impact report required under subdivision 1, clause (2), the draft report must be completed by January 31 of the year immediately following the year in which the government unit has displaced a cumulative total of ten units of low-income housing in a city.

Sec. 80. Minnesota Statutes 1992, section 504.34, subdivision 3, is amended to read:

Subd. 3. [CONTENTS.] The draft and final annual housing impact reports must include:

(1) identification of each low-income housing unit that was displaced in the previous year in the city where housing was displaced by the government unit, including the unit's address, size, and rent; the number of persons who could have occupied the unit; the condition the unit was in, and whether it was habitable at the time of displacement; the owner of the unit; whether it was owner occupied; and how and when it was displaced;

(2) identification of each unit of replacement housing provided in the previous year in the city, including the unit's address, size, and rent; the number of persons who could occupy the unit; the owner of the unit; whether

it is owner occupied; and an identification of the displaced low-income housing unit that was replaced by the unit of replacement housing;

(3) analysis of the supply of and demand for all sizes of low-income housing units, by size and rent, *including the housing requirements of residents of shelters for the homeless,* in the city;

(4) determination of whether there is an adequate supply of available and unoccupied low-income housing units to meet the demand for all sizes of low-income housing, by size and rent, in the city where housing has been displaced by the government unit;

(5) estimation of the cost of providing replacement housing for low-income housing not in adequate supply to meet the demand for all sizes of low-income housing, by size and rent, in the city where housing has been displaced by the government unit; and

(6) analysis of the government unit's compliance with the replacement plans of previous housing annual impact reports and project housing impact statements.

Sec. 81. [645.443] [HEAD START AND SCHOOL BUS DRIVER DAY.]

The second Monday in January is designated Head Start and School Bus Driver Day in recognition of the responsibilities borne and the dedication demonstrated by Minnesota's Head Start and other school bus drivers for the safe delivery of our school children. The governor may take any action necessary to promote and encourage the observance of Head Start and School Bus Driver Day. The public schools may offer instruction and programs honoring and fostering appreciation and respect for Minnesota Head Start and school bus drivers.

Sec. 82. Laws 1993, chapter 369, section 5, subdivision 4, is amended to read:

Subd. 4. Community Services

27,579,000 25,678,000

The money appropriated for the youth wage subsidy program for the second year of the biennium must be used for programs authorized under new Minnesota Statutes, sections 268.56 and 268.561.

$880,000 is appropriated from the general fund to the commissioner of jobs and training for operating costs of transitional housing programs under Minnesota Statutes, section 268.38. Of this appropriation, $440,000 is for the first year and $440,000 is for the second year.

$4,200,000 for the first year and $5,550,000 for the second year is appropriated from the general fund to the commissioner of the department of jobs and training for Minnesota economic opportu-

nity grants to community action agencies. This appropriation is to replace federal funds that are no longer available to community action agencies because of new federal restrictions on the authority to transfer block grant money from the federal Low-Income Home Energy Assistance program to the federal Community Services Block grant.

For the biennium ending June 30, 1995, the commissioner shall transfer to the low-income home weatherization program at least five percent of money received under the low-income home energy assistance block grant in each year of the biennium and shall spend all of the transferred money during the year of the transfer or the year following the transfer. Up to 1.63 percent of the transferred money may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1995, no more than 1.63 percent of money remaining under the low-income home energy assistance program after transfers to the weatherization program may be used by the commissioner for administrative purposes.

The state appropriation for the temporary emergency food assistance program may be used to meet the federal match requirements.

Of the money appropriated for the summer youth employment programs for fiscal year 1994, $750,000 is immediately available. Any remaining balance of the immediately available money is available for the year in which it is appropriated. If the appropriation for either year of the biennium is insufficient, money may be transferred from the appropriation for the other year.

Notwithstanding Minnesota Statutes, section 268.022, subdivision 2, the commissioner of finance shall transfer to the general fund from the dedicated fund $3,054,000 in the first year and $2,303,000 in the second year of the money collected through the special assessment established in Minnesota Statutes, section 268.022, subdivision 1.

Of this appropriation, $5,554,000 the first year and $2,303,000 the second year are for summer youth employment programs.

Of this appropriation, $100,000 is to train and certify community action agency weatherization programs to comply with the requirements of Minnesota Statutes, section 144.878, subdivision 5.* **(The preceding sentence starting "Of" was vetoed by the governor.)** Of this appropriation, $400,000 is to be used for swab teams with priority to be given to those swab teams in greater Minnesota which are affiliated with community action agencies and to those swab teams in cities of the first class which are affiliated with community action agencies or neighborhood-based nonprofit organizations. 3.75 percent of the allocation may be used for administrative costs. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

Of this appropriation, $1,200,000 is for the food shelf program.

Of this appropriation, $400,000 is for youth employment and for housing for the homeless through the YOUTHBUILD program.

Of the appropriation for the Minnesota economic opportunity grant, the commissioner may use up to nine percent each year for state operations.

Of the appropriation for Head Start, the commissioner of the department of jobs and training may use up to two percent each year for state operations.

Sec. 83. [TRANSITION.]

(a) Any member of the advisory committee existing under Minnesota Statutes, section 257.0768, before the effective date of section 64 who attended at least one-half of the committee's meetings during calendar year 1993 must be appointed a member of the applicable community-specific board created under section 64.

(b) The appointing authority for each community-specific board shall designate an initial term length for each appointee, including appointees required under paragraph (a), to achieve staggered terms to the greatest extent possible.

Sec. 84. [REPEALER.]

(a) Minnesota Statutes 1992, sections 154.16; and 154.165, are repealed.

(b) Minnesota Statutes 1992, sections 268.31, 268.315, 268.32, 268.33, 268.34, 268.35, and 268.36, are repealed.

Sec. 85. [EFFECTIVE DATES.]

Sections 23 to 31 are effective September 1, 1994, and apply to licenses which become effective on or after November 1, 1994. Sections 32 to 38 are effective May 1, 1995, and apply to licenses which become effective on or after July 1, 1995. Sections 39 to 42 are effective July 1, 1994, and apply to licenses which become effective on or after September 1, 1994. Section 43 is effective May 1, 1995, and applies to licenses which become effective on or after July 1, 1995. Section 44 is effective the day following final enactment and applies to claims brought after June 4, 1987.

Sections 74 and 76 to 80 are effective the day following final enactment.

Any provisions appropriating money for fiscal year 1994 are effective the day following final enactment.

Sections 66, 67, and 82 are effective the day following final enactment. Section 84, paragraph (b), is effective July 1, 1995.

ARTICLE 5

BUDGET RESERVE

Section 1. Minnesota Statutes 1993 Supplement, section 16A.152, subdivision 2, is amended to read:

Subd. 2. [ADDITIONAL REVENUES; PRIORITY.] If on the basis of a forecast of general fund revenues and expenditures the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money to the budget reserve and cash flow account until the total amount in the account equals five percent of total general fund appropriations for the current biennium as established by the most recent legislative session. Beginning July 1, 1993, forecast unrestricted budgetary general fund balances are first appropriated to restore the budget reserve and cash flow account to $500,000,000 ~~and then~~. *Additional biennial unrestricted budgetary general fund balances available after November 1 of every odd-numbered calendar year are appropriated in January of the following year* to reduce the property tax levy recognition percent under section 121.904, subdivision 4a, to zero before *additional* money *beyond $500,000,000* is allocated to the budget reserve and cash flow account ~~under the preceding sentence~~.

The amounts necessary to meet the requirements of this section are appropriated from the general fund.

Sec. 2. [LEVY RECOGNITION ADJUSTMENTS.]

Notwithstanding Minnesota Statutes, sections 16A.152, subdivision 2; and 121.904, if planning estimates for the 1996-97 biennium prepared by the commissioner of finance at the close of the 1994 legislative session, or in November 1994, show a budgetary balance before reserves of less than $350,000,000 at the end of the 1996-97 biennium, the commissioner may increase the revenue recognition percent established in Minnesota Statutes, section 121.904, beginning in fiscal year 1996 by the amount necessary to

bring the budgetary balance before reserves to $350,000,000, except that it may not be increased beyond 48 percent. If the projected budgetary balance before reserves is greater than $350,000,000, the percentage is decreased by the amount necessary to bring the balance before reserves to $350,000,000, but not to less than zero.

Sec. 3. [CASH FLOW REFORM PROGRAM.]

The commissioner of finance shall establish an advisory committee to develop recommendations to the legislative commission on planning and fiscal policy by January 15, 1995, for improving school cash management while avoiding short-term borrowing by the state. The advisory committee shall consist of representatives of the commissioners of finance, revenue, and education, the legislative commission on planning and fiscal policy, the Minnesota school boards association, the school business officers association, and the association of Minnesota counties.

ARTICLE 6

TRANSPORTATION

Section 1. [TRANSPORTATION APPROPRIATIONS.]

The sums set forth in the columns headed "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified in this article and are added to appropriations for the fiscal years ending June 30, 1994, and June 30, 1995, in Laws 1993, chapter 266, or another named law.

SUMMARY BY FUND

	1995
General Fund	$ 10,000,000

	APPROPRIATIONS Available for the Year Ending June 30	
	1994	1995
Sec. 2. TRANSPORTATION		
Greater Minnesota Transit		$ 1,600,000
This appropriation is added to the appropriation in Laws 1993, chapter 266, section 2, subdivision 3, clause (a), and is for greater Minnesota transit assistance.		
The unspent balance of the appropriation for fiscal year 1994 in Laws 1993, chapter 266, section 2, subdivision 3, paragraph (a), on June 30, 1994, is added to this appropriation.		
Sec. 3. REGIONAL TRANSIT BOARD		
(a) Regular Route Transit		5,000,000
(b) Metro Mobility		2,500,000

(c) Community-based, Rural, and Small-urban Transit Systems 900,000"

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money for agriculture, the environment, natural resources, public administration, community development, public safety, transportation, and certain agencies of state government; supplementing, reducing, and transferring earlier appropriations, with certain conditions; regulating certain activities and practices; providing for appointments, penalties, accounts, fees, and reports; amending Minnesota Statutes 1992, sections 3.97, subdivision 11; 3.971, by adding a subdivision; 13.99, by adding subdivisions; 16A.124, subdivisions 2 and 7; 16A.127, as amended; 16A.15, subdivision 3; 16B.01, subdivision 4; 16B.05, subdivision 2; 16B.06, subdivisions 1 and 2; 16B.32, by adding a subdivision; 17B.15, subdivision 1; 32.103; 41A.09, subdivisions 2 and 5; 43A.316, subdivision 9; 43A.37, subdivision 1; 44A.0311; 60A.14, subdivision 1; 60A.19, subdivision 4; 60A.21, subdivision 2; 60K.03, subdivisions 1, 5, and 6; 60K.06; 60K.19, subdivision 8; 69.031, subdivision 5; 82.20, subdivisions 7 and 8; 82.21, by adding a subdivision; 82B.08, subdivisions 4 and 5; 82B.09, subdivision 1; 82B.19, subdivision 1; 83.25; 84.0887, by adding subdivisions; 85.015, subdivision 1; 94.09, subdivision 5; 97A.441, by adding a subdivision; 97A.485, subdivision 8; 103F.725, by adding a subdivision; 103F.745; 103F.761, subdivision 2; 115A.5501, subdivision 2; 116.07, by adding a subdivision; 116.182, subdivisions 2, 3, 4, and 5; 116J.9673, subdivision 4; 129D.14, subdivision 5; 138.01, subdivision 1; 138.34; 138.35, subdivision 1; 138.38; 138.40, subdivision 3; 138.94, by adding a subdivision; 151.01, subdivision 28; 151.15, subdivision 3; 151.25; 154.11, subdivision 1; 154.12; 168A.29, subdivision 1; 171.06, subdivision 3; 176.102, subdivisions 3a and 14; 176.611, subdivision 6a; 204B.27, by adding a subdivision; 257.0762, subdivision 2; 257.0768; 268.53, subdivision 5; 296.02, subdivision 7; 298.2211, by adding a subdivision; 326.12, subdivision 3; 345.47, subdivision 4; 353.65, subdivision 7; 354.06, subdivision 1; 446A.02, subdivision 1, and by adding a subdivision; 446A.03, by adding a subdivision; 446A.07, subdivisions 4, 6, 8, 9, and 11; 446A.071, subdivision 1; 446A.11, subdivision 1; 446A.12, subdivision 1; 446A.15, subdivision 6; 462A.05, by adding a subdivision; 466.01, subdivision 1; 477A.12; 504.34, subdivision 3; 570.01; 570.02, subdivision 1; 570.025, subdivision 2; Minnesota Statutes 1993 Supplement, sections 15.50, subdivision 2; 15.91; 16A.152, subdivision 2; 16B.06, subdivision 2a; 16B.08, subdivision 7; 41A.09, subdivision 3; 44A.025; 60A.198, subdivision 3; 82.21, subdivision 1; 82.22, subdivisions 6 and 13; 82.34, subdivision 3; 84.872; 97A.028, subdivision 3; 97B.071; 115C.09, subdivision 1; 116J.966, subdivision 1; 138.763, subdivision 1; 144C.03, subdivision 2; 144C.07, subdivision 2; 239.785, subdivision 2, and by adding a subdivision; 257.0755; 268.98, subdivision 1; 446A.03, subdivision 1; 477A.14; 504.33, subdivisions 5 and 7; and 504.34, subdivisions 1 and 2; Laws 1993, chapters 192, section 17, subdivision 3; and 369, section 5, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 15; 16B; 17; 32; 154; 181; 197; 268; 268A; 299D; 446A; and 645; proposing coding for new law as Minnesota Statutes, chapter 16C; repealing Minnesota Statutes 1992, sections 10.11, subdivision 1; 10.12; 10.14; 10.15; 16A.06, subdivision 8; 16A.124, subdivision 6; 154.16; 154.165; 197.235; 268.31; 268.315; 268.32; 268.33; 268.34; 268.35; 268.36; 355.04; 355.06; 446A.03,

subdivision 3; and 446A.08; Laws 1985, First Special Session chapter 12, article 11, section 19."

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

Senate Conferees: (Signed) Gene Merriam, Richard J. Cohen, Steven Morse, Carl W. Kroening, Dennis R. Frederickson

House Conferees: (Signed) Richard "Rick" Krueger, David Battaglia, James I. Rice, Lee Greenfield, Bob Anderson

Mr. Merriam moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2913 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. 2913 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 49 and nays 14, as follows:

Those who voted in the affirmative were:

Adkins	Dille	Kelly	Merriam	Ranum
Anderson	Finn	Krentz	Metzen	Reichgott Junge
Beckman	Flynn	Kroening	Moe, R.D.	Riveness
Benson, D.D.	Frederickson	Laidig	Mondale	Sams
Berglin	Hanson	Langseth	Morse	Samuelson
Bertram	Hottinger	Larson	Murphy	Solon
Betzold	Janezich	Lesewski	Novak	Spear
Chandler	Johnson, D.E.	Lessard	Pappas	Terwilliger
Chmielewski	Johnson, D.J.	Marty	Piper	Wiener
Cohen	Johnson, J.B.	McGowan	Price	

Those who voted in the negative were:

Belanger	Day	Knutson	Olson	Runbeck
Benson, J.E.	Johnston	Neuville	Pariseau	Stevens
Berg	Kiscaden	Oliver	Robertson	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2129 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2129

A bill for an act relating to adoption; regulating certain advertising and payments in connection with adoption; regulating agencies; providing for direct adoptive placement; providing for the enforceability of postadoption contact agreements; providing penalties; amending Minnesota Statutes 1992, sections 144.227, subdivision 1, and by adding a subdivision; 245A.03, subdivision 1; 245A.04, by adding a subdivision; 245A.07, by adding a subdivision; 259.21, by adding subdivisions; 259.22, subdivisions 1, 2, and by adding a subdivision; 259.27, by adding a subdivision; 259.31; and 317A.907,

subdivision 6; Minnesota Statutes 1993 Supplement, section 245A.03, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 259.

May 4, 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. 2129, 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. 2129 be further amended as follows:

Page 2, line 4, before "*misdemeanor*" insert "*gross*"

Page 2, after line 4, insert "*This offense shall be prosecuted by the county attorney.*"

Page 6, after line 30, insert:

"Sec. 11. Minnesota Statutes 1992, section 259.21, is amended by adding a subdivision to read:

Subd. 11. [WORKING DAY.] *"Working day" means Monday through Friday, excluding any holiday as defined under section 645.44, subdivision 5.*"

Page 7, line 1, delete "*one month*" and insert "*30 days*"

Page 7, line 4, after "*requirement*" insert "*of this section*"

Page 8, line 4, before "*special*" insert "*child's*"

Page 8, lines 5 and 6, delete "*, of the child*"

Page 8, after line 12, insert:

"Sec. 15. Minnesota Statutes 1992, section 259.24, is amended by adding a subdivision to read:

Subd. 2a. [TIME OF CONSENT.] *Not sooner than 72 hours after the birth of a child and not later than 60 days after the child's placement in a prospective adoptive home, a person whose consent is required under this section shall execute a consent.*"

Page 8, line 14, delete "*A child placing*" and insert "*An*"

Page 8, line 30, before the period, insert "*, except that in inter-country adoptions, the signatures of birth parents are not required*"

Page 9, line 19, after "*birth*" insert "*and adoptive*"

Page 10, line 16, delete "*A written*" and insert "*An*"

Page 10, line 16, after "*study*" insert "*and written report*"

Page 10, line 20, delete "*study*" and insert "*report*"

Page 10, line 22, delete "*6*" and insert "*3*"

Page 10, lines 22 and 24, after "*study*" insert "*and report*"

Page 11, lines 19 and 20, delete "*adoption study*"

Page 11, line 27, after "*study*" insert ", *must disclose any names used previously other than the name used at the time of the study, and must provide a set of fingerprints, which shall be forwarded to the bureau of criminal apprehension to facilitate the criminal conviction background check required under clause (1)*"

Page 12, line 34, after "*study*" insert "*and report*"

Page 13, line 4, after the period, insert "*An order under this subdivision or subdivision 6 shall state that the prospective adoptive parent's right to custody of the child is subject to the birth parent's right to custody until the consents to the child's adoption become irrevocable. At the time of placement, prospective adoptive parents must have for the child qualifying existing coverage as defined in section 62L.02, subdivision 24, or other similar comprehensive health care coverage.*"

Page 13, line 7, delete "*90 days*" and insert "*three months*"

Page 14, line 18, after "*father*" insert "*by the affiant or anyone acting on the affiant's behalf*"

Page 14, line 20, after "*father*" insert "*by the affiant or anyone acting on the affiant's behalf*" and after "*in*" insert "*severe*"

Page 14, line 21, delete "*impairment*" and insert "*distress*"

Page 14, line 22, delete "*hear*" and insert "*consider*"

Page 14, line 31, delete "*up to 35 hours of*"

Page 14, line 34, after the period, insert "*The prospective adoptive parent shall not be responsible for the cost of more than 35 hours of counseling under this subdivision.*"

Page 15, line 3, before the period, insert "*for legal services provided in a direct adoptive placement*"

Page 15, line 3, after the period, insert "*The prospective adoptive parent shall only be required to provide legal counsel for one birth parent unless the birth parents elect joint legal representation. The right to legal counsel under this subdivision shall continue until consents become irrevocable, but not longer than 70 days after placement. If consents have not been executed within 60 days of placement, the right to counsel under this subdivision shall end at that time.*"

Page 15, line 4, delete "*consent hearing*" and insert "*time consents are executed*"

Page 15, line 12, delete "*favorable*" and insert "*completed*"

Page 15, line 15, delete "*has*" and insert "*have*"

Page 15, line 16, after "*crime*" insert "*or are the subject of an open investigation of,*"

Page 15, lines 16 and 17, delete "*an investigation*" and insert "*a substantiated allegation*"

Page 15, line 17, after "*of*" insert a comma

Page 15, line 18, after "*crime*" insert "*, open investigation,*"

Page 15, line 18, after "*or*" insert "*substantiated*"

Page 15, line 19, after "*and*" insert "*a complete description of any*"

Page 16, delete lines 8 to 12, and insert:

"*(c) An emergency order under this subdivision expires 14 days after it is issued. If the requirements of subdivision 3 are completed and a preadoptive custody motion is filed on or before the expiration of the emergency order, placement may continue until the court rules on the motion. The court shall consider the preadoptive custody motion within seven days of filing.*"

Page 16, line 13, delete "OF BIRTH PARENTS"

Page 16, line 14, delete "*In all adoptions, regardless of the*"

Page 16, delete lines 15 to 32 and insert:

"*Not sooner than 72 hours after the birth of a child and not later than 60 days after the child's placement in a prospective adoptive home under this section, a person whose consent is required under section 259.24 shall execute a consent. A birth parent, whose consent is required under section 259.24 and who has chosen not to receive counseling through a licensed agency or a licensed social services professional trained in adoption issues, shall appear before a judge or judicial officer to sign the written consent to the child's adoption by the prospective adoptive parent who has temporary preadoptive custody of the child. Notwithstanding where the prospective adoptive parent resides, the consent hearing may be held in any county in this state where the birth parent is found. If a birth parent has chosen to receive counseling through a licensed agency or a licensed social services professional trained in adoption issues, the birth parent may choose to execute a written consent under section 259.24, subdivision 5. A person whose consent is required under section 259.24, subdivision 2, may choose to execute consent at a judicial hearing as described in this section or under the procedures in section 259.24, subdivision 5.*"

Page 17, delete lines 23 to 36, and insert:

"*Subd. 8.* [NOTICE AND CONSENT DEADLINE; CONSENT HEARING; BIRTH PARENT NOT APPEARING.] *(a) With the exception of a person who receives notice under paragraph (b), if a birth parent whose consent is required under section 259.24 does not appear at a consent hearing under this section, the agency which is supervising the placement shall notify the court and the court shall issue an order regarding continued placement of the child. The court shall order the local social service agency to determine whether to commence proceedings for termination of parental rights on grounds of abandonment as defined in section 260.221. The court may disregard the six and 12-month requirements of section 260.221, paragraph (b), clause (1), item (i), in finding abandonment if the birth parent has failed to execute a consent within the time required under this section and has made no effort to obtain custody of the child.*

(b) A birth parent who intends to consent to the adoption of a child shall notify the other birth parent of that fact if the other birth parent's consent to the adoption is required under section 259.24, subdivision 1, at the time of

placement. Notice shall be provided to the other birth parent by personal service in the manner provided in the rules of civil procedure for service of a summons and complaint within 72 hours of the date on which the child is placed. The notice shall inform the birth parent of the notifying birth parent's intent regarding consent to adoption and shall notify the receiving birth parent that, not later than 60 days after the date of service, the birth parent must either consent or refuse to consent to the adoption. On the sixty-first day following service of the notice required under this subdivision, a birth parent who fails to take either of these actions, is deemed to have consented to the child's adoption regarding the child.''

Page 18, line 1, after ''STUDY'' insert ''AND REPORT''

Page 18, lines 4, 29, and 31, delete ''*study*'' and insert ''*report*''

Page 18, line 5, delete everything after ''*filed*''

Page 18, delete line 6

Page 18, line 7, delete everything before the period and insert ''*not later than 90 days after the filing of a petition for adoption*''

Page 18, line 8, delete ''*postplacement study*'' and insert ''*report*''

Page 18, lines 24 and 25, delete ''*postplacement adoption study*'' and insert ''*report*''

Page 19, line 5, before ''*misdemeanor*'' insert ''*gross*''

Page 19, after line 9, insert:

''*This offense shall be prosecuted by the county attorney.*

Sec. 23. Minnesota Statutes 1992, section 259.27, subdivision 1, is amended to read:

Subdivision 1. [~~COMMISSIONER'S~~ *NOTICE TO COMMISSIONER; COUNTY* DUTIES.] Upon the filing of a petition for adoption of a child the court administrator shall immediately transmit a copy of the petition to the commissioner of human services. ~~The commissioner~~ *and the local social services agency of the county in which the prospective adoptive parent lives. Except as provided in subdivision 2, the local social services agency* shall verify the allegations of the petition, investigate the conditions and antecedents of the child for the purpose of ascertaining whether the child is a proper subject for adoption, ~~and make appropriate inquiry to ascertain~~ whether the proposed ~~foster~~ *adoptive* home and the child are suited to each other and whether the proposed ~~foster home~~ *adoption* meets the preferences described in section 259.28, subdivision 2. The report of the county welfare board ~~submitted to the commissioner of human services bearing on the suitability of the proposed foster home and the child to each other~~ shall be confidential, and the records of the county welfare board or the contents ~~thereof~~ *of them* shall not be disclosed either directly or indirectly to any person other than the commissioner of human services or a judge of the court having jurisdiction of the matter. Within 90 days after the receipt of ~~said~~ *the* copy of the petition the ~~commissioner~~ *local social services agency* shall submit to the court *and the commissioner* a full report in writing with recommendations as to the granting of the petition. If ~~such~~ *the* report is not returned within the 90 days, without fault of petitioner, the court may hear the petition upon giving the ~~commissioner~~ *local social services agency* five days notice by mail of the time and

place of the hearing. If ~~such~~ *the* report disapproves of the adoption of the child, the ~~commissioner~~ *local social services agency* may recommend that the court dismiss the petition.

Sec. 24. Minnesota Statutes 1992, section 259.27, subdivision 2, is amended to read:

Subd. 2. [ADOPTION AGENCIES.] Notwithstanding the provisions of subdivision 1, if the child to be adopted has been committed to the guardianship of an agency pursuant to section 260.241, or if the child has been surrendered to an agency pursuant to section 259.25, *or the child's direct adoptive placement is being supervised by an agency pursuant to section 259.2591* the court~~, in its discretion, may~~ *shall* refer the adoption petition to ~~such~~ *the* agency, or, if the adopting parent has a stepparent relationship to the child, to the county welfare department of the county in which the adoption is pending. The agency or county welfare department, within 90 days of receipt of a copy of the adoption petition, shall file with the court a report of its investigation of the environment and antecedents of the child to be adopted and of the home of the petitioners and its determination whether the home of the petitioners meets the preferences described in section 259.28, subdivision 2. If ~~such~~ *the* report disapproves of the adoption of the child, the agency or county welfare department may recommend that the court dismiss the petition. *In the case of a direct adoptive placement under section 259.2591, a postplacement adoption study completed under subdivision 9 of that section shall be considered as meeting the requirement for a report under this section.*

Sec. 25. Minnesota Statutes 1992, section 259.27, subdivision 5, is amended to read:

Subd. 5. [RESIDENCE AND INVESTIGATION WAIVED; STEPPARENT.] ~~Such~~ *The* investigation and period of residence *required by this section* may be waived by the court when the petition for adoption is submitted by a stepparent or when, upon good cause being shown, the court is satisfied that the proposed adoptive home and the child are suited to each other, but in either event at least ten *working* days notice of the hearing shall be given to the ~~commissioner~~ *local social services agency* by certified mail. The reports of investigations shall be a part of the court files in the case, unless otherwise ordered by the court."

Page 19, line 22, after "*chapter*" insert a comma

Page 20, line 17, before "*misdemeanor*" insert "*gross*"

Page 20, line 21, before "*misdemeanor*" insert "*gross*"

Page 20, line 24, delete "*259.2591*" and insert "*259.21, subdivision 9*"

Page 20, after line 25, insert:

"*(c) An offense under this subdivision shall be prosecuted by the county attorney.*"

Page 21, line 3, delete "*9*" and insert "*10*"

Page 22, line 9, delete everything after the first comma

Page 22, after line 20, insert:

"*(b) In the next and subsequent editions of Minnesota Statutes, the revisor*

shall change the terms "county welfare board" and "county welfare department" to "local social services agency" wherever they appear."

Page 22, line 21, delete "*(b)*" and insert "*(c)*"

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 12, delete "259.27," and insert "259.24, by adding a subdivision; 259.27, subdivisions 1, 2, 5, and"

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

Senate Conferees: (Signed) Pat Piper, Sheila M. Kiscaden, Don Betzold

House Conferees: (Signed) Ann H. Rest, Wesley J. "Wes" Skoglund, Bill Macklin

Ms. Piper moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2129 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. 2129 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 58 and nays 5, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Johnston	Larson	Neuville	Olson	Pariseau

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

MOTIONS AND RESOLUTIONS – CONTINUED

S.F. No. 180 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 180

A bill for an act relating to horse racing; proposing an amendment to the

Minnesota Constitution, article X, section 8; permitting the legislature to authorize pari-mutuel betting on horse racing without limitation; directing the Minnesota racing commission to prepare and submit legislation to implement televised off-site betting.

May 5, 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. 180, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate concur in the House amendment adopted April 29, 1994, and that the House amendment be further amended as follows:

Page 1, delete lines 15 to 17 and insert:

"'*Shall the Minnesota Constitution be amended to permit off-track wagering on horse racing in a manner prescribed by law?*"

Page 2, line 8, delete "*teletheatres*" and insert "*facilities*"

Page 2, line 9, delete "*large-screen*"

Page 2, line 10, delete "*theatre*" and insert "*adequate*" and delete "*full*"

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

Senate Conferees: (Signed) Carl W. Kroening, Jerry R. Janezich

House Conferees: (Signed) Wayne Simoneau, Phyllis Kahn, Ron Abrams

Mr. Kroening moved that the foregoing recommendations and Conference Committee Report on S.F. No. 180 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. 180 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 46 and nays 15, as follows:

Those who voted in the affirmative were:

Adkins	Frederickson	Kroening	Novak	Spear
Beckman	Hanson	Laidig	Oliver	Stevens
Belanger	Hottinger	Langseth	Olson	Stumpf
Benson, D.D.	Johnson, D.E.	Lesewski	Pariseau	Terwilliger
Bertram	Johnson, J.B.	Lessard	Price	Vickerman
Betzold	Johnston	McGowan	Riveness	Wiener
Cohen	Kelly	Metzen	Robertson	
Day	Kiscaden	Moe, R.D.	Runbeck	
Dille	Knutson	Morse	Sams	
Flynn	Krentz	Murphy	Samuelson	

Those who voted in the negative were:

Benson, J.E.	Finn	Luther	Mondale	Piper
Berglin	Johnson, D.J.	Marty	Neuville	Ranum
Chandler	Larson	Merriam	Pappas	Reichgott Junge

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Pogemiller moved that the following members be excused for a Conference Committee on H.F. No. 2189 at 2:30 p.m.:

Messrs. Pogemiller, Janezich, Mses. Krentz, Pappas and Robertson. The motion prevailed.

MOTIONS AND RESOLUTIONS – CONTINUED

S.F. No. 103 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 103

A bill for an act relating to lawful gambling; regulating the conduct of lawful gambling; prescribing the powers and duties of licensees and the board; giving the gambling control board director cease and desist authority for violations of board rules; adding restrictions for bingo halls, distributors, and manufacturers; providing more flexibility in denying a license application to ensure the integrity of the lawful gambling industry; strengthening the gambling control board's enforcement ability by increasing licensing requirements; establishing the combined receipts tax as a lawful purpose expenditure; expanding definition of lawful purpose to include certain senior citizen activities, certain real estate taxes and assessments, and wildlife management projects; prohibiting the use of lawful purpose contributions by local governmental units in pension or retirement funds; exempting organizations with gross receipts of $50,000 or less from the annual audit; expanding the definition of a class C license; making class C licensee reporting requirements quarterly; modifying the definition of allowable expense to include some advertising costs; eliminating additional compensation for the state lottery director; clarifying and strengthening the regulation of the conduct of bingo; prohibiting certain forms of gambling by persons under 18; modifying the definition of net profits for local assessments; prescribing penalties; amending Minnesota Statutes 1992, sections 240.13, subdivision 8; 240.25, by adding a subdivision; 240.26, subdivision 3; 299L.03, subdivisions 1 and 2; 299L.07, by adding a subdivision; 349.12, subdivisions 1, 3a, 4, 8, 11, 18, 19, 21, 23, 25, 30, 32, 34, and by adding a subdivision; 349.151, subdivision 4; 349.152, subdivisions 2 and 3; 349.153; 349.154, subdivision 2; 349.16, subdivisions 6 and 8; 349.161, subdivisions 1, 3, and 5; 349.162, subdivisions 1, 2, 4, and 5; 349.163, subdivisions 1, 1a, 3, 5, and 6; 349.164, subdivisions 1, 3, and 6; 349.1641; 349.166, subdivisions 1, 2, and 3; 349.167, subdivisions 1 and 4; 349.168, subdivisions 3 and 6; 349.169, subdivision 1; 349.17, subdivisions 2, 4, 5, and by adding a subdivision; 349.174; 349.18, subdivisions 1, 1a, and 2; 349.19, subdivisions 2, 5, 6, 8, and 9; 349.191, subdivisions 1, 4, and by adding a subdivision; 349.211, subdivisions 1 and 2; 349.2122; 349.2125, subdivisions 1 and 3; 349.2127, subdivisions 2, 4, and by adding a subdivision; 349.213, subdivision 1; 349A.03, subdivision 2; 349A.12, subdivisions

1, 2, 5, and 6; and 609.755; proposing coding for new law in Minnesota Statutes, chapters 471; and 609; repealing Minnesota Statutes 1992, sections 349A.03, subdivision 3; and 349A.08, subdivision 3.

May 4, 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. 103, 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. 103 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

PARI-MUTUEL RACING

Section 1. Minnesota Statutes 1992, section 240.05, subdivision 1, is amended to read:

Subdivision 1. [CLASSES.] The commission may issue ~~five~~ *four* classes of licenses:

(a) class A licenses, for the ownership and operation of a racetrack with horse racing on which pari-mutuel betting is conducted;

(b) class B licenses, for the sponsorship and management of horse racing on which pari-mutuel betting is conducted;

(c) class C licenses, for the privilege of engaging in certain occupations related to horse racing; *and*

(d) class D licenses, for the conduct of pari-mutuel horse racing by county agricultural societies or associations; ~~and~~

~~(e) class E licenses, for the management of a teleracing facility.~~

No person may engage in any of the above activities without first having obtained the appropriate license from the commission.

Sec. 2. Minnesota Statutes 1992, section 240.06, subdivision 7, is amended to read:

Subd. 7. [LICENSE SUSPENSION AND REVOCATION.] The commission:

(1) may revoke a class A license for *(i)* a violation of law, order, or rule which in the commission's opinion adversely affects the integrity of horse racing in Minnesota, or for an intentional false statement made in a license application, or ~~for~~ *(ii)* a willful failure to pay any money required to be paid by Laws 1983, chapter 214, and

(2) may revoke *a class A license* for failure to perform material covenants or representations made in a license application; *and*

(3) shall revoke a class A license if live racing has not been conducted on at least 50 racing days assigned by the commission during any period of 12 consecutive months, unless the commission authorizes a shorter period because of circumstances beyond the licensee's control.

The commission may suspend a class A license for up to one year for a violation of law, order, or rule which in the commission's opinion adversely affects the integrity of horse racing in Minnesota, and may suspend a class A license indefinitely if it determines that the licensee has as an officer, director, shareholder, or other person with a direct, indirect, or beneficial interest a person who is in the commission's opinion inimical to the integrity of horse racing in Minnesota or who cannot be certified under subdivision 1, clause (d).

A license revocation or suspension under this subdivision is a contested case under sections 14.57 to 14.69 of the Administrative Procedure Act, and is in addition to criminal penalties imposed for a violation of law or rule.

Sec. 3. Minnesota Statutes 1992, section 240.09, is amended by adding a subdivision to read:

Subd. 3a. [INVESTIGATION.] *Before granting a class D license the director shall conduct, or request the division of gambling enforcement to conduct, a comprehensive background and financial investigation of the applicant and the sources of financing. The director may charge an applicant an investigation fee to cover the cost of the investigation, and shall from this fee reimburse the division of gambling enforcement for its share of the cost of the investigation. The director has access to all criminal history data compiled by the division of gambling enforcement on class A licensees and applicants.*

Sec. 4. Minnesota Statutes 1992, section 240.13, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZED.] *(a)* Class B and class D licenses give the licensees authority to conduct pari-mutuel betting on the results of races run at the licensed racetrack, and on other races as authorized by the commission under this section.

(b) A class B or class ~~E~~ *D* license gives the licensee the authority to transmit and receive telecasts and conduct pari-mutuel betting on the results of horse races run at its class A facility, and of other horse races run at *other* locations ~~outside of the state~~, as authorized by the commission. ~~A class E licensee must present, for pari-mutuel wagering purposes, all live horse races conducted at its class A facility.~~ The class B or class ~~E~~ *D* licensee may present racing programs separately or concurrently.

(c) Subject to the approval of the commission~~, for simulcasts and telerace simulcasts~~ the types of betting, takeout, and distribution of winnings on pari-mutuel pools ~~of~~ *on simulcast races at* a class B or class ~~E~~ *D* facility are those in effect at the sending racetrack. ~~Pari-mutuel pools accumulated at a class E facility must be commingled with the pools at the class A facility for comparable pools on those races that are being simultaneously presented at both facilities.~~ Pari-mutuel pools may be commingled with pools at the sending racetrack, for the purposes of determining odds and payout prices, via the totalizator computer at the class A facility.

(d) The commission may not authorize a class B ~~or class E~~ licensee to conduct simulcasting or telerace simulcasting unless 125 days of live racing, consisting of not less than eight live races on each racing day, have been

conducted at the class A facility within the preceding 12 months. The number of live racing days required may be adjusted by agreement between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races at the licensee's class A facility during the preceding 12 months. The number of live racing days required must be reduced by one day for each assigned racing day that the licensee is unable to conduct live racing due to natural occurrences or catastrophes beyond its control.

(e) The commission may authorize no more than five class D licensees to conduct simulcasting in any year. Simulcasting may be conducted at each class D licensee's facility:

(1) only on races conducted at another class D facility during a county fair day at that facility; and

(2) only on standardbred races.

A class D licensee may not conduct simulcasting for wagering purposes unless the licensee has a written contract, permitting the simulcasting, with a horseperson's organization representing the standardbred industry the breed being simulcast under authority of the class D license.

Sec. 5. Minnesota Statutes 1992, section 240.13, subdivision 2, is amended to read:

Subd. 2. [REQUIREMENTS.] (a) A licensee conducting pari-mutuel betting must provide at the licensed track ~~or at the teleracing facility~~:

(1) the necessary equipment for issuing pari-mutuel tickets; and

(2) mechanical or electronic equipment for displaying information the commission requires. All mechanical or electronic devises must be approved by the commission before being used.

(b) A licensee conducting pari-mutuel betting must post prominently at each point of sale of pari-mutuel tickets, in a manner approved by the commissioner of human services, the toll-free telephone number established by the commissioner of human services in connection with the compulsive gambling program established under section 245.98.

Sec. 6. Minnesota Statutes 1992, section 240.13, subdivision 3, is amended to read:

Subd. 3. [TYPES OF BETTING.] The commission shall by rule designate those types of pari-mutuel pools which are permitted at licensed racetracks ~~and teleracing facilities~~, and no licensee may conduct any type of pari-mutuel pool which has not been so designated. ~~Pari-mutuel pools permitted at licensed racetracks and pari-mutuel pools designated by the commission are permitted at teleracing facilities.~~

Sec. 7. Minnesota Statutes 1992, section 240.13, subdivision 5, is amended to read:

Subd. 5. [PURSES.] (a) From the amounts deducted from all pari-mutuel pools by a licensee, an amount equal to not less than the following percentages of all money in all pools must be set aside by the licensee and used for purses for races conducted by the licensee, provided that a licensee may agree by contract with an organization representing a majority of the horsepersons

racing the breed involved to set aside amounts in addition to the following percentages:

(1) for live races conducted at a class A facility, and for races that are part of full racing card simulcasting ~~or full racing card telerace simulcasting~~ that takes place within the time period of the live races, 8.4 percent;

(2) for simulcasts ~~and telerace simulcasts~~ conducted during the racing season other than as provided for in clause (1), 50 percent of the takeout remaining after deduction for taxes on pari-mutuel pools, payment to the breeders fund, and payment to the sending out-of-state racetrack for receipt of the signal; and

(3) for simulcasts ~~and telerace simulcasts~~ conducted outside of the racing season, 25 percent of the takeout remaining after deduction for the state pari-mutuel tax, payment to the breeders fund, payment to the sending out-of-state racetrack for receipt of the signal and, before January 1, 2005, a further deduction of eight percent of all money in all pools; ~~provided, however, that~~. In the event that wagering on simulcasts ~~and telerace simulcasts~~ outside of the racing season exceeds $125 million in any calendar year, the amount set aside for purses by this formula is increased to 30 percent on amounts between $125,000,000 and $150,000,000 wagered; 40 percent on amounts between $150,000,000 and $175,000,000 wagered; and 50 percent on amounts in excess of $175,000,000 wagered. In lieu of the eight percent deduction, a deduction as agreed to between the licensee and the horsepersons' organization representing the majority of horsepersons racing at the licensee's class A facility during the preceding 12 months, is allowed after December 31, 2004.

The commission may by rule provide for the administration and enforcement of this subdivision. The deductions for payment to the sending out-of-state racetrack must be actual, except that when there exists any overlap of ownership, control, or interest between the sending out-of-state racetrack and the receiving licensee, the deduction must not be greater than three percent unless agreed to between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races during the existing racing meeting or, if outside of the racing season, during the most recent racing meeting.

In lieu of the amount the licensee must pay to the commission for deposit in the Minnesota breeders fund under section 240.15, subdivision 1, the licensee shall pay 5-1/2 percent of the takeout from all pari-mutuel pools generated by wagering at the licensee's facility on full racing card simulcasts ~~and full racing card telerace simulcasts~~ of races not conducted in this state.

(b) From the money set aside for purses, the licensee shall pay to the horseperson's organization representing the majority of the horsepersons racing the breed involved and contracting with the licensee with respect to purses and the conduct of the racing meetings and providing representation, benevolent programs, benefits, and services for horsepersons and their on-track employees, an amount, sufficient to perform these services, as may be determined by agreement by the licensee and the horseperson's organization. The amount paid may be deducted only from the money set aside for purses to be paid in races for the breed represented by the horseperson's organization. With respect to racing meetings where more than one breed is racing, the licensee may contract independently with the horseperson's organization representing each breed racing.

(c) Notwithstanding sections 325D.49 to 325D.66, a horseperson's organization representing the majority of the horsepersons racing a breed at a meeting, and the members thereof, may agree to withhold horses during a meeting.

(d) Money set aside for purses from wagering, during the racing season, on simulcasts ~~and telerace simulcasts~~ must be used for purses for live races conducted at the licensee's class A facility during the same racing season, over and above the 8.4 percent purse requirement or any higher requirement to which the parties agree, for races conducted in this state. Money set aside for purses from wagering, outside of the racing season, on simulcasts ~~and telerace simulcasts~~ must be for purses for live races conducted at the licensee's class A facility during the next racing season, over and above the 8.4 percent purse requirement or any higher requirement to which the parties agree, for races conducted in this state.

(e) Money set aside for purses from wagering on simulcasts ~~and telerace simulcasts~~ must be used for purses for live races involving the same breed involved in the simulcast ~~or telerace simulcast~~ except that money set aside for purses and payments to the breeders fund from wagering on full racing card simulcasts ~~and full racing card telerace simulcasts~~ of races not conducted in this state, occurring during a live mixed meet, must be allotted to the purses and breeders fund for each breed participating in the mixed meet in the same proportion that the number of live races run by each breed bears to the total number of live races conducted during the period of the mixed meet.

(f) The allocation of money set aside for purses to particular racing meets may be adjusted, relative to overpayments and underpayments, by contract between the licensee and the horsepersons' organization representing the majority of horsepersons racing the breed involved at the licensee's facility.

(g) Subject to the provisions of this chapter, money set aside from pari-mutuel pools for purses must be for the breed involved in the race that generated the pool, except that if the breed involved in the race generating the pari-mutuel pool is not racing in the current racing meeting, or has not raced within the preceding 12 months at the licensee's class A facility, money set aside for purses may be distributed proportionately to those breeds that have run during the preceding 12 months or paid to the commission and used for purses or to promote racing for the breed involved in the race generating the pari-mutuel pool, or both, in a manner prescribed by the commission.

(h) This subdivision does not apply to a class D licensee.

Sec. 8. Minnesota Statutes 1992, section 240.13, subdivision 6, is amended to read:

Subd. 6. [SIMULCASTING.] *(a)* The commission may permit an authorized licensee to conduct simulcasting ~~or telerace simulcasting~~ at the licensee's facility on any day authorized by the commission. All simulcasts ~~and telerace simulcasts~~ must comply with the Interstate Horse Racing Act of 1978, United States Code, title 15, sections 3001 to 3007. ~~In addition to teleracing programs featuring live racing conducted at the licensee's class A facility, the class E licensee may conduct not more than seven teleracing programs per week during the racing season, unless additional telerace simulcasting is authorized by the director and approved by the horsepersons' organization representing the majority of horsepersons racing the breed racing the majority of races at the licensee's class A facility during the preceding 12 months.~~

(b) The commission may not authorize any day for simulcasting at a class A facility during the racing season, and a licensee may not be allowed to transmit out-of-state telecasts of races the licensee conducts, unless the licensee has obtained the approval of the horsepersons' organization representing the majority of the horsepersons racing the breed involved at the licensed racetrack during the preceding 12 months.

(c) The licensee may pay fees and costs to an entity transmitting a telecast of a race to the licensee for purposes of conducting pari-mutuel wagering on the race. The licensee may deduct fees and costs related to the receipt of televised transmissions from a pari-mutuel pool on the televised race, provided that one-half of any amount recouped in this manner must be added to the amounts required to be set aside for purses.

(e) With the approval of the commission and subject to the provisions of this subdivision, a licensee may transmit telecasts of races it conducts, for wagering purposes, to locations outside the state, and the commission may allow this to be done on a commingled pool basis.

(f) Except as otherwise provided in this section, simulcasting ~~and telerace simulcasting~~ may be conducted on a separate pool basis or, with the approval of the commission, on a commingled pool basis. All provisions of law governing pari-mutuel betting apply to simulcasting ~~and telerace simulcasting~~ except as otherwise provided in this subdivision or in the commission's rules. If pools are commingled, wagering at the licensed facility must be on equipment electronically linked with the equipment at the licensee's class A facility or with the sending racetrack via the totalizator computer at the licensee's class A facility. Subject to the approval of the commission, the types of betting, takeout, and distribution of winnings on commingled pari-mutuel pools are those in effect at the sending racetrack. Breakage for pari-mutuel pools on a televised race must be calculated in accordance with the law or rules governing the sending racetrack for these pools, and must be distributed in a manner agreed to between the licensee and the sending racetrack. Notwithstanding subdivision 7 and section 240.15, subdivision 5, the commission may approve procedures governing the definition and disposition of unclaimed tickets that are consistent with the law and rules governing unclaimed tickets at the sending racetrack. For the purposes of this section, "sending racetrack" is either the racetrack outside of this state where the horse race is conducted or, with the consent of the racetrack, an alternative facility that serves as the racetrack for the purpose of commingling pools.

(g) If there is more than one class B licensee conducting racing within the seven-county metropolitan area, simulcasting ~~and telerace simulcasting~~ may be conducted only on races run by a breed that ran at the licensee's class A facility within the 12 months preceding the event.

~~Contractual agreements between licensees and horsepersons' organizations entered into before June 5, 1991, regarding money to be set aside for purses from pools generated by simulcasts at a class A facility, are controlling regarding purse requirements through the end of the 1992 racing season.~~

Sec. 9. Minnesota Statutes 1992, section 240.13, subdivision 8, is amended to read:

Subd. 8. [PROHIBITED ACTS.] *(a)* A licensee may not accept a bet *or a pari-mutuel ticket for payment* from any person under the age of 18 years~~; and a licensee may not accept a bet of less than $1~~. *It is an affirmative defense to*

a charge under this paragraph for the licensee to prove by a preponderance of the evidence that the licensee, reasonably and in good faith, relied upon representation of proof of age described in section 340A.503, subdivision 6, in accepting the bet or pari-mutuel ticket for payment.

Sec. 10. Minnesota Statutes 1992, section 240.15, subdivision 6, is amended to read:

Subd. 6. [DISPOSITION OF PROCEEDS.] The commission shall distribute all money received under this section, and all money received from license fees and fines it collects, as follows: all money designated for deposit in the Minnesota breeders fund must be paid into that fund for distribution under section 240.18 except that all money generated by full racing card simulcasts~~, or full racing card telerace simulcasts of races not conducted in this state,~~ must be distributed as provided in section 240.18, subdivisions 2, paragraph (d), clauses (1), (2), and (3); and 3. Revenue from an admissions tax imposed under subdivision 1 must be paid to the local unit of government at whose request it was imposed, at times and in a manner the commission determines. All other revenues received under this section by the commission, and all license fees, fines, and other revenue it receives, must be paid to the state treasurer for deposit in the general fund.

Sec. 11. Minnesota Statutes 1992, section 240.16, subdivision 1a, is amended to read:

Subd. 1a. [SIMULCAST.] All simulcasts ~~and telerace simulcasts~~ are subject to the regulation of the commission. The commission may assign an official to preside over these activities and, if so assigned, the official has the powers and duties provided by rule.

Sec. 12. Minnesota Statutes 1992, section 240.25, subdivision 2, is amended to read:

Subd. 2. [OFF-TRACK BETS.] ~~(a)~~ No person shall:

(1) for a fee, directly or indirectly, accept anything of value from another to be transmitted or delivered for wager in any licensed pari-mutuel system of wagering on horse races, or for a fee deliver anything of value which has been received outside of the enclosure of a licensed racetrack holding a race meet licensed under this chapter ~~or a teleracing facility~~, to be placed as wagers in the pari-mutuel system of wagering on horse racing within the enclosure or facility; or

(2) give anything of value to be transmitted or delivered for wager in any licensed pari-mutuel system of wagering on horse races to another who charges a fee, directly or indirectly, for the transmission or delivery.

