

TWENTY-FOURTH DAY

St. Paul, Minnesota, Monday, March 13, 1995

The Senate met at 11:00 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Michael L. Molenaar.

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

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

Anderson	Flynn	Krentz	Morse	Robertson
Beckman