~~(b) Nothing in this subdivision prohibits the conducting of pari-mutuel wagering at a licensed teleracing facility.~~

Sec. 13. Minnesota Statutes 1992, section 240.25, is amended by adding a subdivision to read:

Subd. 8. [AGE UNDER 18.] *A person under the age of 18 may not place a bet or present a pari-mutuel ticket for payment with an approved pari-mutuel system.*

Sec. 14. Minnesota Statutes 1992, section 240.26, subdivision 3, is amended to read:

Subd. 3. [MISDEMEANORS.] A violation of any other provision of ~~Laws 1983,~~ *this* chapter ~~214~~ or of a rule or order of the commission for which another penalty is not provided is a misdemeanor.

Sec. 15. Minnesota Statutes 1992, section 240.27, subdivision 1, is amended to read:

Subdivision 1. [PERSONS EXCLUDED.] The commission may exclude from any and all licensed racetracks ~~or licensed teleracing facilities~~ in the state a person who:

(a) has been convicted of a felony under the laws of any state or the United States;

(b) has had a license suspended, revoked, or denied by the commission or by the racing authority of any other jurisdiction; or

(c) is determined by the commission, on the basis of evidence presented to it, to be a threat to the integrity of racing in Minnesota.

Sec. 16. Minnesota Statutes 1992, section 240.28, subdivision 1, is amended to read:

Subdivision 1. [FINANCIAL INTEREST.] No person may serve on or be employed by the commission who has an interest in any corporation, association, or partnership which holds a license from the commission or which holds a contract to supply goods or services to a licensee or at a licensed racetrack ~~or a licensed teleracing facility~~, including concessions contracts. No member or employee of the commission may own, wholly or in part, or have an interest in a horse which races at a licensed racetrack in Minnesota. No member or employee of the commission may have a financial interest in or be employed in a profession or business which conflicts with the performance of duties as a member or employee.

Sec. 17. [REPEALER.]

Minnesota Statutes 1992, section 240.091, is repealed.

Sec. 18. [EFFECTIVE DATE.]

Sections 1, 3 to 8, 10 to 12, and 14 to 17 are effective the day following final enactment. Sections 9 and 13 are effective August 1, 1994. Section 2 is effective April 1, 1995.

ARTICLE 2

GAMBLING TAX RECODIFICATION

Section 1. [297E.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] *Unless otherwise defined in this chapter, or unless the context clearly indicates otherwise, the terms used in this chapter have the meaning given them in chapter 349. The definitions in this section are for tax administration purposes and apply to this chapter.*

Subd. 2. [BINGO.] *For purposes of this chapter "bingo" means the game of bingo as defined in section 349.12, subdivision 4, and as conducted under chapter 349, and any other game that is substantially the same as or similar to that game, including but not limited to a game where:*

(1) players pay compensation for a game sheet, card, or paper that has spaces arranged on it in columns and rows containing printed numbers or figures, or that has spaces in which players are allowed to place their own numbers or figures, or for an electronic, mechanical, or other facsimile of such sheets, cards or paper;

(2) numbers or figures are randomly selected for comparison with the numbers or figures on each game sheet, card, paper, or facsimile;

(3) game winners are those who have a game sheet, card, paper, or facsimile with some or all of the randomly selected numbers or figures displayed thereon, in the same pattern or arrangement that has been previously designated or understood to be a winning pattern or arrangement for the game; and

(4) game winner receive or are eligible to receive a prize such as money, property, or other reward or benefit.

Subd. 3. [COMMISSIONER.] *"Commissioner" means the commissioner of revenue or a person to whom the commissioner has delegated functions.*

Subd. 4. [CONTRABAND.] *For purposes of this chapter, "contraband" means all of the items listed in section 349.2125, and all pull-tab or tipboard deals or portions of deals on which the tax imposed under section 297E.02 has not been paid.*

Subd. 5. [DISTRIBUTOR.] *"Distributor" means a distributor as defined in section 349.12, subdivision 11, or a person who markets, sells, or provides gambling product to a person or entity for resale or use at the retail level.*

Subd. 6. [FISCAL YEAR.] *"Fiscal year" means the period from July 1 to June 30.*

Subd. 7. [GAMBLING PRODUCT.] *"Gambling product" means bingo cards, paper, or sheets; pull-tabs; tipboards; paddletickets and paddleticket cards; raffle tickets; or any other ticket, card, board, placard, device, or token that represents a chance, for which consideration is paid, to win a prize.*

Subd. 8. [GROSS RECEIPTS.] *"Gross receipts" means all receipts derived from lawful gambling activity including, but not limited to, the following items:*

(1) gross sales of bingo hard cards and paper sheets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(2) the ideal gross of pull-tab and tipboard deals or games less the value of unsold and defective tickets and before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(3) gross sales of raffle tickets and paddle tickets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(4) admission, commission, cover, or other charges imposed on participants in lawful gambling activity as a condition for or cost of participation; and

(5) interest, dividends, annuities, profit from transactions, or other income derived from the accumulation or use of gambling proceeds.

Gross receipts does not include proceeds from rental under section 349.164 or 349.18, subdivision 3.

Subd. 9. [IDEAL GROSS.] *"Ideal gross" means the total amount of receipts that would be received if every individual ticket in the pull-tab or tipboard deal was sold at its face value. In the calculation of ideal gross and prizes, a free play ticket shall be valued at face value.*

Subd. 10. [MANUFACTURER.] *"Manufacturer" means a manufacturer as defined in section 349.12, subdivision 26, or a person or entity who: (1) assembles from raw materials, or from subparts or other components, a completed item of gambling product for resale, use, or receipt in Minnesota; or (2) sells, furnishes, ships, or imports completed gambling product from outside Minnesota for resale, use, receipt, or storage in Minnesota; or (3) being within the state, assembles, produces, or otherwise creates gambling products.*

Subd. 11. [PRIZE.] *"Prize" means a thing of value, other than a free play, offered or awarded to the winner of a gambling game.*

Subd. 12. [PULL-TAB.] *"Pull-tab" is a pull-tab as defined in section 349.12, subdivision 32, or any other gambling ticket or device that is substantially the same as or similar to such a pull-tab, including but not limited to, a ticket or card that:*

(1) has one or more concealed numbers, figures, or symbols, or combination thereof, printed on it;

(2) may be used in games where the player knows in advance, or can determine in advance, what the pre-designated winning numbers, figures, symbols, or combinations are; and

(3) may be played by revealing the concealed ticket information and comparing that information with the pre-designated winning numbers, figures, symbols, or combinations in order to determine a winner.

Subd. 13. [RAFFLE.] *"Raffle" means a raffle as defined in section 349.12, subdivision 33, and any other game that is played in a manner substantially similar to the play of such a raffle, including but not limited to raffles in which compensation is paid for the chance to win a thing of value, the chance is evidenced by a ticket, card, token, or equivalent item, and the winner is selected by random drawing.*

Subd. 14. [RETAIL LEVEL.] *"Retail level" means an activity where gambling product is sold to players or participants in gambling games and where the players or participants give consideration for a chance to win a prize.*

Subd. 15. [TAXPAYER.] *"Taxpayer" means a person subject to or liable for a tax imposed by this chapter, a person required to file reports or returns with the commissioner under this chapter, a person required to keep or retain records under this chapter, or a person required by this chapter to obtain or hold a permit.*

Subd. 16. [TICKET.] *"Ticket" means a valid token, card, or other tangible voucher, other than bingo cards, sheets, or paper, that grants the holder a chance or chances to participate in a game of gambling.*

Subd. 17. [TIPBOARD.] *"Tipboard" means a tipboard as defined in section 349.12, subdivision 34, and any game that is substantially the same as or similar to the game of tipboards authorized under chapter 349, including but not limited to any of the following games:*

(1) a game that consists of one or more boards, placards, or other devices in which (i) the board, placard, or other device has been marked off into a grid or columns in which each section represents a chance to win a prize, (ii) participants pay a consideration to select a section or sections, (iii) all or some of the winning numbers, figures, symbols, or other winning criteria for the game are concealed or otherwise not known by the player at the time the player obtains a chance in the game, and (iv) the numbers, figures, symbols, or other criteria for winning the game are later revealed for comparison with the information on the board, placard, or other device in order to determine a winner;

(2) a game that consists of one or more boards, placards, or other devices that (i) have tickets attached to or otherwise associated with them, and that have one or more concealed numbers, figures, or combination thereof on the tickets; (ii) participants pay a consideration to obtain the tickets, (iii) all or some of the winning numbers, figures, symbols, or other winning criteria for the game are concealed or otherwise not known by the player at the time the player obtains a chance in the game, and (iv) the numbers, figures, symbols, or other criteria for winning the game are later revealed for comparison with the information on the game tickets in order to determine a winner; or

(3) a game that consists of a deal or set of tickets that (i) have one or more concealed numbers, figures, or symbols, or combination thereof, on the tickets, (ii) participants pay a consideration to obtain the tickets, (iii) all or some of the winning numbers, figures, symbols, or combination thereof, are concealed or otherwise not known to the player at the time the player obtains the ticket, and (iv) the tickets are used in games where the numbers, figures, symbols, or other winning criteria are later revealed for comparison with the information on the game tickets in order to determine a winner.

"Tipboards" includes any game otherwise described in this subdivision in which the winning chances are determined in whole or in part by the outcome of one or more sporting events. "Tipboard" does not include boards, placards, tickets, or other devices lawfully used in connection with the operation of the state lottery under chapter 349A or the lawful conduct of pari-mutuel betting on horse racing under chapter 240.

Subd. 18. [OTHER WORDS.] *Unless specifically defined in this chapter, or unless the context clearly indicates otherwise, the words used in this chapter have the meanings given them in chapter 349.*

Sec. 2. [297E.02] [TAX IMPOSED.]

Subdivision 1. [IMPOSITION.] *A tax is imposed on all lawful gambling other than (1) pull-tabs purchased and placed into inventory after January 1, 1987, and (2) tipboards purchased and placed into inventory after June 30, 1988, at the rate of ten percent on the gross receipts as defined in section 349.12, subdivision 21, less prizes actually paid. The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.02 and all local taxes and license fees except a fee authorized under section 349.16, subdivision 8, or a tax authorized under subdivision 5.*

The tax imposed under this subdivision is payable by the organization or party conducting, directly or indirectly, the gambling.

Subd. 2. [TAX-EXEMPT GAMBLING.] *An organization's receipts from lawful gambling that are excluded or exempt from licensing under section*

349.166, are not subject to the tax imposed by this section or section 297A.02. This exclusion from tax is only valid if at the time of the event giving rise to the tax the organization either has an exclusion under section 349.166, subdivision 1, or has applied for and received a valid exemption from the lawful gambling control board.

Subd. 3. [COLLECTION; DISPOSITION.] *Taxes imposed by this section are due and payable to the commissioner when the gambling tax return is required to be filed. Returns covering the taxes imposed under this section must be filed with the commissioner on or before the 20th day of the month following the close of the previous calendar month. The commissioner may require that the returns be filed via magnetic media or electronic data transfer. The proceeds, along with the revenue received from all license fees and other fees under sections 349.11 to 349.191, 349.211, and 349.213, must be paid to the state treasurer for deposit in the general fund.*

Subd. 4. [PULL-TAB AND TIPBOARD TAX.] *(a) A tax is imposed on the sale of each deal of pull-tabs and tipboards sold by a distributor. The rate of the tax is two percent of the ideal gross of the pull-tab or tipboard deal. The sales tax imposed by chapter 297A on the sale of the pull-tabs and tipboards by the distributor is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs or tipboards by the organization is exempt from taxes imposed by chapter 297A and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 8.*

(b) The liability for the tax imposed by this section is incurred when the pull-tabs and tipboards are delivered by the distributor to the customer or to a common or contract carrier for delivery to the customer, or when received by the customer's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

The tax imposed by this subdivision is imposed on all sales of pull-tabs and tipboards, except the following:

(1) sales to the governing body of an Indian tribal organization for use on an Indian reservation;

(2) sales to distributors licensed under the laws of another state or of a province of Canada, as long as all statutory and regulatory requirements are met in the other state or province;

(3) sales of promotional tickets as defined in section 349.12; and

(4) pull-tabs and tipboards sold to an organization that sells pull-tabs and tipboards under the exemption from licensing in section 349.166, subdivision 2. A distributor shall require an organization conducting exempt gambling to show proof of its exempt status before making a tax-exempt sale of pull-tabs or tipboards to the organization. A distributor shall identify, on all reports submitted to the commissioner, all sales of pull-tabs and tipboards that are exempt from tax under this subdivision.

(c) A distributor having a liability of $120,000 or more during a fiscal year ending June 30 must remit all liabilities in the subsequent calendar year by a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be on or before the date the tax is due. If the date the tax is due is not a funds transfer business

day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the tax is due.

Subd. 5. [LOCAL GAMBLING TAX.] *A statutory or home rule charter city that has one or more licensed organizations operating lawful gambling, and a county that has one or more licensed organizations outside incorporated areas operating lawful gambling, may impose a local gambling tax on each licensed organization within the city's or county's jurisdiction. The tax may be imposed only if the amount to be received by the city or county is necessary to cover the costs incurred by the city or county to regulate lawful gambling. The tax imposed by this subdivision may not exceed three percent of the gross receipts of a licensed organization from all lawful gambling less prizes actually paid out by the organization. A city or county may not use money collected under this subdivision for any purpose other than to regulate lawful gambling. A tax imposed under this subdivision is in lieu of all other local taxes and local investigation fees on lawful gambling. A city or county that imposes a tax under this subdivision shall annually, by March 15, file a report with the board in a form prescribed by the board showing (1) the amount of revenue produced by the tax during the preceding calendar year, and (2) the use of the proceeds of the tax.*

Subd. 6. [COMBINED RECEIPTS TAX.] *In addition to the taxes imposed under subdivisions 1 and 4, a tax is imposed on the combined receipts of the organization. As used in this section, "combined receipts" is the sum of the organization's gross receipts from lawful gambling less gross receipts directly derived from the conduct of bingo, raffles, and paddlewheels, as defined in section 349.12, subdivision 21, for the fiscal year. The combined receipts of an organization are subject to a tax computed according to the following schedule:*

If the combined receipts for the fiscal year are:	*The tax is:*
Not over $500,000	*zero*
Over $500,000, but not over $700,000	*two percent of the amount over $500,000, but not over $700,000*
Over $700,000, but not over $900,000	*$4,000 plus four percent of the amount over $700,000, but not over $900,000*
Over $900,000	*$12,000 plus six percent of the amount over $900,000*

Subd. 7. [UNTAXED GAMBLING PRODUCT.] *(a) In addition to penalties or criminal sanctions imposed by this chapter, a person, organization, or business entity possessing or selling a pull-tab or tipboard upon which the tax imposed by subdivision 4 has not been paid is liable for a tax of six percent of the ideal gross of each pull-tab or tipboard. The tax on a partial deal must be assessed as if it were a full deal.*

(b) In addition to penalties and criminal sanctions imposed by this chapter, a person not licensed by the board who conducts bingo, raffles, or paddlewheel games is liable for a tax of six percent of the gross receipts from that activity.

(c) The tax must be assessed by the commissioner. An assessment must be considered a jeopardy assessment or jeopardy collection as provided in section 270.70. The commissioner shall assess the tax based on personal knowledge or information available to the commissioner. The commissioner shall mail to the taxpayer at the taxpayer's last known address, or serve in person, a written notice of the amount of tax, demand its immediate payment, and, if payment is not immediately made, collect the tax by any method described in chapter 270, except that the commissioner need not await the expiration of the times specified in chapter 270. The tax assessed by the commissioner is presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show its incorrectness or invalidity. The tax imposed under this subdivision does not apply to gambling that is exempt from taxation under subdivision 2.

Subd. 8. [PERSONAL DEBT.] *The tax imposed by this section, and interest and penalties imposed with respect to it, are a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt must, in the case of the executor or administrator of the estate of a decedent and in the case of a fiduciary, be that of the person in the person's official or fiduciary capacity only unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which event the person is personally liable for any deficiency.*

Subd. 9. [PUBLIC INFORMATION.] *All records concerning the administration of the taxes under this chapter are classified as public information.*

Subd. 10. [REFUNDS; APPROPRIATION.] *A person who has, under this chapter, paid to the commissioner an amount of tax for a period in excess of the amount legally due for that period, may file with the commissioner a claim for a refund of the excess. The amount necessary to pay the refunds is appropriated from the general fund to the commissioner.*

Subd. 11. [UNPLAYED OR DEFECTIVE PULL-TABS OR TIPBOARDS.] *If a deal of pull-tabs or tipboards registered with the board or bar coded in accordance with chapter 349 and upon which the tax imposed by subdivision 4 has been paid is returned unplayed to the distributor, the commissioner shall allow a refund of the tax paid.*

If a defective deal registered with the board or bar coded in accordance with chapter 349 and upon which the taxes have been paid is returned to the manufacturer, the distributor shall submit to the commissioner of revenue certification from the manufacturer that the deal was returned and in what respect it was defective. The certification must be on a form prescribed by the commissioner and must contain additional information the commissioner requires.

The commissioner may require that no refund under this subdivision be made unless the returned pull-tabs or tipboards have been set aside for inspection by the commissioner's employee.

Reductions in previously paid taxes authorized by this subdivision must be made when and in the manner prescribed by the commissioner.

Sec. 3. [297E.03] [SPORTS BOOKMAKING TAX.]

Subdivision 1. [IMPOSITION OF TAX.] *An excise tax of six percent is imposed on the value of all bets received by, recorded by, accepted by, forwarded by, or placed with a person engaged in sports bookmaking.*

Subd. 2. [BET DEFINED.] *For purposes of this section, the term "bet" has the meaning given it in section 609.75, subdivision 2.*

Subd. 3. [SPORTS BOOKMAKING DEFINED.] *For purposes of this section, the term "sports bookmaking" has the meaning given it in section 609.75, subdivision 7.*

Subd. 4. [AMOUNT OF BET.] *In determining the value or amount of any bet for purposes of this section, all charges incident to the placing of the bet must be included.*

Subd. 5. [TAX RETURNS.] *A person engaged in sports bookmaking shall file monthly tax returns with the commissioner of revenue, in the form required by the commissioner, of all bookmaking activity, and shall include information on all bets recorded, accepted, forwarded, and placed. The returns must be filed on or before the 20th day of the month following the month in which the bets reported were recorded, accepted, forwarded, or placed. The tax imposed by this section is due and payable at the time when the returns are filed.*

Subd. 6. [PERSONS LIABLE FOR TAX.] *Each person who is engaged in receiving, recording, forwarding, or accepting sports bookmaking bets is liable for and shall pay the tax imposed under this section.*

Subd. 7. [JEOPARDY ASSESSMENT; JEOPARDY COLLECTION.] *The tax may be assessed by the commissioner of revenue. An assessment made pursuant to this section shall be considered a jeopardy assessment or jeopardy collection as provided in section 270.70. The commissioner shall assess the tax based on personal knowledge or information available to the commissioner. The commissioner shall mail to the taxpayer at the taxpayer's last known address, or serve in person, a written notice of the amount of tax, demand its immediate payment, and, if payment is not immediately made, collect the tax by any method described in chapter 270, except that the commissioner need not await the expiration of the times specified in chapter 270. The tax assessed by the commissioner is presumed to be valid and correctly determined and assessed.*

Subd. 8. [DISCLOSURE PROHIBITED.] *(a) Notwithstanding any law to the contrary, neither the commissioner nor a public employee may reveal facts contained in a sports bookmaking tax return filed with the commissioner of revenue as required by this section, nor can any information contained in the report or return be used against the tax obligor in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due under this section, or as provided in section 270.064.*

(b) Any person violating this section is guilty of a gross misdemeanor.

(c) This section does not prohibit the commissioner from publishing statistics that do not disclose the identity of tax obligors or the contents of particular returns or reports.

Sec. 4. [297E.031] [GAMBLING TAX PERMIT.]

Subdivision 1. [APPLICATION AND ISSUANCE.] *A distributor who sells gambling products under this chapter must file with the commissioner an application, on a form prescribed by the commissioner, for a gambling tax permit and identification number. The commissioner, when satisfied that the applicant has a valid license from the board, shall issue the applicant a permit and number. A permit is not assignable and is valid only for the distributor in whose name it is issued.*

Subd. 2. [SUSPENSION; REVOCATION.] *(a) If a distributor fails to comply with this chapter or a rule of the commissioner, or if a license issued under chapter 349 is revoked or suspended, the commissioner, after giving notice, may for reasonable cause revoke or suspend a permit held by a distributor. A notice must be sent to the distributor at least 15 days before the proposed suspension or revocation is to take effect. The notice must give the reason for the proposed suspension or revocation and must require the distributor to show cause why the proposed action should not be taken. The notice may be served personally or by mail.*

(b) The notice must inform the distributor of the right to a contested case hearing. If a request in writing is made to the commissioner within 14 days of the date of the notice, the commissioner shall defer action on the suspension or revocation and shall refer the case to the office of administrative hearings for the scheduling of a contested case hearing. The distributor must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the distributor.

(c) The commissioner shall issue a final order following receipt of the recommendation of the administrative law judge.

(d) Under section 271.06, subdivision 1, an appeal to the tax court may be taken from the commissioner's order of revocation or suspension. The commissioner may not issue a new permit after revocation except upon application accompanied by reasonable evidence of the intention of the applicant to comply with all applicable laws and rules.

Sec. 5. [297E.04] [MANUFACTURER'S REPORTS AND RECORDS.]

Subdivision 1. [REPORTS OF SALES.] *A manufacturer who sells gambling product for use or resale in this state, or for receipt by a person or entity in this state, shall file with the commissioner, on a form prescribed by the commissioner, a report of gambling product sold to any person in the state, including the established governing body of an Indian tribe recognized by the United States Department of the Interior. The report must be filed monthly on or before the 20th day of the month succeeding the month in which the sale was made. The commissioner may require that the report be submitted via magnetic media or electronic data transfer. The commissioner may inspect the premises, books, records, and inventory of a manufacturer without notice during the normal business hours of the manufacturer. A person violating this section is guilty of a misdemeanor.*

Subd. 2. [BAR CODES.] *The flare of each pull-tab and tipboard game must be imprinted by the manufacturer with a bar code that provides all information prescribed by the commissioner. The commissioner must require that the bar code include the serial number of the game. A manufacturer must also affix to the outside of the box containing these games a bar code*

providing all information prescribed by the commissioner. The commissioner may also prescribe additional bar coding requirements.

No person may alter the bar code that appears on the outside of a box containing a deal of pull-tabs and tipboards. Possession of a box containing a deal of pull-tabs and tipboards that has a bar code different from the bar code of the deal inside the box is prima facie evidence that the possessor has altered the bar code on the box.

Subd. 3. [PADDLETICKET CARD MASTER FLARES.] *Each sealed grouping of 100 paddleticket cards must have its own individual master flare. The manufacturer of the paddleticket cards must affix to or imprint at the bottom of each master flare a bar code that provides:*

(1) the name of the manufacturer;

(2) the first paddleticket card number in the group;

(3) the number of paddletickets attached to each paddleticket card in the group; and

(4) all other information required by the commissioner. This subdivision applies to paddleticket cards (i) sold by a manufacturer after June 30, 1995, for use or resale in Minnesota or (ii) shipped into or caused to be shipped into Minnesota by a manufacturer after June 30, 1995. Paddleticket cards that are subject to this subdivision may not have a registration stamp affixed to the master flare.

Sec. 6. [297E.05] [DISTRIBUTOR REPORTS AND RECORDS.]

Subdivision 1. [BUSINESS RECORDS.] *A distributor shall keep at each place of business complete and accurate records for that place of business, including itemized invoices of gambling product held, purchased, manufactured, or brought in or caused to be brought in from without this state, and of all sales of gambling product. The records must show the names and addresses of purchasers, the inventory at the close of each period for which a return is required of all gambling product on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of gambling product. Books, records, itemized invoices, and other papers and documents required by this section must be kept for a period of at least 3-1/2 years after the date of the documents, or the date of the entries appearing in the records, unless the commissioner of revenue authorizes in writing their destruction or disposal at an earlier date.*

Subd. 2. [SALES RECORDS.] *A distributor must maintain a record of all gambling product that it sells. The record must include:*

(1) the identity of the person from whom the distributor purchased the product;

(2) the registration number of the product;

(3) the name, address, and license or exempt permit number of the organization or person to which the sale was made;

(4) the date of the sale;

(5) the name of the person who ordered the product;

(6) the name of the person who received the product;

(7) the type of product;

(8) the serial number of the product;

(9) the name, form number, or other identifying information for each game; and

(10) in the case of bingo hard cards or sheets sold on and after January 1, 1991, the individual number of each card or sheet.

Subd. 3. [INVOICES.] *A distributor shall give with each sale of gambling product an itemized invoice showing the distributor's name and address, the purchaser's name and address, the date of the sale, description of the deals, including the ideal gross from every deal of pull-tabs and every deal of tipboards.*

Subd. 4. [REPORTS.] *A distributor shall report monthly to the commissioner, on a form the commissioner prescribes, its sales of each type of gambling product. This report must be filed monthly on or before the 20th day of the month succeeding the month in which the sale was made. The commissioner may require that a distributor submit the monthly report and invoices required in this subdivision via magnetic media or electronic data transfer.*

Subd. 5. [CERTIFIED PHYSICAL INVENTORY.] *The commissioner may, upon request, require a distributor to furnish a certified physical inventory of all gambling product in stock. The inventory must contain the information required by the commissioner.*

Sec. 7. [297E.06] [ORGANIZATION REPORTS AND RECORDS.]

Subdivision 1. [REPORTS.] *An organization must file with the commissioner, on a form prescribed by the commissioner, a report showing all gambling activity conducted by that organization for each month. Gambling activity includes all gross receipts, prizes, all gambling taxes owed or paid to the commissioner, all gambling expenses, and all lawful purpose and board-approved expenditures. The report must be filed with the commissioner on or before the 20th day of the month following the month in which the gambling activity takes place. The commissioner may require that the reports be filed via magnetic media or electronic data transfer.*

Subd. 2. [BUSINESS RECORDS.] *An organization shall maintain records supporting the gambling activity reported to the commissioner. Records include, but are not limited to, the following items:*

(1) all winning and unsold tickets, cards, or stubs for pull-tab, tipboard, paddlewheel, and raffle games;

(2) all reports and statements, including checker's records, for each bingo occasion;

(3) all cash journals and ledgers, deposit slips, register tapes, and bank statements supporting gambling activity receipts;

(4) all invoices that represent purchases of gambling product;

(5) all canceled checks, check recorders, journals and ledgers, vouchers, invoices, bank statements, and other documents supporting gambling activity expenditures; and

(6) all organizational meeting minutes.

All records required to be kept by this section must be preserved by the organization for at least 3-1/2 years and may be inspected by the commissioner of revenue at any reasonable time without notice or a search warrant.

Subd. 3. [ACCOUNTS.] *All gambling activity transactions must be segregated from all other revenues and expenditures made by the conducting organization.*

Subd. 4. [ANNUAL AUDIT.] *(a) An organization licensed under chapter 349 with gross receipts from lawful gambling of more than $250,000 in any year must have an annual financial audit of its lawful gambling activities and funds for that year. An organization licensed under chapter 349 with gross receipts from lawful gambling of more than $50,000 but not more than $250,000 in any year must have an annual financial review of its lawful gambling activities and funds for that year. Audits and financial reviews under this subdivision must be performed by an independent accountant licensed by the state of Minnesota.*

(b) The commissioner of revenue shall prescribe standards for audits and financial review required under this subdivision. The standards may vary based on the gross receipts of the organization. The standards must incorporate and be consistent with standards prescribed by the American institute of certified public accountants. A complete, true, and correct copy of the audit report must be filed as prescribed by the commissioner.

Sec. 8. [297E.07] [INSPECTION RIGHTS.]

At any reasonable time, without notice and without a search warrant, the commissioner may enter a place of business of a manufacturer, distributor, or organization; any site from which pull-tabs or tipboards or other gambling equipment or gambling product are being manufactured, stored, or sold; or any site at which lawful gambling is being conducted, and inspect the premises, books, records, and other documents required to be kept under this chapter to determine whether or not this chapter is being fully complied with. If the commissioner is denied free access to or is hindered or interfered with in making an inspection of the place of business, books, or records, the permit of the distributor may be revoked by the commissioner, and the license of the manufacturer, the distributor, or the organization may be revoked by the board.

Sec. 9. [297E.08] [EXAMINATIONS.]

Subdivision 1. [EXAMINATION OF TAXPAYER.] *To determine the accuracy of a return or report, or in fixing liability under this chapter, the commissioner may make reasonable examinations or investigations of a taxpayer's place of business, tangible personal property, equipment, computer systems and facilities, pertinent books, records, papers, vouchers, computer printouts, accounts, and documents.*

Subd. 2. [ACCESS TO RECORDS OF OTHER PERSONS IN CONNECTION WITH EXAMINATION OF TAXPAYER.] *When conducting an investigation or an audit of a taxpayer, the commissioner may examine, except where privileged by law, the relevant records and files of a person, business, institution, financial institution, state agency, agency of the United States government, or agency of another state where permitted by statute, agreement,*

or reciprocity. The commissioner may compel production of these records by subpoena. A subpoena may be served directly by the commissioner.

Subd. 3. [POWER TO COMPEL TESTIMONY.] *In the administration of this chapter, the commissioner may:*

(1) administer oaths or affirmations and compel by subpoena the attendance of witnesses, testimony, and the production of a person's pertinent books, records, papers, or other data;

(2) examine under oath or affirmation any person regarding the business of a taxpayer concerning a matter relevant to the administration of this chapter. The fees of witnesses required by the commissioner to attend a hearing are equal to those allowed to witnesses appearing before courts of this state. The fees must be paid in the manner provided for the payment of other expenses incident to the administration of state tax law; and

(3) in addition to other remedies available, bring an action in equity by the state against a taxpayer for an injunction ordering the taxpayer to file a complete and proper return or amended return. The district courts of this state have jurisdiction over the action, and disobedience of an injunction issued under this clause must be punished as for contempt.

Subd. 4. [THIRD-PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS KNOWN.] *An investigation may extend to any person that the commissioner determines has access to information that may be relevant to the examination or investigation. If a subpoena requiring the production of records under subdivision 2 is served on a third-party record keeper, written notice of the subpoena must be mailed to the taxpayer and to any other person who is identified in the subpoena. The notices must be given within three days of the day on which the subpoena is served. Notice to the taxpayer required by this section is sufficient if it is mailed to the last address on record with the commissioner of revenue.*

The provisions of this subdivision relating to notice to the taxpayer or other parties identified in the subpoena do not apply if there is reasonable cause to believe that the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

Subd. 5. [THIRD-PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS NOT KNOWN.] *A subpoena that does not identify the person or persons whose tax liability is being investigated may be served only if:*

(1) the subpoena relates to the investigation of a particular person or ascertainable group or class of persons;

(2) there is a reasonable basis for believing that the person or group or class of persons may fail or may have failed to comply with tax laws administered by the commissioner of revenue;

(3) the subpoena is clear and specific concerning information sought to be obtained; and

(4) the information sought to be obtained is limited solely to the scope of the investigation.

A party served with a subpoena that does not identify the person or persons with respect to whose tax liability the subpoena is issued may, within three days after service of the subpoena, petition the district court in the judicial district in which that party is located for a determination whether the commissioner of revenue has complied with all the requirements in clauses (1) to (4), and whether the subpoena is enforceable. If no petition is made by the party served within the time prescribed, the subpoena has the effect of a court order.

Subd. 6. [REQUEST BY TAXPAYER FOR SUBPOENA.] *If the commissioner has the power to issue a subpoena for investigative or auditing purposes, the commissioner shall honor a reasonable request by the taxpayer to issue a subpoena on the taxpayer's behalf in connection with the investigation or audit.*

Subd. 7. [APPLICATION TO COURT FOR ENFORCEMENT OF SUBPOENA.] *The commissioner or the taxpayer may apply to the district court of the county of the taxpayer's residence, place of business, or county where the subpoena can be served as with any other case at law, for an order compelling the appearance of the subpoenaed witness or the production of the subpoenaed records. Failure to comply with the order of the court for the appearance of a witness or the production of records may be punished by the court as for contempt.*

Subd. 8. [COST OF PRODUCTION OF RECORDS.] *The cost of producing records of a third party required by a subpoena must be paid by the taxpayer if the taxpayer requests the subpoena to be issued or if the taxpayer has the records available but has refused to provide them to the commissioner. In other cases where the taxpayer cannot produce records and the commissioner then issues a subpoena for third-party records, the commissioner shall pay the reasonable cost of producing the records. The commissioner may later assess the reasonable costs against the taxpayer if the records contribute to the determination of an assessment of tax against the taxpayer.*

Sec. 10. [297E.09] [ASSESSMENTS.]

Subdivision 1. [GENERALLY.] *The commissioner shall make determinations, corrections, and assessments with respect to taxes, including interest, additions to taxes, and assessable penalties, imposed under this chapter.*

Subd. 2. [COMMISSIONER FILED RETURNS.] *If a taxpayer fails to file a return required by this chapter, the commissioner may make a return for the taxpayer from information in the commissioner's possession or obtainable by the commissioner. The return is prima facie correct and valid.*

Subd. 3. [ORDER OF ASSESSMENT; NOTICE AND DEMAND TO TAXPAYER.] *(a) If a return has been filed and the commissioner determines that the tax disclosed by the return is different from the tax determined by the examination, the commissioner shall send an order of assessment to the taxpayer. The order must explain the basis for the assessment and must explain the taxpayer's appeal rights. An assessment by the commissioner must be made by recording the liability of the taxpayer in the office of the commissioner, which may be done by keeping a copy of the order of assessment sent to the taxpayer. An order of assessment is final when made but may be reconsidered by the commissioner under section 349.219.*

(b) The amount of unpaid tax shown on the order must be paid to the commissioner:

(1) within 60 days after notice of the amount and demand for its payment have been mailed to the taxpayer by the commissioner; or

(2) if an administrative appeal is filed under section 349.219 within 60 days following the determination or compromise of the appeal.

Subd. 4. [ERRONEOUS REFUNDS.] *An erroneous refund is considered an underpayment of tax on the date made. An assessment of a deficiency arising out of an erroneous refund may be made at any time within two years from the making of the refund. If part of the refund was induced by fraud or misrepresentation of a material fact, the assessment may be made at any time.*

Subd. 5. [ASSESSMENT PRESUMED VALID.] *A return or assessment made by the commissioner is prima facie correct and valid. The taxpayer has the burden of establishing the incorrectness or invalidity of the return or assessment in any action or proceeding in respect to it.*

Subd. 6. [AGGREGATE REFUND OR ASSESSMENT.] *On examining returns of a taxpayer for more than one year or period, the commissioner may issue one order covering the period under examination that reflects the aggregate refund or additional tax due.*

Subd. 7. [SUFFICIENCY OF NOTICE.] *An order of assessment sent by United States mail, postage prepaid to the taxpayer at the taxpayer's last known address, is sufficient even if the taxpayer is deceased or is under a legal disability, or, in the case of a corporation, has terminated its existence, unless the department has been provided with a new address by a party authorized to receive notices of assessment.*

Sec. 11. [297E.10] [EXTENSIONS FOR FILING RETURNS AND PAYING TAXES.]

If, in the commissioner's judgment, good cause exists, the commissioner may extend the time for filing tax returns, paying taxes, or both, for not more than six months.

Sec. 12. [297E.11] [LIMITATIONS ON TIME FOR ASSESSMENT OF TAX.]

Subdivision 1. [GENERAL RULE.] *Except as otherwise provided in this chapter, the amount of taxes assessable must be assessed within 3-1/2 years after the return is filed, whether or not the return is filed on or after the date prescribed. A return must not be treated as filed until it is in processible form. A return is in processible form if it is filed on a permitted form and contains sufficient data to identify the taxpayer and permit the mathematical verification of the tax liability shown on the return.*

Subd. 2. [FALSE OR FRAUDULENT RETURN.] *Notwithstanding subdivision 1, the tax may be assessed at any time if a false or fraudulent return is filed or if a taxpayer fails to file a return.*

Subd. 3. [OMISSION IN EXCESS OF 25 PERCENT.] *Additional taxes may be assessed within 6-1/2 years after the due date of the return or the date the return was filed, whichever is later, if the taxpayer omits from a tax return taxes in excess of 25 percent of the taxes reported in the return.*

Subd. 4. [TIME LIMIT FOR REFUNDS.] *Unless otherwise provided in this chapter, a claim for a refund of an overpayment of tax must be filed within 3-1/2 years from the date prescribed for filing the return, plus any extension of time granted for filing the return, but only if filed within the extended time, or two years from the time the tax is paid, whichever period expires later. Interest on refunds must be computed at the rate specified in section 270.76 from the date of payment to the date the refund is paid or credited. For purposes of this subdivision, the date of payment is the later of the date the tax was finally due or was paid.*

Subd. 5. [BANKRUPTCY; SUSPENSION OF TIME.] *The time during which a tax must be assessed or collection proceedings begun is suspended during the period from the date of a filing of a petition in bankruptcy until 30 days after either:*

(1) notice to the commissioner that the bankruptcy proceedings have been closed or dismissed; or

(2) the automatic stay has been ended or has expired, whichever occurs first.

The suspension of the statute of limitations under this subdivision applies to the person the petition in bankruptcy is filed against, and all other persons who may also be wholly or partially liable for the tax.

Subd. 6. [EXTENSION AGREEMENT.] *If before the expiration of time prescribed in subdivisions 1 and 4 for the assessment of tax or the filing of a claim for refund, both the commissioner and the taxpayer have consented in writing to the assessment or filing of a claim for refund after that time, the tax may be assessed or the claim for refund filed at any time before the expiration of the agreed upon period. The period may be extended by later agreements in writing before the expiration of the period previously agreed upon.*

Sec. 13. [297E.13] [CIVIL PENALTIES.]

Subdivision 1. [PENALTY FOR FAILURE TO PAY TAX.] *If a tax is not paid within the time specified for payment, a penalty is added to the amount required to be shown as tax. The penalty is five percent of the unpaid tax if the failure is for not more than 30 days, with an additional penalty of five percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days during which the failure continues, not exceeding 15 percent in the aggregate.*

If the taxpayer has not filed a return, for purposes of this subdivision the time specified for payment is the final date a return should have been filed.

Subd. 2. [PENALTY FOR FAILURE TO MAKE AND FILE RETURN.] *If a taxpayer fails to make and file a return within the time prescribed or an extension, a penalty is added to the tax. The penalty is five percent of the amount of tax not paid on or before the date prescribed for payment of the tax.*

If a taxpayer fails to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision must be at least the lesser of: (1) $200; or (2) the greater of (i) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax, or (ii) $50.

Subd. 3. [COMBINED PENALTIES.] *When penalties are imposed under subdivisions 1 and 2, except for the minimum penalty under subdivision 2, the penalties imposed under both subdivisions combined must not exceed 38 percent.*

Subd. 4. [PENALTY FOR INTENTIONAL DISREGARD OF LAW OR RULES.] *If part of an additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there is added to the tax an amount equal to ten percent of the additional assessment.*

Subd. 5. [PENALTY FOR FALSE OR FRAUDULENT RETURN; EVASION.] *If a person files a false or fraudulent return, or attempts in any manner to evade or defeat a tax or payment of tax, there is imposed on the person a penalty equal to 50 percent of the tax found due for the period to which the return related, less amounts paid by the person on the basis of the false or fraudulent return.*

Subd. 6. [PENALTY FOR REPEATED FAILURES TO FILE RETURNS OR PAY TAXES.] *If there is a pattern by a person of repeated failures to timely file returns or timely pay taxes, and written notice is given that a penalty will be imposed if such failures continue, a penalty of 25 percent of the amount of tax not timely paid as a result of each such subsequent failure is added to the tax. The penalty can be abated under the abatement authority in section 270.07, subdivisions 1, paragraph (e), and 6.*

Subd. 7. [PENALTY FOR SALES AFTER REVOCATION, SUSPENSION, OR EXPIRATION.] *A distributor who engages in, or whose representative engages in, the offering for sale, sale, transport, delivery, or furnishing of gambling equipment to a person, firm, or organization, after the distributor's license or permit has been revoked or suspended, or has expired, and until such license or permit has been reinstated or renewed, is liable for a penalty of $1,000 for each day the distributor continues to engage in the activity. This subdivision does not apply to the transport of gambling equipment for the purpose of returning the equipment to a licensed manufacturer.*

Subd. 8. [PAYMENT OF PENALTIES.] *The penalties imposed by this section must be collected and paid in the same manner as taxes.*

Subd. 9. [PENALTIES ARE ADDITIONAL.] *The civil penalties imposed by this section are in addition to the criminal penalties imposed by this chapter.*

Subd. 10. [ORDER PAYMENTS CREDITED.] *All payments received may be credited first to the oldest liability not secured by a judgment or lien in the discretion of the commissioner of revenue, but in all cases must be credited first to penalties, next to interest, and then to the tax due.*

Sec. 14. [297E.13] [TAX-RELATED CRIMINAL PENALTIES.]

Subdivision 1. [PENALTY FOR FAILURE TO FILE OR PAY.] *(a) A person required to file a return, report, or other document with the commissioner, who knowingly fails to file it when required, is guilty of a gross misdemeanor. A person required to file a return, report, or other document who willfully attempts to evade or defeat a tax by failing to file it when required is guilty of a felony.*

(b) A person required to pay or to collect and remit a tax, who knowingly fails to do so when required, is guilty of a gross misdemeanor. A person required to pay or to collect and remit a tax, who willfully attempts to evade or defeat a tax law by failing to do so when required is guilty of a felony.

Subd. 2. [FALSE OR FRAUDULENT RETURNS; PENALTIES.] *(a) A person required to file a return, report, or other document with the commissioner, who delivers to the commissioner a return, report, or other document known by the person to be fraudulent or false concerning a material matter is guilty of a felony.*

(b) A person who knowingly aids or assists in, or advises in the preparation or presentation of a return, report, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud committed is with the knowledge or consent of the person authorized or required to present the return, report, or other document, is guilty of a felony.

Subd. 3. [FALSE INFORMATION.] *A person is guilty of a felony if the person:*

(1) is required by section 297E.05 to keep records or to make returns, and falsifies or fails to keep the records or falsifies or fails to make the returns; or

(2) knowingly submits materially false information in any report, document, or other communication submitted to the commissioner in connection with lawful gambling or with this chapter.

Subd. 4. [SALES WITHOUT PERMIT; VIOLATIONS.] *(a) A person who engages in the business of selling gambling product in Minnesota without the licenses or permits required under this chapter or chapter 349, or an officer of a corporation who so engages in the sales, is guilty of a gross misdemeanor.*

(b) A person selling gambling product in Minnesota after revocation of a license or permit under this chapter or chapter 349, when the commissioner or the board has not issued a new license or permit, is guilty of a felony.

Subd. 5. [UNTAXED GAMBLING EQUIPMENT.] *It is a gross misdemeanor for a person to possess gambling equipment for resale in this state that has not been stamped or bar-coded in accordance with chapter 349 and upon which the taxes imposed by chapter 297A or section 297E.02, subdivision 4, have not been paid. The director of gambling enforcement or the commissioner or the designated inspectors and employees of the director or commissioner may seize in the name of the state of Minnesota any unregistered or untaxed gambling equipment.*

Subd. 6. [CRIMINAL PENALTIES.] *(a) Criminal penalties imposed by this section are in addition to civil penalties imposed by this chapter.*

(b) A person who violates a provision of this chapter for which another penalty is not provided is guilty of a misdemeanor.

(c) A person who violates a provision of this chapter for which another penalty is not provided is guilty of a gross misdemeanor if the violation occurs within five years after a previous conviction under a provision of this chapter.

(d) A person who in any manner violates a provision of this chapter to evade a tax imposed by this chapter, or who aids and abets the evasion of a tax, or hinders or interferes with a seizing authority when a seizure is made as provided by section 297E.16 is guilty of a gross misdemeanor.

(e) This section does not preclude civil or criminal action under other applicable law or preclude any agency of government from investigating or prosecuting violations of this chapter or chapter 349. County attorneys have primary responsibility for prosecuting violations of this chapter, but the attorney general may prosecute a violation of this chapter.

Subd. 7. [STATUTE OF LIMITATIONS.] *Notwithstanding section 628.26, or other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense named in this section, in the proper court within six years after the offense is committed.*

Sec. 15. [297E.14] [INTEREST.]

Subdivision 1. [INTEREST RATE.] *If an interest assessment is required under this section, interest is computed at the rate specified in section 270.75.*

Subd. 2. [LATE PAYMENT.] *If a tax is not paid within the time specified by law for payment, the unpaid tax bears interest from the date the tax should have been paid until the date the tax is paid.*

Subd. 3. [EXTENSIONS.] *If an extension of time for payment has been granted, interest must be paid from the date the payment should have been made if no extension had been granted, until the date the tax is paid.*

Subd. 4. [ADDITIONAL ASSESSMENTS.] *If a taxpayer is liable for additional taxes because of a redetermination by the commissioner, or for any other reason, the additional taxes bear interest from the time the tax should have been paid, without regard to any extension allowed, until the date the tax is paid.*

Subd. 5. [ERRONEOUS REFUNDS.] *In the case of an erroneous refund, interest accrues from the date the refund was paid unless the erroneous refund results from a mistake of the department, then no interest or penalty is imposed unless the deficiency assessment is not satisfied within 60 days of the order.*

Subd. 6. [INTEREST ON JUDGMENTS.] *Notwithstanding section 549.09, if judgment is entered in favor of the commissioner with regard to any tax, the judgment bears interest at the rate specified in section 270.75 from the date the judgment is entered until the date of payment.*

Subd. 7. [INTEREST ON PENALTIES.] *(a) A penalty imposed under section 297E.12, subdivision 1, 2, 3, 4, or 5, bears interest from the date the return or payment was required to be filed or paid, including any extensions, to the date of payment of the penalty.*

(b) A penalty not included in paragraph (a) bears interest only if it is not paid within ten days from the date of notice. In that case interest is imposed from the date of notice to the date of payment.

Sec. 16. [297E.15] [ADMINISTRATIVE REVIEW.]

Subdivision 1. [TAXPAYER RIGHT TO RECONSIDERATION.] *A taxpayer may obtain reconsideration by the commissioner of an order assessing tax, a denial of a request for abatement of penalty, or a denial of a claim for refund of money paid to the commissioner under provisions, assessments, or orders under this chapter by filing an administrative appeal as provided in subdivision 4. A taxpayer cannot obtain reconsideration if the action taken by the commissioner of revenue is the outcome of an administrative appeal.*

Subd. 2. [APPEAL BY TAXPAYER.] *A taxpayer who wishes to seek administrative review shall follow the procedure in subdivision 4.*

Subd. 3. [NOTICE DATE.] *For purposes of this section, "notice date" means the date of the order adjusting the tax or order denying a request for abatement or, in the case of a denied refund, the date of the notice of denial.*

Subd. 4. [TIME AND CONTENT FOR ADMINISTRATIVE APPEAL.] *Within 60 days after the notice date, the taxpayer must file a written appeal with the commissioner of revenue. The appeal need not be in any particular form, but must contain the following information:*

(1) name and address of the taxpayer;

(2) if a corporation, the state of incorporation of the taxpayer, and the principal place of business of the corporation;

(3) the Minnesota identification number or social security number of the taxpayer;

(4) the type of tax involved;

(5) the date;

(6) the tax years or periods involved and the amount of tax involved for each year or period;

(7) the findings in the notice that the taxpayer disputes;

(8) a summary statement that the taxpayer relies on for each exception; and

(9) the taxpayer's signature or signature of the taxpayer's duly authorized agent.

Subd. 5. [EXTENSIONS.] *If requested in writing and within the time allowed for filing an administrative appeal, the commissioner may extend the time for filing an appeal for a period of not more than 30 days from the expiration of the 60 days from the notice date.*

Subd. 6. [AUTOMATIC EXTENSION OF STATUTE OF LIMITATIONS.] *Notwithstanding any statute of limitations to the contrary, if the commissioner has made a determination and the taxpayer has authority to file an administrative appeal, the period during which the commissioner can make further assessments or other determinations does not expire before:*

(1) 90 days after the notice date if no protest is filed under subdivision 4; or

(2) 90 days after the commissioner notifies the taxpayer of the determination on the appeal.

Subd. 7. [DETERMINATION OF APPEAL.] *On the basis of applicable law and available information, the commissioner shall determine the validity, if any, in whole or part of the appeal and notify the taxpayer of the decision. This notice must be in writing and contain the basis for the determination.*

Subd. 8. [AGREEMENT DETERMINING TAX LIABILITY.] *If it appears to be in the best interests of the state, the commissioner may settle taxes, penalties, or interest that the commissioner has under consideration by virtue of an appeal filed under this section. An agreement must be in writing and signed by the commissioner and the taxpayer or the taxpayer's representative*

authorized by the taxpayer to enter into an agreement. An agreement must be filed in the office of the commissioner.

Subd. 9. [APPEAL OF AN ADMINISTRATIVE APPEAL.] *Following the determination or settlement of an appeal, the commissioner must issue an order reflecting that disposition. Except in the case of an agreement determining tax under this section, the order is appealable to the Minnesota tax court under section 271.06.*

Subd. 10. [APPEAL WHERE NO DETERMINATION.] *If the commissioner does not make a determination within six months of the filing of an administrative appeal, the taxpayer may elect to appeal to tax court.*

Subd. 11. [EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.] *This section is not subject to chapter 14.*

Sec. 17. [297E.16] [CONTRABAND.]

Subdivision 1. [SEIZURE.] *Contraband may be seized by the commissioner or by any sheriff or other police officer, hereinafter referred to as the "seizing authority," with or without process, and is subject to forfeiture as provided in subdivisions 2 and 3.*

Subd. 2. [INVENTORY; JUDICIAL DETERMINATION; APPEAL; DISPOSITION OF SEIZED PROPERTY.] *Within ten days after the seizure of alleged contraband, the person making the seizure shall make available an inventory of the property seized to the person from whom the property was seized, if known, and file a copy with the commissioner or the director of gambling enforcement. Within ten days after the date of service of the inventory, the person from whom the property was seized or any person claiming an interest in the property may file with the seizing authority a demand for judicial determination of whether the property was lawfully subject to seizure and forfeiture. Within 60 days after the date of filing of the demand, the seizing authority must bring an action in the district court of the county where seizure was made to determine the issue of forfeiture. The action must be brought in the name of the state and be prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and determine the issues of fact and law involved. If a judgment of forfeiture is entered, the seizing authority may, unless the judgment is stayed pending an appeal, either (1) cause the forfeited property to be destroyed; or (2) cause it to be sold at a public auction as provided by law.*

If demand for judicial determination is made and no action is commenced by the seizing authority as provided in this subdivision, the property must be released by the seizing authority and delivered to the person entitled to it. If no demand is made, the property seized is considered forfeited to the seizing authority by operation of law and may be disposed of by the seizing authority as provided where there has been a judgment of forfeiture. When the seizing authority is satisfied that a person from whom property is seized was acting in good faith and without intent to evade the tax imposed by section 297E.02, the seizing authority shall release the property seized without further legal proceedings.

Subd. 3. [DISPOSAL.] *(a) The property described in section 349.2125, subdivision 1, clauses (4) and (5), must be confiscated after conviction of the person from whom it was seized, upon compliance with the following procedure: the seizing authority shall file with the court a separate complaint*

against the property, describing it and charging its use in the specific violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint must be served upon the defendant or person in charge of the property at the time of seizure, if any. If the person arrested is acquitted, the court shall dismiss the complaint against the property and order it returned to the persons legally entitled to it. Upon conviction of the person arrested, the court shall issue an order directed to any person known or believed to have any right, title or interest in, or lien upon, any of the property, and to persons unknown claiming any right, title, interest, or lien in it, describing the property and (1) stating that it was seized and that a complaint against it, charging the specified violation, has been filed with the court, (2) requiring the persons to file with the court administrator their answer to the complaint, setting forth any claim they may have to any right or title to, interest in, or lien upon the property, within 30 days after the service of the order, and (3) notifying them in substance that if they fail to file their answer within the time, the property will be ordered sold by the seizing authority. The court shall cause the order to be served upon any person known or believed to have any right, title, interest, or lien as in the case of a summons in a civil action, and upon unknown persons by publication, as provided for service of summons in a civil action. If no answer is filed within the time prescribed, the court shall, upon affidavit by the court administrator, setting forth the fact, order the property sold by the seizing authority. Seventy percent of the proceeds of the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, must be forwarded to the seizing authority for deposit as a supplement to its operating fund or similar fund for official use, and 20 percent must be forwarded to the county attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes. The remaining ten percent of the proceeds must be forwarded within 60 days after resolution of the forfeiture to the department of human services to fund programs for the treatment of compulsive gamblers. If an answer is filed within the time provided, the court shall fix a time for a hearing, which must not be less than ten nor more than 30 days after the time for filing an answer expires. At the time fixed for hearing, unless continued for cause, the matter must be heard and determined by the court, without a jury, as in other civil actions.

(b) If the court finds that the property, or any part of it, was used in the violation specified in the complaint, it shall order the unlawfully used property sold as provided by law, unless the owner shows to the satisfaction of the court that the owner had no notice or knowledge or reason to believe that the property was used or intended to be used in the violation. The officer making a sale, after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established at the hearing as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation specified in the order of the court, and shall pay the balance of the proceeds to the seizing authority for official use and sharing in the manner provided in paragraph (a). A sale under this section frees the property sold from all liens on it. Appeal from the order of the district court is available as in other civil cases. At any time after seizure of the articles specified in this subdivision, and before the hearing provided for, the property must be returned to the owner or person having a legal right to its possession, upon execution of a good and valid bond to the state, with corporate surety, in the sum of at least $100 and not more than double the value of the property seized, to be approved by the court in

which the case is triable, or a judge of it, conditioned to abide any order and the judgment of the court, and to pay the full value of the property at the time of the seizure. The seizing authority may dismiss the proceedings outlined in this subdivision when the seizing authority considers it to be in the public interest to do so.

Sec. 18. [297E.17] [DISTRIBUTOR'S BOND.]

On finding it necessary to ensure compliance with this chapter, the commissioner may require that a distributor deposit with the commissioner security in the form and amount determined by the commissioner, but not more than the lesser of (1) twice the estimated average monthly tax liability for the previous 12 months, or (2) $10,000.

In lieu of security, the commissioner may require a distributor to file a bond issued by a surety company authorized to transact business in this state and approved by the commissioner of commerce as to solvency and responsibility.

The commissioner may make claim against this security or bond for all taxes, penalties, and interest owed by the distributor.

Sec. 19. [INSTRUCTIONS TO REVISOR.]

(a) If a provision of a section of Minnesota Statutes repealed or amended by this article is amended or referred to by an act enacted in 1994, the revisor shall codify the amendment or reference consistent with the recodification of the affected section by this act, notwithstanding any law to the contrary.

(b) In the next edition of Minnesota Statutes, in the sections referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C. The revisor may change the references in column C to the sections of Minnesota Statutes in which the bill sections are compiled.

Column A	*Column B*	*Column C*
270.101, subd. 1	*349.212*	*297E.02*
349.12, subd. 25	*349.19, subd. 9*	*297E.06, subd. 4*
349.12, subd. 25	*349.212, subd. 1 and 4*	*297E.02, subd. 1 and 4*
349.15	*349.212, subd. 1*	*297E.02, subd. 1*
349.16, subd. 2	*349.212, subd. 6*	*297E.02, subd. 6*
349.166, subd. 2, paragraph (a)	*349.212*	*297E.02*
349.166, subd. 2, paragraph (e)	*349.212, subd. 4, paragraph (c)*	*297E.02, subd. 4, paragraph (b), clause (4)*
349.2125, subd. 3	*349.2121, subd. 4*	*297E.02*
349.213, subd. 1	*349.212*	*297E.02*
349.22, subd. 2	*349.219*	*349.213, and chapter 297E*

(c) In the next edition of Minnesota Statutes, the revisor shall change the reference to taxes under or by "this chapter" to taxes under or by "chapter 297E" in sections 349.16, subdivision 5; 349.1641; and 349.2127, subdivision 1.

Sec. 20. [PURPOSE.]

It is the intent of the legislature to simplify Minnesota's lawful gambling tax laws by consolidating and recodifying tax administration and compliance provisions now contained throughout Minnesota Statutes, chapter 349. Due to the complexity of the recodification, prior provisions are repealed on the effective date of the new provisions. The repealed provisions, however, continue to remain in effect until superseded by the analogous provision in the new law.

Sec. 21. [REPEALER.]

Minnesota Statutes 1992, sections 349.166, subdivision 4; 349.212, subdivisions 1, 2, 5, 6, and 7; 349.2121; 349.2122; 349.215; 349.2151; 349.2152; 349.216; 349.217, subdivisions 3, 4, 5, 6, 7, 8, and 9; 349.2171; and 349.219; and Minnesota Statutes 1993 Supplement, sections 349.2115; 349.212, subdivision 4; and 349.217, subdivisions 1, 2, and 5a, are repealed.

Sec. 22. [EFFECTIVE DATE.]

Sections 1, 8 to 16, and 18 to 20 are effective the day following final enactment.

Sections 2, 3, 4, 5, 6, 7, and 21 are effective for returns, reports, records, assessments, taxes, or other payments first becoming due on or after August 1, 1994.

Section 4 is effective for sales or shipments of gambling product inventory made on or after August 1, 1994.

ARTICLE 3

GAMBLING TAX AMENDMENTS

Section 1. Minnesota Statutes 1992, section 270.101, subdivision 1, is amended to read:

Subdivision 1. [LIABILITY IMPOSED.] A person who, either singly or jointly with others, has the control of, supervision of, or responsibility for filing returns or reports, paying taxes, or collecting or withholding and remitting taxes and who fails to do so, or a person who is liable under any other law, is liable for the payment of taxes, penalties, and interest arising under chapters 296, 297, 297A, and 297C, or sections 290.92, ~~349.212,~~ and ~~349.2121~~ *297E.02*.

Sec. 2. Minnesota Statutes 1992, section 349.2123, is amended to read:

349.2123 [CERTIFIED PHYSICAL INVENTORY.]

The board ~~or commissioner of revenue~~ may, upon request, require a distributor to furnish a certified physical inventory of all gambling equipment in stock. The inventory must contain the information required by the board ~~or the commissioner~~.

Sec. 3. Minnesota Statutes 1992, section 349.22, subdivision 1, is amended to read:

Subdivision 1. [PENALTY.] (a) A person who violates any provision of sections 349.11 to 349.23 for which another penalty is not provided is guilty of a misdemeanor.

(b) A person who violates any provision of sections 349.11 to 349.23 for which another penalty is not provided is guilty of a gross misdemeanor if the violation occurs within five years after a previous conviction under any provision of sections 349.11 to 349.23.

(c) A person who in any manner ~~violates sections 349.11 to 349.23 to evade a tax imposed by a provision of this chapter, or who aids and abets the evasion of a tax, or~~ hinders or interferes with a seizing authority when a seizure is made as provided by section 349.2125, is guilty of a gross misdemeanor.

Sec. 4. [EFFECTIVE DATE.]

Section 1 is effective for taxes, returns, or reports first becoming due on or after August 1, 1994.

Sections 2 and 3 are effective August 1, 1994.

ARTICLE 4

GAMBLING ENFORCEMENT

Section 1. Minnesota Statutes 1992, section 299L.01, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) For the purposes of this chapter, the terms defined in this subdivision have the meanings given them.

(b) "Division" means the division of gambling enforcement.

(c) "Commissioner" means the commissioner of public safety.

(d) "Director" means the director of gambling enforcement.

(e) "Manufacturer" means a person who assembles from raw materials or subparts a gambling device for sale or use in Minnesota.

(f) "Distributor" means a person who sells, offers to sell, or otherwise provides a gambling device to a person in Minnesota.

(g) "Used gambling device" means a gambling device five or more years old from the date of manufacture.

Sec. 2. Minnesota Statutes 1992, section 299L.01, is amended by adding a subdivision to read:

Subd. 4. [CONFLICT OF INTEREST.] *(a) The director and any person employed by the division may not have a direct or indirect financial interest in:*

(1) a class A or B licensee of the racing commission;

(2) a lottery retailer under contract with the state lottery;

(3) a person who is under a lottery procurement contract with the state lottery;

(4) a bingo hall, manufacturer, or distributor licensed under chapter 349; or

(5) a manufacturer or distributor licensed under this chapter.

(b) The director or an employee of the division of gambling enforcement may not participate in the conducting of lawful gambling under chapter 349.

Sec. 3. Minnesota Statutes 1992, section 299L.02, subdivision 2, is amended to read:

Subd. 2. [GAMBLING.] The director shall:

(1) conduct background investigations of applicants for licensing as a manufacturer or distributor of gambling equipment or as a bingo hall under chapter 349; and

(2) when requested by the director of gambling control, or when the director believes it to be reasonable and necessary, inspect the premises of a licensee under chapter 349 to determine compliance with law and with the rules of the board, or to conduct an audit of the accounts, books, records, or other documents required to be kept by the licensee.

The director may charge applicants under clause (1) a reasonable fee to cover the costs of the investigation.

Sec. 4. Minnesota Statutes 1992, section 299L.02, is amended by adding a subdivision to read:

Subd. 6. [RESPONSE TO REQUESTS.] *An applicant, licensee, or the person subject to the jurisdiction of the commissioner or director under this chapter, must:*

(1) comply with a request from the commissioner or director for information, documents, or other material within 30 days of the mailing of the request by the commissioner or director unless the notice specifies a different time; and

(2) appear before the commissioner or director when requested to do so, and must bring documents or materials that the commissioner or director has requested.

Sec. 5. Minnesota Statutes 1992, section 299L.03, subdivision 1, is amended to read:

Subdivision 1. [INSPECTIONS; ACCESS.] In conducting any inspection authorized under *this chapter or* chapter 240, 349, or 349A, the employees of the division of gambling enforcement have free and open access to all parts of the regulated business premises, and may conduct the inspection at any reasonable time without notice and without a search warrant. For purposes of this subdivision, "regulated business premises" means premises where:

(1) lawful gambling is conducted by an organization licensed under chapter 349 or by an organization exempt from licensing under section 349.166;

(2) gambling equipment is manufactured, sold, distributed, or serviced by a manufacturer or distributor licensed under chapter 349;

(3) records required to be maintained under chapter 240, *297E,* 349, or 349A are prepared or retained;

(4) lottery tickets are sold by a lottery retailer under chapter 340A; ~~or~~

(5) races are conducted by a person licensed under chapter 240, *or*

(6) gambling devices are manufactured or distributed, including places of storage under section 299L.07.

Sec. 6. Minnesota Statutes 1992, section 299L.03, subdivision 2, is amended to read:

Subd. 2. [ITEMS REQUIRED TO BE PRODUCED.] In conducting an audit or inspection authorized under *this chapter or* chapter 240, 349 or 349A the director may inspect any book, record, or other document the licensee, retailer, or vendor is required to keep.

Sec. 7. Minnesota Statutes 1992, section 299L.03, subdivision 6, is amended to read:

Subd. 6. [UNLICENSED SELLERS.] (a) If anyone not licensed under chapter 349 sells gambling equipment at a business establishment, the director may, in addition to any other provisions of chapter 349:

(1) assess a civil penalty of not more than $300 *for each violation* against each person participating in the sales and assess a civil penalty of not more than $1,000 *for each violation* against the owner or owners of the business establishment; or

(2) if the subject violation is the second or subsequent violation of this subdivision at the same business establishment within any 24-month period, assess a civil penalty of not more than $300 *for each violation* against each person participating in such sales, and assess a civil penalty of not more than $5,000 *for each violation* against the owner or owners of the business establishment.

(b) The assessment of a civil penalty under this section does not preclude a recommendation by the director at any time deemed appropriate to a licensing authority for revocation, suspension, or denial of a license controlled by the licensing authority.

(c) Within ten days of an assessment under this subdivision, the person assessed the penalty must pay the assessment or request that a hearing be held under chapter 14. If a hearing is requested, the hearing must be scheduled within 20 days of the request, and the recommendations of the administrative law judge must be issued within five working days of the close of the hearing. The director's final determination must be issued within five working days of the issuance of the recommendations of the administrative law judge.

Sec. 8. Minnesota Statutes 1992, section 299L.03, is amended by adding a subdivision to read:

Subd. 12. [CEASE AND DESIST ORDERS.] *(a) When it appears to the director that any person has engaged in or is about to engage in any act or practice constituting a violation of this chapter, or any rule or order issued under this chapter, the director may issue and cause to be served on the person an order requiring the person to cease and desist from violations of this chapter, or any rule or order issued under this chapter. The order must give reasonable notice of the rights of the person to request a hearing and must state the reason for the entry of the order. Unless otherwise agreed between the parties, a hearing must be held not later than seven days after receiving the request for a hearing. Within 20 days of receiving the administrative law judge's report and subsequent exceptions and argument, the director shall issue an order vacating the cease and desist order, modifying the order, or*

making it permanent, as the facts require. If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until modified or vacated by the commissioner. All hearings under this subdivision must be conducted in accordance with sections 14.57 to 14.69 of the administrative procedure act. If the person to whom a cease and desist order has been issued under this subdivision fails to appear at a hearing after being notified of the hearing, the person is deemed in default and the proceeding may be determined against the person on consideration of the cease and desist order, the allegations of which are deemed to be true.

(b) When it appears to the director that any person has engaged in or is about the engage in any act or practice constituting a violation of this chapter, or any rule adopted or subpoena or order issued under this chapter, the director may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter or any rule, subpoena, or order issued or adopted under this chapter, and may refer the matter to the attorney general. On a proper showing, the court shall grant a permanent or temporary injunction, restraining order, or writ of mandamus. The court may not require the director to post a bond.

Sec. 9. Minnesota Statutes 1992, section 299L.07, is amended to read:

299L.07 [GAMBLING DEVICES.]

Subdivision 1. [~~RESTRICTION~~ *LICENSE REQUIRED.*] *Except as provided in subdivision 2,* a person may not manufacture, sell, offer to sell, *lease, rent,* or otherwise provide, in whole or in part, a gambling device as defined in sections 349.30, subdivision 2, and 609.75, subdivision 4, ~~except that a gambling device may be:~~

~~(1) manufactured as provided in section 349.40;~~

~~(2) sold, offered for sale, or otherwise provided to a distributor licensed under subdivision 3;~~

~~(3) sold, offered for sale, or otherwise provided to the governing body of a federally recognized Indian tribe that is authorized to operate the gambling device under a tribal state compact under the Indian Gaming Regulatory Act, United States Code, title 25, sections 2701 to 2721;~~

~~(4) sold, offered for sale, or otherwise provided to a person for use in the person's dwelling for display or amusement purposes in a manner that does not afford players an opportunity to obtain anything of value; or~~

~~(5) sold by a person who is not licensed under this section and who is not engaged in the trade or business of selling gambling devices, if the person does not sell more than one gambling device in any calendar year~~ *without first obtaining a license under this section.*

Subd. 2. [~~LICENSE REQUIRED~~ *EXCLUSIONS.*] ~~A person may not manufacture or distribute gambling devices without having obtained a license under this section.~~ *Notwithstanding subdivision 1, a gambling device:*

(1) may be manufactured without a license as provided in section 349.40; and

(2) may be sold by a person who is not licensed under this section, if the person (i) is not engaged in the trade or business of selling gambling devices, and (ii) does not sell more than one gambling device in any calendar year.

Subd. 2a. [RESTRICTIONS.] *(a) A manufacturer licensed under this section may sell, offer to sell, lease, or rent, in whole or in part, a gambling device only to a distributor licensed under this section.*

(b) A distributor licensed under this section may sell, offer to sell, market, rent, lease, or other provide, in whole or in part, a gambling device only to:

(1) the governing body of a federally recognized Indian tribe that is authorized to operate the gambling device under a tribal state compact under the Indian Gaming Regulatory Act, Public Law Number 100-497, and future amendments to it;

(2) a person for use in the person's dwelling for display or amusement purposes in a manner that does not afford players an opportunity to obtain anything of value.

Subd. 3. [LICENSE ISSUANCE.] The commissioner may issue a license under this section if the commissioner determines that the applicant will conduct the business in a manner that will not adversely affect the public health, welfare, and safety or be detrimental to the effective regulation and control of gambling. ~~A license may not be issued under this section to a person, or a corporation, firm, or partnership that has an officer, director, or other person with a direct or indirect financial or management interest of five percent or more, who has ever:~~

~~(1) been convicted of a felony;~~

~~(2) been convicted of a crime involving gambling;~~

~~(3) been connected with or engaged in an illegal business; or~~

~~(4) had a license revoked or denied by another jurisdiction for a violation of law or rule related to gambling.~~

Subd. 4. [APPLICATION.] An application for a manufacturer's or distributor's license must be on a form prescribed by the commissioner and must, at a minimum, contain:

(1) the name and address of the applicant and, if it is a corporation, the names of all officers, directors, and shareholders with a financial interest of five percent or more;

(2) the names and addresses of any holding corporation, subsidiary, or affiliate of the applicant, without regard to whether the holding corporation, subsidiary, or affiliate does business in Minnesota; and

(3) if the applicant does not maintain a Minnesota office, an irrevocable consent statement signed by the applicant, stating that suits and actions relating to the subject matter of the application or acts of omissions arising from it may be commenced against the applicant in a court of competent jurisdiction in this state by service on the secretary of state of any summons, process, or pleadings authorized by the laws of this state. If any summons, process, or pleading is served upon the secretary of state, it must be by duplicate copies. One copy must be retained in the office of the secretary of state and the other copy must be forwarded immediately by certified mail to the address of the applicant, as shown on the application.

Subd. 5. [INVESTIGATION.] Before a manufacturer's or distributor's license is granted, the director may conduct a background and financial

investigation of the applicant, including the applicant's sources of financing. The director may, or shall when required by law, require that fingerprints be taken and the director may forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The director may charge an investigation fee to cover the cost of the investigation.

Subd. 6. [LICENSE FEES.] (a) A license issued under this section is valid for one year.

(b) For a person who distributes 100 or fewer used gambling devices per year, the fee is $1,500. For a person who distributes more than 100 used gambling devices per year, the fee is $2,000. ~~For purposes of this subdivision, a used gambling device is a gambling device five or more years old.~~

(c) For a person who manufactures or distributes 100 or fewer new, or new and used gambling devices in a year, the fee is $5,000. For a person who manufactures or distributes more than 100 new, or new and used gambling devices in a year, the fee is $7,500.

~~Subd. 7. [RENEWAL.] Upon making the same determination as in subdivision 3, the commissioner may renew a license issued under this section.~~

Subd. 8. [LICENSE ~~SUSPENSION AND~~ , ~~REVOCATION, DENIAL~~ *ACTIONS.*] ~~(a) The commissioner may suspend a license under this section for a violation of law or rule. The commissioner may revoke a license:~~

~~(1) for a violation of law or rule which, in the commissioner's opinion, adversely affects the integrity of gambling in Minnesota;~~

~~(2) for an intentional false statement in a license application; or~~

~~(3) if the licensee is the subject of a disciplinary proceeding in another jurisdiction which results in the revocation of a license.~~

~~A revocation or suspension is a contested case under sections 14.57 to 14.69.~~

~~(b) The commissioner may summarily suspend a license prior to a contested case hearing if the commissioner determines that a summary suspension is necessary to ensure the integrity of gambling. A contested case hearing must be held within 20 days of the summary suspension and the administrative law judge must issue a report within 20 days of the close of the hearing record. The commissioner shall issue a final decision within 30 days from receipt of the report of the administrative law judge and subsequent exceptions and argument under section 14.61.~~ *(a) The commissioner may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, an employee eligible to make sales on behalf of the applicant or licensee, or direct or indirect holder of more than a five percent financial interest in the applicant or licensee:*

(1) has ever been convicted of a felony, or of a crime involving gambling;

(2) has ever been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats;

(3) is or has ever connected with or engaged in an illegal business;

(4) owes $500 or more in delinquent taxes as defined in section 270.72;

(5) had a sales and use tax permit revoked by the commissioner of revenue within the past two years;

(6) after demand, has not filed tax returns required by the commissioner of revenue; or

(7) had a license or permit revoked or denied by another jurisdiction for a violation of law or rule relating to gambling.

The commissioner may deny or refuse to renew a license under this chapter, and may revoke a license under this chapter, if any of the conditions in this subdivision is applicable to an affiliate of or a direct or indirect holder of more than a five percent financial interest in the applicant or licensee.

(b) The commissioner may by order deny, suspend, revoke, refuse to renew a license or premises permit, or censure a licensee or applicant, if the commissioner finds that the order is in the public interest and that the applicant or licensee, or a director, officer, partner, person in a supervisory or management position of the applicant of licensee, or an employee eligible to make sales on behalf of the applicant or licensee:

(1) has violated or failed to comply with any provision of chapter 297E, 299L, or 349, or any rule adopted or order issued thereunder;

(2) has filed an application for a license that is incomplete in any material respect, or contains a statement that, in light of the circumstances under which it was made, is false, misleading, fraudulent, or a misrepresentation;

(3) has made a false statement in a document or report required to be submitted to the director, the commissioner, or the commissioner of revenue, or has made a false statement in a statement made to the director or commissioner;

(4) has been convicted of a crime in another jurisdiction that would be a felony if committed in Minnesota;

(5) is permanently or temporarily enjoined by any gambling regulatory agency from engaging in or continuing any conduct or practice involving any aspect of gambling;

(6) has had a gambling-related license revoked or suspended, or has paid or been required to pay a monetary penalty of $2,500 or more, by a gambling regulator in another state or jurisdiction, or has violated or failed to comply with an order of such a regulator that imposed those actions;

(7) has been the subject of any of the following actions by the director or commissioner: (i) had a license under chapter 299L denied, suspended or revoked, (ii) been censured, reprimanded, has paid or been required to pay a monetary penalty or fine, or (iii) has been the subject of any other discipline by the director;

(8) has engaged in conduct that is contrary to the public health, welfare, or safety, or to the integrity of gambling; or

(9) based on the licensee's past activities or criminal record, poses a threat to the public interest or to the effective regulation and control of gambling, or creates or enhances the danger of unsuitable, unfair, or illegal practices,

methods, and activities in the conduct of gambling or the carrying on of the business and financial arrangements incidental to the conduct of gambling.

Subd. 8a. [CIVIL PENALTIES.] *The commissioner may impose a civil penalty not to exceed $500 per violation on a person who has violated this chapter, or any rule adopted or order issued under this chapter, unless a different penalty is specified.*

Subd. 8b. [SHOW CAUSE ORDERS.] *(a) If the commissioner determines that one of the conditions listed in subdivision 8 exists, or that a licensee is no longer conducting business in the manner required by subdivision 2a, the commissioner may issue an order requiring a person to show cause why any or all of the following should not occur: (1) the license be revoked or suspended, (2) the licensee be censured, (3) a civil penalty be imposed or (4) corrective action be taken.*

(b) The order must give reasonable notice of the time and place for hearing on the matter, and must state the reasons for the entry of the order. The commissioner may by order summarily suspend a license pending final determination of any order to show cause. If a license is suspended pending final determination of an order to show cause, a hearing on the merits must be held within 30 days of the issuance of the order of suspension. All hearings must be conducted in accordance with sections 14.57 to 14.69 of the administrative procedure act.

(c) After the hearing the commissioner must enter an order disposing of the matter as the facts require. If the licensee fails to appear at a hearing after being notified of the hearing, the person is deemed in default and the proceeding may be determined against the person on consideration of the order to show cause, the allegations of which are deemed to be true.

Subd. 8c. [APPLICATIONS; RENEWALS.] *(a) When it appears to the commissioner that a license application or renewal should be denied under subdivision 8, the commissioner must promptly give to the applicant a written notice of the denial. The notice must state the grounds for the denial and give reasonable notice of the rights of the applicant to request a hearing. A hearing must be held not later than 30 days after the request for the hearing is received by the commissioner, unless the applicant and the commissioner agree that the hearing may be held at a later date. If no hearing is requested within 30 days of the service of the notice, the denial becomes final. All hearings under this subdivision must be conducted in accordance with sections 14.57 to 14.69 of the administrative procedure act.*

(b) After the hearing, the commissioner shall enter an order making such disposition as the facts require. If the applicant fails to appear at a hearing after being notified of the hearing, the applicant is deemed in default and the proceeding may be determined against the applicant on consideration of the notice denying application or renewal, the allegations of which are deemed to be true. All fees accompanying the initial or renewal application are considered earned and are not refundable.

Subd. 8d. [ACTIONS AGAINST LAPSED LICENSE.] *If a license lapses, is surrendered, withdrawn, terminated, or otherwise becomes ineffective, the commissioner may institute a proceeding under this subdivision within two years after the license was last effective and enter a revocation or suspension order as of the last day on which the license was in effect, or impose a civil penalty as provided in subdivision 8a.*

Subd. 8e. [NOTIFICATION OF ACTIONS TAKEN BY OTHER STATE.] *A licensee under this section must notify the commissioner within 30 days of the action whenever any of the actions listed in subdivision 8, paragraph (b), clause (6) have been taken against the licensee in another state or jurisdiction.*

Subd. 9. [REQUIRED INFORMATION.] A person to whom a license is issued under this section shall provide, in a manner prescribed by the commissioner, information required by the commissioner relating to the shipment and sale of gambling devices.

Subd. 10. [TRANSPORTATION OF GAMBLING DEVICES.] In addition to the requirements of this section, the transportation of gambling devices into Minnesota must be in compliance with United States Code, title 15, sections 1171 to 1177, as amended.

Subd. 11. [INSPECTION.] *The commissioner, director, and employees of the division may inspect the business premises of a licensee under this section.*

Sec. 10. Minnesota Statutes 1992, section 609.755, is amended to read:

609.755 [ACTS OF OR RELATING TO GAMBLING.]

Whoever does any of the following is guilty of a misdemeanor:

(1) makes a bet;

(2) sells or transfers a chance to participate in a lottery;

(3) disseminates information about a lottery, except a lottery conducted by an adjoining state, with intent to encourage participation therein;

(4) permits a structure or location owned or occupied by the actor or under the actor's control to be used as a gambling place; or

(5) ~~operates~~ *except where authorized by statute, possesses* a gambling device.

Clause (5) does not prohibit ~~operation~~ *possession* of a gambling device in a person's dwelling for amusement purposes in a manner that does not afford players an opportunity to obtain anything of value.

Sec. 11. [REPEALER.]

Minnesota Statutes 1992, sections 299L.04 and 299L.07, subdivision 7, are repealed.

Sec. 12. [EFFECTIVE DATE.]

Section 10 is effective August 1, 1994, and applies to crimes committed on and after that date.

ARTICLE 5

LAWFUL GAMBLING REGULATION

Section 1. Minnesota Statutes 1992, section 349.12, subdivision 1, is amended to read:

Subdivision 1. As used in sections 349.11 to ~~349.22~~ *349.23* the ~~following~~ terms *in this section* have the meanings given them.

Sec. 2. Minnesota Statutes 1992, section 349.12, subdivision 3a, is amended to read:

Subd. 3a. [ALLOWABLE EXPENSE.] "Allowable expense" means ~~an expense directly related to the conduct of lawful gambling~~ *the percentage of the total cost incurred by the organization in the purchase of any good, service, or other item which corresponds to the proportion of the total actual use of the good, service, or other item that is directly related to conduct of lawful gambling. Allowable expense includes the advertising of the conduct of lawful gambling, provided that the amount expended does not exceed five percent of the annual gross profits of the organization or $5,000 per year per organization, whichever is less. The board may adopt rules to regulate the content of the advertising to ensure that the content is consistent with the public welfare.*

Sec. 3. Minnesota Statutes 1992, section 349.12, subdivision 4, is amended to read:

Subd. 4. [BINGO.] "Bingo" means a game where each player has a *bingo hard* card or ~~board~~ *bingo paper sheet,* for which a consideration has been paid, *and played in accordance with this chapter and with rules of the board for the conduct of bingo.* ~~containing five horizontal rows of spaces, with each row except the central one containing five figures. The central row has four figures with the word "free" marked in the center space thereof. Bingo also includes games which are as described in this subdivision except for the use of cards where the figures are not preprinted but are filled in by the players. A player wins a game of bingo by completing a preannounced combination of spaces or, in the absence of a preannouncement of a combination of spaces, any combination of five spaces in a row, either vertical, horizontal or diagonal.~~

Sec. 4. Minnesota Statutes 1992, section 349.12, subdivision 8, is amended to read:

Subd. 8. [CHECKER.] "Checker" means a person who records the number of bingo *hard* cards purchased and played during each game and records the prizes awarded to the recorded *hard* cards, but does not collect the payment for the *hard* cards.

Sec. 5. Minnesota Statutes 1992, section 349.12, subdivision 11, is amended to read:

Subd. 11. [DISTRIBUTOR.] "Distributor" is a person who sells gambling equipment *for use* within the state to licensed organizations, *or* to organizations conducting *excluded or* exempt activities under section 349.166~~, or to other distributors~~.

Sec. 6. Minnesota Statutes 1992, section 349.12, subdivision 16, is amended to read:

Subd. 16. [FLARE.] "Flare" is the posted display, with registration stamp affixed *or bar code imprinted or affixed,* that sets forth the rules of a particular game of pull-tabs or tipboards and that is associated with a specific deal of pull-tabs or grouping of tipboards.

Sec. 7. Minnesota Statutes 1992, section 349.12, subdivision 18, is amended to read:

Subd. 18. [GAMBLING EQUIPMENT.] "Gambling equipment" means: bingo *hard* cards or *paper* sheets, devices for selecting bingo numbers,

pull-tabs, jar tickets, paddlewheels, ~~and~~ *paddlewheel tables, paddletickets, paddleticket cards,* tipboards *, tipboard tickets, and pull-tab dispensing devices.*

Sec. 8. Minnesota Statutes 1992, section 349.12, subdivision 19, is amended to read:

Subd. 19. [GAMBLING MANAGER.] "Gambling manager" means a person who ~~has paid all dues to an organization and~~ has been ~~a~~ *an active* member of the organization for at least two years and has been designated by the organization to supervise lawful gambling conducted by it.

Sec. 9. Minnesota Statutes 1992, section 349.12, subdivision 21, is amended to read:

Subd. 21. [GROSS RECEIPTS.] "Gross receipts" means all receipts derived from lawful gambling activity including, but not limited to, the following items:

(1) gross sales of bingo *hard* cards and *paper* sheets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(2) the ideal gross of pull-tab and tipboard deals or games less the value of unsold and defective tickets and before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(3) gross sales of raffle tickets and paddletickets before reduction for prizes, expenses, shortages, free plays, or any other charges or offsets;

(4) admission, commission, cover, or other charges imposed on participants in lawful gambling activity as a condition for or cost of participation; and

(5) interest, dividends, annuities, profit from transactions, or other income derived from the accumulation or use of gambling proceeds.

Gross receipts does not include proceeds from rental under section 349.164 or 349.18, subdivision 3, ~~for duly licensed bingo hall lessors~~.

Sec. 10. Minnesota Statutes 1992, section 349.12, subdivision 23, is amended to read:

Subd. 23. [IDEAL NET.] "Ideal net" means the pull-tab or tipboard deal's ideal gross, as defined under subdivision ~~19~~ *22*, less the total predetermined prize amounts available to be paid out. When the prize is not entirely a monetary one, the ideal net is 50 percent of the ideal gross.

Sec. 11. Minnesota Statutes 1993 Supplement, section 349.12, subdivision 25, is amended to read:

Subd. 25. [LAWFUL PURPOSE.] (a) "Lawful purpose" means one or more of the following:

(1) any expenditure by or contribution to a 501(c)(3) organization, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the board under section 349.154;

(2) a contribution to an individual or family suffering from poverty, homelessness, or physical or mental disability, which is used to relieve the effects of that poverty, homelessness, or disability;

(3) a contribution to an individual for treatment for delayed posttraumatic stress syndrome or a contribution to a recognized program for the treatment of compulsive gambling on behalf of an individual who is a compulsive gambler;

(4) a contribution to or expenditure on a public or private nonprofit educational institution registered with or accredited by this state or any other state;

(5) a contribution to a scholarship fund for defraying the cost of education to individuals where the funds are awarded through an open and fair selection process;

(6) activities by an organization or a government entity which recognize humanitarian or military service to the United States, the state of Minnesota, or a community, subject to rules of the board, *provided that the rules must not include mileage reimbursements in the computation of the per occasion reimbursement limit and must impose no aggregate annual limit on the amount of reasonable and necessary expenditures made to support:*

(i) members of a military marching or colorguard unit for activities conducted within the state; or

(ii) members of an organization solely for services performed by the members at funeral services;

(7) recreational, community, and athletic facilities and activities intended primarily for persons under age 21, provided that such facilities and activities do not discriminate on the basis of gender~~, as evidenced by (i) provision of equipment and supplies, (ii) scheduling of activities, including games and practice times, (iii) supply and assignment of coaches or other adult supervisors, (iv) provision and availability of support facilities, and (v) whether the opportunity to participate reflects each gender's demonstrated interest in the activity, provided that nothing in this clause prohibits a contribution to or expenditure on an educational institution or other entity that is excepted from the prohibition against discrimination based on sex contained in the Higher Education Act Amendments of 1976, United States Code, title 20, section 1681~~ *and the organization complies with section 349.154;*

(8) payment of local taxes authorized under this chapter, taxes imposed by the United States on receipts from lawful gambling, ~~and~~ the ~~tax~~ *taxes* imposed by section ~~349.212~~ *297E.02*, subdivisions 1 ~~and~~, 4, *5, and 6,* and the tax imposed on unrelated business income by section 290.05, subdivision 3;

(9) payment of real estate taxes and assessments on ~~licensed~~ *permitted* gambling premises wholly owned by the licensed organization paying the taxes, not to exceed:

(i) the amount which an organization may expend under board rule on rent for premises used for bingo; or

(ii) $15,000 per year for premises used for other forms of lawful gambling;

(10) a contribution to the United States, this state or any of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency;

(11) a contribution to or expenditure by a nonprofit organization~~,~~ *which is a* church~~,~~ or body of communicants gathered in common membership for mutual support and edification in piety, worship, or religious observances; ~~or~~

(12) payment of one-half of the reasonable costs of an audit required in section 349.19, subdivision 9;

(13) a contribution to or expenditure on a wildlife management project that benefits the public at-large, provided that the state agency with authority over that wildlife management project approves the project before the contribution or expenditure is made; or

(14) expenditures, approved by the commissioner of natural resources, by an organization for grooming and maintaining snowmobile trails that are (1) grant-in-aid trails established under section 116J.406, or (2) other trails open to public use, including purchase or lease of equipment for this purpose.

(b) Notwithstanding paragraph (a), "lawful purpose" does not include:

(1) any expenditure made or incurred for the purpose of influencing the nomination or election of a candidate for public office or for the purpose of promoting or defeating a ballot question;

(2) any activity intended to influence an election or a governmental decision-making process;

(3) the erection, acquisition, improvement, expansion, repair, or maintenance of real property or capital assets owned or leased by an organization, ~~except as provided in clause (6),~~ unless the board has first specifically authorized the expenditures after finding that (i) the real property or capital assets will be used exclusively for one or more of the purposes in paragraph (a); (ii) with respect to expenditures for repair or maintenance only, that the property is or will be used extensively as a meeting place or event location by other nonprofit organizations or community or service groups and that no rental fee is charged for the use; (iii) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building, a building owned by the organization and destroyed or made uninhabitable by fire or natural disaster, provided that the expenditure may be only for that part of the replacement cost not reimbursed by insurance; or (iv) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building a building owned by the organization that was acquired from the organization by eminent domain or sold by the organization to a purchaser that the organization reasonably believed would otherwise have acquired the building by eminent domain, provided that the expenditure may be only for that part of the replacement cost that exceeds the compensation received by the organization for the building being replaced;

(4) an expenditure by an organization which is a contribution to a parent organization, foundation, or affiliate of the contributing organization, if the parent organization, foundation, or affiliate has provided to the contributing organization within one year of the contribution any money, grants, property, or other thing of value;

(5) a contribution by a licensed organization to another licensed organization unless the board has specifically authorized the contribution. The board must authorize such a contribution when requested to do so by the contributing organization unless it makes an affirmative finding that the contribution

will not be used by the recipient organization for one or more of the purposes in paragraph (a); *or*

(6) ~~the erection, acquisition, improvement, or expansion of real property or capital assets which will be used for one or more of the purposes in paragraph (a), clause (7), unless the organization making the expenditures notifies the board at least 15 days before making the expenditure; or~~

~~(7)~~ a contribution to a statutory or home rule charter city, county, or town by a licensed organization with the knowledge that the governmental unit intends to use the contribution for a pension or retirement fund.

Sec. 12. Minnesota Statutes 1992, section 349.12, is amended by adding a subdivision to read:

Subd. 26a. [MASTER FLARE.] *"Master flare" is the posted display, with registration stamp affixed or bar code imprinted or affixed, that is used in conjunction with sealed groupings of 100 sequentially numbered paddleticket cards.*

Sec. 13. Minnesota Statutes 1992, section 349.12, is amended by adding a subdivision to read:

Subd. 28a. [PADDLETICKET.] *"Paddleticket" means a preprinted ticket that can be used to place wagers on the spin of a paddlewheel.*

Sec. 14. Minnesota Statutes 1992, section 349.12, is amended by adding a subdivision to read:

Subd. 28b. [PADDLETICKET CARD.] *"Paddleticket card" means a card to which detachable paddletickets are attached.*

Sec. 15. Minnesota Statutes 1992, section 349.12, is amended by adding a subdivision to read:

Subd. 28c. [PADDLETICKET CARD NUMBER.] *"Paddleticket card number" means the unique serial number preprinted by the manufacturer on the stub of a paddleticket card and the paddletickets attached to the card.*

Sec. 16. Minnesota Statutes 1992, section 349.12, subdivision 30, is amended to read:

Subd. 30. [PERSON.] "Person" is an individual, *organization,* firm, association, partnership, *limited liability company,* corporation, trustee, or legal representative.

Sec. 17. Minnesota Statutes 1992, section 349.12, subdivision 32, is amended to read:

Subd. 32. [PULL-TAB.] "Pull-tab" means a single folded or banded ticket or a *multi-ply* card with ~~a~~ *perforated break-open tabs, the* face *of which is initially* covered to conceal one or more numbers or symbols, where one or more of each set of tickets or cards has been designated in advance as a winner. ~~"Pull-tab" also includes a ticket sold in a gambling device known as a ticket jar.~~

Sec. 18. Minnesota Statutes 1992, section 349.12, is amended by adding a subdivision to read:

Subd. 32a. [PULL-TAB DISPENSING DEVICE.] *"Pull-tab dispensing*

device'' means a mechanical device that dispenses paper pull-tabs and has no additional function as an amusement or gambling device.

Sec. 19. Minnesota Statutes 1992, section 349.12, subdivision 34, is amended to read:

Subd. 34. ''Tipboard'' means a board, placard or other device ~~marked off in a grid or columns, in which each section contains a hidden number or numbers, or other symbol, which determines the winning chances~~ *containing a seal that conceals the winning number or symbol, and that serves as the game flare for a tipboard game.*

Sec. 20. Minnesota Statutes 1992, section 349.12, is amended by adding a subdivision to read:

Subd. 35. [TIPBOARD TICKET.] *''Tipboard ticket'' is a single folded or banded ticket, or multi-ply card, the face of which is initially covered or otherwise hidden from view to conceal a number, symbol, or set of symbols, some of which have been designated in advance and at random as prize winners.*

Sec. 21. Minnesota Statutes 1992, section 349.13, is amended to read:

349.13 [LAWFUL GAMBLING.]

Lawful gambling is not a lottery or gambling within the meaning of sections 609.75 to 609.76 if it is conducted under this chapter. *A pull-tab dispensing device permitted by board rule is not a gambling device within the meaning of sections 609.75 to 609.76 and chapter 299L.*

Sec. 22. Minnesota Statutes 1992, section 349.15, is amended to read:

349.15 [USE OF GROSS PROFITS.]

Subdivision 1. [EXPENDITURE RESTRICTIONS.] Gross profits from lawful gambling may be expended only for lawful purposes or allowable expenses as authorized *by the membership of the conducting organization* at a ~~regular~~ *monthly* meeting of the ~~conducting organization~~ *organization's membership.* Provided that no more than 60 percent of the gross profit less the tax imposed under section 349.212, subdivision 1, from bingo, and no more than 50 percent of the gross profit from other forms of lawful gambling, may be expended for allowable expenses related to lawful gambling.

Subd. 2. [CASH SHORTAGES.] *In computing gross profit to determine maximum amounts which may be expended for allowable expenses under subdivision 1, an organization may not reduce its gross receipts by any cash shortages. An organization may report cash shortages to the board only as an allowable expense. An organization may not report cash shortages in any reporting period that in total exceed the following percentages of the organization's gross receipts from lawful gambling for that period: until August 1, 1995, four-tenths of one percent; and on and after August 1, 1995, three-tenths of one percent.*

Sec. 23. Minnesota Statutes 1992, section 349.151, subdivision 4, is amended to read:

Subd. 4. [POWERS AND DUTIES.] (a) The board has the following powers and duties:

(1) to regulate lawful gambling to ensure it is conducted in the public interest;

(2) to issue licenses to organizations, distributors, bingo halls, manufacturers, and gambling managers;

(3) to collect and deposit license, permit, and registration fees due under this chapter;

(4) to receive reports required by this chapter and inspect all premises, records, books, and other documents of organizations, distributors, manufacturers, and bingo halls to insure compliance with all applicable laws and rules;

(5) to make rules authorized by this chapter;

(6) to register gambling equipment and issue registration stamps;

(7) to provide by rule for the mandatory posting by organizations conducting lawful gambling of rules of play and the odds and/or house percentage on each form of lawful gambling;

(8) to report annually to the governor and legislature on its activities and on recommended changes in the laws governing gambling;

(9) to impose civil penalties of not more than $500 per violation on organizations, distributors, manufacturers, bingo halls, and gambling managers for failure to comply with any provision of this chapter or any rule *or order* of the board;

(10) to issue premises permits to organizations licensed to conduct lawful gambling;

(11) to delegate to the director the authority to issue *or deny* ~~licenses~~ *license* and premises ~~permits~~ *permit applications and renewals* under criteria established by the board;

(12) to suspend or revoke licenses and premises permits of organizations, distributors, manufacturers, bingo halls, or gambling managers as provided in this chapter;

(13) to register employees of organizations licensed to conduct lawful gambling;

(14) to require fingerprints from persons determined by board rule to be subject to fingerprinting; ~~and~~

(15) to delegate to a compliance review group of the board the authority to investigate alleged violations, issue consent orders, and initiate contested cases on behalf of the board;

(16) to order organizations, distributors, manufacturers, bingo halls, and gambling managers to take corrective actions; and

~~(15)~~ *(17)* to take all necessary steps to ensure the integrity of and public confidence in lawful gambling.

(b) *The board, or director if authorized to act on behalf of the board, may by citation assess any organization, distributor, manufacturer, bingo hall licensee, or gambling manager a civil penalty of not more than $500 per violation for a failure to comply with any provision of this chapter or any rule adopted or order issued by the board.* Any organization, distributor, bingo hall

~~operator~~ *licensee, gambling manager,* or manufacturer assessed a civil penalty *under this paragraph* may request a hearing before the board. ~~Hearings conducted on appeals of imposition of penalties~~ *Appeals of citations imposing a civil penalty* are not subject to the provisions of the administrative procedure act.

(c) All fees and penalties received by the board must be deposited in the general fund.

Sec. 24. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 4b. [PULL-TAB SALES FROM DISPENSING DEVICES.] *(a) The board may by rule authorize but not require the use of pull-tab dispensing devices.*

(b) Rules adopted under paragraph (a):

(1) must limit the number of pull-tab dispensing devices on any permitted premises to three;

(2) must limit the use of pull-tab dispensing devices to a permitted premises which is (i) a licensed premises for on-sales of intoxicating liquor or 3.2 percent malt beverages or (ii) a licensed bingo hall that allows gambling only by persons 18 years or older; and

(3) must prohibit the use of pull-tab dispensing devices at any licensed premises where pull-tabs are sold other than through a pull-tab dispensing device by an employee of the organization who is also the lessor or an employee of the lessor.

Sec. 25. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 7. [ORDERS.] *The board may order any person subject to its jurisdiction who has violated this chapter or a board rule or order to take appropriate action to correct the violation.*

Sec. 26. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 8. [CRIMINAL HISTORY.] *The board may request the director of gambling enforcement to assist in investigating the background of an applicant for a license under this chapter, and the director of gambling enforcement may bill the license applicant for the cost thereof. The board has access to all criminal history data compiled by the division of gambling enforcement on licensees and applicants.*

Sec. 27. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 9. [RESPONSE TO REQUESTS.] *An applicant, licensee, or other person subject to the board's jurisdiction must:*

(1) comply with requests for information or documents, or other requests, from the board or director within the time specified in the request or, if no time is specified, within 30 days of the date the board or director mails the request; and

(2) appear before the board or director when requested to do so, and must bring documents or materials requested by the board or director.

Sec. 28. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 10. [PRODUCTION OF EVIDENCE.] *For the purpose of any investigation, inspection, compliance review, audit, or proceeding under this chapter, the board or director may (1) administer oaths and affirmations, (2) subpoena witnesses and compel their attendance, (3) take evidence, and (4) require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the board or director determines are relevant or material to the inquiry.*

Sec. 29. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 11. [COURT ORDERS.] *In the event of a refusal to appear by, or refusal to obey a subpoena issued to, any person under this chapter, the district court may on application of the board or director issue to the person an order directing the person to appear before the board or director, and to produce documentary evidence if so ordered or to give evidence relating to the matter under investigation or in question. Failure to obey such an order may be punished by the court as contempt of court.*

Sec. 30. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 12. [ACCESS.] *The board or director has free access during normal business hours to the offices and places of business of licensees or organizations conducting excluded or exempt gambling, and to all books, accounts, papers, records, files, safes, and vaults maintained in the places of business or required to be maintained.*

Sec. 31. Minnesota Statutes 1992, section 349.151, is amended by adding a subdivision to read:

Subd. 13. [RULEMAKING.] *In addition to any authority to adopt rules specifically authorized under this chapter, the board may adopt, amend, or repeal rules, including emergency rules, under chapter 14, when necessary or proper in discharging the board's powers and duties.*

Sec. 32. Minnesota Statutes 1992, section 349.152, subdivision 2, is amended to read:

Subd. 2. [DUTIES OF THE DIRECTOR.] The director has the following duties:

(1) to carry out gambling policy established by the board;

(2) to employ and supervise personnel of the board;

(3) to advise and make recommendations to the board on rules;

(4) to issue licenses and premises permits as authorized by the board;

(5) to issue cease and desist orders;

(6) to make recommendations to the board on license issuance, denial, *censure,* suspension and revocation, ~~and~~ civil penalties, *and corrective action* the board imposes; ~~and~~

(7) to ensure that board rules, policy, and decisions are adequately and accurately conveyed to the board's licensees;

(8) to conduct investigations, inspections, compliance reviews, and audits under this chapter; and

(9) to issue subpoenas to compel the attendance of witnesses and the production of documents, books, records, and other evidence relating to an investigation, compliance review, or audit the director is authorized to conduct.

Sec. 33. Minnesota Statutes 1992, section 349.152, subdivision 3, is amended to read:

Subd. 3. [CEASE AND DESIST ORDERS.] *(a)* Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any *board* rule *or order*~~:~~ ~~(a)~~ the director ~~has the power to~~ *may* issue and cause to be served upon the person an order requiring the person to cease and desist from violations of this chapter *or board rule or order*. The order must give reasonable notice of the rights of the person to request a hearing and must state the reason for the entry of the order. *Unless otherwise agreed between the parties,* a hearing shall be held not later than seven days after the request for the hearing is received by the board after which and within 20 days ~~of the date of the hearing~~ *after the receipt of the administrative law judge's report and subsequent exceptions and argument* the board shall issue an order vacating the cease and desist order, *modifying it,* or making it permanent as the facts require. *If no hearing is requested within 30 days of the service of the order, the order becomes final and remains in effect until modified or vacated by the board or director.* All hearings shall be conducted in accordance with the provisions of chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true.

(b) *Whenever it appears to the board that any person has engaged or is about to engage in any act or practice that violates this chapter or any board rule or order,* the board may bring an action in the district court in the appropriate county to enjoin the acts or practices and to enforce compliance with this chapter or any *board* rule *or order* and may refer the matter to the attorney general. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted. The court may not require the board to post a bond.

Sec. 34. Minnesota Statutes 1992, section 349.153, is amended to read:

349.153 [CONFLICT OF INTEREST.]

(a) A person may not serve on the board, be the director, or be an employee of the board who has an interest in any corporation, association, *limited liability company,* or partnership that is licensed by the board as a distributor, manufacturer, or a bingo hall under section 349.164.

(b) A member of the board, the director, or an employee of the board may not ~~participate in the conducting of lawful gambling.~~ *accept employment with, receive compensation directly or indirectly from, or enter into a contractual relationship with an organization that conducts lawful gambling, a distributor,*

a bingo hall or a manufacturer while employed with or a member of the board or within one year after terminating employment with or leaving the board.

(c) A distributor, bingo hall, manufacturer, or organization licensed to conduct lawful gambling may not hire a former employee, director, or member of the gambling control board for one year after the employee, director, or member has terminated employment with or left the gambling control board.

Sec. 35. Minnesota Statutes 1992, section 349.154, is amended to read:

349.154 [EXPENDITURE OF NET PROFITS FROM LAWFUL GAMBLING.]

Subdivision 1. [STANDARDS FOR CERTAIN ORGANIZATIONS.] The board shall by rule prescribe standards that must be met by any licensed organization that is a 501(c)(3) organization. The standards must provide:

(1) operating standards for the organization, including a maximum percentage or percentages of the organization's total expenditures that may be expended for the organization's administration and operation; and

(2) standards for any expenditure by the organization of net profits from lawful gambling, including a requirement that the expenditure be related to the primary purpose of the organization.

Subd. 2. [NET PROFIT REPORTS.] (a) Each licensed organization must report monthly to the board on a form prescribed by the board each expenditure and contribution of net profits from lawful gambling. The reports must provide for each expenditure or contribution:

(1) the name, address, and telephone number of the recipient of the expenditure or contribution;

(2) the date the contribution was approved by the organization;

(3) the date, amount, and check number of the expenditure or contribution; ~~and~~

(4) a brief description of how the expenditure or contribution meets one or more of the purposes in section 349.12, subdivision 25, ~~paragraph (a)~~; *and*

(5) in the case of expenditures authorized under section 349.12, subdivision 25, paragraph (a), clause (7), whether the expenditure is for a facility or activity that primarily benefits male or female participants.

(b) The board shall ~~provide~~ *make available to* the commissioners of revenue and public safety copies of ~~each report~~ *reports* received under this subdivision *and requested by them.*

Subd. 3a. [EXPENDITURES FOR RECREATIONAL, COMMUNITY, AND ATHLETIC PROGRAMS.] *An organization that makes a greater percentage of its lawful purpose expenditures under section 349.12, subdivision 25, paragraph (a), clause (7) on facilities or activities for one gender rather than another may not deny a reasonable request for funding of a facility or activity for the underrepresented gender if the request is for funding for a facility or activity that is a lawful purpose under that clause. An applicant for funding for a facility or activity for an underrepresented gender who believes that an application for funding was denied in violation of this subdivision may file a complaint with the board. The board shall prescribe a form for the complaint and shall furnish a copy of the form to any requester. The board*

shall investigate each complaint filed and, if the board finds that the organization against which the complaint was filed has violated this subdivision, shall issue an order directing the organization to take such corrective action as the board deems necessary to bring the organization into compliance with this subdivision.

Sec. 36. [349.155] [LICENSES; LICENSE ACTIONS.]

Subdivision 1. [FORMS.] *All applications for a license must be on a form prescribed by the board. In the case of applications by an organization the board may require the organization to submit a copy of its articles of incorporation and other documents the board deems necessary.*

Subd. 2. [INVESTIGATION FEE.] *In addition to initial and renewal application fees, the board may charge license and renewal applicants a fee to cover the costs of background investigations conducted under this chapter.*

Subd. 3. [MANDATORY DISQUALIFICATIONS.] *(a) In the case of licenses for manufacturers, distributors, bingo halls, and gambling managers, the board may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the applicant or licensee, or a director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, or an employee eligible to make sales on behalf of the applicant or licensee:*

(1) has ever been convicted of a felony or a crime involving gambling;

(2) has ever been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats;

(3) is or has ever been connected with or engaged in an illegal business;

(4) owes $500 or more in delinquent taxes as defined in section 270.72;

(5) had a sales and use tax permit revoked by the commissioner of revenue within the past two years; or

(6) after demand, has not filed tax returns required by the commissioner of revenue. The board may deny or refuse to renew a license under this chapter, and may revoke a license under this chapter, if any of the conditions in this paragraph is applicable to an affiliate or direct or indirect holder of more than a five percent financial interest in the applicant or licensee.

(b) In the case of licenses for organizations, the board may not issue or renew a license under this chapter, and shall revoke a license under this chapter, if the organization, or an officer or member of the governing body of the organization:

(1) has been convicted of a felony or gross misdemeanor within the five years before the issuance or renewal of the license;

(2) has ever been convicted of a crime involving gambling; or

(3) has had a license issued by the board or director permanently revoked for violation of law or board rule.

Subd. 4. [LICENSE REVOCATION, SUSPENSION, DENIAL; CENSURE.] *The board may by order (i) deny, suspend, revoke, or refuse to renew a license or premises permit, or (ii) censure a licensee or applicant, if it finds that the order is in the public interest and that the applicant or licensee, or a*

director, officer, partner, governor, person in a supervisory or management position of the applicant or licensee, an employee eligible to make sales on behalf of the applicant or licensee, or direct or indirect holder of more than a five percent financial interest in the applicant or licensee:

(1) has violated or failed to comply with any provision of chapter 297E, 299L, or 349, or any rule adopted or order issued thereunder;

(2) has filed an application for a license that is incomplete in any material respect, or contains a statement that, in light of the circumstances under which it was made, is false, misleading, fraudulent, or a misrepresentation;

(3) has made a false statement in a document or report required to be submitted to the board or the commissioner of revenue, or has made a false statement to the board, the compliance review group, or the director;

(4) has been convicted of a crime in another jurisdiction that would be a felony if committed in Minnesota;

(5) is permanently or temporarily enjoined by any gambling regulatory agency from engaging in or continuing any conduct or practice involving any aspect of gambling;

(6) has had a gambling-related license revoked or suspended, or has paid or been required to pay a monetary penalty of $2,500 or more, by a gambling regulator in another state or jurisdiction;

(7) has been the subject of any of the following actions by the director of gambling enforcement or commissioner of public safety: (i) had a license under chapter 299L denied, suspended or revoked, (ii) been censured, reprimanded, has paid or been required to pay a monetary penalty or fine, or (iii) has been the subject of any other discipline by the director or commissioner; or

(8) has engaged in conduct that is contrary to the public health, welfare, or safety, or to the integrity of gambling; or

(9) based on past activities or criminal record poses a threat to the public interest or to the effective regulation and control of gambling, or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gambling or the carrying on of the business and financial arrangements incidental to the conduct of gambling.

Subd. 5. [CONTESTED CASE.] *When the board, or director if the director is authorized to act on behalf of the board, determines that a license should be revoked, suspended or a licensee be censured under subdivision 3 or 4, or a civil penalty be imposed or a person be required to take corrective action, the board or director shall issue an order initiating a contested case hearing. Hearings under this subdivision must be conducted in accordance with chapter 14.*

Subd. 6. [NOTICE OF DENIAL.] *When the board, or director if authorized to act on behalf of the board, determines that a license or premises permit application or renewal should be denied under subdivision 3 or 4, the board or director shall promptly give a written notice to the licensee or applicant stating ground for the action and giving reasonable notice of the rights of the licensee or applicant to request a hearing. A hearing must be held not later than 30 days after the board receives the request for the hearing, unless the licensee or applicant and the board agree on a later date. If no hearing is*

requested within 30 days of the service of the notice, the denial becomes final. Hearings under this subdivision must be conducted in accordance with chapter 14. After the hearing the board may enter an order making such disposition as the facts require. If the applicant fails to appear at the hearing after having been notified of it under this subdivision, the applicant is considered in default and the proceeding may be determined against the person on consideration of the written notice of denial, the allegations of which may be considered to be true. All fees accompanying the license or renewal application are considered earned and are not refundable.

Subd. 7. [LAPSED LICENSES.] *If a license lapses, or is surrendered, withdrawn, terminated, or otherwise becomes ineffective, the board may (1) institute a proceeding under this section within two years after the last date on which the license was effective, (2) enter a revocation or suspension order as of the date on which the license was effective, (3) impose a civil penalty as provided under section 349.151, subdivision 4, or (4) order corrective action as provided in section 349.151, subdivision 7.*

Subd. 8. [ACTIONS IN ANOTHER STATE.] *A licensee under this chapter must notify the board within 30 days of the action whenever any of the actions listed in subdivision 4, clause (6) have been taken against the licensee in another state or jurisdiction.*

Sec. 37. Minnesota Statutes 1992, section 349.16, subdivision 2, is amended to read:

Subd. 2. [ISSUANCE OF GAMBLING LICENSES.] (a) Licenses authorizing organizations to conduct lawful gambling may be issued by the board to organizations meeting the qualifications in paragraphs (b) to (h) if the board determines that the license is consistent with the purpose of sections 349.11 to 349.22.

(b) The organization must have been in existence for the most recent three years preceding the license application as a registered Minnesota nonprofit corporation or as an organization designated as exempt from the payment of income taxes by the Internal Revenue Code.

(c) The organization at the time of licensing must have at least 15 active members.

(d) The organization must not be in existence solely for the purpose of conducting gambling.

(e) ~~The organization must not have as an officer or member of the governing body any person who, within the five years before the issuance of the license, has been convicted in a federal or state court of a felony or gross misdemeanor or who has ever been convicted of a crime involving gambling or who has had a license issued by the board or director revoked for a violation of law or board rule.~~

~~(f)~~ The organization has identified in its license application the lawful purposes on which it proposes to expend net profits from lawful gambling.

~~(g)~~ *(f)* The organization has identified on its license application a gambling manager and certifies that the manager is qualified under this chapter.

~~(h)~~ *(g)* The organization must not, in the opinion of the board after consultation with the commissioner of revenue, be seeking licensing primarily

for the purpose of evading or reducing the tax imposed by section 349.212, subdivision 6.

Sec. 38. Minnesota Statutes 1992, section 349.16, subdivision 3, is amended to read:

Subd. 3. [TERM OF LICENSE; ~~SUSPENSION AND REVOCATION.~~] Licenses issued under this section are valid for two years ~~and may be suspended by the board for a violation of law or board rule or revoked for what the board determines to be a willful violation of law or board rule. A revocation or suspension is a contested case under sections 14.57 to 14.69 of the administrative procedure act.~~

Sec. 39. Minnesota Statutes 1992, section 349.16, subdivision 6, is amended to read:

Subd. 6. [~~FEES~~ *LICENSE CLASSIFICATIONS.*] The board may issue four classes of organization licenses: a class A license authorizing all forms of lawful gambling; a class B license authorizing all forms of lawful gambling except bingo; a class C license authorizing bingo only, *or bingo and pull-tabs if the gross receipts for any combination of bingo and pull-tabs does not exceed $50,000 per year*; and a class D license authorizing raffles only. The board shall not charge a fee for an organization license.

Sec. 40. Minnesota Statutes 1992, section 349.16, subdivision 8, is amended to read:

Subd. 8. [LOCAL INVESTIGATION FEE.] A statutory or home rule charter city or county notified under section 349.213, subdivision 2, may assess an investigation fee on organizations or bingo halls applying for or renewing a ~~license to conduct lawful gambling~~ *premises permit* or ~~operate~~ a bingo hall *license*. An investigation fee may not exceed the following limits:

(1) for cities of the first class, $500;

(2) for cities of the second class, $250;

(3) for all other cities, $100; and

(4) for counties, $375.

Sec. 41. Minnesota Statutes 1992, section 349.16, is amended by adding a subdivision to read:

Subd. 9. [LICENSE RENEWALS; NOTICE.] *The board may not deny or delay the renewal of a license under this section, a premises permit, or a gambling manager's license under section 349.167 because of the licensee's failure to submit a complete application by a specified date before the expiration of the license or permit, unless the board has first (1) sent the applicant by registered mail a written notice of the incomplete application, and (2) given the applicant at least five business days from the date of receipt of the notice to submit a complete application, or the information necessary to complete the application.*

Sec. 42. Minnesota Statutes 1992, section 349.161, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED ACTS; LICENSES REQUIRED.] No person may:

(1) sell, offer for sale, or furnish gambling equipment for use within the state ~~for gambling purposes,~~ other than for lawful gambling exempt or excluded from licensing, except to an organization licensed for lawful gambling;

(2) sell, offer for sale, or furnish gambling equipment for ~~lawful gambling~~ *use within the state* without having obtained a distributor license under this section;

(3) sell, offer for sale, or furnish gambling equipment for use within the state that is not purchased or obtained from a manufacturer or distributor licensed under this chapter; or

(4) sell, offer for sale, or furnish gambling equipment for use within the state that has the same serial number as another item of gambling equipment of the same type sold or offered for sale or furnished for use in the state by that distributor.

Sec. 43. Minnesota Statutes 1992, section 349.161, subdivision 5, is amended to read:

Subd. 5. [PROHIBITION.] (a) No distributor, or employee of a distributor, may also be a wholesale distributor of alcoholic beverages or an employee of a wholesale distributor of alcoholic beverages.

(b) No distributor, or any representative, agent, affiliate, or employee of a distributor, may ~~be~~: (1) *be* involved in the conduct of lawful gambling by an organization; (2) keep or assist in the keeping of an organization's financial records, accounts, and inventories; or (3) prepare or assist in the preparation of tax forms and other reporting forms required to be submitted to the state by an organization.

(c) No distributor or any representative, agent, affiliate, or employee of a distributor may provide a lessor of gambling premises any compensation, gift, gratuity, premium, or other thing of value.

(d) No distributor or any representative, agent, affiliate, or employee of a distributor may participate in any gambling activity at any gambling site or premises where gambling equipment purchased from that distributor is being used in the conduct of lawful gambling.

(e) No distributor or any representative, agent, affiliate, or employee of a distributor may alter or modify any gambling equipment, except to add a "last ticket sold" prize sticker.

(f) No distributor or any representative, agent, affiliate, or employee of a distributor may: (1) recruit a person to become a gambling manager of an organization or identify to an organization a person as a candidate to become gambling manager for the organization; or (2) identify for an organization a potential gambling location.

(g) No distributor may purchase gambling equipment *for resale to a person for use within the state* from any person not licensed as a manufacturer under section 349.163.

(h) No distributor may sell gambling equipment to any person *for use* in Minnesota other than (i) a licensed organization or organization *excluded or* exempt from licensing, or (ii) the governing body of an Indian tribe.

(i) No distributor may sell or otherwise provide a pull-tab or tipboard deal with the symbol required by section 349.163, subdivision 5, paragraph (h), visible on the flare to any person other than in Minnesota to a licensed organization or organization exempt from licensing.

Sec. 44. Minnesota Statutes 1992, section 349.162, subdivision 1, is amended to read:

Subdivision 1. [STAMP REQUIRED.] ~~(a)~~ A distributor may not sell, transfer, furnish, or otherwise provide to a person, ~~organization, or distributor,~~ and no person, ~~organization, or distributor~~ may purchase, borrow, accept, or acquire from a distributor gambling equipment *for use within the state* unless the equipment has been registered with the board and has a registration stamp affixed, *except for gambling equipment not stamped by the manufacturer pursuant to section 349.163, subdivision 5 or 8.* The board shall charge a fee of five cents for each stamp. Each stamp must bear a registration number assigned by the board. A distributor *or manufacturer* is entitled to a refund for unused *registration* stamps and replacement for *registration* stamps which are defective or canceled by the distributor *or manufacturer.*

(b) ~~From January 1, 1991, to June 30, 1992, no distributor, organization, or other person may sell a pull-tab which is not clearly marked "For Sale in Minnesota Only."~~ *A manufacturer must return all unused registration stamps in its possession to the board by February 1, 1995. No manufacturer may possess unaffixed registration stamps after February 1, 1995.*

(c) ~~On and after July 1, 1992, no distributor, organization, or other person may sell a pull-tab which is not clearly marked "Manufactured in Minnesota For Sale in Minnesota Only."~~

~~(d) Paragraphs (b) and (c) do not apply to pull-tabs sold by a distributor to the governing body of an Indian tribe.~~ *After February 1, 1996, no person may possess any unplayed pull-tab or tipboard deals with a registration stamp affixed to the flare or any unplayed paddleticket cards with a registration stamp affixed to the master flare. Gambling equipment kept in violation of this paragraph is contraband under section 349.2125.*

Sec. 45. Minnesota Statutes 1992, section 349.162, subdivision 2, is amended to read:

Subd. 2. [RECORDS REQUIRED.] A distributor must maintain a record of all gambling equipment which it sells to organizations. The record must include:

(1) the identity of the person ~~or firm~~ from whom the distributor purchased the equipment;

(2) the registration number of the equipment;

(3) the name, address, and license or exempt permit number of the organization to which the sale was made;

(4) the date of the sale;

(5) the name of the person who ordered the equipment;

(6) the name of the person who received the equipment;

(7) the type of equipment;

(8) the serial number of the equipment;

(9) the name, form number, or other identifying information for each game; and

(10) in the case of bingo *hard* cards *or paper sheets* sold on and after January 1, 1991, the individual number of each card *or sheet*.

The invoice for each sale must be retained for at least 3-1/2 years after the sale is completed and a copy of each invoice is to be delivered to the board in the manner and time prescribed by the board. For purposes of this section, a sale is completed when the gambling equipment is physically delivered to the purchaser.

Each distributor must report monthly to the board, in a form the board prescribes, its sales of each type of gambling equipment. Employees of the board and the division of gambling enforcement may inspect the business premises, books, records, and other documents of a distributor at any reasonable time without notice and without a search warrant.

The board may require that a distributor submit the monthly report and invoices required in this subdivision via magnetic media or electronic data transfer.

Sec. 46. Minnesota Statutes 1992, section 349.162, subdivision 4, is amended to read:

Subd. 4. [PROHIBITION.] (a) No person other than a licensed distributor *or licensed manufacturer* may possess unaffixed registration stamps.

(b) Unless otherwise provided in this chapter, no person may possess gambling equipment that has not been stamped and registered.

(c) On and after January 1, 1991, no distributor may:

(1) sell a bingo *hard* card *or paper sheet* that does not bear an individual number; or

(2) sell a package of bingo ~~cards~~ *paper sheets* that does not contain bingo ~~cards~~ *paper sheets* in numerical order.

Sec. 47. Minnesota Statutes 1992, section 349.162, subdivision 5, is amended to read:

Subd. 5. [SALES FROM FACILITIES.] (a) All gambling equipment purchased or possessed by a licensed distributor for resale *to any person for use* in Minnesota must, prior to the equipment's resale, be unloaded into a ~~sales or~~ storage facility located in Minnesota which the distributor owns or leases; and which has been registered, in advance and in writing, with the division of gambling enforcement as a ~~sales or~~ storage facility of the ~~distributor's~~ *distributor*. All unregistered gambling equipment and all unaffixed registration stamps owned by, or in the possession of, a licensed distributor in the state of Minnesota shall be stored at a ~~sales or~~ storage facility which has been registered with the division of gambling enforcement. No gambling equipment may be moved from the facility unless the gambling equipment has been first registered with the board, *except for gambling equipment not stamped by the manufacturer pursuant to section 349.163, subdivision 5 or 8.*

(b) *Notwithstanding section 349.163, subdivisions 5, 6, and 8, a licensed manufacturer may ship into Minnesota approved or unapproved gambling equipment if the licensed manufacturer ships the gambling equipment to a Minnesota storage facility that is: (1) owned or leased by the licensed manufacturer; and (2) registered, in advance and in writing, with the division of gambling enforcement as a manufacturer's storage facility. No gambling equipment may be shipped into Minnesota to the manufacturer's registered storage facility unless the shipment of the gambling equipment is reported to the department of revenue in a manner prescribed by the department. No gambling equipment may be moved from the storage facility unless the gambling equipment is sold to a licensed distributor and is otherwise in conformity with this chapter, is shipped to an out-of-state site and the shipment is reported to the department of revenue in a manner prescribed by the department, or is otherwise sold and shipped as permitted by board rule.*

(c) All ~~sales and~~ storage facilities owned, leased, used, or operated by a licensed distributor *or manufacturer* may be entered upon and inspected by the employees of the division of gambling enforcement ~~or~~, the *division of gambling enforcement* director's authorized representatives, *employees of the gambling control board or its authorized representatives, employees of the department of revenue, or authorized representatives of the director of the division of special taxes of the department of revenue* during reasonable and regular business hours. Obstruction of, or failure to permit, entry and inspection is cause for revocation or suspension of a *manufacturer's or* distributor's licenses and permits issued under this chapter.

~~(c)~~ *(d)* Unregistered gambling equipment and unaffixed registration stamps found at any location in Minnesota other than *the manufacturing plant of a licensed manufacturer or* a registered ~~sales or~~ storage facility are contraband under section 349.2125. This paragraph does not apply:

(1) to unregistered gambling equipment being transported in interstate commerce between locations outside this state, if the interstate shipment is verified by a bill of lading or other valid shipping document; *and*

(2) to gambling equipment not stamped by the manufacturer pursuant to section 349.163, subdivision 5 or 8.

Sec. 48. Minnesota Statutes 1992, section 349.163, subdivision 1, is amended to read:

Subdivision 1. [LICENSE REQUIRED.] No manufacturer of gambling equipment may sell any gambling equipment to any person *for use or resale within the state,* unless the manufacturer has a current and valid license *issued* by the board under this section and *has satisfied* other criteria prescribed by the board by rule.

A manufacturer licensed under this section may not also be directly or indirectly licensed as a distributor under section 349.161 unless the manufacturer (1) does not manufacture any gambling equipment other than paddlewheels, and (2) was licensed as both a manufacturer and distributor on May 1, 1990.

Sec. 49. Minnesota Statutes 1992, section 349.163, subdivision 3, is amended to read:

Subd. 3. [PROHIBITED SALES.] (a) A manufacturer may not:

(1) sell gambling equipment *for use or resale within the state* to any person not licensed as a distributor unless the manufacturer is also a licensed distributor; *or*

(2) sell gambling equipment to a distributor in this state that has the same serial number as another item of gambling equipment of the same type that is sold by that manufacturer for use *or resale* in this state~~;~~.

~~(3) from January 1, 1991, to June 30, 1992, sell to any person in Minnesota, other than the governing body of an Indian tribe, a pull-tab on which the manufacturer has not clearly printed the words "For Sale in Minnesota Only";~~

~~(4) on and after July 1, 1992, sell to any person in Minnesota, other than the governing body of an Indian tribe, a pull-tab on which the manufacturer has not clearly printed the words "Manufactured in Minnesota For Sale In Minnesota Only"; or~~

~~(5) sell a pull-tab marked as required in clauses (3) and (4) to any person inside or outside the state, including the governing body of an Indian tribe, who is not a licensed distributor.~~

(b) ~~On and after July 1, 1992, all pull-tabs sold by a licensed manufacturer to a person in Minnesota must be manufactured in Minnesota.~~

~~(c)~~ A manufacturer, affiliate of a manufacturer, or person acting as a representative or agent of a manufacturer may not provide a lessor of gambling premises or an appointed official any compensation, gift, gratuity, premium, contribution, or other thing of value.

(c) A manufacturer may not sell or otherwise provide a pull-tab or tipboard deal with the symbol required by section 349.163, subdivision 5, paragraph (h), imprinted on the flare to any person other than a licensed distributor unless the manufacturer first renders the symbol permanently invisible.

Sec. 50. Minnesota Statutes 1992, section 349.163, subdivision 5, is amended to read:

Subd. 5. [PULL-TAB AND TIPBOARD FLARES.] (a) A manufacturer may not ship or cause to be shipped into this state *or sell for use or resale in this state* any deal of pull-tabs or tipboards that does not have its own individual flare as required for that deal by *this subdivision and* rule of the board. A person other than a manufacturer may not manufacture, alter, modify, or otherwise change a flare for a deal of pull-tabs or tipboards except as allowed by this chapter or board rules.

(b) *A manufacturer must comply with either paragraphs (c) to (g) or (f) to (j) with respect to pull-tabs and tipboards sold by the manufacturer before January 1, 1995, for use or resale in Minnesota or shipped into or caused to be shipped into Minnesota by the manufacturer before January 1, 1995. A manufacturer must comply with paragraphs (f) to (j) with respect to pull-tabs and tipboards sold by the manufacturer on and after January 1, 1995, for use or resale in Minnesota or shipped into or caused to be shipped into Minnesota by the manufacturer on and after January 1, 1995. Paragraphs (c) to (e) expire January 1, 1995.*

(c) The flare of each deal of pull-tabs and tipboards sold by a manufacturer *for use or resale* in Minnesota must have the Minnesota gambling stamp affixed. The flare, with the stamp affixed, must be placed inside the wrapping of the deal which the flare describes.

~~(c)~~ *(d)* Each pull-tab and tipboard flare must bear the following statement printed in letters large enough to be clearly legible:

"Pull-tab (or tipboard) purchasers—This pull-tab (or tipboard) game is not legal in Minnesota unless:

—a Minnesota gambling stamp is affixed to this sheet, and

—the serial number handwritten on the gambling stamp is the same as the serial number printed on this sheet and on the pull-tab (or tipboard) ticket you have purchased."

~~(d)~~ *(e)* The flare of each pull-tab and tipboard game must bear the serial number of the game, printed in numbers at least one-half inch high.

~~(e)~~ *(f)* The flare of each pull-tab and tipboard game must ~~be~~ *have affixed to or* imprinted at the bottom ~~with~~ a bar code that provides: *all information required by the commissioner of revenue under section 297E.04, subdivision 2.*

~~(1) the name of the game;~~

~~(2) the serial number of the game;~~

~~(3) the name of the manufacturer;~~

~~(4) the number of tickets in the deal;~~

~~(5) the odds of winning each prize in the deal; and~~

~~(6) other information the board by rule requires.~~

The serial number included in the bar code must be the same as the serial number of the tickets included in the deal. A manufacturer who manufactures a deal of pull-tabs must affix to the outside of the box containing that game the same bar code that is *affixed to or* imprinted at the bottom of a flare for that deal.

~~(f)~~ *(g)* No person may alter the bar code that appears on the outside of a box containing a deal of pull-tabs and tipboards. Possession of a box containing a deal of pull-tabs and tipboards that has a bar code different from the bar code of the deal inside the box is prima facie evidence that the possessor has altered the bar code on the box.

(h) The flare of each deal of pull-tabs and tipboards sold by a manufacturer for use or resale in Minnesota must have imprinted on it a symbol that is at least one inch high and one inch wide consisting of an outline of the geographic boundaries of Minnesota with the letters "MN" inside the outline. The flare must be placed inside the wrapping of the deal which the flare describes.

(i) Each pull-tab and tipboard flare must bear the following statement printed in letters large enough to be clearly legible:

"Pull-tab (or tipboard) purchasers—This pull-tab (or tipboard) game is not legal in Minnesota unless:

—an outline of Minnesota with letters "MN" inside it is imprinted on this sheet, and

—the serial number imprinted on the bar code at the bottom of this sheet is the same as the serial number on the pull-tab (or tipboard) ticket you have purchased."

(j) The flare of each pull-tab and tipboard game must have the serial number of the game imprinted on the bar code at the bottom of the flare in numerals at least one-half inch high.

Sec. 51. Minnesota Statutes 1992, section 349.163, subdivision 6, is amended to read:

Subd. 6. [SAMPLES OF GAMBLING EQUIPMENT.] The board shall require each licensed manufacturer to submit to the board one or more samples of each item of gambling equipment the manufacturer manufactures for ~~sale~~ *use or resale* in this state. The board shall inspect and test all the equipment it deems necessary to determine the equipment's compliance with law and board rules. Samples required under this subdivision must be approved by the board before the equipment being sampled is *shipped into or* sold *for use or resale* in this state. The board may request the assistance of the commissioner of public safety and the director of the state lottery board in performing the tests.

Sec. 52. Minnesota Statutes 1992, section 349.163, is amended by adding a subdivision to read:

Subd. 8. [PADDLETICKET CARD MASTER FLARES.] *Each sealed grouping of 100 paddleticket cards must have its own individual master flare. The manufacturer must affix to or imprint at the bottom of the master flare a bar code that provides all information required by the commissioner of revenue under section 297E.04, subdivision 3.*

This subdivision applies to paddleticket cards sold by a manufacturer after June 30, 1995, for use or resale in Minnesota or shipped into or caused to be shipped into Minnesota by a manufacturer after June 30, 1995. Paddleticket cards which are subject to this subdivision shall not have a registration stamp affixed to the master flare.

Sec. 53. Minnesota Statutes 1992, section 349.164, subdivision 1, is amended to read:

Subdivision 1. [LICENSE REQUIRED.] No person may lease a facility to more than one ~~individual, corporation, partnership, or~~ organization to conduct bingo without a current and valid bingo hall license under this section.

Sec. 54. Minnesota Statutes 1992, section 349.164, subdivision 6, is amended to read:

Subd. 6. [PROHIBITED ACTS.] No bingo hall licensee, person holding a financial or managerial interest in a bingo hall, or affiliate thereof may:

(1) be a licensed distributor or licensed manufacturer or affiliate of the distributor or manufacturer under section 349.161 or 349.163 or a wholesale distributor of alcoholic beverages;

(2) provide any staff to conduct or assist in the conduct of bingo or any other form of lawful gambling on the premises;

(3) acquire, provide ~~storage or~~ inventory control *for*, or report the use of any

gambling equipment used by an organization that conducts lawful gambling on the premises;

(4) provide accounting services to an organization conducting lawful gambling on the premises;

(5) solicit, suggest, encourage, or make any expenditures of gross receipts of an organization from lawful gambling;

(6) charge any fee to a person without which the person could not play a bingo game or participate in another form of lawful gambling on the premises;

(7) provide assistance or participate in the conduct of lawful gambling on the premises; or

(8) permit more than 21 bingo occasions to be conducted on the premises in any week.

Sec. 55. Minnesota Statutes 1992, section 349.164, is amended by adding a subdivision to read:

Subd. 10. [RECORDS.] *A bingo hall licensee must maintain and preserve for at least 3-1/2 years records of all remuneration it receives from organizations conducting lawful gambling.*

Sec. 56. Minnesota Statutes 1992, section 349.1641, is amended to read:

349.1641 [LICENSES; SUMMARY SUSPENSION.]

The board may (1) summarily suspend the license of an organization that is more than three months late in filing a tax return *or in paying a tax* required under ~~this~~ chapter *297E* and may keep the suspension in effect until all required returns are filed *and required taxes are paid*; and (2) summarily suspend for not more than 90 days any license issued by the board or director for what the board determines are actions detrimental to the integrity of lawful gambling in Minnesota. The board must notify the licensee at least 14 days before suspending the license under this ~~paragraph~~ *section.* ~~A contested case hearing must be held within 20 days of the summary suspension and~~ *If a license is summarily suspended under this section, a contested case hearing on the merits must be held within 20 days of the issuance of the order of suspension, unless the parties agree to a later hearing date.* The administrative law judge's report must be issued within 20 days after the close of the hearing record. In all cases involving summary suspension, the board must issue its final decision within 30 days after receipt of the report of the administrative law judge and subsequent exceptions and argument under section 14.61. When an organization's license is suspended ~~or revoked~~ under this ~~subdivision~~ *section*, the board shall within three days notify all municipalities in which the organization's gambling premises are located and all licensed distributors in the state.

Sec. 57. Minnesota Statutes 1992, section 349.166, subdivision 1, is amended to read:

Subdivision 1. [EXCLUSIONS.] (a) Bingo may be conducted without a license and without complying with sections *349.168, subdivisions 1 and 2;* 349.17, ~~subdivision~~ *subdivisions* 1, *4,* and *5;* 349.18, *subdivision 1; and 349.19*, if it is conducted:

(1) *by an organization* in connection with a county fair, the state fair, or a civic celebration ~~if it~~ *and* is not conducted for more than 12 consecutive days *and is limited to no more than four separate applications for activities applied for and approved* in a calendar year; or

(2) by an organization that conducts four or fewer bingo occasions in a calendar year.

An organization that holds a license to conduct lawful gambling under this chapter may not conduct bingo under this subdivision.

(b) Bingo may be conducted within a nursing home or a senior citizen housing project or by a senior citizen organization without compliance with sections 349.11 to *349.15 and 349.153 to* 349.213 if the prizes for a single bingo game do not exceed $10, total prizes awarded at a single bingo occasion do not exceed $200, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, a manager is appointed to supervise the bingo, and the manager registers with the board. The gross receipts from bingo conducted under the limitations of this subdivision are exempt from taxation under chapter 297A.

(c) Raffles may be conducted by an organization without *a license and without* complying with sections ~~349.11 to 349.13 and 349.151~~ *349.154* to *349.165 and 349.167 to* 349.213 if the value of all raffle prizes awarded by the organization in a calendar year does not exceed $750.

(d) The organization must maintain all required records of excluded gambling activity for 3-1/2 years.

Sec. 58. Minnesota Statutes 1992, section 349.166, subdivision 2, is amended to read:

Subd. 2. [EXEMPTIONS.] (a) Lawful gambling may be conducted by an organization ~~as defined in section 349.12, subdivision 28,~~ without *a license and without* complying with sections ~~349.151 to 349.16; 349.167;~~ 349.168, *subdivisions 1 and 2; 349.17, subdivisions 4 and 5*; 349.18, *subdivision 1*; *and* 349.19~~; and 349.212~~ if:

(1) the organization conducts lawful gambling on five or fewer days in a calendar year;

(2) the organization does not award more than $50,000 in prizes for lawful gambling in a calendar year;

(3) the organization pays a fee of $25 to the board, notifies the board in writing not less than 30 days before each lawful gambling occasion of the date and location of the occasion, or 60 days for an occasion held in the case of a city of the first class, the types of lawful gambling to be conducted, the prizes to be awarded, and receives an exemption identification number;

(4) the organization notifies the local government unit 30 days before the lawful gambling occasion, or 60 days for an occasion held in a city of the first class;

(5) the organization purchases all gambling equipment and supplies from a licensed distributor; and

(6) the organization reports to the board, on a single-page form prescribed by the board, within 30 days of each gambling occasion, the gross receipts, prizes, expenses, expenditures of net profits from the occasion, and the identification of the licensed distributor from whom all gambling equipment was purchased.

(b) If the organization fails to file a timely report as required by paragraph (a), clause (3) or (6), a $250 penalty is imposed on the organization. Failure to file a timely report does not disqualify the organization as exempt under this ~~paragraph~~ *subdivision* if a report is later filed and the penalty paid.

(c) Merchandise prizes must be valued at their fair market value.

(d) Unused pull-tab and tipboard deals must be returned to the distributor within seven working days after the end of the lawful gambling occasion. The distributor must accept and pay a refund for all returns of unopened and undamaged deals returned under this paragraph.

(e) An organization that is exempt from taxation on purchases of pull-tabs and tipboards under section 349.212, subdivision 4, paragraph (c), must return to the distributor any tipboard or pull-tab deal no part of which is used at the lawful gambling occasion for which it was purchased by the organization.

(f) The organization must maintain all required records of exempt gambling activity for 3-1/2 years.

Sec. 59. Minnesota Statutes 1992, section 349.166, subdivision 3, is amended to read:

Subd. 3. [RAFFLES; CERTAIN ORGANIZATIONS.] Sections ~~349.21~~ *349.168, subdivisions 3 and 4;* and 349.211, subdivision 3, and the membership requirements of ~~sections 349.14 and 349.20~~ *section 349.16, subdivision 2, paragraph (c),* do not apply to raffles conducted by an organization that directly or under contract to the state or a political subdivision delivers health or social services and that is a 501(c)(3) organization if the prizes awarded in the raffles are real or personal property donated by an individual, firm, or other organization. The person who accounts for the gross receipts, expenses, and profits of the raffles may be the same person who accounts for other funds of the organization.

Sec. 60. Minnesota Statutes 1992, section 349.167, subdivision 1, is amended to read:

Subdivision 1. [GAMBLING MANAGER REQUIRED.] (a) All lawful gambling conducted by a licensed organization must be under the supervision of a gambling manager. A gambling manager designated by an organization to supervise lawful gambling is responsible for the gross receipts of the organization and for its conduct in compliance with all laws and rules. A person designated as a gambling manager shall maintain a fidelity bond in the sum of $10,000 in favor of the organization conditioned on the faithful performance of the manager's duties. The terms of the bond must provide that notice be given to the board in writing not less than 30 days before its cancellation.

(b) A person may not act as a gambling manager for more than one organization.

(c) An organization may not conduct lawful gambling without having a gambling manager. ~~The board must be notified in writing of a change in~~

~~gambling managers. Notification must be made within ten days of the date the gambling manager assumes the manager's duties.~~

(d) An organization may not have more than one gambling manager at any time.

Sec. 61. Minnesota Statutes 1992, section 349.167, subdivision 2, is amended to read:

Subd. 2. [GAMBLING MANAGERS; LICENSES.] A person may not serve as a gambling manager for an organization unless the person possesses a valid gambling manager's license issued by the board. *In addition to the disqualifications in section 349.155, subdivision 3,* the board may *not* issue a gambling manager's license to a person applying for the license who:

(1) has *not* complied with subdivision 4, clause (1);

(2) ~~has never been convicted of a felony;~~

~~(3)~~ within the five years before the date of the license application, has ~~not~~ committed a violation of law or board rule that resulted in the revocation of a license issued by the board;

~~(4)~~ *(3)* has ~~never~~ *ever* been convicted of a criminal violation involving fraud, theft, tax evasion, misrepresentation, or gambling; *or*

~~(5) has never been convicted of (i) assault, (ii) a criminal violation involving the use of a firearm, or (iii) making terroristic threats; and~~

~~(6)~~ *(4)* has ~~not~~ engaged in conduct the board determines is contrary to the public health, welfare, or safety or the integrity of lawful gambling.

A gambling manager's license ~~is valid for one year~~ *runs concurrent with the organization's license* unless *the gambling manager's license is* suspended or revoked. The ~~annual~~ fee for a gambling manager's license is ~~$100~~ *$200. During the second year of an organization's license the license fee for a new gambling manager is $100.*

Sec. 62. Minnesota Statutes 1992, section 349.167, subdivision 4, is amended to read:

Subd. 4. [TRAINING OF GAMBLING MANAGERS.] The board shall by rule require all persons licensed as gambling managers to receive periodic training in laws and rules governing lawful gambling. The rules must contain the following requirements:

(1) each gambling manager must receive training before being issued a new license, except that in the case of the death, disability, or termination of a gambling manager, a replacement gambling manager must receive the training within 90 days of being issued a license;

(2) each gambling manager applying for a renewal of a license must have received *continuing education* training ~~within the three years prior to the date of application for the renewal~~, *as required by board rule, each year of the two-year license period*; and

(3) the training required by this subdivision may be provided by a person~~, firm, association, or organization~~ authorized by the board to provide the training. Before authorizing a person~~, firm, association, or organization~~ to provide training, the board must determine that:

(i) the provider and all of the provider's personnel conducting the training are qualified to do so;

(ii) the curriculum to be used fully and accurately covers all elements of lawful gambling law and rules that the board determines are necessary for a gambling manager to know and understand;

(iii) the fee to be charged for participants in the training sessions is fair and reasonable; and

(iv) the training provider has an adequate system for documenting completion of training.

The rules may provide for differing training requirements for gambling managers based on the class of license held by the gambling manager's organization.

The board or the director may provide the training required by this subdivision using employees of the board.

Sec. 63. Minnesota Statutes 1992, section 349.167, is amended by adding a subdivision to read:

Subd. 7. [GAMBLING MANAGER EXAMINATION.] *(a) By January 1, 1996, each gambling manager must pass an examination prepared and administered by the board that tests the gambling manager's knowledge of the responsibilities of gambling managers and of gambling procedures, laws, and rules. The board shall revoke the license of any gambling manager who has not passed the examination by January 1, 1996.*

(b) On and after January 1, 1996, each applicant for a new gambling manager's license must pass the examination provided for in paragraph (a) before being issued the license. In the case of the death, disability, or termination of a gambling manager, a replacement gambling manager must pass the examination within 90 days of being issued a gambling manager's license. The board shall revoke the replacement gambling manager's license if the replacement gambling manager fails to pass the examination as required in this paragraph.

Sec. 64. Minnesota Statutes 1992, section 349.168, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION.] Compensation to persons who participate in the conduct of lawful gambling may be paid only to active members of the conducting organization or its auxiliary, or the spouse or surviving spouse of an active member, except that the following persons may receive compensation without being active members: (1) sellers of pull-tabs, tipboards, raffle tickets, ~~paddlewheel tickets~~ *paddletickets*, and bingo *hard cards or* paper *sheets*; (2) accountants performing auditing or bookkeeping services for the organization; and (3) attorneys providing legal services to the organization. The board may by rule allow other persons not active members of the organization to receive compensation.

Sec. 65. Minnesota Statutes 1992, section 349.168, subdivision 6, is amended to read:

Subd. 6. [COMPENSATION PAID BY CHECK.] Compensation paid by an organization in connection with lawful gambling must be in the form of a

check drawn on the organization's gambling account, as specified in section 349.19, and paid directly to the ~~employee~~ *person being compensated.*

Sec. 66. Minnesota Statutes 1992, section 349.168, is amended by adding a subdivision to read:

Subd. 9. [COMPENSATION REPORT.] *A licensed organization must submit to the board once each year, on a form the board prescribes, a compensation report that specifies for the year being reported: (1) each job category for which the organization pays compensation, (2) each compensation rate paid in each job category, and (3) the number of employees being paid each compensation rate during the year.*

Sec. 67. Minnesota Statutes 1992, section 349.169, subdivision 1, is amended to read:

Subdivision 1. [FILING REQUIRED.] All manufacturers and distributors must file with the director, not later than the first day of each month, the prices at which the manufacturer or distributor will sell all gambling equipment in that month. The filing must be on a form the director prescribes. Prices filed must include all charges the manufacturer or distributor makes for each item of gambling equipment sold, including all volume discounts, exclusive of transportation costs. All filings are effective on the first day of the month for which they are filed, except that a manufacturer or distributor may amend a filed price within five days of filing it *and may file a price any time during a month for gambling equipment not previously included on that month's filed pricing report, but may not later amend the price during the month.*

Sec. 68. Minnesota Statutes 1992, section 349.17, subdivision 2, is amended to read:

Subd. 2. [BINGO ~~ON LEASED PREMISES~~.] During any bingo occasion conducted by an organization, the organization is directly responsible for the:

(1) staffing of the bingo occasion;

(2) conducting of lawful gambling during the bingo occasion;

(3) acquiring, storage, inventory control, and reporting of all gambling equipment used by the organization;

(4) receipt, accounting, and all expenditures of gross receipts from lawful gambling; and

(5) preparation of the bingo packets.

Sec. 69. Minnesota Statutes 1992, section 349.17, subdivision 4, is amended to read:

Subd. 4. [CHECKERS.] One or more checkers must be engaged for each bingo occasion *when bingo is conducted using bingo hard cards.* The checker or checkers must record, on a form the board provides, the number of *hard* cards played in each game and the prizes awarded to recorded *hard* cards. The form must provide for the inclusion of the ~~registration~~ *face* number of each *winning hard* card and must include a checker's certification that the figures recorded are correct to the best of the checker's knowledge.

Sec. 70. Minnesota Statutes 1992, section 349.17, subdivision 5, is amended to read:

Subd. 5. [BINGO ~~CARD NUMBERING~~ *CARDS AND SHEETS.*] (a) The board shall by rule require that all licensed organizations: (1) conduct bingo only using liquid daubers on ~~cards~~ *bingo paper sheets* that bear an individual number recorded by the distributor; *and* (2) ~~sell all bingo cards only in the order of the numbers appearing on the cards; and (3)~~ use each bingo ~~card~~ *paper sheet* for no more than one bingo occasion. In lieu of the requirements of ~~clauses~~ *clause* (2) ~~and (3)~~, a licensed organization may electronically record the sale of each bingo *hard* card *or paper sheet* at each bingo occasion using an electronic recording system approved by the board.

(b) The requirements of paragraph (a) ~~do not~~ *shall only* apply to a licensed organization that ~~has never~~ received gross receipts from bingo in excess of $150,000 in ~~any~~ *the organization's last fiscal* year.

Sec. 71. Minnesota Statutes 1992, section 349.17, is amended by adding a subdivision to read:

Subd. 6. [CONDUCT OF BINGO.] *(a) Each bingo hard card and paper sheets must have five horizontal rows of spaces with each row except one having five numbers. The center row must have four numbers and the center space marked "free." Each column must have one of the letters B-I-N-G-O in order at the top. Bingo paper sheets may also have numbers that are not preprinted but are filled in by players.*

(b) A game of bingo begins with the first letter and number called. Each player must cover or mark with a liquid dauber the numbers when bingo balls, similarly numbered, are randomly drawn, announced, and displayed to the players, either manually or with a flashboard or monitor. The game is won when a player has covered or marked a previously designated arrangement of numbers on the card or sheet and declared bingo. The game is completed when a winning card or sheet is verified and a prize awarded.

Sec. 72. [349.1711] [CONDUCT OF TIPBOARDS.]

Subdivision 1. [SALE OF TICKETS.] *Tipboard games must be played using only tipboard tickets that are either (1) attached to a placard and arranged in columns or rows, or (2) separate from the placard and contained in a receptacle while the game is in play. The placard serves as the game flare. The placard must contain a seal that conceals the winning number or symbol. When a tipboard ticket is purchased and opened, each player having a tipboard ticket with one or more predesignated numbers or symbols must sign the placard at the line indicated by the number or symbol on the tipboard ticket.*

Subd. 2. [DETERMINATION OF WINNERS.] *When the predesignated numbers or symbols have all been purchased, or all of the tipboard tickets for that game have been sold, the seal must be removed to reveal a number or symbol that determines which of the predesignated numbers or symbols is the winning number or symbol. A tipboard may also contain consolation winners that need not be determined by the use of the seal.*

Subd. 3. [PRIZES.] *Cash or merchandise prizes may be awarded in a tipboard game. All prizes available in each game must be stated on the game flare.*

Sec. 73. Minnesota Statutes 1992, section 349.174, is amended to read:

349.174 [PULL-TABS; DEADLINE FOR USE.]

A deal of pull-tabs ~~and~~ *or* tipboards received by an organization before September 1, 1989, must be put into play by that organization before September 1, 1990, unless the deal bears a serial number that allows it to be traced back to its manufacturer and to the distributor who sold it to the organization. An organization in possession on and after September 1, 1990, of a deal of pull-tabs ~~and~~ *or* tipboards the organization received before September 1, 1989, may not put such a deal in play but must remove it from the organization's inventory and return it to the manufacturer.

Sec. 74. Minnesota Statutes 1992, section 349.18, subdivision 1, is amended to read:

Subdivision 1. [LEASE OR OWNERSHIP REQUIRED.] *(a)* An organization may conduct lawful gambling only on premises it owns or leases. Leases ~~must be for a period of at least one year and~~ must be on a form prescribed by the board. *Except for leases entered into before the effective date of this section, the term of the lease may not begin before the effective date of the premises permit and must expire on the same day that the premises permit expires.* Copies of all leases must be made available to employees of the board and the division of gambling enforcement on request. A lease may not provide for payments determined directly or indirectly by the receipts or profits from lawful gambling. The board may prescribe by rule limits on the amount of rent which an organization may pay to a lessor for premises leased for lawful gambling provided that no rule of the board may prescribe a limit of less than $1,000 per month on rent paid for premises used for lawful gambling other than bingo. Any rule adopted by the board limiting the amount of rent to be paid may only be effective for leases entered into, or renewed, after the effective date of the rule.

(b) No person, distributor, manufacturer, lessor, or organization other than the licensed organization leasing the space may conduct any activity on the leased premises during times when lawful gambling is being conducted on the premises.

(c) At a site where the leased premises consists of an area on or behind a bar at which alcoholic beverages are sold and employees of the lessor are employed by the organization as pull-tab sellers at the site, pull-tabs and tipboard tickets may be sold and redeemed by those employees at any place on or behind the bar, but the tipboards and receptacles for pull-tabs and cash drawers for lawful gambling receipts must be maintained only within the leased premises.

(d) Employees of a lessor may participate in lawful gambling on the premises provided (1) if pull-tabs or tipboards are sold, the organization voluntarily posts, or is required to post, the major prizes as specified in section 349.172; and (2) any employee of the lessor participating in lawful gambling is not a gambling employee for the organization conducting lawful gambling on the premises.

Sec. 75. Minnesota Statutes 1992, section 349.18, subdivision 1a, is amended to read:

Subd. 1a. [STORAGE OF GAMBLING EQUIPMENT.] (a) Gambling equipment owned by or in the possession of an organization must be kept at a ~~licensed gambling~~ *permitted* premises owned or ~~operated~~ *leased* by the organization, or at other storage sites within the state that the organization has notified the board are being used as gambling equipment storage sites. At each

storage site or ~~licensed~~ *permitted* premises, the organization must have the invoices or true and correct copies of the invoices for the purchase of all gambling equipment at the site or premises. Gambling equipment owned by an organization may not be kept at a distributor's office, warehouse, storage unit, or other place of the distributor's business.

(b) Gambling equipment, other than devices for selecting bingo numbers, owned by an organization must be secured and kept separate from gambling equipment owned by other persons, organizations, distributors, or manufacturers.

(c) Paddlewheels must be covered or disabled when not in use by the organization in the conduct of lawful gambling.

(d) Gambling equipment kept in violation of this subdivision is contraband under section 349.2125.

(e) An organization may transport gambling equipment it owns or possesses between approved gambling equipment storage sites and to and from licensed distributors, *if the invoices or true and correct copies of the invoices for the organization's acquisition of the gambling equipment accompany the gambling equipment at all times and are available for inspection.*

Sec. 76. Minnesota Statutes 1992, section 349.18, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] (a) An organization may conduct raffles on a premise it does not own or lease.

(b) An organization may, with the permission of the board, conduct bingo on premises it does not own or lease for up to 12 consecutive days in a calendar year, in connection with a county fair, the state fair, or a civic celebration.

(c) A licensed organization may, after compliance with section 349.213, conduct lawful gambling on premises other than the organization's ~~licensed premise~~ *permitted premises* for one day per year for not more than 12 hours that day. A lease for that time period for the exempted premises must accompany the request to the board.

Sec. 77. Minnesota Statutes 1992, section 349.19, subdivision 2, is amended to read:

Subd. 2. [ACCOUNTS.] Gross receipts from lawful gambling by each organization must be segregated from all other revenues of the conducting organization and placed in a separate account. All expenditures for expenses, taxes, and lawful purposes must be made from the separate account except in the case of expenditures previously approved by the organization's membership for emergencies as defined by board rule. The name and address of the bank, the account number for the separate account, and the names of organization members authorized as signatories on the separate account must be provided to the board when the application is submitted. Changes in the information must be submitted to the board at least ten days before the change is made. Gambling receipts must be deposited into the gambling bank account within ~~three~~ *four business* days of completion of the bingo occasion, deal, or game from which they are received. *A deal of pull-tabs is considered complete when either the last pull-tab of the deal is sold or the organization does not continue the play of the deal during the next scheduled period of time in which*

the organization will conduct pull-tabs. A tipboard game is considered complete when the seal on the game flare is uncovered. Deposit records must be sufficient to allow determination of deposits made from each bingo occasion, deal, or game at each permitted premises. The person who accounts for gambling gross receipts and profits may not be the same person who accounts for other revenues of the organization.

Sec. 78. Minnesota Statutes 1992, section 349.19, subdivision 5, is amended to read:

Subd. 5. [REPORTS.] A licensed organization must report to the board and to its membership monthly, or quarterly in the case of a *class C licensee or* licensed organization which does not report more than $1,000 in gross receipts from lawful gambling in any calendar quarter, on its gross receipts, expenses, profits, and expenditure of profits from lawful gambling. The report must include a reconciliation of the organization's profit carryover with its cash balance on hand. If the organization conducts both bingo and other forms of lawful gambling, the figures for both must be reported separately. In addition, a licensed organization must report to the board monthly on its purchases of gambling equipment and must include the type, quantity, and dollar amount from each supplier separately. The reports must be on a form the board prescribes. Submission of the report required by section 349.154 satisfies the requirement for reporting monthly to the board on expenditure of net profits.

Sec. 79. Minnesota Statutes 1992, section 349.19, subdivision 8, is amended to read:

Subd. 8. [TERMINATION PLAN.] Upon termination of a license for any reason, a licensed organization must notify the board in writing within ~~15~~ *30* calendar days of the license termination date of its plan for disposal of ~~registered~~ gambling equipment and distribution of remaining gambling proceeds. Before implementation, a plan must be approved by the board *as provided in board rule*. The board may accept or reject a plan and order submission of a new plan or amend a proposed plan. The board may specify a time for submission of new or amended plans or for completion of an accepted plan.

Sec. 80. Minnesota Statutes 1992, section 349.19, subdivision 9, is amended to read:

Subd. 9. [ANNUAL AUDIT; FILING REQUIREMENT.] An organization licensed under this chapter must have an annual financial audit ~~of its lawful gambling activities and funds performed by an independent accountant licensed by the state of Minnesota. The commissioner of revenue shall prescribe standards for the audit. A complete, true, and correct copy of the audit report must be filed as prescribed by the commissioner of revenue~~ *or financial review when required by section 297E.06, subdivision 4.*

Sec. 81. Minnesota Statutes 1992, section 349.19, subdivision 10, is amended to read:

Subd. 10. [PULL-TAB RECORDS.] *(a)* The board shall by rule require a licensed organization to require each winner of a pull-tab prize of $50 or more to present identification in the form of a drivers license, Minnesota identification card, or other identification the board deems sufficient to allow the identification and tracing of the winner. The rule must require the organization

to retain winning pull-tabs of $50 or more, and the identification of the winner of the pull-tab, for 3-1/2 years.

(b) An organization must maintain separate cash banks for each deal of pull-tabs unless (1) two or more deals are commingled in a single receptacle, or (2) the organization uses a cash register, of a type approved by the board, which records all sales of pull-tabs by separate deals. The board shall (1) by rule adopt minimum technical standards for cash registers that may be used by organizations, and shall approve for use by organizations any cash register that meets the standards, and (2) before allowing an organization to use a cash register that commingles receipts from several different pull-tab games in play, adopt rules that define how cash registers may be used and that establish a procedure for organizations to reconcile all pull-tab games in play at the end of each month.

Sec. 82. Minnesota Statutes 1992, section 349.191, subdivision 1, is amended to read:

Subdivision 1. [CREDIT RESTRICTION.] A manufacturer may not offer or extend to a distributor, and a distributor may not *offer or* extend to an organization, credit for a period of more than 30 days for the sale of any gambling equipment. No right of action exists for the collection of any claim based on credit prohibited by this subdivision. The 30-day period allowed by this subdivision begins with the day immediately following the day of invoice and includes all successive days, including Sundays and holidays, to and including the 30th successive day.

Sec. 83. Minnesota Statutes 1992, section 349.191, is amended by adding a subdivision to read:

Subd. 1a. [CREDIT AND SALES TO DELINQUENT ORGANIZATIONS.] *(a) If a distributor does not receive payment in full from an organization within 30 days of the delivery of gambling equipment, the distributor must notify the board in writing of the delinquency.*

(b) If a distributor who has notified the board under paragraph (a) has not received payment in full from the organization within 60 days of the notification under paragraph (a), the distributor must notify the board of the continuing delinquency.

(c) On receipt of a notice under paragraph (a), the board shall order all distributors that until further notice from the board, they may sell gambling equipment to the delinquent organizations only on a cash basis with no credit extended. On receipt of a notice under paragraph (b), the board shall order all distributors not to sell any gambling equipment to the delinquent organization.

(d) No distributor may extend credit or sell gambling equipment to an organization in violation of an order under paragraph (c) until the board has authorized such credit or sale.

Sec. 84. Minnesota Statutes 1992, section 349.191, is amended by adding a subdivision to read:

Subd. 1b. [CREDIT AND SALES TO DELINQUENT DISTRIBUTORS.] *(a) If a manufacturer does not receive payment in full from a distributor within 30 days of the delivery of gambling equipment, the manufacturer must notify the board in writing of the delinquency.*

(b) If a manufacturer who has notified the board under paragraph (a) has not received payment in full from the distributor within 60 days of the notification under paragraph (a), the manufacturer must notify the board of the continuing delinquency.

(c) On receipt of a notice under paragraph (a), the board shall order all manufacturers that until further notice from the board, they may sell gambling equipment to the delinquent distributor only on a cash basis with no credit extended. On receipt of a notice under paragraph (b), the board shall order all manufacturers not to sell any gambling equipment to the delinquent distributor.

(d) No manufacturer may extend credit or sell gambling equipment to a distributor in violation of an order under paragraph (c) until the board has authorized such credit or sale.

Sec. 85. Minnesota Statutes 1992, section 349.191, subdivision 4, is amended to read:

Subd. 4. [CREDIT; POSTDATED CHECKS.] For purposes of this ~~subdivision~~ *section*, "credit" includes acceptance by a manufacturer or distributor of a postdated check in payment for gambling equipment.

Sec. 86. Minnesota Statutes 1992, section 349.211, subdivision 1, is amended to read:

Subdivision 1. [BINGO.] *Except as provided in subdivision 2*, prizes for a single bingo game may not exceed $100 except prizes for a cover-all game, which may exceed $100 if the aggregate value of all cover-all prizes in a bingo occasion does not exceed ~~$500~~ *$1,000*. Total prizes awarded at a bingo occasion may not exceed $2,500, unless a cover-all game is played in which case the limit is ~~$3,000~~ *$3,500*. For purposes of this subdivision, a cover-all game is one in which a player must cover all spaces except a single free space to win.

Sec. 87. Minnesota Statutes 1992, section 349.211, subdivision 2, is amended to read:

Subd. 2. [~~BINGO CUMULATIVE PRIZES~~ *PROGRESSIVE BINGO GAMES*.] A prize of up to $1,000 may be awarded for a ~~single~~ *progressive* bingo game ~~if the prize is an accumulation of prizes not won in games in previous bingo occasions~~, *including a cover-all game. The prize for a progressive bingo game may start at $300 and be increased by up to $100 for each occasion during which the progressive bingo game is played. A consolation prize of up to $100 for a progressive bingo game may be awarded in each occasion during which the progressive bingo game is played and the accumulated prize is not won.* The total amount awarded in ~~cumulative~~ *progressive bingo game* prizes in any calendar year may not exceed ~~$12,000~~ *$36,000*. ~~For bingo occasions in which a cumulative prize is awarded the aggregate value of prizes which may be awarded for the occasion is increased by the amount of the cumulative prize so awarded less $100.~~

Sec. 88. Minnesota Statutes 1992, section 349.211, subdivision 2a, is amended to read:

Subd. 2a. [PULL-TAB PRIZES.] The maximum prize which may be awarded for any single pull-tab is ~~$250~~ *$500*. An organization may not sell any pull-tab for more than $2.

Sec. 89. Minnesota Statutes 1992, section 349.2125, subdivision 1, is amended to read:

Subdivision 1. [CONTRABAND DEFINED.] The following are contraband:

(1) all pull-tab or tipboard deals ~~that do not have stamps affixed to them as provided in section 349.162~~ *or paddleticket cards not stamped or bar coded in accordance with this chapter or chapter 297E*;

(2) all pull-tab or tipboard deals in the possession of any unlicensed person, firm, or organization, whether stamped or unstamped;

(3) any container used for the storage and display of any contraband pull-tab or tipboard deals as defined in clauses (1) and (2);

(4) all currency, checks, and other things of value used for pull-tab or tipboard transactions not expressly permitted under this chapter, and any cash drawer, cash register, or any other container used for illegal pull-tab or tipboard transactions including its contents;

(5) any device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes, and boats used, with the knowledge of the owner or of a person operating with the consent of the owner, for the storage or transportation of more than five pull-tab or tipboard deals that are contraband under this subdivision. When pull-tabs and tipboards are being transported in the course of interstate commerce~~, or from one distributor to another~~ *between locations outside this state*, the pull-tab and tipboard deals are not contraband, notwithstanding the provisions of ~~clause~~ *clauses* (1) *and (12)*;

(6) any unaffixed registration stamps except as provided in section 349.162, subdivision 4;

(7) any prize used or offered in a game utilizing contraband as defined in this subdivision;

(8) any altered, modified, or counterfeit pull-tab or tipboard ticket;

(9) any unregistered gambling equipment except as permitted by this chapter;

(10) any gambling equipment kept in violation of section 349.18; ~~and~~

(11) any gambling equipment not in conformity with law or board rule~~.~~*;*

(12) any pull-tab or tipboard deal in the possession of a person other than a licensed distributor or licensed manufacturer for which the person, upon demand of a licensed peace officer or authorized agent of the commissioner of revenue or director of gambling enforcement, does not immediately produce for inspection the invoice or a true and correct copy of the invoice for the acquisition of the deal from a licensed distributor; and

(13) any pull-tab or tipboard deals or portions of deals on which the tax imposed under chapter 297E has not been paid.

Sec. 90. Minnesota Statutes 1992, section 349.2125, subdivision 3, is amended to read:

Subd. 3. [INVENTORY; JUDICIAL DETERMINATION; APPEAL; DISPOSITION OF SEIZED PROPERTY.] Within ten days after the seizure of any alleged contraband, the person making the seizure shall make available an

inventory of the property seized to the person from whom the property was seized, if known, and file a copy with the commissioner of revenue or the director of gambling enforcement. Within ten days after the date of service of the inventory, the person from whom the property was seized or any person claiming an interest in the property may file with the seizing authority a demand for judicial determination of whether the property was lawfully subject to seizure and forfeiture. Within 60 days after the date of filing of the demand, the seizing authority must bring an action in the district court of the county where seizure was made to determine the issue of forfeiture. The action must be brought in the name of the state and be prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and determine the issues of fact and laws involved. When a judgment of forfeiture is entered, the seizing authority may, unless the judgment is stayed pending an appeal, either (1) cause the forfeited property to be destroyed; or (2) cause it to be sold at a public auction as provided by law.

If demand for judicial determination is made and no action is commenced by the seizing authority as provided in this subdivision, the property must be released by the seizing authority and delivered to the person entitled to it. If no demand is made, the property seized is considered forfeited to the seizing authority by operation of law and may be disposed of by the seizing authority as provided where there has been a judgment of forfeiture. When the seizing authority is satisfied that a person from whom property is seized was acting in good faith and without intent to evade ~~the~~ *a* tax imposed by ~~section 349.2121, subdivision~~ 4 *chapter 297E*, the seizing authority shall release the property seized without further legal proceedings.

Sec. 91. Minnesota Statutes 1992, section 349.2127, subdivision 2, is amended to read:

Subd. 2. [PROHIBITION AGAINST POSSESSION.] (a) A person~~, other than a licensed distributor,~~ is guilty of a crime who sells, offers for sale, or possesses a pull-tab or tipboard deal *or paddleticket cards* not stamped *or bar coded* in accordance with the provisions of this chapter *or chapter 297E*. A violation of this paragraph is a gross misdemeanor if it involves ten or fewer pull-tab or tipboard deals. A violation of this paragraph is a felony if it involves more than ten pull-tab or tipboard deals, or a combination of more than ten deals of pull-tabs and tipboards.

(b) A person, other than *a licensed manufacturer*, a licensed distributor, or an organization licensed or exempt or excluded from licensing under this chapter, is guilty of a crime who sells, offers to sell, or possesses gambling equipment. A violation of this paragraph is a gross misdemeanor if it involves ten or fewer pull-tab or tipboard deals. A violation of this paragraph is a felony if it involves more than ten pull-tab or tipboard deals, or a combination of more than ten deals of pull-tabs and tipboards.

(c) A person~~, firm, or organization~~ is guilty of a crime who alters, modifies, or counterfeits pull-tabs, tipboards, or tipboard tickets, or possesses altered, modified, or counterfeit pull-tabs, tipboards, or tipboard tickets. A violation of this paragraph is a gross misdemeanor if the total face value for all such pull-tabs, tipboards, or tipboard tickets does not exceed $200. A violation of this paragraph is a felony if the total face value exceeds $200. For purposes of this paragraph, the face value of all pull-tabs, tipboards, and tipboard tickets altered, modified, or counterfeited within a six-month period may be aggregated and the defendant charged accordingly.

(d) A person, other than a licensed distributor or licensed manufacturer, is guilty of a crime who possesses a pull-tab or tipboard deal for which the person, upon demand of a licensed peace officer or authorized agent of the commissioner of revenue or director of gambling enforcement, does not immediately produce for inspection the invoice or a true and correct copy of the invoice for the acquisition of the deal from a licensed distributor. A violation of this paragraph is a gross misdemeanor if it involves ten or fewer pull-tab or tipboard deals. A violation of this paragraph is a felony if it involves more than ten pull-tab or tipboard deals, or a combination of more than ten deals of pull-tabs and tipboards. This paragraph does not apply to pull-tab and tipboard deals being transported in interstate commerce between locations outside this state.

Sec. 92. Minnesota Statutes 1992, section 349.2127, subdivision 3, is amended to read:

Subd. 3. [FALSE INFORMATION.] ~~(a) A person is guilty of a felony if the person is required by section 349.2121, subdivision 2, to keep records or to make returns and falsifies or fails to keep the records or falsifies or fails to make the returns.~~

~~(b)~~ A person is guilty of a felony who:

(1) knowingly submits materially false information in any license application or other document or communication submitted to the board; ~~or~~

(2) ~~knowingly submits materially false information in any report, document, or other communication submitted to the commissioner of revenue in connection with lawful gambling or with any provision of this chapter~~ *knowingly places materially false information on a pull-tab or tipboard deal invoice or a copy of the invoice; or*

(3) knowingly presents to a licensed peace officer or authorized agent of the commissioner of revenue or director of gambling enforcement a pull-tab or tipboard deal invoice, or a copy of the invoice, that contains materially false information.

Sec. 93. Minnesota Statutes 1992, section 349.2127, subdivision 4, is amended to read:

Subd. 4. [TRANSPORTING UNSTAMPED DEALS.] A person is guilty of a gross misdemeanor who transports into, ~~or~~ *causes to be transported into,* receives, carries, ~~or~~ moves from place to place, *or causes to be moved from place to place* in this state, any *paddleticket cards or* deals of pull-tabs or tipboards not stamped *or bar coded* in accordance with this chapter *or chapter 297E* except in the course of interstate commerce *between locations outside this state*. A person is guilty of a felony who violates this subdivision with respect to more than ten pull-tab or tipboard deals, or a combination of more than ten deals of pull-tabs and tipboards.

Sec. 94. Minnesota Statutes 1992, section 349.2127, is amended by adding a subdivision to read:

Subd. 8. [MINIMUM AGE.] *(a) A person under the age of 18 years may not buy a pull-tab, tipboard ticket, paddlewheel ticket, or raffle ticket, or a chance to participate in a bingo game other than a bingo game exempt or excluded from licensing. Violation of this paragraph is a misdemeanor.*

(b) A licensed organization or employee may not allow a person under age 18 to participate in lawful gambling in violation of paragraph (a). Violation of this paragraph is a misdemeanor.

(c) In a prosecution under paragraph (b), it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in section 340A.503, subdivision 6, paragraph (a).

Sec. 95. Minnesota Statutes 1992, section 349.2127, is amended by adding a subdivision to read:

Subd. 9. [TIPBOARD DEFINED.] *For purposes of this section "tipboard" includes tipboards as defined in section 349.12, subdivision 34, and any board, placard or other device marked off in a grid or columns, in which each section contains a hidden number or numbers, or other symbol, which determines the winning chances.*

Sec. 96. Minnesota Statutes 1992, section 349.213, subdivision 1, is amended to read:

Subdivision 1. [LOCAL REGULATION.] (a) A statutory or home rule city or county has the authority to adopt more stringent regulation of lawful gambling within its jurisdiction, including the prohibition of lawful gambling, and may require a permit for the conduct of gambling exempt from licensing under section 349.166. The fee for a permit issued under this subdivision may not exceed $100. The authority granted by this subdivision does not include the authority to require a license or permit to conduct gambling by organizations or sales by distributors licensed by the board. The authority granted by this subdivision does not include the authority to require an organization to make specific expenditures of more than ten percent from its net profits derived from lawful gambling. For the purposes of this subdivision, net profits are *gross* profits less amounts expended for allowable expenses *and paid in taxes assessed on lawful gambling*. A statutory or home rule charter city or a county may not require an organization conducting lawful gambling within its jurisdiction to make an expenditure to the city or county as a condition to operate within that city or county, except as authorized under section 349.16, subdivision 4 *8*, or ~~349.212~~ *297E.02*; provided, however, that an ordinance requirement that such organizations must contribute ten percent of their net profits derived from lawful gambling *conducted at premises within the city's or county's jurisdiction* to a fund administered and regulated by the responsible local unit of government without cost to such fund, for disbursement by the responsible local unit of government of the receipts for lawful purposes, is not considered an expenditure to the city or county nor a tax under section 349.212, and is valid and lawful.

(b) A statutory or home rule city or county may by ordinance require that a licensed organization conducting lawful gambling within its jurisdiction expend all or a portion of its expenditures for lawful purposes on lawful purposes conducted or located within the city's or county's trade area. Such an ordinance *must be limited to lawful purpose expenditures of gross profits derived from lawful gambling conducted at premises within the city's or county's jurisdiction,* must define the city's or county's trade area, and must specify the percentage of lawful purpose expenditures which must be expended within the trade area. A trade area defined by a city under this subdivision must include each city contiguous to the defining city.

(c) A more stringent regulation or prohibition of lawful gambling adopted by a political subdivision under this subdivision must apply equally to all forms of lawful gambling within the jurisdiction of the political subdivision, except a political subdivision may prohibit the use of paddlewheels.

Sec. 97. Minnesota Statutes 1992, section 541.21, is amended to read:

541.21 [COMMITMENTS FOR GAMBLING DEBT VOID.]

Every note, bill, bond, mortgage, or other security or conveyance in which the whole or any part of the consideration shall be for any money or goods won by gambling or playing at cards, dice, or any other game whatever, or by betting on the sides or hands of any person gambling, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of such gambling or betting, or lent and advanced for any gambling or betting to any persons so gambling or betting, shall be void and of no effect as between the parties to the same, and as to all persons except such as hold or claim under them in good faith, without notice of the illegality of the consideration of such contract or conveyance. The provisions of this section shall not apply to*: (1)* pari-mutuel wagering conducted under a license issued pursuant to ~~chapters~~ *chapter* 240 ~~and 349 or~~*; (2)* purchase of tickets in the state lottery under chapter 349A~~, or to~~*; (3)* gaming activities conducted pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq.*; or (4) lawful gambling activities permitted under chapter 349.*

Sec. 98. [REPORT ON RULES.]

The board shall develop and submit to the legislature by January 15, 1995, a detailed implementation plan, including proposed rules and legislation to provide for sale of pull-tabs from dispensing devices. The rules must not be effective before June 1, 1995.

Sec. 99. [REPEALER.]

Minnesota Statutes 1992, sections 349.16, subdivisions 4 and 5; 349.161, subdivisions 3, 6, and 7; 349.163, subdivisions 1a and 2a; 349.164, subdivisions 3, 5, and 8; and 349.167, subdivisions 3 and 5; are repealed.

Sec. 100. [EFFECTIVE DATE.]

The requirement that a paddleticket must have a bar code is effective July 1, 1995. The rulemaking authority granted in this act is effective the day following final enactment. Section 41 is effective the day following final enactment and applies to all applications submitted to the board on or after December 1, 1993.

ARTICLE 6

STATE LOTTERY

Section 1. Minnesota Statutes 1992, section 349A.06, is amended by adding a subdivision to read:

Subd. 1a. [SALES AT AIRPORT.] *The metropolitan airports commission shall permit the sale of lottery tickets at the Minneapolis-St. Paul International Airport in at least each concourse of the Lindbergh terminal, or at other locations mutually agreed to by the director and the commission. The director shall issue a contract to a nonprofit organization to operate an independent kiosk to sell lottery tickets at the airport.*

Sec. 2. Minnesota Statutes 1992, section 349A.10, is amended by adding a subdivision to read:

Subd. 6. [BUDGET APPEARANCE.] *The director shall appear at least once each fiscal year before the senate and house of representatives committees having jurisdiction over gambling policy to present and explain the lottery's budget and spending plans for the next fiscal year.*

Sec. 3. Minnesota Statutes 1992, section 349A.12, subdivision 1, is amended to read:

Subdivision 1. [PURCHASE BY MINORS.] A person under the age of 18 years may not buy *or redeem for a prize* a ticket in the state lottery.

Sec. 4. Minnesota Statutes 1992, section 349A.12, subdivision 2, is amended to read:

Subd. 2. [SALE TO MINORS.] A lottery retailer may not sell *and a lottery retailer or other person may not furnish or redeem for a prize* a ticket in the state lottery to any person under the age of 18 years. It is an affirmative defense to a charge under this subdivision for the lottery retailer *or other person* to prove by a preponderance of the evidence that the lottery retailer *or other person* reasonably and in good faith relied upon representation of proof of age described in section 340A.503, subdivision 6, in making the sale *or furnishing or redeeming the ticket.*

Sec. 5. Minnesota Statutes 1992, section 349A.12, subdivision 5, is amended to read:

Subd. 5. [EXCEPTIONS.] Nothing in this chapter prohibits giving a state lottery ticket as a gift, ~~or buying~~ *provided that* a state lottery ticket ~~as a gift for~~ *may not be given to* a person under the age of 18.

Sec. 6. Minnesota Statutes 1992, section 349A.12, subdivision 6, is amended to read:

Subd. 6. [VIOLATIONS.] ~~A violation of subdivision 1 is a petty misdemeanor.~~ A violation of subdivision *1 or* 2 or a rule adopted by the director is a misdemeanor. A violation of subdivision 3 or 4 is a gross misdemeanor.

Sec. 7. [TRANSITION.]

Sections 2 to 4 shall not prohibit a person under the age of 18 from redeeming a prize for a lottery ticket furnished to that person if the ticket was purchased prior to the effective date of these sections or if the lottery ticket was for an instant game that was introduced by the Minnesota state lottery prior to the effective date of this act. A person under the age of 18 may only claim a prize for the lottery under this section by presenting the lottery ticket at a Minnesota state lottery office or by mailing the ticket to the Minnesota state lottery. Any prize for the lottery redeemed under this section will be subject to Minnesota Statutes, section 349A.08, subdivision 3, and the applicable game procedures adopted by the director of the lottery.

Sec. 8. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1995. Sections 2 to 7 are effective August 1, 1994.

ARTICLE 7

INDIAN GAMING

Section 1. Minnesota Statutes 1992, section 3.9221, subdivision 2, is amended to read:

Subd. 2. [NEGOTIATIONS AUTHORIZED.] The governor or the governor's designated representatives shall, pursuant to section 11 of the act, negotiate in good faith a tribal-state compact regulating the conduct of class III gambling, as defined in section 4 of the act, on Indian lands of a tribe requesting negotiations. The agreement may include any provision authorized under section 11(d)(3)(C) of the act. The attorney general is the legal counsel for the governor or the governor's representatives in regard to negotiating a compact under this section. *If the governor appoints designees to negotiate under this subdivision, the designees must include at least two members of the senate and two members of the house of representatives, two of whom must be the chairs of the senate and house of representatives standing committees with jurisdiction over gambling policy.*

Sec. 2. Minnesota Statutes 1992, section 3.9221, subdivision 5, is amended to read:

Subd. 5. [REPORT.] The governor, the attorney general, and the governor's designated representatives shall report to the house and senate committees having jurisdiction over gambling regulation ~~semiannually~~ *annually*. This report shall contain information on compacts negotiated, and an outline of prospective negotiations.

Sec. 3. [INDIAN GAMING REVOLVING ACCOUNT.]

The attorney general shall deposit in a separate account in the state treasury all money received from Indian tribal governments for the purpose of defraying the attorney general's costs in providing legal services with respect to Indian gaming. Money in the account is appropriated to the attorney general for that purpose.

Sec. 4. Minnesota Statutes 1992, section 299L.02, subdivision 5, is amended to read:

Subd. 5. [BACKGROUND CHECKS.] In any background check required to be conducted by the division of gambling enforcement under *this chapter,* chapter 240, 349, ~~or~~ 349A, *or section 3.9221,* the director may, or shall when required by law, require that fingerprints be taken and the director may forward the fingerprints to the Federal Bureau of Investigation for the conducting of a national criminal history check. *The director may charge a fee for fingerprint recording and investigation under section 3.9221.*

Sec. 5. Minnesota Statutes 1992, section 299L.02, is amended by adding a subdivision to read:

Subd. 6. [REVOLVING ACCOUNT.] *The director shall deposit in a separate account in the state treasury all money received from Indian tribal governments for charges for investigations and background checks under compacts negotiated under section 3.9221. Money in the account is appropriated to the director for the purpose of carrying out the director's powers and duties under those compacts.*

Sec. 6. [MINIMUM AGE.]

Subdivision 1. [RENEGOTIATION OF COMPACTS.] *The governor, pursuant to Minnesota Statutes, section 3.9221, shall take all feasible steps to renegotiate all compacts negotiated under that section for the purpose of establishing a minimum age of 21 years for participating in gambling authorized under the Indian gaming regulatory act, Public Law Number 100-497, and future amendments to it.*

Subd. 2. [LEGISLATIVE INTENT.] *It is the intent of the legislature that, in the event a minimum age of 21 is negotiated with more than one-half of the tribes that conduct gaming in Minnesota, legislation will be enacted adopting the same minimum age for gambling conducted under Minnesota Statutes, chapters 240, 349, and 349A.*

Sec. 7. [EFFECTIVE DATE.]

Sections 1 and 2 are effective June 1, 1994. Sections 3 to 5 are effective July 1, 1994. Section 6 is effective the day following final enactment.

ARTICLE 8

MISCELLANEOUS

Section 1. [4.47] [REPORT ON COMPULSIVE GAMBLING.]

The governor shall report to the legislature by February 1 of each odd-numbered year on the state's progress in addressing the problem of compulsive gambling. The report must include:

(1) a summary of available data describing the extent of the problem in Minnesota;

(2) a summary of programs, both governmental and private, that

(i) provide diagnosis and treatment for compulsive gambling,

(ii) enhance public awareness of the problem and the availability of compulsive gambling services,

(iii) are designed to prevent compulsive gambling and other problem gambling by elementary and secondary school students and vulnerable adults;

(iv) offer professional training in the identification, referral, and treatment of compulsive gamblers;

(3) the likely impact on compulsive gambling of each form of gambling; and

(4) budget recommendations for state-level compulsive gambling programs and activities.

Sec. 2. [325E.42] [DECEPTIVE TRADE PRACTICES; GAMBLING ADVERTISING AND MARKETING CLAIMS.]

Subdivision 1. [REGULATION.] *All advertising or marketing materials relating to the conduct of any form of legal gambling in Minnesota, including informational or promotional materials, must:*

(1) be sufficiently clear to prevent deception; and

(2) not overstate expressly, or by implication, the attributes or benefits of participating in legal gambling.

Subd. 2. [ATTORNEY GENERAL'S ACTIONS.] *The attorney general may bring an action against any person violating this section in accordance with section 8.31, except that no private action is permitted to redress or correct a violation of this section.*

Subd. 3. [ADVERTISING MEDIA EXCLUDED.] *This section applies to actions of the owner, publisher, agent, or employee of newspapers, magazines, other printed matter, or radio or television stations or other advertising media used for the publication or dissemination of an advertisement or marketing materials, only if the owner, publisher, agent, or employee has been personally served with a certified copy of a court order or consent judgment or agreement prohibiting the publication of particular gambling advertising or marketing materials and thereafter publishes such materials.*

Sec. 3. [LEGISLATIVE FINDINGS.]

The legislature finds that:

(a) The professional and amateur sports protection act of 1992 has been signed into law as Public Law Number 102-559.

(b) Public Law Number 102-559 prohibits any state from operating or permitting any organized wagering on sports events, but excludes those states which had as of October 2, 1992, enacted legislation or had a referendum pending that would legalize organized wagering on sports events, either by the state or by private entities.

(c) By passage of Public Law Number 102-559 Congress has infringed on the traditional rights of states to make their own determinations as to appropriate methods of controlling or combatting illegal gambling or raising state revenue, and raises serious questions as to possible violations of the tenth amendment to the United States Constitution.

(d) The exemptions granted in Public Law Number 102-559 to a handful of states are unreasonable, arbitrary, and discriminatory.

Sec. 4. [ATTORNEY GENERAL TO CONSIDER ACTION.]

The attorney general shall examine and analyze the legal issues involved and the propriety of bringing an action in the appropriate federal court to determine the constitutionality of Public Law Number 102-559 to the extent that it infringes on the authority of the legislature to enact legislation relating to organized wagering on sports events. After this examination and analysis the attorney general may, at the attorney general's discretion, bring such an action to determine the constitutionality of Public Law Number 102-559. No such action may be brought before May 1, 1995. By March 1, 1995, the attorney general shall report to the legislature on the attorney general's activities under this section.

Sec. 5. [ADVISORY COUNCIL.]

Subdivision 1. [COUNCIL ESTABLISHED.] *An advisory council on gambling is created to study the conduct of all forms of gambling in Minnesota and advise the governor and legislature on all aspects of state policy on gambling.*

Subd. 2. [MEMBERSHIP.] *The council consists of 14 members, as follows:*

(1) one member, appointed by the governor, who shall be the person on the governor's staff who is the primary responsible person on the governor's staff for gambling policy, who shall act as chair of the council;

(2) eight members appointed by the governor, each of whom must reside in a different congressional district;

(3) one member appointed by the attorney general who must be an attorney in the attorney generals' office; and

(4) the chairs of the committees having jurisdiction over gambling in the senate and the house of representatives, a member of the minority party in the house of representatives appointed by the speaker of the house and a member of the minority party of the senate appointed by the subcommittee on committees of the senate committee on rules and administration.

Subd. 3. [DUTIES.] *The council has the following duties:*

(1) to consult with state agencies responsible for gambling operation, policy, regulation, or enforcement, either on its own initiative or on the initiative of the agency;

(2) to assist the governor in making recommendations contained in the compulsive gambling report required by section 1;

(3) to advise the governor on the development of a socio-economic model to support decision making on gambling issues; and

(4) conduct the study required under subdivision 4.

Subd. 4. [STUDY.] *The advisory council shall study all forms of gambling conducted in Minnesota. The study shall include but not be limited to the following areas and issues:*

(1) the extent of all forms of gambling in this state;

(2) the purpose, intent, application, integration, and relationship of the provisions of Minnesota laws relating to all forms of gambling in the state;

(3) the relationship among the state government boards and agencies that regulate gambling, including consideration of abolishing the current boards that regulate gambling and replacing them with a single permanent advisory board;

(4) the nature and extent of gambling in the state that is not subject to state regulation;

(5) the financial and social impact of the growth of gambling in the last decade;

(6) the likely results of authorization of use of video lottery machines in the state;

(7) the appropriate level of regulation for the lawful gambling industry in Minnesota;

(8) proposals for changes in taxes on pull-tabs and tipboards to reflect unsold tickets; and

(9) expenditures of net profits from lawful gambling for real estate taxes on premises used for lawful gambling.

Subd. 5. [CONTENTS OF REPORT.] *The advisory council's report to the legislature and governor must include recommendations regarding:*

(1) development of a comprehensive public policy on gambling;

(2) establishment of an efficient state government structure for regulation of gambling; and

(3) implementation and funding of compulsive gambling programs.

Subd. 6. [STAFF.] *The staff of the state lottery and legislative staff shall provide administrative and staff assistance when requested by the advisory council. Administrative costs of the advisory council will be paid by the state lottery.*

Subd. 7. [COOPERATION BY OTHER AGENCIES.] *State agencies shall, upon request of the advisory council, provide data or other information that the agencies collect or possess and that is necessary or useful in conducting the study and preparing the report required by this section.*

Subd. 8. [REPORTS.] *The advisory council shall, on February 1, 1995, and February 1, 1996, report to the governor and legislature on the results of it studies under subdivisions 4 and 5.*

Sec. 6. [SOCIO-ECONOMIC MODEL.]

The governor shall include in the governor's budget proposals for the 1996-1997 biennium a proposal to create and maintain a socio-economic model that will allow executive agencies and the legislature to estimate the social, economic, and public revenue effects of different forms of gambling and changes in Minnesota gambling laws.

Sec. 7. [INTENT.]

It is the intent of the legislature to establish a permanent source of funding for compulsive gambling programs using state revenues generated from legal forms of gambling in the state and contributions from Indian tribes conducting gaming under tribal-state compacts.

Sec. 8. [APPROPRIATIONS.]

Subdivision 1. [COMPULSIVE GAMBLING.] *For the fiscal year beginning July 1, 1994, the state lottery board shall deposit $1,000,000 in the general fund for use by the commissioner of human services to pay for compulsive gambling services. The amount deposited by the board shall be deducted from the lottery prize fund established under Minnesota Statutes, section 349A.10, subdivision 2. The amount deposited is appropriated to the commissioner of human services for this purpose. No more than 12 percent of the amount appropriated for compulsive gambling services under this section may be used to pay administrative costs of the department of human services. The deposit in this section is in addition to the reimbursement required by Laws 1993, chapter 146, article 3, section 4.*

Subd. 2. [GAMBLING CONTROL BOARD.] *$45,000 is appropriated from the general fund to the gambling control board for fiscal year 1995. Of this amount:*

(1) $5,000 is for rulemaking to provide for implementation of pull-tab dispensing devices; and

(2) $40,000 is for increased duties under article 5, section 41.

Sec. 9. [EFFECTIVE DATE.]

Sections 3 and 4 are effective the day following final enactment. Section 5 is effective the day following final enactment and is repealed February 1, 1996. Section 8 is effective July 1, 1994."

Delete the title and insert:

"A bill for an act relating to gambling; repealing references in law to off-track betting on horse racing; authorizing revocation of racetrack license for failure to conduct live racing; recodifying gambling tax laws and applying them to gambling other than lawful gambling; setting out licensing qualifications for the division of gambling enforcement; prohibiting unauthorized possession of a gambling device; redefining lawful purposes; allowing pull-tab dispensing devices under certain circumstances; setting out licensing procedures for the gambling control board; repealing requirements for gambling stamps and substituting requirements for bar coding of gambling equipment; specifying who may negotiate tribal-state compacts on behalf of the state; establishing revolving funds and appropriating money; prescribing penalties; providing for a report on state gambling policy; providing appointments; amending Minnesota Statutes 1992, sections 3.9221, subdivisions 2 and 5; 240.05, subdivision 1; 240.06, subdivision 7; 240.09, by adding a subdivision; 240.13, subdivisions 1, 2, 3, 5, 6, and 8; 240.15, subdivision 6; 240.16, subdivision 1a; 240.25, subdivision 2, and by adding a subdivision; 240.26, subdivision 3; 240.27, subdivision 1; 240.28, subdivision 1; 270.101, subdivision 1; 299L.01, subdivision 1, and by adding a subdivision; 299L.02, subdivisions 2, 5, and by adding subdivisions; 299L.03, subdivisions 1, 2, 6, and by adding a subdivision; 299L.07; 349.12, subdivisions 1, 3a, 4, 8, 11, 16, 18, 19, 21, 23, 30, 32, 34, and by adding subdivisions; 349.13; 349.15; 349.151, subdivision 4, and by adding subdivisions; 349.152, subdivisions 2 and 3; 349.153; 349.154; 349.16, subdivisions 2, 3, 6, 8, and by adding a subdivision; 349.161, subdivisions 1 and 5; 349.162, subdivisions 1, 2, 4, and 5; 349.163, subdivisions 1, 3, 5, 6, and by adding a subdivision; 349.164, subdivisions 1, 6, and by adding a subdivision; 349.1641; 349.166, subdivisions 1, 2, and 3; 349.167, subdivisions 1, 2, 4, and by adding a subdivision; 349.168, subdivisions 3, 6, and by adding a subdivision; 349.169, subdivision 1; 349.17, subdivisions 2, 4, 5, and by adding a subdivision; 349.174; 349.18, subdivisions 1, 1a, and 2; 349.19, subdivisions 2, 5, 8, 9, and 10; 349.191, subdivisions 1, 4, and by adding subdivisions; 349.211, subdivisions 1, 2, and 2a; 349.2123; 349.2125, subdivisions 1 and 3; 349.2127, subdivisions 2, 3, 4, and by adding subdivisions; 349.213, subdivision 1; 349.22, subdivision 1; 349A.06, by adding a subdivision; 349A.10, by adding a subdivision; 349A.12, subdivisions 1, 2, 5, and 6; 541.21; and 609.755; Minnesota Statutes 1993 Supplement, section 349.12, subdivision 25; proposing coding for new law in Minnesota Statutes, chapters 4; 325E; and 349; proposing coding for new law as Minnesota Statutes, chapter 297E; repealing Minnesota Statutes 1992, sections 240.091; 299L.04; 299L.07, subdivision 7; 349.16, subdivisions 4 and 5; 349.161, subdivisions 3, 6, and 7; 349.163, subdivisions 1a and 2a; 349.164, subdivisions 3, 5, and 8; 349.166, subdivision 4; 349.167, subdivisions 3 and 5; 349.212, subdivisions 1, 2, 5, 6, and 7; 349.2121; 349.2122; 349.215; 349.2151; 349.2152; 349.216; 349.217, subdivisions 3, 4, 5, 6, 7, 8, and 9; 349.2171; and 349.219; Minnesota Statutes 1993 Supplement, sections 349.2115; 349.212, subdivision 4; and 349.217, subdivisions 1, 2, and 5a."

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

Senate Conferees: (Signed) Charles A. Berg, Jerry R. Janezich, Thomas M. Neuville

House Conferees: (Signed) Phyllis Kahn, Tom Osthoff, Ron Abrams

Mr. Berg moved that the foregoing recommendations and Conference Committee Report on S.F. No. 103 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. 103 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 58 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS – CONTINUED

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, herewith returned: S.F. No. 1944.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 5, 1994

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1948, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1948: A bill for an act relating to agriculture; providing for family farm limited liability companies and authorized farm limited liability companies; removing limitation on number of shareholders or partners for authorized farm corporations and partnerships; amending Minnesota Statutes 1992, section 500.24, subdivision 2.

Senate File No. 1948 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 5, 1994

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2429, and repassed said bill in accordance with the report of the Committee, so adopted.

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 May 5, 1994

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2519, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2519 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 5, 1994

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2519

A bill for an act relating to prostitution; creating a civil cause of action for persons who are coerced into prostitution; proposing coding for new law in Minnesota Statutes, chapter 611A.

May 4, 1994

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 2519, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 2519 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [611A.80] [DEFINITIONS.]

Subdivision 1. [GENERAL.] *The definitions in this section apply to sections 1 to 9.*

Subd. 2. [COERCE.] *"Coerce" means to use or threaten to use any form of domination, restraint, or control for the purpose of causing an individual to engage in or remain in prostitution or to relinquish earnings derived from prostitution. Coercion exists if the totality of the circumstances establish the existence of domination, restraint, or control that would have the reasonably foreseeable effect of causing an individual to engage in or remain in prostitution or to relinquish earnings from prostitution. Evidence of coercion may include, but is not limited to:*

(1) physical force or actual or implied threats of physical force;

(2) physical or mental torture;

(3) implicitly or explicitly leading an individual to believe that the individual will be protected from violence or arrest;

(4) kidnapping;

(5) defining the terms of an individual's employment or working conditions in a manner that can foreseeably lead to the individual's use in prostitution;

(6) blackmail;

(7) extortion or claims of indebtedness;

(8) threat of legal complaint or report of delinquency;

(9) threat to interfere with parental rights or responsibilities, whether by judicial or administrative action or otherwise;

(10) promise of legal benefit, such as posting bail, procuring an attorney, protecting from arrest, or promising unionization;

(11) promise of financial rewards;

(12) promise of marriage;

(13) restraining speech or communication with others, such as exploiting a language difference, or interfering with the use of mail, telephone, or money;

(14) isolating an individual from others;

(15) exploiting a condition of developmental disability, cognitive limitation, affective disorder, or substance dependency;

(16) taking advantage of lack of intervention by child protection;

(17) exploiting victimization by previous sexual abuse or battering;

(18) exploiting pornographic performance;

(19) interfering with opportunities for education or skills training;

(20) destroying property;

(21) restraining movement;

(22) exploiting HIV status, particularly where the defendant's previous coercion led to the HIV exposure; or

(23) exploiting needs for food, shelter, safety, affection, or intimate or marital relationships.

Subd. 3. [PROMOTES THE PROSTITUTION OF AN INDIVIDUAL.] *"Promotes the prostitution of an individual" has the meaning given in section 609.321, subdivision 7.*

Subd. 4. [PROSTITUTION.] *"Prostitution" has the meaning given in section 609.321, subdivision 9.*

Sec. 2. [611A.81] [CAUSE OF ACTION FOR COERCION FOR USE IN PROSTITUTION.]

Subdivision 1. [CAUSE OF ACTION CREATED.] *(a) An individual has a cause of action against a person who:*

(1) coerced the individual into prostitution;

(2) coerced the individual to remain in prostitution;

(3) used coercion to collect or receive any of the individual's earnings derived from prostitution; or

(4) hired, offered to hire, or agreed to hire the individual to engage in prostitution, knowing or having reason to believe that the individual was coerced into or coerced to remain in prostitution by another person.

For purposes of clauses (1) and (2), money payment by a patron, as defined in section 609.321, subdivision 4, is not coercion under section 611A.80, subdivision 2, clause (5) or (11), or exploiting needs for food or shelter under section 611A.80, subdivision 2, clause (23).

Clause (3) does not apply to minor children who are dependent on the individual and who may have benefitted from or been supported by the individual's earnings derived from prostitution.

(b) An individual has a cause of action against a person who did the following while the individual was a minor:

(1) solicited or induced the individual to practice prostitution;

(2) promoted the prostitution of the individual;

(3) collected or received the individual's earnings derived from prostitution; or

(4) hired, offered to hire, or agreed to hire the individual to engage in prostitution.

Mistake as to age is not a defense to an action under this paragraph.

Subd. 2. [DAMAGES.] *A person against whom a cause of action may be maintained under subdivision 1 is liable for the following damages that resulted from the plaintiff's being used in prostitution or to which the plaintiff's use in prostitution proximately contributed:*

(1) economic loss, including damage, destruction, or loss of use of personal property; loss of past or future income or earning capacity; and income, profits, or money owed to the plaintiff from contracts with the person; and

(2) damages for death as may be allowed under section 573.02, personal injury, disease, and mental and emotional harm, including medical, rehabilitation, and burial expenses; and pain and suffering, including physical impairment.

Sec. 3. [611A.82] [ACTS NOT DEFENSES.]

None of the following shall alone or jointly be a sufficient defense to an action under section 2:

(1) the plaintiff consented to engage in acts of prostitution;

(2) the plaintiff was paid or otherwise compensated for acts of prostitution;

(3) the plaintiff engaged in acts of prostitution prior to any involvement with the defendant;

(4) the plaintiff apparently initiated involvement with the defendant;

(5) the plaintiff made no attempt to escape, flee, or otherwise terminate contact with the defendant;

(6) the defendant had not engaged in prior acts of prostitution with the plaintiff;

(7) as a condition of employment, the defendant required the plaintiff to agree not to engage in prostitution; or

(8) the defendant's place of business was posted with signs prohibiting prostitution or prostitution-related activities.

Sec. 4. [611A.83] [EVIDENCE.]

Subdivision 1. [USE IN OTHER PROCEEDINGS.] *In the course of litigation under section 2, any transaction about which a plaintiff testifies or produces evidence does not subject the plaintiff to criminal prosecution or any penalty or forfeiture. Any testimony or evidence, documentary or otherwise, or information directly or indirectly derived from that testimony or evidence that is given or produced by a plaintiff or a witness for a plaintiff may not be used against that person in any other investigation or proceeding, other than a criminal investigation or proceeding for perjury committed while giving the testimony or producing the evidence.*

Subd. 2. [CONVICTIONS.] *Evidence of convictions for prostitution or prostitution-related offenses is inadmissible in a proceeding brought under section 2 for purposes of attacking the plaintiff's credibility. If the court admits evidence of prior convictions for purposes permitted under Minnesota Rules of Evidence, rule 404(b) with respect to motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, the fact finder may consider the evidence solely for those purposes and shall disregard details offered to prove any fact that is not relevant.*

Sec. 5. [611A.84] [STATUTE OF LIMITATIONS.]

An action for damages under section 2 must be commenced not later than six years after the cause of action arises, except that the running of the limitation period is suspended during the time that coercion as defined in section 1 continues, or as otherwise provided by section 541.13 or 541.15.

Sec. 6. [611A.85] [OTHER REMEDIES PRESERVED.]

Sections 1 to 9 do not affect the right of any person to bring an action or use any remedy available under other law, including common law, to recover damages arising out of the use of the individual in prostitution or the coercion incident to the individual being used in prostitution; nor do sections 1 to 9 limit or restrict the liability of any person under other law.

Sec. 7. [611A.86] [DOUBLE RECOVERY PROHIBITED.]

A person who recovers damages under sections 1 to 9 may not recover the same costs or damages under any other law. A person who recovers damages under any other law may not recover for the same costs or damages under sections 1 to 9.

Sec. 8. [611A.87] [AWARD OF COSTS.]

Upon motion of a prevailing party in an action under sections 1 to 9, the court may award costs, disbursements, and reasonable attorney fees and witness fees to the party.

Sec. 9. [611A.88] [NO AVOIDANCE OF LIABILITY.]

No person may avoid liability under sections 1 to 9 by means of any conveyance of any right, title, or interest in real property, or by any indemnification, hold harmless agreement, or similar agreement that purports to show consent of the plaintiff.

Sec. 10. [EFFECTIVE DATE; APPLICATION.]

(a) Sections 1 to 9 are effective August 1, 1994, and apply to actions commenced on or after the effective date.

(b) For activities described in section 2, subdivision 1, that occurred between August 1, 1988, and July 31, 1994, an action for damages must be commenced not later than August 1, 1995, or six years after the cause of action arises, whichever is later; except that the running of the limitation period is suspended during the time that coercion continues."

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

House Conferees: (Signed) Carlos Mariani, Thomas Pugh, Andy Dawkins, Linda Wejcman

Senate Conferees: (Signed) Ember D. Reichgott Junge, David L. Knutson, Sheila M. Kiscaden, Allan H. Spear, Jane B. Ranum

Ms. Reichgott Junge moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2519 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.

H.F. No. 2519 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 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Kiscaden	Metzen	Reichgott Junge
Anderson	Day	Knutson	Moe, R.D.	Riveness
Beckman	Finn	Kroening	Mondale	Runbeck
Belanger	Flynn	Laidig	Morse	Sams
Benson, D.D.	Frederickson	Langseth	Murphy	Samuelson
Benson, J.E.	Hanson	Larson	Neuville	Solon
Berg	Hottinger	Lesewski	Novak	Spear
Berglin	Johnson, D.E.	Lessard	Oliver	Stevens
Bertram	Johnson, D.J.	Luther	Olson	Stumpf
Betzold	Johnson, J.B.	Marty	Pariseau	Terwilliger
Chandler	Johnston	McGowan	Price	Vickerman
Chmielewski	Kelly	Merriam	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. 1662 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1662

A bill for an act relating to family; adopting the uniform interstate family support act; repealing the revised uniform reciprocal enforcement of support act; proposing coding for new law in Minnesota Statutes, chapter 518C; repealing Minnesota Statutes 1992, sections 518C.01 to 518C.36.

May 3, 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. 1662, 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. 1662 be further amended as follows:

Delete everything after the enacting clause and insert:

"UNIFORM INTERSTATE FAMILY SUPPORT ACT

ARTICLE 1

GENERAL PROVISIONS

Section 1. [518C.101] [DEFINITIONS.]

In this chapter:

(a) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(b) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(c) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(d) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(e) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(f) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor under section 518.611 or 518.613, to withhold support from the income of the obligor.

(g) "Initiating state" means a state in which a proceeding under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act is filed for forwarding to a responding state.

(h) "Initiating tribunal" means the authorized tribunal in an initiating state.

(i) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(j) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(k) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(l) "Obligee" means:

(1) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(2) a state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(3) an individual seeking a judgment determining parentage of the individual's child.

(m) "Obligor" means an individual, or the estate of a decedent:

(1) who owes or is alleged to owe a duty of support;

(2) who is alleged but has not been adjudicated to be a parent of a child; or

(3) who is liable under a support order.

(n) "Petition" means a petition or comparable pleading used pursuant to section 518.551, subdivision 10.

(o) "Register" means to file a support order or judgment determining parentage in the office of the court administrator.

(p) "Registering tribunal" means a tribunal in which a support order is registered.

(q) "Responding state" means a state to which a proceeding is forwarded under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act.

(r) "Responding tribunal" means the authorized tribunal in a responding state.

(s) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

(t) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. "State" includes an Indian tribe and a foreign jurisdiction that has established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this chapter.

(u) "Support enforcement agency" means a public official or agency authorized to:

(1) seek enforcement of support orders or laws relating to the duty of support;

(2) seek establishment or modification of child support;

(3) seek determination of parentage; or

(4) locate obligors or their assets.

(v) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, spouse, or former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(w) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Sec. 2. [518C.102] [TRIBUNAL OF THIS STATE.]

A court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage are tribunals of this state.

Sec. 3. [518C.103] [REMEDIES CUMULATIVE.]

Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law.

ARTICLE 2

JURISDICTION

PART A. EXTENDED PERSONAL JURISDICTION

Section 1. [518C.201] [BASES FOR JURISDICTION OVER NONRESIDENT.]

In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) the individual is personally served with a summons or comparable document within this state;

(2) the individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) the individual resided with the child in this state;

(4) the individual resided in this state and provided prenatal expenses or support for the child;

(5) the child resides in this state as a result of the acts or directives of the individual;

(6) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

(7) the individual asserted parentage under sections 257.51 to 257.75; or

(8) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

Sec. 2. [518C.202] [PROCEDURE WHEN EXERCISING JURISDICTION OVER NONRESIDENT.]

A tribunal of this state exercising personal jurisdiction over a nonresident under section 518C.201 may apply section 518C.316 to receive evidence from another state, and section 518C.318 to obtain discovery through a tribunal of another state. In all other respects, articles 3 to 7 do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this chapter.

PART B. PROCEEDINGS INVOLVING TWO OR MORE STATES

Sec. 3. [518C.203] [INITIATING AND RESPONDING TRIBUNAL OF THIS STATE.]

Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

Sec. 4. [518C.204] [SIMULTANEOUS PROCEEDINGS IN ANOTHER STATE.

(a) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

(1) the petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

(2) the contesting party timely challenges the exercise of jurisdiction in the other state; and

(3) if relevant, this state is the home state of the child.

(b) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

(1) the petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(2) the contesting party timely challenges the exercise of jurisdiction in this state; and

(3) if relevant, the other state is the home state of the child.

Sec. 5. [518C.205] [CONTINUING, EXCLUSIVE JURISDICTION.]

(a) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(1) as long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) until each individual party has filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to this chapter.

(c) If a child support order of this state is modified by a tribunal of another state pursuant to a law substantially similar to this chapter, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(1) enforce the order that was modified as to amounts accruing before the modification;

(2) enforce nonmodifiable aspects of that order; and

(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to a law substantially similar to this chapter.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

Sec. 6. [518C.206] [ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER BY TRIBUNAL HAVING CONTINUING JURISDICTION.]

(a) A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply section 518C.316 to receive evidence from another state and section 518C.318 to obtain discovery through a tribunal of another state.

(c) A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

PART C. RECONCILIATION WITH ORDERS OF OTHER STATES

Sec. 7. [518C.207] [RECOGNITION OF CHILD SUPPORT ORDERS.]

(a) If a proceeding is brought under this chapter, and one or more child support orders have been issued in this or another state with regard to an obligor and a child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one tribunal has issued a child support order, the order of that tribunal must be recognized.

(2) If two or more tribunals have issued child support orders for the same obligor and child, and only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal must be recognized.

(3) If two or more tribunals have issued child support orders for the same obligor and child, and more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.

(4) If two or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state may issue a child support order, which must be recognized.

(b) The tribunal that has issued an order recognized under paragraph (a) is the tribunal having continuing, exclusive jurisdiction.

Sec. 8. [518C.208] [MULTIPLE CHILD SUPPORT ORDERS FOR TWO OR MORE OBLIGEES.]

In responding to multiple registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

Sec. 9. [518C.209] [CREDIT FOR PAYMENTS.]

Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state.

ARTICLE 3

CIVIL PROVISIONS OF GENERAL APPLICATION

Section 1. [518C.301] [PROCEEDINGS UNDER THIS CHAPTER.]

(a) Except as otherwise provided in this chapter, this article applies to all proceedings under this chapter.

(b) This chapter provides for the following proceedings:

(1) establishment of an order for spousal support or child support pursuant to article 4;

(2) enforcement of a support order and income-withholding order of another state without registration pursuant to article 5;

(3) registration of an order for spousal support or child support of another state for enforcement pursuant to article 6;

(4) modification of an order for child support or spousal support issued by a tribunal of this state pursuant to article 2, part B;

(5) registration of an order for child support of another state for modification pursuant to article 6;

(6) determination of parentage pursuant to article 7; and

(7) assertion of jurisdiction over nonresidents pursuant to article 2, part A.

(c) An individual petitioner or a support enforcement agency may commence a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.

Sec. 2. [518C.302] [ACTION BY MINOR PARENT.]

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

Sec. 3. [518C.303] [APPLICATION OF LAW OF THIS STATE.]

Except as otherwise provided by this chapter, a responding tribunal of this state:

(1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

Sec. 4. [518C.304] [DUTIES OF INITIATING TRIBUNAL.]

Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

Sec. 5. [518C.305] [DUTIES AND POWERS OF RESPONDING TRIBUNAL.]

(a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to section 518C.301, paragraph (c), it shall cause the petition or pleading to be filed and notify the petitioner by first class mail where and when it was filed.

(b) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(1) issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney's fees and other fees and costs; and

(12) grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order by first class mail to the petitioner and the respondent and to the initiating tribunal, if any.

Sec. 6. [518C.306] [INAPPROPRIATE TRIBUNAL.]

If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner by first class mail where and when the pleading was sent.

Sec. 7. [518C.307] [DUTIES OF SUPPORT ENFORCEMENT AGENCY.]

(a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(b) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(1) take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice by first class mail to the petitioner;

(5) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by first class mail to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Sec. 8. [518C.308] [DUTY OF ATTORNEY GENERAL.]

If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

Sec. 9. [518C.309] [PRIVATE COUNSEL.]

An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

Sec. 10. [518C.310] [DUTIES OF STATE INFORMATION AGENCY.]

(a) The unit within the department of human services that receives and disseminates incoming interstate actions under title IV-D of the Social Security Act from section 518C.02, subdivision 1a, is the state information agency under this chapter.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

Sec. 11. [518C.311] [PLEADINGS AND ACCOMPANYING DOCUMENTS.]

(a) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this chapter must verify the petition. Unless otherwise ordered under section 518C.312, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Sec. 12. [518C.312] [NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES.]

Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter.

Sec. 13. [518C.313] [COSTS AND FEES.]

(a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under article 6, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

Sec. 14. [518C.314] [LIMITED IMMUNITY OF PETITIONER.]

(a) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while present in this state to participate in the proceeding.

Sec. 15. [518C.315] [NONPARENTAGE AS DEFENSE.]

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this chapter.

Sec. 16. [518C.316] [SPECIAL RULES OF EVIDENCE AND PROCEDURE.]

(a) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(b) A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this chapter, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

Sec. 17. [518C.317] [COMMUNICATIONS BETWEEN TRIBUNALS.]

A tribunal of this state may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state.

Sec. 18. [518C.318] [ASSISTANCE WITH DISCOVERY.]

A tribunal of this state may:

(1) request a tribunal of another state to assist in obtaining discovery; and

(2) upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

Sec. 19. [518C.319] [RECEIPT AND DISBURSEMENT OF PAYMENTS.]

A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

ARTICLE 4

ESTABLISHMENT OF SUPPORT ORDER

Section 1. [518C.401] [PETITION TO ESTABLISH SUPPORT ORDER.]

(a) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state may issue a support order if:

(1) the individual seeking the order resides in another state; or

(2) the support enforcement agency seeking the order is located in another state.

(b) The tribunal may issue a temporary child support order if:

(1) the respondent has signed a verified statement acknowledging parentage;

(2) the respondent has been determined by or pursuant to law to be the parent; or

(3) there is other clear and convincing evidence that the respondent is the child's parent.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 518C.305.

ARTICLE 5

DIRECT ENFORCEMENT OF ORDER

OF ANOTHER STATE WITHOUT REGISTRATION

Section 1. [518C.501] [RECOGNITION OF INCOME-WITHHOLDING ORDER OF ANOTHER STATE.]

(a) An income-withholding order issued in another state may be sent by first class mail to the person or entity defined as the obligor's employer under section 518.611 or 518.613 without first filing a petition or comparable pleading or registering the order with a tribunal of this state. Upon receipt of the order, the employer shall:

(1) treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state;

(2) immediately provide a copy of the order to the obligor; and

(3) distribute the funds as directed in the withholding order.

(b) An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this state. Section 518C.604 applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:

(1) the person or agency designated to receive payments in the income-withholding order; or

(2) if no person or agency is designated, the obligee.

Sec. 2. [518C.502] [ADMINISTRATIVE ENFORCEMENT OF ORDERS.]

(a) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

ARTICLE 6

ENFORCEMENT AND MODIFICATION

OF SUPPORT ORDER AFTER REGISTRATION

PART A. REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER

Section 1. [518C.601] [REGISTRATION OF ORDER FOR ENFORCEMENT.]

A support order or an income-withholding order issued by a tribunal of another state may be registered in this state for enforcement.

Sec. 2. [518C.602] [PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT.]

(a) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the registering tribunal in this state:

(1) a letter of transmittal to the tribunal requesting registration and enforcement;

(2) two copies, including one certified copy, of all orders to be registered, including any modification of an order;

(3) a sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) the name of the obligor and, if known:

(i) the obligor's address and social security number;

(ii) the name and address of the obligor's employer and any other source of income of the obligor; and

(iii) a description and the location of property of the obligor in this state not exempt from execution; and

(5) the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

Sec. 3. [518C.603] [EFFECT OF REGISTRATION FOR ENFORCEMENT.]

(a) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(b) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Except as otherwise provided in this article, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

Sec. 4. [518C.604] [CHOICE OF LAW.]

(a) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(b) In a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.

PART B. CONTEST OF VALIDITY OR ENFORCEMENT

Sec. 5. [518C.605] [NOTICE OF REGISTRATION OF ORDER.]

(a) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by certified or registered mail or by any means of personal service authorized by the law of this state. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:

(1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after the date of mailing or personal service of the notice;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(4) of the amount of any alleged arrearages.

(c) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to section 518.611 or 518.613.

Sec. 6. [518C.606] [PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED ORDER.]

(a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within 20 days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 518C.607.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties by first class mail of the date, time, and place of the hearing.

Sec. 7. [518C.607] [CONTEST OF REGISTRATION OR ENFORCEMENT.]

(a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) the issuing tribunal lacked personal jurisdiction over the contesting party;

(2) the order was obtained by fraud;

(3) the order has been vacated, suspended, or modified by a later order;

(4) the issuing tribunal has stayed the order pending appeal;

(5) there is a defense under the law of this state to the remedy sought;

(6) full or partial payment has been made; or

(7) the statute of limitation under section 518C.604 precludes enforcement of some or all of the arrearages.

(b) If a party presents evidence establishing a full or partial defense under paragraph (a), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under paragraph (a) to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

Sec. 8. [518C.608] [CONFIRMED ORDER.]

If a contesting party has received notice of registration under section 518C.605, confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order based upon facts that were known by the contesting party at the time of registration with respect to any matter that could have been asserted at the time of registration.

PART C. REGISTRATION AND MODIFICATION

OF CHILD SUPPORT ORDER

Sec. 9. [518C.609] [PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF ANOTHER STATE FOR MODIFICATION.]

A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in part A of this article if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

Sec. 10. [518C.610] [EFFECT OF REGISTRATION FOR MODIFICATION.]

A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of section 518C.611 have been met.

Sec. 11. [518C.611] [MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE.]

(a) After a child support order issued in another state has been registered

in this state, the responding tribunal of this state may modify that order only if, after notice and hearing, it finds that:

(1) the following requirements are met:

(i) the child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) a petitioner who is a nonresident of this state seeks modification; and

(iii) the respondent is subject to the personal jurisdiction of the tribunal of this state; or

(2) an individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this state may modify the support order and assume continuing, exclusive jurisdiction over the order.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state.

(d) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

(e) Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered.

Sec. 12. [518C.612] [RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE.]

A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant to a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall:

(1) enforce the order that was modified only as to amounts accruing before the modification;

(2) enforce only nonmodifiable aspects of that order;

(3) provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

ARTICLE 7

DETERMINATION OF PARENTAGE

Section 1. [518C.701] [PROCEEDING TO DETERMINE PARENTAGE.]

(a) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(b) In a proceeding to determine parentage, a responding tribunal of this state shall apply the parentage act, sections 257.51 to 257.74, and the rules of this state on choice of law.

ARTICLE 8

INTERSTATE RENDITION

Section 1. [518C.801] [GROUNDS FOR RENDITION.]

(a) For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

(b) The governor of this state may:

(1) demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) on the demand by the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Sec. 2. [518C.802] [CONDITIONS OF RENDITION.]

(a) Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least 60 days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

(b) If, under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act, or the revised uniform reciprocal enforcement of support act, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the

demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

ARTICLE 9

MISCELLANEOUS PROVISIONS

Section 1. [518C.901] [UNIFORMITY OF APPLICATION AND CONSTRUCTION.]

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

Sec. 2. [518C.9011] [EXISTING REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT ACTIONS.]

Any action or proceeding under the Revised Uniform Reciprocal Enforcement of Support Act (RURESA) pending on the effective date of this section shall continue under the provisions of RURESA until the court makes a decision on the action or proceeding.

Sec. 3. [518C.902] [SHORT TITLE.]

This chapter may be cited as the "uniform interstate family support act."

Sec. 4. [REPEALER.]

Minnesota Statutes 1992, sections 518C.01; 518C.02; 518C.03; 518C.04; 518C.05; 518C.06; 518C.07; 518C.08; 518C.09; 518C.10; 518C.11; 518C.12; 518C.13; 518C.14; 518C.15; 518C.16; 518C.17; 518C.18; 518C.19; 518C.20; 518C.21; 518C.22; 518C.23; 518C.24; 518C.25; 518C.26; 518C.27; 518C.28; 518C.29; 518C.30; 518C.31; 518C.32; 518C.33; 518C.34; 518C.35; and 518C.36, are repealed.

Sec. 5. [EFFECTIVE DATE.]

Articles 1 to 9 are effective January 1, 1995.

ARTICLE 10

ADMINISTRATIVE PROCESS

Section 1. [518.5511] [ADMINISTRATIVE PROCESS FOR CHILD AND MEDICAL SUPPORT ORDERS.]

Subdivision 1. [GENERAL.] *(a) An administrative process is established to obtain, modify, and enforce child and medical support orders and modify maintenance if combined with a child support proceeding.*

(b) All proceedings for obtaining, modifying, or enforcing child and medical support orders and modifying maintenance orders if combined with a child support proceeding, are required to be conducted in the administrative process when the public authority is a party or provides services to a party or parties to the proceedings. At county option, the administrative process may include contempt motions or actions to establish parentage. Nothing contained herein shall prevent a party, upon timely notice to the public authority, from commencing an action or bringing a motion for the establishment, modification, or enforcement of child support or modification of maintenance

orders if combined with a child support proceeding in district court, if additional issues involving domestic abuse, establishment or modification of custody or visitation, property issues, or other issues outside the jurisdiction of the administrative process, are part of the motion or action, or from proceeding with a motion or action brought by another party containing one or more of these issues if it is pending in district court.

(c) A party may make a written request to the public authority to initiate an uncontested administrative proceeding. If the public authority denies the request, the public authority shall issue a summary order which denies the request for relief, states the reasons for the denial, and notifies the party of the right to commence an action for relief. If the party commences an action or serves and files a motion within 30 days after the public authority's denial and the party's action results in a modification of a child support order, the modification may be retroactive to the date the written request was received by the public authority.

(d) After August 1, 1994, all counties shall participate in the administrative process established in this section in accordance with a statewide implementation plan to be set forth by the commissioner of human services. No county shall be required to participate in the administrative process until after the county has been trained. The implementation plan shall include provisions for training the counties by region no later than July 1, 1995.

Subd. 2. [UNCONTESTED ADMINISTRATIVE PROCEEDING.] *(a) A party may petition the chief administrative law judge, the chief district court judge, or the chief family court referee to proceed immediately to a contested hearing upon good cause shown.*

(b) The public authority shall give the parties written notice requesting the submission of information necessary for the public authority to prepare a proposed child support order. The written notice shall be sent by first-class mail to the parties' last known addresses. The written notice shall describe the information requested, state the purpose of the request, state the date by which the information must be postmarked or received (which shall be at least 30 days from the date of the mailing of the written notice), state that if the information is not postmarked or received by that date, the public authority will prepare a proposed order on the basis of the information available, and identify the type of information which will be considered.

(c) Following the submission of information or following the date when the information was due, the public authority shall, on the basis of all information available, complete and sign a proposed child support order and notice. In preparing the proposed child support order, the public authority will establish child support in the highest amount permitted under section 518.551, subdivision 5. The proposed order shall include written findings in accordance with section 518.551, subdivision 5, clauses (i) and (j). The notice shall state that the proposed child support order will be entered as a final and binding default order unless one of the parties requests a conference under subdivision 3 within 14 days following the date of service of the proposed child support order. The method for requesting the conference shall be stated in the notice. The notice and proposed child support order shall be served under the rules of civil procedure. For the purposes of the contested hearing, and notwithstanding any law or rule to the contrary, the service of the proposed order pursuant to this paragraph shall be deemed to have com-

menced a proceeding and the judge, including an administrative law judge or a referee, shall have jurisdiction over the contested hearing.

(d) If a conference under subdivision 3 is not requested by a party within 14 days after the date of service of the proposed child support order, the public authority may enter the proposed order as the default order. The default order becomes effective 30 days after the date of service of the notice in paragraph (c). The public authority may also prepare and serve a new notice and proposed child support order if new information is subsequently obtained. The default child support order shall be a final order, and shall be served under the rules of civil procedure.

(e) The public authority shall file in the district court copies of all notices served on the parties, proof of service, and all orders.

Subd. 3. [ADMINISTRATIVE CONFERENCE.] *(a) If a party requests a conference within 14 days of the date of service of the proposed order, the public authority shall schedule a conference, and shall serve written notice of the date, time, and place of the conference on the parties.*

(b) The purpose of the conference is to review all available information and seek an agreement to enter a consent child support order. The notice shall state the purpose of the conference, and that the proposed child support order will be entered as a final and binding default order if the requesting party fails to appear at the conference. The notice shall be served on the parties by first-class mail at their last known addresses, and the method of service shall be documented in the public authority file.

(c) A party alleging domestic abuse by the other party shall not be required to participate in a conference. In such a case, the public authority shall meet separately with the parties in order to determine whether an agreement can be reached.

(d) If the party requesting the conference does not appear and fails to provide a written excuse (with supporting documentation if relevant) to the public authority within seven days after the date of the conference which constitutes good cause, the public authority may enter a default child support order through the uncontested administrative process. The public authority shall not enter the default order until at least seven days after the date of the conference.

For purposes of this section, misrepresentation, excusable neglect, or circumstances beyond the control of the person who requested the conference which prevented the person's appearance at the conference constitutes good cause for failure to appear. If the public authority finds good cause, the conference shall be rescheduled by the public authority and the public authority shall send notice as required under this subdivision.

(e) If the parties appear at the conference, the public authority shall seek agreement of the parties to the entry of a consent child support order which establishes child support in accordance with applicable law. The public authority shall advise the parties that if a consent order is not entered, the matter will be scheduled for a hearing before an administrative law judge, or a district court judge or referee, and that the public authority will seek the establishment of child support at the hearing in accordance with the highest amount permitted under section 518.551, subdivision 5. If an agreement to enter the consent order is not reached at the conference, the public authority

shall schedule the matter before an administrative law judge, district court judge, or referee.

(f) If an agreement is reached by the parties at the conference, a consent child support order shall be prepared by the public authority, and shall be signed by the parties. All consent and default orders shall be signed by the nonattorney employee of the public authority and shall be submitted to an administrative law judge or the district court for countersignature. The order is effective upon the signature by the administrative law judge or the district court and is retroactive to the date of signature by the nonattorney employee of the public authority. The consent order shall be served on the parties under the rules of civil procedure.

Subd. 4. [CONTESTED ADMINISTRATIVE PROCEEDING.] *(a) The commissioner of human services is authorized to designate counties to use the contested administrative hearing process based upon federal guidelines for county performance. The contested administrative hearing process may also be initiated upon request of a county board. The administrative hearing process shall be implemented in counties designated by the commissioner.*

In counties designated by the commissioner, contested hearings required under this section shall be scheduled before administrative law judges, and shall be conducted in accordance with the provisions under this section. In counties not designated by the commissioner, contested hearings shall be conducted in district court in accordance with the rules of civil procedure and the rules of family court.

(b) An administrative law judge may approve a stipulation reached on a contempt motion brought by the public authority. Any stipulation that involves a finding of contempt and a jail sentence, whether stayed or imposed, shall require the review and signature of a district court judge.

(c) For the purpose of this process, all powers, duties, and responsibilities conferred on judges of the district court to obtain and enforce child and medical support and maintenance obligations, subject to the limitation set forth herein, are conferred on the administrative law judge conducting the proceedings, including the power to issue subpoenas, to issue orders to show cause, and to issue bench warrants for failure to appear.

(d) Before implementing the process in a county, the chief administrative law judge, the commissioner of human services, the director of the county human services agency, the county attorney, the county court administrator, and the county sheriff shall jointly establish procedures, and the county shall provide hearing facilities for implementing this process in the county. A contested administrative hearing shall be conducted in a courtroom, if one is available, or a conference or meeting room with at least two exits and of sufficient size to permit adequate physical separation of the parties. Security personnel shall either be present during the administrative hearings, or be available to respond to a request for emergency assistance.

(e) The contested administrative hearings shall be conducted under the rules of the office of administrative hearings, Minnesota Rules, parts 1400.7100 to 1400.7500, 1400.7700, and 1400.7800, as adopted by the chief administrative law judge. Except as provided under this section, other aspects of the case, including, but not limited to, pleadings, discovery, and motions, shall be conducted under the rules of family court, the rules of civil procedure, and chapter 518.

(f) Pursuant to a contested administrative hearing, the administrative law judge shall make findings of fact, conclusions, and a final decision and issue an order. Orders issued by an administrative law judge may be enforceable by the contempt powers of the district courts.

(g) At the time the matter is scheduled for a contested hearing, the public authority shall file in the district court copies of all relevant documents sent to or received from the parties, in addition to the documents filed under subdivision 2, paragraph (e).

(h) The decision and order of the administrative law judge is appealable to the court of appeals in the same manner as a decision of the district court.

Subd. 5. [NONATTORNEY AUTHORITY.] *Nonattorney employees of the public authority responsible for child support may prepare, sign, serve, and file complaints, motions, notices, summary orders, proposed orders, default orders, and consent orders for obtaining, modifying, or enforcing child and medical support orders, orders establishing paternity, and related documents, and orders to modify maintenance if combined with a child support order. The nonattorney may also conduct prehearing conferences, and participate in proceedings before an administrative law judge. This activity shall not be considered to be the unauthorized practice of law. Nonattorney employees may not represent the interests of any party other than the public authority, and may not give legal advice to any party.*

Subd. 6. [SUBPOENAS.] *After the commencement of the administrative process, any party or the public authority may request a subpoena, and the administrative law judge shall have the authority to issue subpoenas.*

Subd. 7. [PUBLIC AUTHORITY LEGAL ADVISOR.] *At all stages of the administrative process prior to the contested hearing, the county attorney, or other attorney under contract, shall act as the legal advisor for the public authority, but shall not play an active role in the review of information and the preparation of default and consent orders.*

Subd. 8. [COSTS ASSOCIATED WITH THE ADMINISTRATIVE PROCESS.] *The commissioner of human services shall distribute money for this purpose to counties to cover the costs of the administrative process, including the salaries of administrative law judges. If available appropriations are insufficient to cover the costs, the commissioner shall prorate the amount among the counties.*

Subd. 9. [TRAINING AND RESTRUCTURING.] *The commissioner of human services shall provide training to child support officers and other employees of the public authority involved in the administrative process. The commissioner of human services shall prepare simple and easy to understand forms for all notices and orders prescribed in this subdivision, and the public authority shall use them.*

Sec. 2. [INSTRUCTION TO REVISOR.]

In the next edition of Minnesota Statutes, the revisor of statutes shall delete the term "518.551, subdivision 10" and replace it with "518.5511" where it appears in Minnesota Statutes, sections 357.021, subdivision 1a, and 518C.05.

Sec. 3. [REPEALER.]

Minnesota Statutes 1993 Supplement, section 518.551, subdivision 10, is repealed.

Sec. 4. [EFFECTIVE DATE.]

This article is effective August 1, 1994.

ARTICLE 11

CHILD SUPPORT ADMINISTRATION AND ENFORCEMENT

Section 1. [8.40] [PUBLIC EDUCATION CAMPAIGN.]

The attorney general, in consultation with the commissioner of human services, may establish a public service campaign designed to educate the public about the necessity of the payment of child support to the well-being of the state's children and taxpayers. The commissioner shall enter into a contract with the attorney general pursuant to section 24, subdivision 2, for implementation of the campaign. The campaign may include public service announcements for broadcast through television, radio, and billboard media.

Sec. 2. Minnesota Statutes 1993 Supplement, section 13.46, subdivision 2, is amended to read:

Subd. 2. [GENERAL.] (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(1) pursuant to section 13.05;

(2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;

(6) to administer federal funds or programs;

(7) between personnel of the welfare system working in the same program;

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names and social security numbers, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, and the income tax;

(9) to the Minnesota department of jobs and training for the purpose of monitoring the eligibility of the data subject for unemployment compensation, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;

(10) to appropriate parties in connection with an emergency if knowledge

of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential facilities as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education coordinating board to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant social security numbers and names collected by the telephone assistance program may be disclosed to the department of revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a recipient of aid to families with dependent children, medical assistance, general assistance, work readiness, or general assistance medical care may be disclosed to law enforcement officers who provide the name and social security number of the recipient and satisfactorily demonstrate that: (i) the recipient is a fugitive felon, including the grounds for this determination; (ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and (iii) the request is made in writing and in the proper exercise of those duties; ~~or~~

(16) information obtained from food stamp applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the food stamp act, in accordance with Code of Federal Regulations, title 7, section 272.1(c)*; or*

(17) data on a child support obligor who is in arrears may be disclosed for purposes of publishing the data pursuant to section 518.575.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed in accordance with the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15) or (16); or (b) are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

Sec. 3. Minnesota Statutes 1992, section 214.101, as amended by Laws 1993, chapters 322, sections 1 and 2, and 340, section 2, is amended to read:

214.101 [CHILD SUPPORT; SUSPENSION OF LICENSE.]

Subdivision 1. [COURT ORDER; HEARING ON SUSPENSION.] (a) For purposes of this section, "licensing board" means a licensing board or other state agency that issues an occupational license.

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

Subd. 2. [PROBATION.] If the board determines that the suspension of the license would create an extreme hardship to either the licensee or to persons whom the licensee serves, the board may, in lieu of suspension, allow the licensee to continue to practice the occupation on probation. Probation must be conditioned upon full compliance with the court order *or public agency notice* that referred the matter to the board. The probation period may not exceed two years, and the terms of probation must provide for automatic suspension of the license if the licensee does not provide monthly proof to the board of full compliance with the court order *or public agency notice* that referred the matter to the board or a further court order *or public agency notice* if the original order is modified by the court *or the public agency.*

Subd. 3. [REVOCATION OR REINSTATEMENT OF PROBATION.] If the licensee has a modification petition pending before the court *or the public agency*, the board may, without a hearing, defer a revocation of probation and institution of suspension until receipt of the court's ruling on the modification order. A licensee who was placed on probation and then automatically suspended may be automatically reinstated upon providing proof to the board that the licensee is currently in compliance with the court order *or public agency notice.*

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

Subd. 5. [APPLICATION.] This section applies to support obligations ordered by any state, territory, or district of the United States.

Sec. 4. Minnesota Statutes 1993 Supplement, section 256.87, subdivision 5, is amended to read:

Subd. 5. [CHILD NOT RECEIVING ASSISTANCE.] A person or entity having physical ~~and legal~~ custody of a dependent child not receiving assistance under sections 256.72 to 256.87 has a cause of action for child support against the child's absent parents. Upon ~~an order to show cause and~~ a motion served on the absent parent, the court shall order child support payments from the absent parent under chapter 518. *This subdivision applies only if the person or entity has physical custody with the consent of a custodial parent or approval of the court.*

Sec. 5. Minnesota Statutes 1993 Supplement, section 518.14, is amended to read:

518.14 [COSTS AND DISBURSEMENTS ~~AND~~; ATTORNEY FEES; *COLLECTION COSTS.*]

Subdivision 1. [GENERAL.] *Except as provided in subdivision 2,* in a proceeding under this chapter, the court shall award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding, provided it finds:

(1) that the fees are necessary for the good-faith assertion of the party's rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;

(2) that the party from whom fees, costs, and disbursements are sought has the means to pay them; and

(3) that the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.

Nothing in this section precludes the court from awarding, in its discretion, additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding. Fees, costs, and disbursements provided for in this section may be awarded at any point in the proceeding, including a modification proceeding under sections 518.18 and 518.64. The court may adjudge costs and disbursements against either party. The court may authorize the collection of money awarded by execution, or out of property sequestered, or in any other manner within the power of the court. An award of attorney's fees made by the court during the pendency of the proceeding or in the final judgment survives the proceeding and if not paid by the party directed to pay the same may be enforced as above provided or by a separate civil action brought in the attorney's own name. If the proceeding is dismissed or abandoned prior to determination and award of attorney's fees, the court may nevertheless award attorney's fees upon the attorney's motion. The award shall also survive the proceeding and may be enforced in the same manner as last above provided.

Subd. 2. [ENFORCEMENT OF CHILD SUPPORT.] *(a) A child support obligee is entitled to recover from the obligor reasonable attorney fees and other collection costs incurred to enforce a child support judgment, as provided in this subdivision. In order to recover collection costs under this subdivision, the arrearages must be at least $500 and must be at least 90 days past due. In addition, the arrearages must be a docketed judgment under sections 548.09 and 548.091. If the obligor pays in full the judgment rendered*

under section 548.091 within 20 days of receipt of notice of entry of judgment, the obligee is not entitled to recover attorney fees or collection costs under this subdivision.

(b) Written notice must be provided by any obligee contracting with an attorney or collection entity to enforce a child support judgment to the public authority responsible for child support enforcement, if the public authority is a party or provides services to a party, within five days of signing a contract for services and within five days of receipting any payments received on a child support judgment. Attorney fees and collection costs obtained under this subdivision are considered child support and entitled to the applicable remedies for collection and enforcement of child support.

(c) The obligee shall serve notice of the obligee's intent to recover attorney fees and collections costs by certified or registered mail on the obligor at the obligor's last known address. The notice must include an itemization of the attorney fees and collection costs being sought by the obligee and inform the obligor that the fees and costs will become an additional judgment for child support unless the obligor requests a hearing on the reasonableness of the fees and costs or to contest the child support judgment on grounds limited to mistake of fact within 20 days of mailing of the notice.

(d) If the obligor requests a hearing, the only issues to be determined by the court are whether the attorney fees or collection costs were reasonably incurred by the obligee for the enforcement of a child support judgment against the obligor or the validity of the child support judgment on grounds limited to mistake of fact. The fees and costs may not exceed 30 percent of the arrearages. The court may modify the amount of attorney fees and costs as appropriate and shall enter judgment accordingly.

(e) If the obligor fails to request a hearing within 20 days of mailing of the notice under paragraph (a), the amount of the attorney fees or collection costs requested by the obligee in the notice automatically becomes an additional judgment for child support.

(f) The commissioner of human services shall prepare and make available to the court and the parties forms for use in providing for notice and requesting a hearing under this subdivision. The rulemaking provisions of chapter 14 do not apply to the forms.

Sec. 6. Minnesota Statutes 1993 Supplement, section 518.171, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] (a) Every child support order must expressly assign or reserve the responsibility for maintaining medical insurance for the minor children and the division of uninsured medical and dental costs. The court shall order the party with the better group dependent health and dental insurance coverage *or health insurance plan* to name the minor child as beneficiary on any health and dental insurance plan that is ~~comparable to or better than a number two qualified plan and~~ available to the party on:

(i) a group basis; ~~or~~

(ii) through an employer or union; *or*

(iii) through a group health plan governed under the ERISA and included within the definitions relating to health plans found in section 62A.011, 62A.048, or 62E.06, subdivision 2.

"Health insurance" or "health insurance coverage" as used in this section means coverage that is comparable to or better than a number two qualified plan as defined in section 62E.06, subdivision 2. "Health insurance" *or "health insurance* coverage" as used in this section does not include medical assistance provided under chapter 256, 256B, or 256D.

(b) If the court finds that dependent health or dental insurance is not available to the obligor or obligee on a group basis or through an employer or union, or that ~~the~~ group ~~insurer~~ *insurance* is not accessible to the obligee, the court may require the obligor (1) to obtain other dependent health or dental insurance, (2) to be liable for reasonable and necessary medical or dental expenses of the child, or (3) to pay no less than $50 per month to be applied to the medical and dental expenses of the children or to the cost of health insurance dependent coverage.

(c) If the court finds that the available dependent health or dental insurance does not pay all the reasonable and necessary medical or dental expenses of the child, including any existing or anticipated extraordinary medical expenses, and the court finds that the obligor has the financial ability to contribute to the payment of these medical or dental expenses, the court shall require the obligor to be liable for all or a portion of the medical or dental expenses of the child not covered by the required health or dental plan. Medical and dental expenses include, but are not limited to, necessary orthodontia and eye care, including prescription lenses.

(d) ~~If the obligor is employed by a self insured employer subject only to the federal Employee Retirement Income Security Act (ERISA) of 1974, and the insurance benefit plan meets the above requirements, the court shall order the obligor to enroll the dependents within 30 days of the court order effective date or be liable for all medical and dental expenses occurring while coverage is not in effect. If enrollment in the ERISA plan is precluded by exclusionary clauses, the court shall order the obligor to obtain other coverage or make payments as provided in paragraph (b) or (c).~~

~~(e)~~ Unless otherwise agreed by the parties and approved by the court, if the court finds that the obligee is not receiving public assistance for the child and has the financial ability to contribute to the cost of medical and dental expenses for the child, including the cost of insurance, the court shall order the obligee and obligor to each assume a portion of these expenses based on their proportionate share of their total net income as defined in section 518.54, subdivision 6.

~~(f)~~ *(e)* Payments ordered under this section are subject to section 518.611. An obligee who fails to apply payments received to the medical expenses of the dependents may be found in contempt of this order.

Sec. 7. Minnesota Statutes 1993 Supplement, section 518.171, subdivision 6, is amended to read:

Subd. 6. [~~INSURER~~ *PLAN* REIMBURSEMENT; CORRESPONDENCE AND NOTICE.] (a) The signature of the custodial parent of the insured dependent is a valid authorization to ~~the insurer~~ *a health or dental insurance plan* for purposes of processing an insurance reimbursement payment to the provider of the medical services or to the custodial parent if medical services have been prepaid by the custodial parent.

(b) The ~~insurer~~ *health or dental insurance plan* shall send copies of all correspondence regarding the insurance coverage to both parents. When an order for dependent insurance coverage is in effect and the obligor's employment is terminated, or the insurance coverage is terminated, the ~~insurer~~ *health or dental insurance plan* shall notify the obligee within ten days of the termination date with notice of conversion privileges.

Sec. 8. Minnesota Statutes 1992, section 518.18, is amended to read:

518.18 [MODIFICATION OF ORDER.]

(a) Unless agreed to in writing by the parties, no motion to modify a custody order may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with paragraph (c).

(b) If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except in accordance with paragraph (c).

(c) The time limitations prescribed in paragraphs (a) and (b) shall not prohibit a motion to modify a custody order if the court finds that there is persistent and willful denial or interference with visitation, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

(d) If the court has jurisdiction to determine child custody matters, the court shall not modify a prior custody order unless it finds, upon the basis of facts that have arisen since the prior order or that were unknown to the court at the time of the prior order, that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custody arrangement established by the prior order unless:

(i) both parties agree to the modification;

(ii) the child has been integrated into the family of the petitioner with the consent of the other party; or

(iii) the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

In addition, a court may modify a custody order under section 631.52.

(e) In deciding whether to modify a prior joint custody order, the court shall apply the standards set forth in paragraph (d) unless: (1) the parties agree in writing to the application of a different standard, or (2) the party seeking the modification is asking the court for permission to move the residence of the child to another state.

(f) If a custodial parent has been granted sole physical custody of a minor and the child subsequently lives with the noncustodial parent, and temporary sole physical custody has been approved by the court or by a court-appointed referee, the court may suspend the noncustodial parent's child support obligation pending the final custody determination. The court's order denying the suspension of child support must include a written explanation of the

reasons why continuation of the child support obligation would be in the best interests of the child.

Sec. 9. Minnesota Statutes 1993 Supplement, section 518.551, subdivision 5, is amended to read:

Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The petitioner shall notify the public authority of all proceedings for dissolution, legal separation, determination of parentage or for the custody of a child, if either party is receiving aid to families with dependent children or applies for it subsequent to the commencement of the proceeding. The notice must contain the full names of the parties to the proceeding, their social security account numbers, and their birth dates. After receipt of the notice, the court shall set child support as provided in this subdivision. The court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The court shall approve a child support stipulation of the parties if each party is represented by independent counsel, unless the stipulation does not meet the conditions of paragraph (i). In other cases the court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in paragraph (b) and any departure therefrom. The court may also order the obligor to pay child support in the form of a percentage share of the obligor's net bonuses, commissions, or other forms of compensation, in addition to, or if the obligor receives no base pay, in lieu of, an order for a specific dollar amount.

(b) The court shall derive a specific dollar amount for child support by multiplying the obligor's net income by the percentage indicated by the following guidelines:

Net Income Per Month of Obligor	Number of Children						
	1	2	3	4	5	6	7 or more
$550 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
$551 – 600	16%	19%	22%	25%	28%	30%	32%
$601 – 650	17%	21%	24%	27%	29%	32%	34%
$651 – 700	18%	22%	25%	28%	31%	34%	36%
$701 – 750	19%	23%	27%	30%	33%	36%	38%
$751 – 800	20%	24%	28%	31%	35%	38%	40%
$801 – 850	21%	25%	29%	33%	36%	40%	42%
$851 – 900	22%	27%	31%	34%	38%	41%	44%
$901 – 950	23%	28%	32%	36%	40%	43%	46%
$951 – 1000	24%	29%	34%	38%	41%	45%	48%
$1001- 5000	25%	30%	35%	39%	43%	47%	50%
or the amount in effect under paragraph (k)							

Guidelines for support for an obligor with a monthly income in excess of the income limit currently in effect under paragraph (k) shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income equal to the limit in effect.

Net Income defined as:

Total monthly income less	*(i) Federal Income Tax *(ii) State Income Tax (iii) Social Security Deductions (iv) Reasonable Pension Deductions
*Standard Deductions apply-use of tax tables recommended	(v) Union Dues (vi) Cost of Dependent Health Insurance Coverage (vii) Cost of Individual or Group Health/Hospitalization Coverage or an Amount for Actual Medical Expenses (viii) A Child Support or Maintenance Order that is Currently Being Paid.

''Net income'' does not include:

(1) the income of the obligor's spouse, but does include in-kind payments received by the obligor in the course of employment, self-employment, or operation of a business if the payments reduce the obligor's living expenses; or

(2) compensation received by a party for employment in excess of a 40-hour work week, provided that:

(i) support is nonetheless ordered in an amount at least equal to the guidelines amount based on income not excluded under this clause; and

(ii) the party demonstrates, and the court finds, that:

(A) the excess employment began after the filing of the petition for dissolution;

(B) the excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

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

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

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

The court shall review the work-related and education-related child care costs ~~of the custodial parent~~ *paid* and shall allocate the costs to each parent in proportion to each parent's *net* income, *as determined under this subdivision,* after the transfer of child support *and spousal maintenance*, unless the allocation would be substantially unfair to either parent. *There is a presumption of substantial unfairness if after the sum total of child support, spousal maintenance, and child care costs is subtracted from the noncustodial parent's income, the income is at or below 100 percent of the federal poverty guidelines.* The cost of child care for purposes of this ~~section~~ *paragraph* is

~~determined by subtracting the amount of any federal and state income tax credits available to a parent from~~ *75 percent of* the actual cost paid for child care, *to reflect the approximate value of state and federal tax credits available to the custodial parent. The actual cost paid for child care is the total amount received by the child care provider for the child or children from the obligee or any public agency.* The amount allocated for child care expenses is considered child support *but is not subject to a cost-of-living adjustment under section 518.641. The amount allocated for child care expenses terminates when the child care costs end.*

(c) In addition to the child support guidelines, the court shall take into consideration the following factors in setting or modifying child support or in determining whether to deviate from the guidelines:

(1) all earnings, income, and resources of the parents, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of paragraph (b), clause (2)(ii);

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child or children to be supported;

(3) the standards of living the child would have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

(4) which parent receives the income taxation dependency exemption and what financial benefit the parent receives from it;

(5) the parents' debts as provided in paragraph (d); and

(6) the obligor's receipt of assistance under sections 256.72 to 256.87 or 256B.01 to 256B.40.

(d) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 256.74;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court shall consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

(e) Any schedule prepared under paragraph (d), clause (3), shall contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.

(f) Any further departure below the guidelines that is based on a consideration of debts owed to private creditors shall not exceed 18 months in duration, after which the support shall increase automatically to the level ordered by the court. Nothing in this section shall be construed to prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

(g) If payment of debt is ordered pursuant to this section, the payment shall be ordered to be in the nature of child support.

(h) Nothing shall preclude the court from receiving evidence on the above factors to determine if the guidelines should be exceeded or modified in a particular case.

(i) The guidelines in this subdivision are a rebuttable presumption and shall be used in all cases when establishing or modifying child support. If the court does not deviate from the guidelines, the court shall make written findings concerning the amount of the obligor's income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the determination of child support. If the court deviates from the guidelines, the court shall make written findings giving the amount of support calculated under the guidelines, the reasons for the deviation, and shall specifically address the criteria in paragraph (b) and how the deviation serves the best interest of the child. The provisions of this paragraph apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court shall review stipulations presented to it for conformity to the guidelines and the court is not required to conduct a hearing, but the parties shall provide the documentation of earnings required under subdivision 5b.

(j) If the child support payments are assigned to the public agency under section 256.74, the court may not deviate downward from the child support guidelines unless the court specifically finds that the failure to deviate downward would impose an extreme hardship on the obligor.

(k) The dollar amount of the income limit for application of the guidelines must be adjusted on July 1 of every even-numbered year to reflect cost-of-living changes. The supreme court shall select the index for the adjustment from the indices listed in section 518.641. The state court administrator shall make the changes in the dollar amount required by this paragraph available to courts and the public on or before April 30 of the year in which the amount is to change.

Sec. 10. Minnesota Statutes 1993 Supplement, section 518.551, subdivision 12, is amended to read:

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

(b) If a public agency responsible for child support enforcement finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both, the public agency may direct the licensing board or other licensing

agency to conduct a hearing under section 214.101 concerning suspension of the obligor's license. If the obligor is a licensed attorney, the public agency may report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the public agency.

Sec. 11. [518.575] [PUBLICATION OF NAMES OF DELINQUENT CHILD SUPPORT OBLIGORS.]

Every three months the department of human services shall publish in the newspaper of widest circulation in each county a list of the names and last known addresses of each person who (1) is a child support obligor, (2) resides in the county, (3) is at least $3,000 in arrears, and (4) has not made a child support payment, or has made only partial child support payments that total less than 25 percent of the amount of child support owed, for the last 12 months including any payments made through the interception of federal or state taxes. The rate charged for publication shall be the newspaper's lowest classified display rate, including all available discounts. An obligor's name may not be published if the obligor claims in writing, and the department of human services determines, there is good cause for the nonpayment of child support. The list must be based on the best information available to the state at the time of publication.

Before publishing the name of the obligor, the department of human services shall send a notice to the obligor's last known address which states the department's intention to publish the obligor's name and the amount of child support the obligor owes. The notice must also provide an opportunity to have the obligor's name removed from the list by paying the arrearage or by entering into an agreement to pay the arrearage, and the final date when the payment or agreement can be accepted.

The department of human services shall insert with the notices sent to the obligee, a notice stating the intent to publish the obligor's name, and the criteria used to determine the publication of the obligor's name.

Sec. 12. Minnesota Statutes 1993 Supplement, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party or the child or children that are the subject of these proceedings; (3) receipt of assistance under sections 256.72 to 256.87 or 256B.01 to 256B.40; (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair; (5) extraordinary medical expenses of the child not provided for under section 518.171; or (6) the addition ~~or elimination~~ of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses.

It is presumed that there has been a substantial change in circumstances under clause (1), (2), or (4) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least

20 percent and at least $50 per month higher or lower than the current support order.

(b) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 13. Minnesota Statutes 1993 Supplement, section 518.68, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] Every court order ~~for~~ *or* judgment and decree that provides for child support, spousal maintenance, custody, or visitation must contain certain notices as set out in subdivision 2. The information in the notices must be concisely stated in plain language. The notices must be in clearly legible print, but may not exceed two pages. An order or judgment and decree without the notice remains subject to all statutes. The court may waive all or part of the notice required under subdivision 2 relating to parental rights under section 518.17, subdivision 3, if it finds it is necessary to protect the welfare of a party or child.

Sec. 14. Minnesota Statutes 1993 Supplement, section 518.68, subdivision 2, is amended to read:

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

IMPORTANT NOTICE

1. PAYMENTS TO PUBLIC AGENCY

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

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

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

3. RULES OF SUPPORT, MAINTENANCE, VISITATION

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

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

(c) *Nonpayment of support is not grounds to deny visitation. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.*

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

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

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

(g) If there is a layoff or a pay reduction, support may be reduced as of the time of the layoff or pay reduction if a motion to reduce the support is served and filed with the court at that time, but any such reduction must be ordered by the court. The court is not permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 518.64, subdivision 2, paragraph (c).

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

Unless otherwise provided by the Court:

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

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

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

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

5. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

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

6. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, the person responsible to make support or maintenance payments shall notify the person entitled to receive the payment and the public authority responsible for collection, if applicable, of

a change of address or residence within 60 days of the address or residence change.

7. COST OF LIVING INCREASE OF SUPPORT AND MAINTENANCE

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

8. JUDGMENTS FOR UNPAID SUPPORT

If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment WITHOUT NOTICE to the person responsible to make the payment under Minnesota Statutes, section 548.091. *Interest begins to accrue on a payment or installment of child support whenever the unpaid amount due is greater than the current support due, pursuant to Minnesota Statutes, section 548.091, subdivision 1a.*

9. JUDGMENTS FOR UNPAID MAINTENANCE

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

~~10. MEDICAL INSURANCE AND EXPENSES~~

~~The person responsible to pay support and the person's employer or union are ordered to provide medical and dental insurance and pay for uncovered expenses under the conditions of Minnesota Statutes, section 518.171, unless otherwise provided in this order or the statute. A copy of this statute is available from any district court clerk.~~

10. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT

A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of section 518.14, subdivision 2, are met. A copy of section 518.14 and forms necessary to request or contest these attorney fees and collection costs are available from any district court clerk.

Sec. 15. Minnesota Statutes 1993 Supplement, section 518.68, subdivision 3, is amended to read:

Subd. 3. [COPIES OF LAW AND FORMS.] The district court administrator shall make available at no charge copies of sections *518.14,* 518.17, 518.611, 518.613, 518.641, 548.091, and 609.26, and shall provide forms to

request or contest *attorney fees and collection costs or* a cost-of-living increase under section *518.14, subdivision 2, or* 518.641.

Sec. 16. Minnesota Statutes 1992, section 548.091, subdivision 2a, is amended to read:

Subd. 2a. [DOCKETING OF CHILD SUPPORT JUDGMENT.] On or after the date an unpaid amount becomes a judgment by operation of law under subdivision 1a, the obligee or the public authority may file with the court administrator:

(1) a statement identifying, or a copy of, the judgment or decree of dissolution or legal separation, determination of parentage, order under chapter 518C, an order under section 256.87, or an order under section 260.251, which provides for installment or periodic payments of child support, *or a judgment or notice of attorney fees and collection costs under section 518.14, subdivision 2*;

(2) an affidavit of default. The affidavit of default must state the full name, occupation, place of residence, and last known post office address of the obligor, the name and post office address of the obligee, the date or dates payment was due and not received and judgment was obtained by operation of law, and the total amount of the judgments; and

(3) an affidavit of service of a notice of entry of judgment *or notice of intent to recover attorney fees and collection costs* on the obligor, in person or by mail at the obligor's last known post office address. Service is completed upon mailing in the manner designated.

Sec. 17. Minnesota Statutes 1993 Supplement, section 609.375, subdivision 2, is amended to read:

Subd. 2. If the violation of subdivision 1 continues for a period in excess of 90 days *but not more than 180 days,* the person is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Sec. 18. Minnesota Statutes 1992, section 609.375, is amended by adding a subdivision to read:

Subd. 2a. If the violation of subdivision 1 continues for a period in excess of 180 days, the person is guilty of a felony and upon conviction may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $5,000, or both.

Sec. 19. Minnesota Statutes 1992, section 609.375, is amended by adding a subdivision to read:

Subd. 5. [VENUE.] *A person who violates this section may be prosecuted and tried in the county in which the support obligor resides or in the county in which the obligee or the child resides.*

Sec. 20. Minnesota Statutes 1992, section 609.375, is amended by adding a subdivision to read:

Subd. 6. [DISMISSAL OF CHARGE.] *A felony charge brought under subdivision 2a of this section shall be dismissed if:*

(1) the support obligor provides the county child support enforcement agency with an affidavit attesting the obligor's present address, occupation,

employer, and current income, and consents to service of an order for automatic income withholding; or

(2) the support obligor makes satisfactory arrangements for payment with the county child support enforcement agency of all accumulated arrearages and any ongoing support obligations. For purposes of this section, satisfactory arrangements shall be reasonably consistent with the obligor's ability to pay.

In any case for which dismissal is sought under this subdivision, the felony charge shall be continued for dismissal for a period of six months. If the obligor meets all requirements of the payment plan within that six-month period, the felony charge shall be dismissed.

Sec. 21. [INCOME SHARES MODEL CHILD SUPPORT GUIDELINE.]

The department of human services, in consultation with the commissioner's advisory committee for child support enforcement, shall develop an income shares model child support guideline and present it to the legislature for consideration, in addition to the plan for including contested hearings in the simple, statewide administrative process no later than February 1, 1995.

Sec. 22. [MINNESOTA CHILD SUPPORT ASSURANCE PROGRAM.]

Subdivision 1. [AUTHORIZATION TO DESIGN DEMONSTRATION.] *The commissioner of human services, in consultation with the commissioners of education, finance, jobs and training, health, and planning, the director of the higher education coordinating board, and the attorney general, is authorized to proceed with planning and designing the Minnesota child support assurance program. The commissioner shall not proceed with the program plan if, at any point, the federal government informs the state that the federal government will not be seeking demonstration projects of child support assurance or will not be providing enhanced federal funding. The plan and design shall include an assessment of the feasibility of the state guaranteeing a minimum level of support from a noncustodial parent and shall further provide that the state will provide that level of support to the child in instances where it is not provided by the child's noncustodial parent. The program plan shall specifically determine whether and the extent to which benefits received by a family under the Minnesota child support assurance program will reduce benefits paid to the family through the aid to families with dependent children program. The program plan shall also provide that the receipt of child support assurance benefits does not negatively affect any existing eligibility for child care assistance under existing programs and shall consider how the receipt of child support assurance benefits affects eligibility under other government benefit programs, including housing assistance, energy assistance, and food stamps.*

Subd. 2. [GOALS OF THE MINNESOTA CHILD SUPPORT ASSURANCE PROGRAM.] *The commissioner shall design the program to meet the following goals:*

(1) to support parents in their efforts to provide financial support for their children;

(2) to encourage parents to meet their legal obligations of support;

(3) to prevent long-term dependence on public assistance; and

(4) to allow the state to compare the cost-effectiveness and the efficacy of child support assurance to the Minnesota family investment program in attempting to restructure the existing system of public assistance.

Subd. 3. [PROGRAM DATA.] *As part of planning and designing the Minnesota child support assurance program, the commissioner shall study and make recommendations on:*

(1) the amount of the guaranteed child support assurance benefit;

(2) the anticipated reduction in the aid to families with dependent children caseload which should result from the implementation of a child support assurance program;

(3) the anticipated cost of the program on a demonstration basis;

(4) the selection of counties to serve as field trial or comparison sites based on criteria which will ensure reliable evaluation of the program. This selection shall be made so that an adverse impact on the Minnesota family investment program is avoided; and

(5) the waivers of all applicable federal requirements needed to implement the Minnesota child support assurance program in a manner consistent with the goals of the program.

In order to make recommendations on the amount of the guaranteed child support assurance benefit, the commissioner shall conduct a study of and make detailed findings on the actual cost in Minnesota of items necessary to adequately meet a child's basic needs.

The commissioner shall report the findings and recommendations to the legislature by January 15, 1995.

Sec. 23. [REPORT TO LEGISLATURE.]

The department of human services shall report to the legislature by January 31, 1996, in the department of human services annual report to the legislature, the fiscal implications of the program, established in Minnesota Statutes, section 518.575, which publishes the names of delinquent child support obligors, including related costs and savings.

Sec. 24. [APPROPRIATION.]

Subdivision 1. $150,000 is appropriated from the general fund to the commissioner of human services to plan and design the child support assurance program provided for by section 22, to be available until June 30, 1995.

Subd. 2. $75,000 is appropriated from the general fund to the commissioner of human services for the child support public education campaign provided for by section 1, to be available until June 30, 1995. The commissioner shall enter into a $75,000 contract with the attorney general for the implementation of the campaign.

Subd. 3. The appropriations in this section must not be included in the budget base for the 1996-1997 biennium.

Sec. 25. [EFFECTIVE DATE; APPLICATION.]

Section 5 (518.14) is effective August 1, 1994, and applies to attorney fees

and collection costs incurred on and after that date, regardless of when the arrearages accrued.

Section 7 (518.171, subdivision 6) is effective retroactive to July 1, 1993.

Sections 17 to 20 (609.375) are effective the day following final enactment and apply to crimes committed on and after that date.

ARTICLE 12

MISCELLANEOUS FAMILY LAW

Section 1. Minnesota Statutes 1993 Supplement, section 363.03, subdivision 3, is amended to read:

Subd. 3. [PUBLIC ACCOMMODATIONS.] (a) It is an unfair discriminatory practice:

(1) to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of race, color, creed, religion, disability, national origin, *marital status,* sexual orientation, or sex, or for a taxicab company to discriminate in the access to, full utilization of, or benefit from service because of a person's disability; or

(2) for a place of public accommodation not to make reasonable accommodation to the known physical, sensory, or mental disability of a disabled person. In determining whether an accommodation is reasonable, the factors to be considered may include:

(i) the frequency and predictability with which members of the public will be served by the accommodation at that location;

(ii) the size of the business or organization at that location with respect to physical size, annual gross revenues, and the number of employees;

(iii) the extent to which disabled persons will be further served from the accommodation;

(iv) the type of operation;

(v) the nature and amount of both direct costs and legitimate indirect costs of making the accommodation and the reasonableness for that location to finance the accommodation; and

(vi) the extent to which any persons may be adversely affected by the accommodation.

State or local building codes control where applicable. Violations of state or local building codes are not violations of this chapter and must be enforced under normal building code procedures.

(b) This paragraph lists general prohibitions against discrimination on the basis of disability. For purposes of this paragraph "individual" or "class of individuals" refers to the clients or customers of the covered public accommodation that enter into the contractual, licensing, or other arrangement.

(1) It is discriminatory to:

(i) subject an individual or class of individuals on the basis of a disability of that individual or class, directly or through contractual, licensing, or other

arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity;

(ii) afford an individual or class of individuals on the basis of the disability of that individual or class, directly or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations that are not equal to those afforded to other individuals; and

(iii) provide an individual or class of individuals, on the basis of a disability of that individual or class, directly or through contractual, licensing, or other arrangements, with goods, services, facilities, privileges, advantages, or accommodations that are different or separate from those provided to other individuals, unless the action is necessary to provide the individual or class of individuals with goods, services, facilities, privileges, advantages, or accommodations, or other opportunities that are as effective as those provided to others.

(2) Goods, services, facilities, privileges, advantages, and accommodations must be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(3) Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, the individual with a disability may not be denied the opportunity to participate in the programs or activities that are not separate or different.

(4) An individual or entity may not, directly or through contractual or other arrangements, use standards or criteria and methods of administration:

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(c) This paragraph lists specific prohibitions against discrimination on the basis of disability. For purposes of this paragraph, discrimination includes:

(1) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless the criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations;

(2) failure to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to afford the goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations;

(3) failure to take all necessary steps to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking the steps would fundamentally alter the nature of the goods, services, facilities, privileges,

advantages, or accommodations being offered and would result in an undue burden;

(4) failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles used by an establishment for transporting individuals, not including barriers that can only be removed through the retrofitting of vehicles by the installation of hydraulic or other lifts, if the removal is readily achievable; and

(5) if an entity can demonstrate that the removal of a barrier under clause (4) is not readily achievable or cannot be considered a reasonable accommodation, a failure to make the goods, services, facilities, privileges, advantages, or accommodations available through alternative means if the means are readily achievable.

(d) Nothing in this chapter requires an entity to permit an individual to participate in and benefit from the goods, services, facilities, privileges, advantages, and accommodations of the entity if the individual poses a direct threat to the health or safety of others. "Direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

(e) No individual may be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce. For purposes of this paragraph, it is an unfair discriminatory practice for a private entity providing public transportation to engage in one or more of the following practices:

(1) imposition or application of eligibility criteria that screen out, or tend to screen out, an individual with a disability or a class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless the criteria can be shown to be necessary for the provision of the services being offered;

(2) failure to make reasonable modifications, provide auxiliary aids and services, and remove barriers, consistent with section 363.03, subdivision 3, paragraph (c);

(3) the purchase or lease of a new vehicle, other than an automobile or van with a seating capacity of fewer than eight passengers, including the driver, or an over-the-road bus, that is to be used to provide specified public transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, except that a new vehicle need not be readily accessible to and usable by individuals with disabilities if the vehicle is to be used solely in a demand responsive system and if the private entity can demonstrate that the system, when viewed in its entirety, provides a level of services to individuals with disabilities equivalent to the level of service provided to the general public;

(4) purchase or lease a new railroad passenger car that is to be used to provide specified public transportation if the car is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, or to manufacture railroad passenger cars or purchase used cars

that have been remanufactured so as to extend their usable life by ten years or more, unless the remanufactured car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, except that compliance with this clause is not required to the extent that compliance would significantly alter the historic or antiquated character of historic or antiquated railroad passenger cars or rail stations served exclusively by those cars;

(5) purchase or lease a new, used, or remanufactured vehicle with a seating capacity in excess of 16 passengers, including the driver, for use on a fixed route public transportation system, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If a private entity that operates a fixed route public transportation system purchases or leases a new, used, or remanufactured vehicle with a seating capacity of 16 passengers or fewer, including the driver, for use on the system which is not readily accessible to and usable by individuals with disabilities, it is an unfair discriminatory practice for the entity to fail to operate the system so that, when viewed in its entirety, the system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; or

(6) to fail to operate a demand responsive system so that, when viewed in its entirety, the system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities. It is an unfair discriminatory practice for the entity to purchase or lease for use on a demand responsive system a new, used, or remanufactured vehicle with a seating capacity in excess of 16 passengers, including the driver, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the entity can demonstrate that the system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(f) It is an unfair discriminatory practice to construct a new facility or station to be used in the provision of public transportation services, unless the facilities or stations are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. It is an unfair discriminatory practice for a facility or station currently used for the provision of public transportation services defined in this subdivision to fail to make alterations necessary in order, to the maximum extent feasible, to make the altered portions of facilities or stations readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. If the private entity is undertaking an alteration that affects or could affect the usability of or access to an area of the facility containing a primary function, the entity shall make the alterations so that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, drinking fountains, and telephones serving the altered area, are readily accessible to and usable by individuals with disabilities if the alterations to the path of travel or to the functions mentioned are not disproportionate to the overall alterations in terms of cost and scope. The entity raising this defense has the burden of proof, and the department shall review these cases on a case-by-case basis.

Sec. 2. Minnesota Statutes 1992, section 518.11, is amended to read:

518.11 [SERVICE; PUBLICATION.]

(a) Unless a proceeding is brought by both parties, copies of the summons and petition shall be served on the respondent personally.

(b) When service is made out of this state and within the United States, it may be proved by the affidavit of the person making the same. When service is made without the United States it may be proved by the affidavit of the person making the same, taken before and certified by any United States minister, charge d'affaires, commissioner, consul or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in such country, including all deputies or other representatives of such officer authorized to perform their duties; or before an officer authorized to administer an oath with the certificate of an officer of a court of record of the country wherein such affidavit is taken as to the identity and authority of the officer taking the same. ~~But,~~

(c) If personal service cannot be made, the court may order service of the summons by ~~publication, which publication shall be made as in other actions.~~ *alternate means. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.*

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Also, the court may require the petitioner to make efforts to locate the respondent by telephone calls to appropriate persons. Service shall be deemed complete 21 days after mailing or 21 days after court-ordered publication.

Sec. 3. [518.158] [GRANDPARENT EX PARTE TEMPORARY CUSTODY ORDER.]

Subdivision 1. [FACTORS.] *It is presumed to be in the best interests of the child for the court to grant temporary custody to a grandparent under subdivision 2 if a minor child has resided with the grandparent for a period of 12 months or more and the following circumstances exist without good cause:*

(1) the parent has had no contact with the child on a regular basis and no demonstrated, consistent participation in the child's well-being for six months; or

(2) the parent, during the time the child resided with the grandparent, has refused or neglected to comply with the duties imposed upon the parent by the parent and child relationship, including but not limited to providing the child necessary food, clothing, shelter, health care, education, and other care and

control necessary for the child's physical, mental, or emotional health and development.

Subd. 2. [EMERGENCY CUSTODY HEARING.] *If the parent seeks to remove the child from the home of the grandparent and the factors in subdivision 1 exist, the grandparent may apply for an ex parte temporary order for custody of the child. The court shall grant temporary custody if it finds, based on the application, that the factors in subdivision 1 exist. If it finds that the factors in subdivision 1 do not exist, the court shall order that the child be returned to the parent. An ex parte temporary custody order under this subdivision is good for a fixed period not to exceed 14 days. A temporary custody hearing under this chapter must be set for not later than seven days after issuance of the ex parte temporary custody order. The parent must be promptly served with a copy of the ex parte order and the petition and notice of the date for the hearing.*

Subd. 3. [FURTHER PROCEEDINGS.] *If the court orders temporary physical custody to the grandparent under subdivision 2 and the grandparent or parent seeks to pursue further temporary or permanent custody of the child, the custody issues must be determined pursuant to a petition under this chapter and the other standards and procedures of this chapter apply. This section does not affect any rights or remedies available under other law.*

Subd. 4. [RETURN TO PARENT.] *If the court orders permanent custody to a grandparent under this section, the court shall set conditions the parent must meet in order to obtain custody. The court may notify the parent that the parent may request assistance from the local social service agency in order to meet the conditions set by the court.*

Sec. 4. Minnesota Statutes 1992, section 518.17, subdivision 1, is amended to read:

Subdivision 1. [THE BEST INTERESTS OF THE CHILD.] (a) "The best interests of the child" means all relevant factors to be considered and evaluated by the court including:

(1) the wishes of the child's parent or parents as to custody;

(2) the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;

(3) the child's primary caretaker;

(4) the intimacy of the relationship between each parent and the child;

(5) the interaction and interrelationship of the child with a parent or parents, siblings, and any other person who may significantly affect the child's best interests;

(6) the child's adjustment to home, school, and community;

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

(8) the permanence, as a family unit, of the existing or proposed custodial home;

(9) the mental and physical health of all individuals involved; except that a disability, as defined in section 363.01, of a proposed custodian or the child

shall not be determinative of the custody of the child, unless the proposed custodial arrangement is not in the best interest of the child;

(10) the capacity and disposition of the parties to give the child love, affection, and guidance, and to continue educating and raising the child in the child's culture and religion or creed, if any;

(11) the child's cultural background; ~~and~~

(12) the effect on the child of the actions of an abuser, if related to domestic abuse, as defined in section 518B.01, that has occurred between the parents; *and*

(13) except in cases in which a finding of domestic abuse as defined in section 518B.01 has been made, the disposition of each parent to encourage and permit frequent and continuing contact by the other parent with the child.

The court may not use one factor to the exclusion of all others. The primary caretaker factor may not be used as a presumption in determining the best interests of the child. The court must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.

(b) The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child.

Sec. 5. Minnesota Statutes 1992, section 518B.01, subdivision 8, is amended to read:

Subd. 8. [SERVICE ~~OF ORDER~~; *ALTERNATE SERVICE; PUBLICATION.*] *(a) The petition and* any order issued under this section shall be ~~personally~~ served ~~upon~~ *on* the respondent *personally.*

(b) When service is made out of this state and in the United States, it may be proved by the affidavit of the person making the service. When service is made outside the United States, it may be proved by the affidavit of the person making the service, taken before and certified by any United States minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in the other country, including all deputies or other representatives of the officer authorized to perform their duties; or before an office authorized to administer an oath with the certificate of an officer of a court of record of the country in which the affidavit is taken as to the identity and authority of the officer taking the affidavit.

(c) If personal service cannot be made, the court may order service of the petition and any order issued under this section by alternate means, or by publication, which publication must be made as in other actions. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding

address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Also, the court may require the petitioner to make efforts to locate the respondent by telephone calls to appropriate persons. Service shall be deemed complete 21 days after mailing or 21 days after court-ordered publication.

Sec. 6. [STUDY OF WAYS TO NURTURE THE FAMILY.]

The children's cabinet shall study ways to promote, support, protect, and nurture the family. They shall recommend changes in government and nongovernment programs and Minnesota Statutes that will encourage the preservation of the family. The children's cabinet shall report the findings to the legislature by February 1, 1995.

Sec. 7. [EFFECTIVE DATE.]

Section 3 (518.158) is effective the day after final enactment."

Delete the title and insert:

"A bill for an act relating to family; adopting the uniform interstate family support act; repealing the revised uniform reciprocal enforcement of support act; establishing certain administrative procedures; authorizing a public education campaign; changing enforcement procedures; changing certain calculations; establishing a child support assurance program; requiring reports; prohibiting certain discriminatory practices; authorizing temporary custody orders; clarifying certain terms; imposing penalties; appropriating money; amending Minnesota Statutes 1992, sections 214.101, as amended; 518.11; 518.17, subdivision 1; 518.18; 518B.01, subdivision 8; 548.091, subdivision 2a; and 609.375, by adding subdivisions; Minnesota Statutes 1993 Supplement, sections 13.46, subdivision 2; 256.87, subdivision 5; 363.03, subdivision 3; 518.14; 518.171, subdivisions 1 and 6; 518.551, subdivisions 5 and 12; 518.64, subdivision 2; 518.68, subdivisions 1, 2, and 3; and 609.375, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 8; 518; and 518C; repealing Minnesota Statutes 1992, sections 518C.01; 518C.02; 518C.03; 518C.04; 518C.05; 518C.06; 518C.07; 518C.08; 518C.09; 518C.10; 518C.11; 518C.12; 518C.13; 518C.14; 518C.15; 518C.16; 518C.17; 518C.18; 518C.19; 518C.20; 518C.21; 518C.22; 518C.23; 518C.24; 518C.25; 518C.26; 518C.27; 518C.28; 518C.29; 518C.30; 518C.31; 518C.32; 518C.33; 518C.34; 518C.35; and 518C.36; Minnesota Statutes 1993 Supplement, section 518.551, subdivision 10."

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

Senate Conferees: (Signed) Pat Piper, Richard J. Cohen, Don Betzold, David L. Knutson

House Conferees: (Signed) Linda Wejcman, Jim Farrell, Edwina Garcia, Dave Bishop, Doug Swenson

Ms. Piper moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1662 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. 1662 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 61 and nays 1, as follows:

Those who voted in the affirmative were:

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

Ms. Robertson voted in the negative.

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

MOTIONS AND RESOLUTIONS – CONTINUED

Mr. Cohen introduced—

Senate Resolution No. 95: A Senate resolution commending Karyn Diehl for her outstanding service to Project 120.

Referred to the Committee on Rules and Administration.

Ms. Flynn introduced—

Senate Resolution No. 96: A Senate resolution expressing gratitude to Joan Anderson Growe, Secretary of State, for honorably serving as a representative of the people of the State of Minnesota in advancing the cause of freedom in the world.

Referred to the Committee on Rules and Adminstration.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 5:00 p.m. The motion prevailed.

The hour of 5:00 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

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

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 Executive and Official Communications, Messages From the House, Reports of Committees and Second Reading of House Bills.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

May 4, 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. Nos. 2210, 2104, 2709, 2277, 2072, 2690 and 2500.

Warmest regards,
Arne H. Carlson, Governor

May 5, 1994

The Honorable Allan H. Spear
President of the Senate

Dear President Spear:

I have vetoed and I am returning Chapter 569, Senate File 609, a bill relating to the Minneapolis Teachers Retirement Fund. This bill would allow teachers to buy-back pension service credit for prior teaching outside of the state of Minnesota.

This legislation has the potential to buy back pension credits on the backs of the taxpayer by an already financially strapped school district. It allows the school district the opportunity to make a portion of the contribution, and sets the stage for the district to later request a subsidization from the state.

Further, this legislation creates an exception for one and only one of the many pension funds within the public system which is neither good public policy, nor good precedent.

Warmest regards,
Arne H. Carlson, Governor

Mr. Luther moved that S.F. No. 609 and the veto message thereon be laid on the table. The motion prevailed.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2192, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2192: A bill for an act relating to health; MinnesotaCare; establishing and regulating community integrated service networks; defining terms; creating a reinsurance and risk adjustment association; classifying data; requiring reports; mandating studies; modifying provisions relating to the regulated all-payer option; requiring administrative rulemaking; setting timelines and requiring plans for implementation; designating essential community

providers; establishing an expedited fact finding and dispute resolution process; requiring proposed legislation; establishing task forces; providing for demonstration models; mandating universal coverage; requiring insurance reforms; providing grant programs; establishing the Minnesota health care administrative simplification act; implementing electronic data interchange standards; creating the Minnesota center for health care electronic data interchange; providing standards for the Minnesota health care identification card; appropriating money; providing penalties; amending Minnesota Statutes 1992, sections 60A.02, subdivision 3; 60A.15, subdivision 1; 62A.303; 62D.02, subdivision 4; 62D.04, by adding a subdivision; 62E.02, subdivisions 10, 18, 20, and 23; 62E.10, subdivisions 1, 2, and 3; 62E.141; 62E.16; 62J.03, by adding a subdivision; 62L.02, subdivisions 9, 13, 17, 24, and by adding subdivisions; 62L.03, subdivision 1; 62L.05, subdivisions 1, 5, and 8; 62L.06; 62L.07, subdivision 2; 62L.08, subdivisions 2, 5, 6, and 7; 62L.12; 62L.21, subdivision 2; 62M.02, subdivisions 5 and 21; 62M.03, subdivisions 1, 2, and 3; 62M.05, subdivision 3; 62M.06, subdivision 3; 62M.09, subdivision 5; 144.335, by adding a subdivision; 144.581, subdivision 2; 256.9355, by adding a subdivision; 256.9358, subdivision 4; 295.50, by adding subdivisions; and 318.02, by adding a subdivision; Minnesota Statutes 1993 Supplement, sections 43A.317, by adding a subdivision; 60K.14, subdivision 7; 61B.20, subdivision 13; 62A.011, subdivision 3; 62A.65, subdivisions 2, 3, 4, 5, and by adding subdivisions; 62D.12, subdivision 17; 62J.03, subdivision 6; 62J.04, subdivisions 1 and 1a; 62J.09, subdivisions 1a and 2; 62J.33, by adding subdivisions; 62J.35, subdivisions 2 and 3; 62J.38; 62J.41, subdivision 2; 62J.45, by adding subdivisions; 62L.02, subdivisions 8, 11, 15, 16, 19, and 26; 62L.03, subdivisions 3, 4, and 5; 62L.04, subdivision 1; 62L.08, subdivisions 4 and 8; 62N.01; 62N.02, subdivisions 1, 8, and by adding a subdivision; 62N.06, subdivision 1; 62N.065, subdivision 1; 62N.10, subdivisions 1 and 2; 62N.22; 62N.23; 62P.01; 62P.03; 62P.04; 62P.05; 144.1486; 151.21, subdivisions 7 and 8; 256.9352, subdivision 3; 256.9353, subdivisions 3 and 7; 256.9354, subdivisions 1, 4, 5, and 6; 256.9356, subdivision 3; 256.9362, subdivision 6; 256.9363, subdivisions 6, 7, and 9; 256.9657, subdivision 3; 295.50, subdivisions 3, 4, and 12b; 295.52, subdivision 5; 295.53, subdivisions 1, 2, and 5; 295.54; 295.58; and 295.582; Laws 1992, chapter 549, article 9, section 22; proposing coding for new law in Minnesota Statutes, chapters 62A; 62J; 62N; 62P; 144; and 317A; proposing coding for new law as Minnesota Statutes, chapter 62Q; repealing Minnesota Statutes 1992, sections 62A.02, subdivision 5; 62E.51; 62E.52; 62E.53; 62E.531; 62E.54; 62E.55; and 256.362, subdivision 5; Minnesota Statutes 1993 Supplement, sections 62J.04, subdivision 8; 62N.07; 62N.075; 62N.08; 62N.085; and 62N.16.

Senate File No. 2192 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 5, 1994

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2015, and repassed said bill in accordance with the Report of the Committee, so adopted.

S.F. No. 2015: A bill for an act relating to metropolitan government; providing for a regional administrator and a management team; imposing organizational requirements; imposing duties; clarifying existing provisions and making conforming changes; amending Minnesota Statutes 1992, sections 6.76; 15.0597, subdivision 1; 15A.081, subdivision 7; 15A.082, subdivision 3; 16B.58, subdivision 7; 116.16, subdivision 2; 116.182, subdivision 1; 161.173; 161.174; 169.781, subdivision 1; 169.791, subdivision 5; 169.792, subdivision 11; 221.022; 221.041, subdivision 4; 221.071, subdivision 1; 221.295; 297B.09, subdivision 1; 352.03, subdivision 1; 352.75; 422A.01, subdivision 9; 422A.101, subdivision 2a; 471A.02, subdivision 8; 473.121, subdivisions 5a and 24; 473.123, subdivisions 1, 2a, and 4; 473.129; 473.13, subdivision 4; 473.146, subdivisions 1 and 4; 473.149, subdivision 3; 473.1623, subdivision 2; 473.164; 473.168, subdivision 2; 473.173, subdivisions 3 and 4; 473.223; 473.303, subdivisions 2, 3a, 4, 4a, 5, and 6; 473.371, subdivision 1; 473.375, subdivisions 11, 12, 13, 14, and 15; 473.382; 473.384, subdivisions 1, 3, 4, 5, 6, 7, and 8; 473.385; 473.386, subdivisions 1, 2, 3, 4, 5, and 6; 473.387, subdivisions 2, 3, and 4; 473.388, subdivisions 2, 3, 4, and 5; 473.39, subdivisions 1, 1a, 1b, and by adding a subdivision; 473.391; 473.392; 473.394; 473.399, as amended; 473.405, subdivisions 1, 3, 4, 5, 9, 10, 12, and 15; 473.408, subdivisions 1, 2, 2a, 4, 6, and 7; 473.409; 473.411, subdivisions 3 and 4; 473.415, subdivisions 1, 2, and 3; 473.416; 473.418; 473.42; 473.436, subdivisions 2, 3, and 6; 473.446, subdivisions 1, 1a, 2, 3, and 7; 473.448; 473.449; 473.504, subdivisions 4, 5, 6, 9, 10, 11, and 12; 473.511, subdivisions 1, 2, 3, and 4; 473.512, subdivision 1; 473.513; 473.515, subdivisions 1, 2, and 3; 473.5155, subdivisions 1 and 3; 473.516, subdivisions 2, 3, 4, and 5; 473.517, subdivisions 1, 2, 3, 6, and 9; 473.519; 473.521, subdivisions 1, 2, 3, and 4; 473.523, subdivisions 1 and 2; 473.535; 473.541, subdivision 2; 473.542; 473.543, subdivisions 1, 2, 3, and 4; 473.545; 473.547; 473.549; 473.553, subdivisions 1, 2, 4, 5, and by adding subdivisions; 473.561; 473.595, subdivision 3; 473.605, subdivision 2; 473.823, subdivision 3; and 473.852, subdivisions 8 and 10; Minnesota Statutes 1993 Supplement, sections 10A.01, subdivision 18; 15A.081, subdivision 1; 115.54; 174.32, subdivision 2; 216C.15, subdivision 1; 221.025; 221.031, subdivision 3a; 275.065, subdivisions 3 and 5a; 352.01, subdivisions 2a and 2b; 352D.02, subdivision 1; 353.64, subdivision 7a; 400.08, subdivision 3; 473.13, subdivision 1; 473.1623, subdivision 3; 473.167, subdivision 1; 473.386, subdivision 2a; 473.3994, subdivision 10; 473.3997; 473.4051; 473.407, subdivisions 1, 2, 3, 4, 5, and 6; 473.411, subdivision 5; 473.446, subdivision 8; and 473.516, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 1992, sections 115A.03, subdivision 20; 115A.33; 174.22, subdivision 4; 473.121, subdivisions 14a, 15, and 21; 473.122; 473.123, subdivisions 3, 5, and 6; 473.141, as amended; 473.146, subdivisions 2, 2a, 2b, and 2c; 473.153; 473.161; 473.163; 473.181, subdivision 3; 473.325, subdivision 5; 473.373, as amended; 473.375, subdivisions 1, 2, 3, 4, 5, 6, 7, 10, 16, 17, and 18; 473.377; 473.38; 473.384, subdivision 9; 473.388, subdivision 6; 473.404, as amended; 473.405, subdivisions 2, 6, 7, 8, 11, 13, and 14; 473.417; 473.435; 473.436, subdivision 7; 473.445, subdivisions 1 and 3; 473.501, subdivision 2; 473.503; 473.504, subdivisions 1, 2, 3, 7, and 8; 473.511, subdivision 5; 473.517, subdivision 8; 473.543, subdivision 5; and 473.553, subdivision 4a; Minnesota Statutes 1993 Supplement, section 473.3996, subdivisions 1 and 2.

Senate File No. 2015 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 5, 1994

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2129, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2129: A bill for an act relating to adoption; regulating certain advertising and payments in connection with adoption; regulating agencies; providing for direct adoptive placement; providing for the enforceability of postadoption contact agreements; providing penalties; amending Minnesota Statutes 1992, sections 144.227, subdivision 1, and by adding a subdivision; 245A.03, subdivision 1; 245A.04, by adding a subdivision; 245A.07, by adding a subdivision; 259.21, by adding subdivisions; 259.22, subdivisions 1, 2, and by adding a subdivision; 259.27, by adding a subdivision; 259.31; and 317A.907, subdivision 6; Minnesota Statutes 1993 Supplement, section 245A.03, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 259.

Senate File No. 2129 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 5, 1994

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 180, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 180: A bill for an act relating to horse racing; proposing an amendment to the Minnesota Constitution, article X, section 8; permitting the legislature to authorize pari-mutuel betting on horse racing without limitation; directing the Minnesota racing commission to prepare and submit legislation to implement televised off-site betting.

Senate File No. 180 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 5, 1994

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 3179, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 3179 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 5, 1994

CONFERENCE COMMITTEE REPORT ON H.F. NO. 3179

A bill for an act relating to waters; preservation of wetlands; creating the

wetlands wildlife legacy account; modifying easements; drainage and filling for public roads; defining terms; board action on local government plans; action on approval of replacement plans; computation of value; establishing special vehicle license plates for wetlands wildlife purposes; amending Minnesota Statutes 1992, sections 103F.516, subdivision 1; 103G.2242, subdivisions 1, 5, 6, 7, and 8; and 103G.237, subdivision 4; Minnesota Statutes 1993 Supplement, sections 103G.222; and 103G.2241; proposing coding for new law in Minnesota Statutes, chapters 84; and 168.

May 4, 1994

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 3179, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 3179 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 103F.161, subdivision 1, is amended to read:

Subdivision 1. [GRANTS AUTHORIZED.] *(a)* The commissioner may make grants to local governments to:

(1) conduct floodplain damage reduction studies to determine the most feasible, practical, and effective methods and programs for mitigating the damages due to flooding within flood prone rural and urban areas and their watersheds; and

(2) plan and implement flood mitigation measures.

(b) The commissioner may cooperate with the North Dakota state water commission, local governmental units, and local water management organizations in this state and in North Dakota, and the United States Army Corps of Engineers to develop hydrologic models and conduct studies to evaluate the practicality and feasibility of flood control measures along the Red river from East Grand Forks to the Canadian border. The commissioner may make grants to local governmental units for these purposes. Flood control measures that may be investigated include agricultural and urban levee systems, wetland restoration, floodwater impoundments, farmstead ring-dikes, and stream maintenance activities.

Sec. 2. Minnesota Statutes 1992, section 103F.516, subdivision 1, is amended to read:

Subdivision 1. [EASEMENTS.] Upon application by a landowner, the board may acquire permanent easements on land containing type 1, 2, ~~or~~ 3, *or 6* wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition).

Sec. 3. Minnesota Statutes 1993 Supplement, section 103G.222, is amended to read:

103G.222 [REPLACEMENT OF WETLANDS.]

(a) After the effective date of the rules adopted under section 103B.3355 or 103G.2242, whichever is later, wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value under ~~either~~ a replacement plan approved as provided in section 103G.2242, *a replacement plan under a local governmental unit's comprehensive wetland protection and management plan approved by the board under section 103G.2242, subdivision 1, paragraph (c),* or, if a permit to mine is required under section 93.481, under a mining reclamation plan approved by the commissioner under the permit to mine. Mining reclamation plans shall apply the same principles and standards for replacing wetlands by restoration or creation of wetland areas that are applicable to mitigation plans approved as provided in section 103G.2242.

(b) Replacement must be guided by the following principles in descending order of priority:

(1) avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

(2) minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

(3) rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;

(4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and

(5) compensating for the impact by replacing or providing substitute wetland resources or environments.

(c) If a wetland is located in a cultivated field, then replacement must be accomplished through restoration only without regard to the priority order in paragraph (b), provided that a deed restriction is placed on the altered wetland prohibiting nonagricultural use for at least ten years.

(d) Restoration and replacement of wetlands must be accomplished in accordance with the ecology of the landscape area affected.

(e) Replacement shall be within the same watershed or county as the impacted wetlands, as based on the wetland evaluation in section 103G.2242, subdivision 2, except that counties or watersheds in which 80 percent or more of the presettlement wetland acreage is intact may accomplish replacement in counties or watersheds in which 50 percent or more of the presettlement wetland acreage has been filled, drained, or otherwise degraded. Wetlands impacted by public transportation projects may be replaced statewide, provided they are approved by the commissioner under an established wetland banking system, or under the rules for wetland banking as provided for under section 103G.2242.

(f) Except as provided in paragraph (g), for a wetland located on nonagricultural land, replacement must be in the ratio of two acres of replaced wetland for each acre of drained or filled wetland.

(g) For a wetland located on agricultural land or in counties or watersheds in which 80 percent or more of the presettlement wetland acreage exists,

replacement must be in the ratio of one acre of replaced wetland for each acre of drained or filled wetland.

(h) Wetlands that are restored or created as a result of an approved replacement plan are subject to the provisions of this section for any subsequent drainage or filling.

(i) Except in counties or watersheds where 80 percent or more of the presettlement wetlands are intact, only wetlands that have been restored from previously drained or filled wetlands, wetlands created by excavation in nonwetlands, wetlands created by dikes or dams along public or private drainage ditches, or wetlands created by dikes or dams associated with the restoration of previously drained or filled wetlands may be used in a statewide banking program established in rules adopted under section 103G.2242, subdivision 1. Modification or conversion of nondegraded naturally occurring wetlands from one type to another are not eligible for enrollment in a statewide wetlands bank.

(j) The technical evaluation panel established under section 103G.2242, subdivision 2, shall ensure that sufficient time has occurred for the wetland to develop wetland characteristics of soils, vegetation, and hydrology before recommending that the wetland be deposited in the statewide wetland bank. If the technical evaluation panel has reason to believe that the wetland characteristics may change substantially, the panel shall postpone its recommendation until the wetland has stabilized.

(k) This section and sections 103G.223 to 103G.2242, 103G.2364, and 103G.2365 apply to the state and its departments and agencies.

Sec. 4. Minnesota Statutes 1993 Supplement, section 103G.2241, is amended to read:

103G.2241 [EXEMPTIONS.]

(a) Subject to the conditions in paragraph (b), a replacement plan for wetlands is not required for:

(1) activities in a wetland that was planted with annually seeded crops, was in a crop rotation seeding of pasture grasses or legumes, or was required to be set aside to receive price support or other payments under United States Code, title 7, sections 1421 to 1469, in six of the last ten years prior to January 1, 1991;

(2) activities in a wetland that is or has been enrolled in the federal conservation reserve program under United States Code, title 16, section 3831, that:

(i) was planted with annually seeded crops, was in a crop rotation seeding, or was required to be set aside to receive price support or payment under United States Code, title 7, sections 1421 to 1469, in six of the last ten years prior to being enrolled in the program; and

(ii) has not been restored with assistance from a public or private wetland restoration program;

(3) activities necessary to repair and maintain existing public or private drainage systems as long as wetlands that have been in existence for more than 20 years are not drained;

(4) activities in a wetland that has received a commenced drainage determination provided for by the federal Food Security Act of 1985, that was made to the county agricultural stabilization and conservation service office prior to September 19, 1988, and a ruling and any subsequent appeals or reviews have determined that drainage of the wetland had been commenced prior to December 23, 1985;

(5) activities exempted from federal regulation under United States Code, title 33, section 1344(f);

(6) activities authorized under, and conducted in accordance with, an applicable general permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344, except the nationwide permit in Code of Federal Regulations, title 33, section 330.5, paragraph (a), clause (14), limited to when a new road crosses a wetland, and all of clause (26);

(7) activities in a type 1 wetland on agricultural land, as defined in United States Fish and Wildlife Circular No. 39 (1971 edition) except for bottomland hardwood type 1 wetlands;

(8) activities in a type 2 wetland that is two acres in size or less located on agricultural land;

(9) activities in a wetland restored for conservation purposes under a contract or easement providing the landowner with the right to drain the restored wetland;

(10) activities in a wetland created solely as a result of:

(i) beaver dam construction;

(ii) blockage of culverts through roadways maintained by a public or private entity;

(iii) actions by public entities that were taken for a purpose other than creating the wetland; or

(iv) any combination of (i) to (iii);

(11) placement, maintenance, repair, enhancement, or replacement of utility or utility-type service, including the transmission, distribution, or furnishing, at wholesale or retail, of natural or manufactured gas, electricity, telephone, or radio service or communications if:

(i) the impacts of the proposed project on the hydrologic and biological characteristics of the wetland have been avoided and minimized to the extent possible; and

(ii) the proposed project significantly modifies or alters less than one-half acre of wetlands;

(12) activities associated with routine maintenance of utility and pipeline rights-of-way, provided the activities do not result in additional intrusion into the wetland;

(13) alteration of a wetland associated with the operation, maintenance, or repair of an interstate pipeline;

(14) temporarily crossing or entering a wetland to perform silvicultural activities, including timber harvest as part of a forest management activity, so

long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the activities do not result in the construction of dikes, drainage ditches, tile lines, or buildings; and the timber harvesting and other silvicultural practices do not result in the drainage of the wetland or public waters;

(15) permanent access for forest roads across wetlands so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the construction activities do not result in the access becoming a dike, drainage ditch or tile line; with filling avoided wherever possible; and there is no drainage of the wetland or public waters;

(16) ~~activities associated with routine maintenance or repair of existing public highways, roads, streets, and bridges, provided the activities do not result in additional intrusion into the wetland outside of the existing right-of-way~~ *draining or filling up to one-half acre of wetlands for the repair, rehabilitation, or replacement of a previously authorized, currently serviceable existing public road, provided that minor deviations in the public road's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards, that are necessary to make repairs, rehabilitation, or replacement are allowed if the wetland draining or filling resulting from the repair, rehabilitation, or replacement is minimized*;

(17) emergency repair and normal maintenance and repair of existing public works, provided the activity does not result in additional intrusion of the public works into the wetland and do not result in the draining or filling, wholly or partially, of a wetland;

(18) normal maintenance and minor repair of structures causing no additional intrusion of an existing structure into the wetland, and maintenance and repair of private crossings that do not result in the draining or filling, wholly or partially, of a wetland;

(19) duck blinds;

(20) aquaculture activities, including pond excavation and construction and maintenance of associated access roads and dikes authorized under, and conducted in accordance with, a permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344, but not including construction or expansion of buildings;

(21) wild rice production activities, including necessary diking and other activities authorized under a permit issued by the United State Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344;

(22) normal agricultural practices to control pests or weeds, defined by rule as either noxious or secondary weeds, in accordance with applicable requirements under state and federal law, including established best management practices;

(23) activities in a wetland that is on agricultural land annually enrolled in the federal Food, Agricultural, Conservation, and Trade Act of 1990, United States Code, title 16, section 3821, subsection (a), clauses (1) to (3), as amended, and is subject to sections 1421 to 1424 of the federal act in effect on January 1, 1991, except that land enrolled in a federal farm program is

eligible for easement participation for those acres not already compensated under a federal program;

(24) development projects and ditch improvement projects in the state that have received preliminary or final plat approval, or infrastructure that has been installed, or having local site plan approval, conditional use permits, or similar official approval by a governing body or government agency, within five years before July 1, 1991. In the seven-county metropolitan area and in cities of the first and second class, plat approval must be preliminary as approved by the appropriate governing body; and

(25) activities that result in the draining or filling of less than 400 square feet of wetlands.

(b) *For the purpose of paragraph (a), clause (16), "currently serviceable" means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction. Paragraph (a), clause (16), authorizes the repair, rehabilitation, or replacement of public roads destroyed by storms, floods, fire, or other discrete events, provided the repair, rehabilitation, or replacement is commenced or under contract to commence within two years of the occurrence of the destruction or damage.*

(c) A person conducting an activity in a wetland under an exemption in paragraph (a) shall ensure that:

(1) appropriate erosion control measures are taken to prevent sedimentation of the water;

(2) the activity does not block fish passage in a watercourse; and

(3) the activity is conducted in compliance with all other applicable federal, state, and local requirements, including best management practices and water resource protection requirements established under chapter 103H.

Sec. 5. Minnesota Statutes 1992, section 103G.2242, subdivision 1, is amended to read:

Subdivision 1. [RULES.] (a) By July 1, 1993, the board, in consultation with the commissioner, shall adopt rules governing the approval of wetland value replacement plans under this section. These rules must address the criteria, procedure, timing, and location of acceptable replacement of wetland values; may address the state establishment and administration of a wetland banking program for public and private projects, which may include provisions allowing monetary payment to the wetland banking program for alteration of wetlands on agricultural land; the methodology to be used in identifying and evaluating wetland functions; the administrative, monitoring, and enforcement procedures to be used; and a procedure for the review and appeal of decisions under this section. In the case of peatlands, the replacement plan rules must consider the impact on carbon balance described in the report required by Laws 1990, chapter 587, and include the planting of trees or shrubs.

(b) After the adoption of the rules, a replacement plan must be approved by a resolution of the governing body of the local government unit, consistent with the provisions of the rules.

(c) *The board may approve as an alternative to the rules adopted under this subdivision a comprehensive wetland protection and management plan developed by a local government unit, provided that the plan:*

(1) incorporates sections 103A.201, subdivision 2, and 103G.222;

(2) is adopted as part of an approved local water plan under sections 103B.231 and 103B.311; and

(3) is adopted as part of the local government's official controls.

(d) If the local government unit fails to apply the rules, *or fails to implement a local program under paragraph (c),* the government unit is subject to penalty as determined by the board.

Sec. 6. Minnesota Statutes 1992, section 103G.2242, subdivision 5, is amended to read:

Subd. 5. [PROCESSING FEE.] The local government unit may charge ~~a~~ processing ~~fee of up to $75~~ *fees in amounts not greater than are necessary to cover the reasonable costs of implementing the rules adopted under subdivision 1.*

Sec. 7. Minnesota Statutes 1992, section 103G.2242, subdivision 6, is amended to read:

Subd. 6. [NOTICE OF APPLICATION.] *(a) Except as provided in paragraph (b),* within ten days of receiving an application for approval of a replacement plan under this section, a copy of the application must be submitted to the board for publication in the Environmental Quality Board Monitor and separate copies mailed to individual members of the public who request a copy, the board of supervisors of the soil and water conservation district, the managers of the watershed district, the board of county commissioners, the commissioner of agriculture, and the mayors of the cities within the area watershed. At the same time, the local government unit must give general notice to the public in a general circulation newspaper within the area affected.

(b) Within ten days of receiving an application for approval of a replacement plan under this section for an activity affecting less than 10,000 square feet of wetland, a summary of the application must be submitted for publication in the Environmental Quality Board Monitor and separate copies mailed to the members of the technical evaluation panel, individual members of the public who request a copy, and the managers of the watershed district, if applicable. At the same time, the local government unit must give general notice to the public in a general circulation newspaper within the area affected.

Sec. 8. Minnesota Statutes 1992, section 103G.2242, subdivision 7, is amended to read:

Subd. 7. [NOTICE OF DECISION.] *(a) Except as provided in paragraph (b),* at least 30 days prior to the effective date of the approval or denial of a replacement plan under this section, a copy of the approval or denial must be submitted for publication in the Environmental Quality Board Monitor and separate copies mailed to the applicant, the board, individual members of the public who request a copy, the board of supervisors of the soil and water conservation district, the managers of the watershed district, the board of county commissioners, the commissioner of agriculture, and the mayors of the cities within the area watershed.

(b) Within ten days of the decision approving or denying a replacement plan under this section for an activity affecting less than 10,000 square feet of

wetland, a summary of the approval or denial must be submitted for publication in the Environmental Quality Board Monitor and separate copies mailed to the applicant, individual members of the public who request a copy, the members of the technical evaluation panel, and the managers of the watershed district, if applicable. At the same time, the local government unit must give general notice to the public in a general circulation newspaper within the area affected.

Sec. 9. Minnesota Statutes 1992, section 103G.2242, subdivision 8, is amended to read:

Subd. 8. [PUBLIC COMMENT PERIOD.] *Except for activities impacting less than 10,000 square feet of wetland,* before approval or denial of a replacement plan under this section, comments may be made by the public to the local government unit for a period of 30 days.

Sec. 10. Minnesota Statutes 1992, section 103G.237, subdivision 4, is amended to read:

Subd. 4. [COMPENSATION.] *(a)* The board shall award compensation in an amount equal to 50 percent of the *value of the wetland, calculated by multiplying the acreage of the wetland by the greater of:*

(1) the average equalized estimated market value of agricultural property in the township as established by the commissioner of revenue at the time application for compensation is made*; or*

(2) the assessed value per acre of the parcel containing the wetland, based on the assessed value of the parcel as stated on the most recent tax statement.

(b) A person who receives compensation under paragraph (a) shall convey to the board a permanent conservation easement as described in section 103F.515, subdivision 4. An easement conveyed under this paragraph is subject to correction and enforcement under section 103F.515, subdivisions 8 and 9.

Sec. 11. [INTERGOVERNMENTAL AGREEMENTS.]

The legislature encourages the use of intergovernmental agreements between federal, state, and local governmental entities for the purpose of further coordinating and simplifying implementation of regulatory programs relating to activities in wetlands.

Sec. 12. [PERMANENT WETLANDS PRESERVE; ELIGIBILITY OF WATER BANK PARTICIPANTS.]

Notwithstanding Minnesota Statutes, section 103F.516, subdivision 1, an owner of property that, as of July 1, 1991, was subject to an easement agreement under Minnesota Statutes, section 103F.601, is eligible for participation in the permanent wetlands preserve program under Minnesota Statutes, section 103F.516.

Sec. 13. [EFFECTIVE DATE.]

Section 10 is effective July 1, 1994, and applies to applications for compensation received by the board of water and soil resources on or after that date. Section 9 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act to wetlands; authorizing grants for flood control measures along a portion of the Red river; allowing alternative wetland regulation under county plans; expanding types of wetlands that may be used in the state wetland bank; modifying exemptions; clarifying the applicability of the wetland conservation act to the state; streamlining notice requirements for smaller wetland projects; adding an alternative compensation formula; expanding eligibility for the permanent wetlands preserve; amending Minnesota Statutes 1992, sections 103F.161, subdivision 1; 103F.516, subdivision 1; 103G.2242, subdivisions 1, 5, 6, 7, and 8; and 103G.237, subdivision 4; Minnesota Statutes 1993 Supplement, sections 103G.222; and 103G.2241."

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

House Conferees: (Signed) Willard Munger, Steve Trimble, Mike Jaros

Senate Conferees: (Signed) LeRoy A. Stumpf, Steve Dille, Leonard R. Price

Mr. Stumpf moved that the foregoing recommendations and Conference Committee Report on H.F. No. 3179 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.

H.F. No. 3179 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 50 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Day	Johnston	Luther	Ranum
Anderson	Dille	Kelly	Marty	Reichgott Junge
Belanger	Finn	Kiscaden	McGowan	Runbeck
Benson, D.D.	Flynn	Knutson	Merriam	Solon
Berg	Frederickson	Kroening	Morse	Spear
Berglin	Hanson	Laidig	Oliver	Stevens
Bertram	Hottinger	Langseth	Olson	Stumpf
Betzold	Johnson, D.E.	Larson	Pariseau	Terwilliger
Chandler	Johnson, D.J.	Lesewski	Piper	Vickerman
Cohen	Johnson, J.B.	Lessard	Price	Wiener

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

MESSAGES FROM THE HOUSE – CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1899, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1899 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 5, 1994

CONFERENCE COMMITTEE REPORT ON 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.

May 5, 1994

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 1899, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 1899 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1993 Supplement, section 3.841, is amended to read:

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

A legislative commission to review administrative rules, consisting of five senators appointed by the ~~committee~~ *subcommittee* on committees *of the committee on rules and administration* of the senate and five representatives appointed by the speaker of the house of representatives shall be appointed

within 30 days after the convening of the legislative session. Its members must include the chair or ~~vice chair~~ *the chair's designee* of the committees in each body having jurisdiction over administrative rules. The commission shall meet at the call of its chair or upon a call signed by two of its members or signed by five members of the legislature. The office of chair of the legislative commission shall alternate between the two houses of the legislature every two years.

Sec. 2. Minnesota Statutes 1992, section 3.842, is amended by adding a subdivision to read:

Subd. 6. [REPORTS ON RULEMAKING GRANTS.] *Beginning with a report submitted to the legislature on February 1, 2000, and every four years after that date, the commission shall compile a list of all general and specific grants of rulemaking of all agencies. The report should include a brief description of each grant and a citation to the authorizing statute.*

Sec. 3. Minnesota Statutes 1992, section 3.842, is amended by adding a subdivision to read:

Subd. 7. [PUBLICATION OF RULES BULLETIN.] *The commission shall periodically publish a bulletin highlighting controversial proposed rules and other developments of interest in rulemaking. The bulletin shall be available to legislators and to the general public.*

Sec. 4. [3.985] [RULE NOTES.]

The governor or the chair of a standing committee to which a bill delegating rulemaking authority has been referred may require an agency to which the rulemaking authority is granted under a bill to prepare a rulemaking note on the proposed delegation of authority. The rulemaking note shall contain any of the following information requested by the governor or the chair of the standing committee: the reasons for the grant of authority; the person or groups the rules would impact; estimated cost of the rule for affected persons; estimated cost to the agency of adopting the rules; and any areas of controversy anticipated by the agency. The rulemaking note must be delivered to the governor and to the chair of the standing committee to which the bill delegating the rulemaking authority has been referred.

Sec. 5. Minnesota Statutes 1992, section 10A.02, is amended by adding a subdivision to read:

Subd. 12a. [RULES.] *If the board intends to apply principles of law or policy announced in an advisory opinion issued under subdivision 12 more broadly than to the individual or association to whom the opinion was issued, the board must adopt these principles or policies as rules under chapter 14.*

Sec. 6. [REPEALER.]

Minnesota Statutes 1993 Supplement, section 3.984, is repealed.

Sec. 7. [EFFECTIVE DATE.]

Section 5 is effective July 1, 1995."

Delete the title and insert:

"A bill for an act relating to state government; modifying the composition and duties of the legislative commission to review administrative rules; modifying the statutory rule note requirements for bills delegating rulemaking

authority; requiring rulemaking by the ethical practices board under certain circumstances; amending Minnesota Statutes 1992, sections 3.842, by adding subdivisions; and 10A.02, by adding a subdivision; Minnesota Statutes 1993 Supplement, section 3.841; proposing coding for new law in Minnesota Statutes, chapter 3; and repealing Minnesota Statutes 1993 Supplement, section 3.984."

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

House Conferees: (Signed) Mindy Greiling, Phyllis Kahn, Peggy Leppik

Senate Conferees: (Signed) John C. Hottinger, Don Betzold, Duane D. Benson

Mr. Hottinger moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1899 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.

H.F. No. 1899 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 52 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

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, pursuant to Rule 40 and on request of Mr. Pogemiller, first author, recommends that

H.F. No. 1925: A bill for an act relating to education; lowering the property tax revenue recognition shift; clarifying state aid payments; modifying the appeal process for school districts to revise the state-aid payment schedule; modifying the tax credit adjustment; amending Minnesota Statutes 1992, sections 121.904, subdivision 4e; and 124.195, subdivision 3a; Minnesota Statutes 1993 Supplement, section 121.904, subdivisions 4a and 4c; Laws 1993, chapter 224, article 1, section 38.

be withdrawn from the Committee on Education, given its second reading and placed on General Orders. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, pursuant to Rule 40 and on request of Mr. Johnson, D.E., first author, recommends that

H.F. No. 218: A bill for an act relating to public administration; authorizing spending to acquire and to better public land and buildings and other public improvements of a capital nature with certain conditions; authorizing a marine education center at the Minnesota zoological garden; authorizing issuance of bonds; appropriating money, with certain conditions.

be withdrawn from the Committee on Finance, given its second reading and placed on General Orders. Report adopted.

SECOND READING OF HOUSE BILLS

H.F. Nos. 1925 and 218 were read the second time.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 7:30 p.m. The motion prevailed.

The hour of 7:30 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Novak moved that the following members be excused for a Conference Committee on S.F. No. 1706 at 7:30 p.m.:

Messrs. Novak, Metzen, Murphy, Dille and Riveness. The motion prevailed.

MOTIONS AND RESOLUTIONS – CONTINUED

S.F. No. 2289 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2289

A bill for an act relating to the environment; authorizing a person who wishes to construct or expand an air emission facility to reimburse certain costs of the pollution control agency; appropriating money; amending Minnesota Statutes 1992, section 116.07, subdivision 4d.

May 4, 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. 2289, 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. 2289 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1992, section 116.07, subdivision 4d, is amended to read:

Subd. 4d. [PERMIT FEES.] (a) The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of reviewing and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The agency shall adopt rules under section 16A.128 establishing the amounts and methods of collection of any permit fees collected under this subdivision. The fee schedule must reflect reasonable and routine permitting, implementation, and enforcement costs. The agency may impose an additional enforcement fee to be collected for a period of up to two years to cover the reasonable costs of implementing and enforcing the conditions of a permit under the rules of the agency. Any money collected under this paragraph shall be deposited in the special revenue account.

(b) Notwithstanding paragraph (a), and section 16A.128, subdivision 1, the agency shall collect an annual fee from the owner or operator of all stationary sources, emission facilities, emissions units, air contaminant treatment facilities, treatment facilities, potential air contaminant storage facilities, or storage facilities subject to the requirement to obtain a permit under Title V of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104, pages 2399 et seq., or section 116.081. The annual fee shall be used to pay for all direct and indirect reasonable costs, including attorney general costs, required to develop and administer the permit program requirements of Title V of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104, pages 2399 et seq., and sections of this chapter and the rules adopted under this chapter related to air contamination and noise. Those costs include the reasonable costs of reviewing and acting upon an application for a permit; implementing and enforcing statutes, rules, and the terms and conditions of a permit; emissions, ambient, and deposition monitoring; preparing generally applicable regulations; responding to federal guidance; modeling, analyses, and demonstrations; preparing inventories and tracking emissions; providing information to the public about these activities; and, after June 30, 1992, the costs of acid deposition monitoring currently assessed under section 116C.69, subdivision 3.

(c) The agency shall adopt fee rules in accordance with the procedures in section 16A.128, subdivisions 1a and 2a, that will result in the collection, in the aggregate, from the sources listed in paragraph (b), of the following amounts:

(1) in fiscal years 1992 and 1993, the amount appropriated by the legislature from the air quality account in the environmental fund for the agency's air quality program;

(2) for fiscal year 1994 and thereafter, an amount not less than $25 per ton of each volatile organic compound; pollutant regulated under United States Code, title 42, section 7411 or 7412 (section 111 or 112 of the federal Clean

Air Act); and each pollutant, except carbon monoxide, for which a national primary ambient air quality standard has been promulgated; and

(3) for fiscal year 1994 and thereafter, the agency fee rules may also result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than $25 per ton of each pollutant not listed in clause (2) that is regulated under Minnesota Rules, chapter 7005, or for which a state primary ambient air quality standard has been adopted.

The agency must not include in the calculation of the aggregate amount to be collected under the fee rules any amount in excess of 4,000 tons per year of each air pollutant from a source.

(d) To cover the reasonable costs described in paragraph (b), the agency shall provide in the rules promulgated under paragraph (c) for an increase in the fee collected in each year beginning after fiscal year 1993 by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of the year the fee is collected exceeds the Consumer Price Index for the calendar year 1989. For purposes of this paragraph the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year. The revision of the Consumer Price Index that is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

(e) Any money collected under paragraphs (b) to (d) must be deposited in an air quality account in the environmental fund and must be used solely for the activities listed in paragraph (b).

(f) Persons who wish to construct or expand an air emission facility may offer to reimburse the agency for the costs of staff overtime or consultant services needed to expedite permit review. The reimbursement shall be in addition to fees imposed by paragraphs (a) to (d). When the agency determines that it needs additional resources to review the permit application in an expedited manner, and that expediting the review would not disrupt air permitting program priorities, the agency may accept the reimbursement. Reimbursements accepted by the agency are appropriated to the agency for the purpose of reviewing the permit application. Reimbursement by a permit applicant shall precede and not be contingent upon issuance of a permit and shall not affect the agency's decision on whether to issue or deny a permit, what conditions are included in a permit, or the application of state and federal statutes and rules governing permit determinations.

Sec. 2. [REPORT.]

By June 1, 1995, the commissioner of the pollution control agency shall submit to the chairs of the environment and natural resources policy and finance committees of the house of representatives and the senate a report detailing the agency's experience under section 1, paragraph (f), including:

(1) the number of requests for expedited permit review;

(2) the number of staff hours used for each expedited review;

(3) the amount of reimbursements received by the agency from each person who requested expedited review;

(4) an indication of whether expedited review results in a sufficiently thorough examination of all aspects of a project or operation; and

(5) an analysis of the effect of expedited review on routine review of permit requests for other businesses or individuals."

Delete the title and insert:

"A bill for an act relating to the environment; authorizing a person who wishes to construct or expand an air emission facility to reimburse certain costs of the pollution control agency; requiring a report to the legislature; amending Minnesota Statutes 1992, section 116.07, subdivision 4d."

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

Senate Conferees: (Signed) Gene Merriam, Deanna Wiener, Gary W. Laidig

House Conferees: (Signed) Charlie Weaver, Phyllis Kahn, Ron Abrams

Mr. Merriam moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2289 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. 2289 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 43 and nays 14, as follows:

Those who voted in the affirmative were:

Belanger	Frederickson	Lessard	Pappas	Samuelson
Benson, D.D.	Hanson	Luther	Pariseau	Solon
Benson, J.E.	Johnson, D.E.	McGowan	Price	Spear
Berg	Johnson, D.J.	Merriam	Ranum	Stevens
Bertram	Knutson	Metzen	Reichgott Junge	Terwilliger
Betzold	Kroening	Moe, R.D.	Riveness	Vickerman
Chmielewski	Laidig	Mondale	Robertson	Wiener
Cohen	Langseth	Oliver	Runbeck	
Day	Larson	Olson	Sams	

Those who voted in the negative were:

Anderson	Finn	Johnson, J.B.	Krentz	Morse
Berglin	Flynn	Johnston	Lesewski	Piper
Chandler	Hottinger	Kiscaden	Marty	

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

MOTIONS AND RESOLUTIONS – CONTINUED

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 that the House has adopted the recommen-

dation and report of the Conference Committee on House File No. 984, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 984 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 5, 1994

CONFERENCE COMMITTEE REPORT ON H.F. NO. 984

A bill for an act relating to state government; modifying provisions relating to the department of administration; amending Minnesota Statutes 1992, sections 13B.04; 15.061; 16B.06, subdivision 2; 16B.17; 16B.19, subdivisions 2 and 10; 16B.24, subdivision 6, and by adding a subdivision; 16B.27, subdivision 3; 16B.32, subdivision 2; 16B.42; 16B.465, subdivision 6; 16B.48, subdivisions 2 and 3; 16B.49; 16B.51, subdivisions 2 and 3; 16B.85, subdivision 1; 94.10, subdivision 1; 343.01, subdivisions 2, 3, and by adding subdivisions; and 403.11, subdivision 1; Laws 1979, chapter 333, section 18; and Laws 1991, chapter 345, article 1, section 17, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 1992, sections 3.3026; 16B.41, subdivision 4; 16B.56, subdivision 4; Laws 1987, chapter 394, section 13.

April 25, 1994

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 984, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 984 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

DEPARTMENT OF ADMINISTRATION

Section 1. Minnesota Statutes 1992, section 13B.04, is amended to read:

13B.04 [REPORT.]

A responsible authority that participates in a matching program shall prepare a report describing matching programs in which the responsible authority has participated during the previous calendar year. The report must ~~be included in a state agency's description of its information systems prepared under section 3.3026, subdivision 3~~ *filed annually with the department of administration.*

Sec. 2. Minnesota Statutes 1992, section 16B.24, subdivision 6, is amended to read:

Subd. 6. [PROPERTY RENTAL.] (a) [LEASES.] The commissioner shall rent land and other premises when necessary for state purposes. *Notwithstanding subdivision 6a, paragraph (a),* the commissioner may lease land or premises for ~~five~~ *up to ten* years ~~or less~~, subject to cancellation upon 30 days written notice by the state for any reason except rental of other land or premises for the same use. The commissioner may not rent non-state-owned land and buildings or substantial portions of land or buildings within the capitol area as defined in section 15.50 unless the commissioner first consults with the capitol area architectural and planning board. If the commissioner enters into a lease-purchase agreement for buildings or substantial portions of buildings within the capitol area, the commissioner shall require that any new construction of non-state-owned buildings conform to design guidelines of the capitol area architectural and planning board. Lands needed by the department of transportation for storage of vehicles or road materials may be rented for five years or less, such leases for terms over two years being subject to cancellation upon 30 days written notice by the state for any reason except rental of other land or premises for the same use. An agency or department head must consult with the chairs of the house appropriations and senate finance committees before entering into any agreement that would cause an agency's rental costs to increase by ten percent or more per square foot or would increase the number of square feet of office space rented by the agency by 25 percent or more in any fiscal year.

(b) [USE VACANT PUBLIC SPACE.] No agency may initiate or renew a lease for space for its own use in a private building unless the commissioner has thoroughly investigated presently vacant space in public buildings, such as closed school buildings, and found that none is available *or use of the space is not feasible, prudent, and cost effective compared with available alternatives.*

(c) [PREFERENCE FOR CERTAIN BUILDINGS.] For needs beyond those which can be accommodated in state-owned buildings, the commissioner shall acquire and utilize space in suitable buildings of historical, architectural, or cultural significance for the purposes of this subdivision unless use of that space is not feasible, prudent and cost effective compared with available alternatives. Buildings are of historical, architectural, or cultural significance if they are listed on the national register of historic places, designated by a state or county historical society, or designated by a municipal preservation commission.

(d) [RECYCLING SPACE.] Leases for space of 30 days or more for 5,000 square feet or more must require that space be provided for recyclable materials.

Sec. 3. Minnesota Statutes 1992, section 16B.32, subdivision 2, is amended to read:

Subd. 2. [ENERGY CONSERVATION GOALS; EFFICIENCY PROGRAM.] (a) The commissioner of administration in consultation with the department of public service, in cooperation with one or more public utilities or comprehensive energy services providers, may conduct a shared-savings program involving energy conservation expenditures ~~of up to $15,000,000 by July 1, 1996,~~ on state-owned buildings. The public utility or energy services provider shall contract with appropriate state agencies to implement energy efficiency improvements in the selected buildings. A contract must require the public utility or energy services provider to include all energy efficiency

improvements in selected buildings that are calculated to achieve a cost payback within ten years. The contract must require that the public utility or energy services provider be repaid solely from energy cost savings and only to the extent of energy cost savings. Repayments must be interest-free. The goal of the program in this paragraph is to demonstrate that through effective energy conservation the total energy consumption per square foot of state-owned and wholly state-leased buildings could be reduced by at least 25 percent~~, and climate control energy consumption per square foot could be reduced by at least 15 percent~~ from consumption in the base year of 1990. *All agencies participating in the program must report to the commissioner of administration their monthly energy usage, building schedules, inventory of energy-consuming equipment, and other information as needed by the commissioner to manage and evaluate the program.*

(b) The commissioner may exclude from the program of paragraph (a) a building in which energy conservation measures are carried out. "Energy conservation measures" means measures that are applied to a state building that improve energy efficiency and have a simple return of investment in ~~five~~ *ten* years or within the remaining period of a lease, whichever time is shorter, and involves energy conservation, conservation facilities, renewable energy sources, improvements in operations and maintenance efficiencies, or retrofit activities.

~~(c) By January 1, 1993, the commissioner shall submit to the legislature a report that includes:~~

~~(1) an energy use survey of new or added space state buildings occupy;~~

~~(2) a plan for conserving energy without undertaking any physical alterations of the space;~~

~~(3) recommendations for physical alterations that would enable the agency to conserve additional energy along with an estimate of the cost of the alterations; and~~

~~(4) recommendations for additional legislation needed to achieve the goal along with an estimate of any costs associated with the recommended legislation.~~

Sec. 4. Minnesota Statutes 1993 Supplement, section 16B.42, subdivision 1, is amended to read:

Subdivision 1. [COMPOSITION.] The ~~commissioner of administration shall appoint an~~ intergovernmental information systems advisory council~~, to serve at the pleasure of the commissioner of administration, consisting of 25 members. Fourteen members shall be appointed or elected officials of local governments, seven shall be representatives of state agencies, and four shall be selected from the community at large. Further, the council shall be~~ *is* composed of (1) two members from each of the following groups: counties outside of the seven county metropolitan area, cities of the second and third class outside the metropolitan area, cities of the second and third class within the metropolitan area, and cities of the fourth class; (2) one member from each of the following groups: the metropolitan council, an outstate regional body, counties within the metropolitan area, cities of the first class, school districts in the metropolitan area, ~~and~~ school districts outside the metropolitan area, *and public libraries*; (3) one member each ~~from~~ *appointed by* the state departments of ~~administration,~~ education, human services, revenue, *and jobs*

and training, the office of strategic and long-range planning, and the legislative auditor; (4) one member from the office of the state auditor, *appointed by the auditor*; ~~and~~ (5) ~~four members from the state community at large. To the extent permitted by resources the commissioner shall furnish staff and other assistance as requested by the council~~ *the assistant commissioner of administration for the information policy office; (6) one member appointed by each of the following organizations: league of Minnesota cities, association of Minnesota counties, Minnesota association of township officers, and Minnesota association of school administrators; and (7) one member of the house of representatives appointed by the speaker and one member of the senate appointed by the subcommittee on committees of the committee on rules and administration. The legislative members appointed under clause (7) are nonvoting members. The commissioner of administration shall appoint members under clauses (1) and (2).* The terms, compensation, and removal of *the appointed* members of the advisory council ~~shall be~~ *are* as provided in section 15.059, but the council does not expire until June 30, ~~1995~~ *1997*.

Sec. 5. Minnesota Statutes 1992, section 16B.42, subdivision 2, is amended to read:

Subd. 2. [DUTIES.] The council shall*:* assist ~~the commissioner~~ *state and local agencies* in developing and updating intergovernmental information systems~~, including data definitions, format, and retention standards; recommend to the commissioner policies and procedures governing the collection, security, and confidentiality of data~~*; facilitate participation of users during the development of major revisions of intergovernmental information systems*; review intergovernmental information and computer systems involving intergovernmental funding; encourage cooperative efforts among *state and* local governments in developing *intergovernmental* information systems ~~to meet individual and collective, operational, and external needs; bring about the necessary degree of standardization consistent with local prerogatives; yield fiscal and other information required by state and federal laws and regulations in readily usable form~~; *present local government concerns to state government and state government concerns to local government with respect to intergovernmental information systems; develop and recommend standards and policies for intergovernmental information systems to the information policy office;* foster the efficient use of available federal, state, local, and private resources for the development of *intergovernmental* systems; keep ~~local governments~~ *government agencies* abreast of the state of the art in information systems~~, and~~*;* prepare guidelines for intergovernmental systems*; assist the commissioner of administration in the development of cooperative contracts for the purchase of information system equipment and software; and assist the legislature by providing advice on intergovernmental information systems issues.*

Sec. 6. Minnesota Statutes 1992, section 16B.42, subdivision 3, is amended to read:

Subd. 3. [OTHER DUTIES.] The intergovernmental informations systems advisory council shall (1) recommend to the commissioners of state departments, the legislative auditor, and the state auditor a method for the expeditious gathering and reporting of information and data between agencies and units of local government in accordance with cooperatively developed standards; (2) elect an executive committee, not to exceed seven members from its membership; (3) develop an annual plan, to include administration and evaluation of grants, in compliance with applicable rules; (4) provide

technical information systems assistance or guidance to local governments for development, implementation, and modification of automated systems, including formation of consortiums for those systems; *and (5) appoint committees and task forces, which may include persons other than council members, to assist the council in carrying out its duties.*

Sec. 7. Minnesota Statutes 1992, section 16B.42, subdivision 4, is amended to read:

Subd. 4. [FUNDING.] Appropriations and other funds made available to the council for staff, operational expenses, *projects,* and grants ~~must be administered through the department of administration~~ *are under the control of the council. The council may contract with the department of administration for staff services and administrative support. The council shall reimburse the department for these services. The council may request assistance from other state and local agencies in carrying out its duties.* Fees charged to local units of government for the administrative costs of the council and revenues derived from royalties, reimbursements, or other fees from software programs, systems, or technical services arising out of activities funded by current or prior state appropriations must be credited to the general fund. The unencumbered balance of an appropriation ~~for grants~~ in the first year of a biennium does not cancel but is available for the second year of the biennium.

Sec. 8. Minnesota Statutes 1992, section 16B.465, subdivision 3, is amended to read:

Subd. 3. [DUTIES.] The commissioner, after consultation with the council, shall:

(1) provide voice, data, video, and other telecommunications transmission services to the state and to political subdivisions through ~~the statewide telecommunications access routing system~~ *an account in the intertechnologies* revolving fund;

(2) manage vendor relationships, network function, and capacity planning in order to be responsive to the needs of the system users;

(3) set rates and fees for services;

(4) approve contracts relating to the system;

(5) develop the system plan, including plans for the phasing of its implementation and maintenance of the initial system, and the annual program and fiscal plans for the system; and

(6) develop a plan for interconnection of the network with private colleges in the state.

Sec. 9. Minnesota Statutes 1992, section 16B.465, subdivision 6, is amended to read:

Subd. 6. [REVOLVING FUND.] ~~The statewide telecommunications access and routing system shall operate as part of the intertechnologies revolving fund.~~ Money appropriated ~~to the account~~ *for the statewide telecommunications access routing system* and fees for ~~communications~~ *telecommunications* services ~~provided by the statewide telecommunications access and routing system~~ must be deposited in ~~the~~ *an* account *in the intertechnologies revolving fund.* Money in the account is appropriated annually to the commissioner to operate ~~the statewide~~ telecommunications ~~access and routing system~~ *services.*

Sec. 10. Minnesota Statutes 1992, section 16B.48, subdivision 2, is amended to read:

Subd. 2. [PURPOSE OF FUNDS.] Money in the state treasury credited to the general services revolving fund and money that is deposited in the fund is appropriated annually to the commissioner for the following purposes:

(1) to operate a central store and equipment service;

(2) to operate a central duplication and printing service;

(3) to ~~purchase postage and related items and to refund postage deposits as necessary to~~ operate the central mailing service, *including purchasing postage and related items and refunding postage deposits*;

(4) to operate a documents service as prescribed by section 16B.51;

(5) ~~to provide advice and other services to political subdivisions for the management of their telecommunication systems;~~

~~(6)~~ to provide services for the maintenance, operation, and upkeep of buildings and grounds managed by the commissioner of administration;

~~(7)~~ *(6)* to provide analytical, statistical, and organizational development services to state agencies, local units of government, metropolitan and regional agencies, and school districts;

~~(8)~~ *(7)* to provide capitol security services through the department of public safety;

~~(9)~~ *(8)* to operate a records center *and provide micrographics products and services*; and

~~(10)~~ *(9)* to perform services for any other agency. Money may be expended for this purpose only when directed by the governor. The agency receiving the services shall reimburse the fund for their cost, and the commissioner shall make the appropriate transfers when requested. The term "services" as used in this clause means compensation paid officers and employees of the state government; supplies, materials, equipment, and other articles and things used by or furnished to an agency; and utility services and other services for the maintenance, operation, and upkeep of buildings and offices of the state government.

Sec. 11. Minnesota Statutes 1992, section 16B.48, subdivision 3, is amended to read:

Subd. 3. [INTERTECHNOLOGIES REVOLVING FUND.] Money in the intertechnologies revolving fund is appropriated annually to the commissioner to operate information, ~~records,~~ and telecommunications services, *including management, consultation, and design services.*

Sec. 12. [16B.482] [REIMBURSEMENT FOR MATERIALS AND SERVICES.]

The commissioner may provide materials and services under this chapter to state legislative and judicial branch agencies, political subdivisions, the University of Minnesota, and federal government agencies. Legislative and judicial branch agencies, political subdivisions, the University of Minnesota, and federal government agencies purchasing materials and services from the

commissioner shall reimburse the general services, intertechnologies, and cooperative purchasing revolving funds for costs.

Sec. 13. Minnesota Statutes 1992, section 16B.49, is amended to read:

16B.49 [CENTRAL MAILING SYSTEM.]

The commissioner shall maintain and operate for agencies a central mailing system. Official mail of an agency occupying quarters ~~either in the capitol or in adjoining state buildings~~ *within the boundaries of the city of St. Paul* must be delivered unstamped to the central mailing station. Account must be kept of the postage required on that mail, which is then a proper charge against the agency delivering the mail. To provide funds for the payment of postage, each agency shall make advance payments to the commissioner sufficient to cover its postage obligations for at least 60 days.

Sec. 14. Minnesota Statutes 1992, section 16B.51, subdivision 2, is amended to read:

Subd. 2. [PRESCRIBE FEES.] The commissioner may prescribe fees to be charged for services rendered by the state or an agency in furnishing to those who request them certified copies of records or other documents, certifying that records or documents do not exist and furnishing other reports, publications, *data,* or related material which is requested. The fees, unless otherwise prescribed by law, may be fixed at the market rate. The commissioner of finance is authorized to approve the prescribed rates for the purpose of assuring that they, in total, will result in receipts greater than costs in the fund. Fees prescribed under this subdivision are deposited in the state treasury by the collecting agency and credited to the general services revolving fund. Nothing in this subdivision permits the commissioner of administration to furnish any service which is now prohibited or unauthorized by law.

Sec. 15. Minnesota Statutes 1992, section 16B.51, subdivision 3, is amended to read:

Subd. 3. [SALE OF PUBLICATIONS.] The commissioner may sell official reports, documents, *data,* and ~~other~~ publications of all kinds, may delegate their sale to state agencies, and may establish facilities for their sale within the department of administration and elsewhere within the state service. The commissioner may remit a portion of the price of any publication *or data* to the agency producing the publication *or data. Money that is remitted to an agency is annually appropriated to that agency to discharge the costs of preparing the publications or data.*

Sec. 16. [16B.581] [DISTINCTIVE TAX-EXEMPT LICENSE PLATES.]

Vehicles owned or leased by the state of Minnesota must display distinctive tax-exempt license plates unless otherwise exempted under section 168.012. The commissioner shall design these distinctive plates subject to the approval of the registrar. An administrative fee of $20 and a license plate fee of $10 for two plates per vehicle or a license plate fee of $5 for one plate per trailer is paid at the time of registration. The license plate registration is valid for the life of the vehicle or until the vehicle is no longer owned or leased by the state of Minnesota.

When the state of Minnesota applies for distinctive tax-exempt plates on vehicles previously owned by local units of government, it shall pay an administrative fee of $10 and a plate fee that covers the cost of replacement.

Sec. 17. Minnesota Statutes 1992, section 16B.85, subdivision 1, is amended to read:

Subdivision 1. [ALTERNATIVES TO CONVENTIONAL INSURANCE.] The commissioner may implement programs of insurance or alternatives to the purchase of conventional insurance ~~for~~. *This authority does not extend to* areas of risk ~~not~~ subject to*: (1)* collective bargaining agreements, *(2)* plans established under section 43A.18, or *(3)* programs established under sections 176.540 to 176.611, *except for the department of administration.* The mechanism for implementing possible alternatives to conventional insurance is the risk management fund created in subdivision 2.

Sec. 18. Minnesota Statutes 1992, section 343.01, is amended by adding a subdivision to read:

Subd. 1a. [MINNESOTA HUMANE SOCIETY; CONTINUATION CONFIRMED.] *The Minnesota humane society, also known as the Minnesota society for the prevention of cruelty, is confirmed and continued as a nonprofit organization under chapter 317A.*

Sec. 19. Minnesota Statutes 1992, section 343.01, is amended by adding a subdivision to read:

Subd. 1b. [INDEPENDENT ORGANIZATIONS; POWERS OF THE FEDERATED HUMANE SOCIETIES.] *(a) The Minnesota humane society, also known as the Minnesota society for the prevention of cruelty, and the Minnesota federated humane societies are not affiliated with each other or with the state of Minnesota.*

(b) The Minnesota federated humane societies have the powers given to it under this chapter.

Sec. 20. Minnesota Statutes 1992, section 343.01, subdivision 2, is amended to read:

Subd. 2. [~~NAME OF FEDERATION~~ *UNAUTHORIZED USE OF NAMES PROHIBITED.*] It ~~shall be~~ *is* unlawful for any organization, association, firm or corporation not ~~authorized by~~ *named in* this chapter to refer to itself as or in any way to use the names Minnesota federated humane societies, Minnesota society for the prevention of cruelty, the Minnesota humane society, or any combination of words or phrases using the above names which would imply that it represents, acts in behalf or is a branch of the *society or the* federation.

Sec. 21. Minnesota Statutes 1992, section 343.01, subdivision 3, is amended to read:

Subd. 3. [POWERS AND DUTIES.] The federation *and the society* must *each* be governed by a board of directors designated in accordance with chapter 317A. The powers, duties, and organization of the federation *and the society* and other matters for the conduct of the business of the federation ~~shall be~~ *and the society are* as provided in chapter 317A and in the ~~federation's~~ articles of incorporation and bylaws *of each organization.*

Sec. 22. Minnesota Statutes 1992, section 403.11, subdivision 1, is amended to read:

Subdivision 1. [EMERGENCY TELEPHONE SERVICE FEE.] (a) Each customer of a local exchange company is assessed a fee to cover the costs of

ongoing maintenance and related improvements for trunking and central office switching equipment for minimum 911 emergency telephone service, plus administrative and staffing costs of the department of administration related to managing the 911 emergency telephone service program. Recurring charges by a public utility providing telephone service for updating the information required by section 403.07, subdivision 3, must be paid by the commissioner ~~for information~~ *of administration* if the utility is included in an approved 911 plan and the charges have been certified and approved under subdivision 3. *Money remaining in the 911 emergency telephone service account after all other obligations are paid must not cancel and is carried forward to subsequent years and may be appropriated from time to time to the commissioner of administration to provide financial assistance to counties for the improvement of local emergency telephone services. The improvements may include providing access to minimum 911 service for telephone service subscribers currently without access and upgrading existing 911 service to include automatic number identification, local location identification, automatic location identification, and other improvements specified in revised county 911 plans approved by the department.*

(b) The fee may not be less than eight cents nor more than 30 cents a month for each customer access line, including trunk equivalents as designated by the public utilities commission for access charge purposes. The fee must be the same for all customers.

(c) The fee must be collected by each utility providing local exchange telephone service. Fees are payable to and must be submitted to the commissioner of administration monthly before the 25th of each month following the month of collection, except that fees may be submitted quarterly if less than $250 a month is due, or annually if less than $25 a month is due. Receipts must be deposited in the state treasury and credited to a 911 emergency telephone service account in the special revenue fund. The money in the account may only be used for 911 telephone services as provided in paragraph (a).

(d) The commissioner of administration, with the approval of the commissioner of finance, shall establish the amount of the fee within the limits specified and inform the utilities of the amount to be collected. Utilities must be given a minimum of 45 days notice of fee changes.

Sec. 23. Laws 1979, chapter 333, section 18, as amended by Laws 1987, chapter 365, section 23, is amended to read:

Sec. 18. [ADMINISTRATION]

General Operations and Management	15,136,500	15,595,900
Approved Complement – 956		
General – 485		
Special – 11		
Federal – 7		
Revolving – 453		

The amounts that may be expended from this appropriation for each program are as follows:

Management Services

$ 3,311,200 $ 3,493,300

The commissioner of administration shall transfer two positions from management analysis to records management to allow the department to meet its responsibilities for records management. These positions may revert to management analysis when they are no longer needed to meet those responsibilities.

Real Property Management

$ 7,804,200 $ 7,780,900

~~The commissioner of administration shall charge the department of transportation and the iron range resources and rehabilitation board for engineering services performed on behalf of these agencies.~~

The unencumbered balance in appropriation accounts 16078:14-11 and 16072:14-11 shall be cancelled on July 1, 1979.

State Agency Services

$ 1,224,400 $ 1,222,000

For 1979 – $169,200

$169,200 is appropriated from the general fund to the surplus property revolving fund. Of this amount, $67,700 is immediately available for payment of outstanding obligations, $40,000 is immediately available as working capital, and $61,500 is available for the reduction of obligations incurred between March 1, 1979, and February 29, 1980.

The commissioner of administration shall provide a monthly report to the commissioner of finance consisting of: an operations statement, a balance sheet, an analysis of changes in retained earnings, and a source and use of funds statement. The commissioner of finance is responsible for approving the allotment of the $61,500 portion of the appropriation and shall give his approval when potential deficiencies are forecast. If it appears that the $61,500 portion of the appropriation will be exhausted prior to January 15, 1980, the commissioner of finance shall promptly notify the governor and the legislative advisory commission of the need for an additional appropriation.

The commissioner of administration shall by January 15, 1980, provide copies of all monthly reports through the period ending December 31, 1979, to the senate finance committee and the house appropriations committee. The commissioner of finance shall by January 15, 1980, recommend the continuance or discontinuance of the federal surplus property activity to the committee on finance in the senate and the committee on appropriations of the house of representatives.

Public Services

$ 1,748,900 $ 2,053,400

$37,000 the first year and $40,700 the second year is for the state contribution to the National Conference of State Legislatures.

$43,900 each year is for the state contribution to the Council of State Governments.

$6,500 each year is for the expenses of the Interstate Cooperation Commission.

$5,000 each year is for the Minnesota state employees band.

General Support

$ 1,047,800 $ 1,046,300

The commissioner of administration with the approval of the commissioner of finance may transfer unencumbered balances not specified for a particular purpose among the above programs. Transfers shall be reported forthwith to the committee on finance of the senate and the committee on appropriations of the house of representatives.

Sec. 24. Laws 1991, chapter 345, article 1, section 17, subdivision 4, as amended by Laws 1992, chapter 514, section 20, is amended to read:

Subd. 4. Property Management

23,387,000 8,349,000

$175,000 the first year and $175,000 the second year from the program's total appropriation are for capitol area repairs and replacements. Any unencumbered balance remaining in the first year does not cancel and is available for the second year.

$3,825,000 the first year and $3,884,000 the second year are for office space costs of the legislature and veterans organizations, for ceremonial space, and for statutorily free space.

The department of administration shall discontinue food service management in the state office building for the biennium ending June 30, 1993. Food service shall be managed by the house rules committee as a pilot project for the biennium.

$50,000 the first year is for the commissioner of administration to study the potential uses for the Waseca campus. The commissioner shall appoint an advisory committee to assist with the study. The commissioner shall report the findings and recommendations from the study to the board of regents, and the education, appropriations, and finance committees of the legislature by January 15, 1992. The appropriation is available if matched by $1 of nonstate money for each $10 of this

appropriation. In addition, the board of regents of the University of Minnesota is requested to provide additional funding up to $50,000 to assist in the cost of the study.

The department of administration in consultation with the capitol area architectural and planning board shall study the historic renovation and potential reuse of the Dahl house and report to the senate finance and house appropriations committees by February 1, 1992.

~~By January 31, 1993,~~ The department of administration shall relocate the state printing ~~operation~~ *and related operations* from the Ford building to a more suitable location, ~~preferably outside the capitol complex~~ and shall relocate and consolidate offices of the attorney general in the Ford building~~.~~ *when* the Ford building ~~shall be~~ *is* remodeled as office space *or when a replacement building is constructed on the site.*

By December 31, 1992, the department of administration shall relocate the office of the state auditor to a location within the capitol complex.

$350,000 the first year is for developing a framework for an integrated infrastructure management system including the establishment of a database of building classification standards. The commissioner of administration shall report by January 1, 1992, on the time and cost of continuing the program for fiscal year 1993.

$961,000 the first year is to improve security at state parking ramps and lots, to be available upon final enactment.

$13,781,000 is for the costs relating to agency relocation, consolidation, and collocation, to be available upon final enactment.

Sec. 25. [APPROPRIATION.]

(a) $100,000 is appropriated from the 911 emergency telephone service account in the special revenue fund to the commissioner of administration to provide emergency poison information through the 911 emergency telephone service. $50,000 is for fiscal year 1994 and $50,000 is for fiscal year 1995.

(b) $100,000 is appropriated from the 911 emergency telephone service account in the special revenue fund to the commissioner of administration to

provide financial assistance to counties for the improvement of local emergency telephone services. The improvements may include providing access to minimum 911 service for telephone service subscribers currently without access and upgrading existing 911 service to include automatic number identification, local location identification, automatic location identification, and other improvements specified in revised county 911 plans approved by the department. $50,000 is for fiscal year 1994 and $50,000 is for fiscal year 1995.

Sec. 26. [REPEALER.]

Minnesota Statutes 1992, sections 3.3026; 16B.56, subdivision 4; and Laws 1987, chapter 394, section 13, are repealed.

Sec. 27. [EFFECTIVE DATE.]

Sections 7 to 10 are effective on July 1, 1994. Sections 1 to 6 and 11 to 26 are effective the day following final enactment.

ARTICLE 2

STATE BUILDING CODE

Section 1. Minnesota Statutes 1992, section 16B.60, subdivision 3, is amended to read:

Subd. 3. [MUNICIPALITY.] "Municipality" means a city, county, or town meeting the requirements of section 368.01, subdivision 1, the University of Minnesota, or the state for public buildings *and state licensed facilities.*

Sec. 2. Minnesota Statutes 1992, section 16B.60, is amended by adding a subdivision to read:

Subd. 11. [STATE LICENSED FACILITIES.] *"State licensed facilities" means a building and its grounds that are licensed by the state as a hospital, nursing home, supervised living facility, free-standing outpatient surgical center, or correctional facility.*

Sec. 3. Minnesota Statutes 1992, section 16B.61, subdivision 1a, is amended to read:

Subd. 1a. [ADMINISTRATION BY COMMISSIONER.] The commissioner shall administer and enforce the state building code as a municipality with respect to public buildings *and state licensed facilities* in the state. The commissioner shall establish appropriate permit, plan review, and inspection fees for public buildings *and state licensed facilities.* Fees and surcharges for public buildings *and state licensed facilities* must be remitted to the commissioner, who shall deposit them in the state treasury for credit to the special revenue fund.

Municipalities other than the state having a contractual agreement with the commissioner for code administration and enforcement service for public buildings *and state licensed facilities* shall charge their customary fees, including surcharge, to be paid directly to the contractual jurisdiction by the applicant seeking authorization to construct a public building *or a state licensed facility.* The commissioner shall contract with a municipality other than the state for plan review, code administration, and code enforcement service for public buildings *and state licensed facilities* in the contractual jurisdiction if the building officials of the municipality meet the requirements

of section 16B.65 and wish to provide those services and if the commissioner determines that the municipality has enough adequately trained and qualified building inspectors to provide those services for the construction project.

Sec. 4. Minnesota Statutes 1992, section 16B.61, subdivision 4, is amended to read:

Subd. 4. [REVIEW OF PLANS FOR PUBLIC BUILDINGS *AND STATE LICENSED FACILITIES*.] Construction or remodeling may not begin on any public building ~~owned by the~~ *or* state *licensed facility* until the plans and specifications ~~of the public building~~ have been approved by the commissioner *or municipality under contractual agreement pursuant to subdivision 1a*. ~~In the case of any other public building,~~ The plans and specifications must be submitted ~~to the commissioner~~ for review, and within 30 days after receipt of the plans and specifications, the commissioner *or municipality under contractual agreement* shall notify the submitting authority of any ~~recommendations~~ *corrections*.

Sec. 5. Minnesota Statutes 1992, section 16B.62, subdivision 1, is amended to read:

Subdivision 1. [MUNICIPAL ENFORCEMENT.] The state building code applies statewide and supersedes the building code of any municipality. The state building code does not apply to agricultural buildings except with respect to state inspections required or rulemaking authorized by sections 103F.141, 216C.19, subdivision 8, and 326.244. All municipalities shall adopt and enforce the state building code with respect to new construction within their respective jurisdictions.

If a city has adopted or is enforcing the state building code on June 3, 1977, or determines by ordinance after that date to undertake enforcement, it shall enforce the code within the city. A city may by ordinance extend the enforcement of the code to contiguous unincorporated territory not more than two miles distant from its corporate limits in any direction. Where two or more noncontiguous cities which have elected to enforce the code have boundaries less than four miles apart, each is authorized to enforce the code on its side of a line equidistant between them. Once enforcement authority is extended extraterritorially by ordinance, the authority may continue to be exercised in the designated territory even though another city less than four miles distant later elects to enforce the code. After the extension, the city may enforce the code in the designated area to the same extent as if the property were situated within its corporate limits.

A city which, on June 3, 1977, had not adopted the code may not commence enforcement of the code within or outside of its jurisdiction until it has provided written notice to the commissioner, the county auditor, and the town clerk of each town in which it intends to enforce the code. A public hearing on the proposed enforcement must be held not less than 30 days after the notice has been provided. Enforcement of the code by the city *outside of its jurisdiction* commences on the first day of January in the year following the notice and hearing.

Municipalities may provide for the issuance of permits, inspection, and enforcement within their jurisdictions by means which are convenient, and lawful, including by means of contracts with other municipalities pursuant to section 471.59, and with qualified individuals. ~~In areas outside of the enforcement authority of a city, the fee charged for the issuance of permits and~~

~~inspections for single family dwellings may not exceed the greater of $100 or .005 times the value of the structure, addition, or alteration.~~ The other municipalities or qualified individuals may be reimbursed by retention or remission of some or all of the building permit fee collected or by other means. In areas of the state where inspection and enforcement is unavailable from qualified employees of municipalities, the commissioner shall train and designate individuals available to carry out inspection and enforcement on a fee basis.

Sec. 6. Minnesota Statutes 1992, section 16B.66, is amended to read:

16B.66 [CERTAIN INSPECTIONS.]

The state building inspector may, upon an application setting forth a set of plans and specifications that will be used in more than one municipality to acquire building permits, review and approve the application for the construction or erection of any building or structure designed to provide dwelling space for no more than two families if the set of plans meets the requirements of the state building code. All costs incurred by the state building inspector by virtue of the examination of the set of plans and specifications must be paid by the applicant. ~~The plans and specifications or any plans and specifications required to be submitted to a state agency must be submitted to the state building inspector who shall examine them and if necessary distribute them to the appropriate state agencies for scrutiny regarding adequacy as to electrical, fire safety, and all other appropriate features. These state agencies shall examine and promptly return the plans and specifications together with their certified statement as to the adequacy of the instruments regarding that agency's area of concern.~~ A building official shall issue a building permit upon application and presentation to the official of a set of plans and specifications bearing the approval of the state building inspector if the requirements of all other local ordinances are satisfied.

Sec. 7. Minnesota Statutes 1992, section 16B.70, subdivision 2, is amended to read:

Subd. 2. [COLLECTION AND REPORTS.] All permit surcharges must be collected by each municipality and a portion of them remitted to the state. Each municipality having a population greater than 20,000 people shall prepare and submit to the commissioner once a month a report of fees and surcharges on fees collected during the previous month but shall retain *the greater of* two percent ~~of the surcharges~~ *or that amount* collected *up to $25* to apply against the administrative expenses the municipality incurs in collecting the surcharges. All other municipalities shall submit the report and surcharges on fees once a quarter but shall retain *the greater of* four percent ~~of the surcharges~~ *or that amount* collected *up to $25* to apply against the administrative expenses the municipalities incur in collecting the surcharges. The report, which must be in a form prescribed by the commissioner, must be submitted together with a remittance covering the surcharges collected by the 15th day following the month or quarter in which the surcharges are collected. All surcharges and other fees prescribed by sections 16B.59 to ~~16B.71~~ *16B.73*, which are payable to the state, must be paid to the commissioner who shall deposit them in the state treasury for credit to the general fund.

Sec. 8. Minnesota Statutes 1992, section 16B.72, is amended to read:

16B.72 [REFERENDA ON STATE BUILDING CODE IN NONMETROPOLITAN COUNTIES.]

Notwithstanding any other provision of law to the contrary, a county that is not a metropolitan county as defined by section 473.121, subdivision 4, may provide, by a vote of the majority of its electors residing outside of municipalities that have adopted the state building code before January 1, 1977, that no part of the state building code except the building requirements for handicapped persons applies within its jurisdiction.

The county board may submit to the voters at a regular or special election the question of adopting the building code. The county board shall submit the question to the voters if it receives a petition for the question signed by a number of voters equal to at least five percent of those voting in the last general election. The question on the ballot must be stated substantially as follows:

"Shall the state building code be adopted in ..... County?"

If the majority of the votes cast on the proposition is in the negative, the state building code does not apply in the subject county, outside home rule charter or statutory cities or towns that adopted the building code before January 1, 1977, except the building requirements for handicapped persons do apply.

Nothing in this section precludes a ~~home rule charter or statutory city or town~~ *municipality* that did not adopt the state building code before January 1, 1977, from adopting and enforcing *by ordinance or other legal means* the state building code within its jurisdiction.

Sec. 9. Minnesota Statutes 1992, section 16B.73, is amended to read:

16B.73 [STATE BUILDING CODE IN MUNICIPALITIES UNDER 2,500; LOCAL OPTION.]

The governing body of a municipality whose population is less than 2,500 may provide that the state building code, except the requirements for handicapped persons, will not apply within the jurisdiction of the municipality, if the municipality is located in whole or in part within a county exempted from its application under section 16B.72. If more than one municipality has jurisdiction over an area, the state building code continues to apply unless all municipalities having jurisdiction over the area have provided that the state building code, except the requirements for handicapped persons, does not apply within their respective jurisdictions. *Nothing in this section precludes a municipality from adopting and enforcing by ordinance or other legal means the state building code within its jurisdiction.*

Sec. 10. [INSTRUCTION TO REVISOR.]

In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall change each reference to "state building inspector" to "state building official" in sections 16B.62, subdivision 2; 16B.63, subdivisions 1 to 4; 16B.64, subdivision 7; and 16B.66.

Sec. 11. [EFFECTIVE DATE.]

This article is effective the day following final enactment, except that section 7 is effective July 1, 1994."

Delete the title and insert:

"A bill for an act relating to state government; modifying provisions relating to the department of administration; including state licensed facilities in coverage by the state building code; clarifying certain language and changing certain duties of the state building inspector and fee provisions; appropriating money; amending Minnesota Statutes 1992, sections 13B.04; 16B.24, subdivision 6; 16B.32, subdivision 2; 16B.42, subdivisions 2, 3, and 4; 16B.465, subdivisions 3 and 6; 16B.48, subdivisions 2 and 3; 16B.49; 16B.51, subdivisions 2 and 3; 16B.60, subdivision 3, and by adding a subdivision; 16B.61, subdivisions 1a and 4; 16B.62, subdivision 1; 16B.66; 16B.70, subdivision 2; 16B.72; 16B.73; 16B.85, subdivision 1; 343.01, subdivisions 2, 3, and by adding subdivisions; and 403.11, subdivision 1; Minnesota Statutes 1993 Supplement, sections 16B.42, subdivision 1; Laws 1979, chapter 333, section 18, as amended; Laws 1991, chapter 345, article 1, section 17, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapter 16B; repealing Minnesota Statutes 1992, sections 3.3026; 16B.56, subdivision 4; and Laws 1987, chapter 394, section 13."

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

House Conferees: (Signed) Richard "Rick" Krueger, Phyllis Kahn, Jerry Knickerbocker, Joe Opatz, Phil Krinkie

Senate Conferees: (Signed) Phil J. Riveness, Deanna Wiener, John C. Hottinger, Roy W. Terwilliger, Linda Runbeck

Mr. Riveness moved that the foregoing recommendations and Conference Committee Report on H.F. No. 984 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.

H.F. No. 984 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 54 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 11:00 p.m. The motion prevailed.

The hour of 11:00 p.m. having arrived, the President called the Senate to order.

MEMBERS EXCUSED

Mr. Johnson, D.E. was excused from the Session of today from 9:30 a.m. to 2:00 p.m. Ms. Wiener was excused from the Session of today from 11:00 a.m. to 1:20 p.m. Mr. Stevens was excused from the Session of today from 9:30 a.m. to 12:30 p.m. Ms. Pappas was excused from the Session of today from 10:00 to 11:00 a.m. Mr. Laidig was excused from the Session of today from 9:30 to 11:45 a.m. Mr. Metzen was excused from the Session of today from 9:30 to 11:30 a.m. and 12:00 noon to 1:00 p.m. Mr. Solon was excused from the Session of today from 12:00 noon to 1:00 p.m. Mr. Sams was excused from the Session of today from 10:00 to 10:30 a.m. and 5:00 to 5:30 p.m. Mr. Novak was excused from the Session of today from 10:00 a.m. to 1:30 p.m. Mr. Vickerman was excused from the Session of today from 1:45 to 2:15 p.m. Messrs. Beckman and Mondale were excused from the Session of today from 5:00 to 5:30 p.m. Mrs. Adkins was excused from this evening's Session.

The following member was excused from today's Session for brief periods of time: Mr. Pogemiller.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 10:00 a.m., Friday, May 6, 1994. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate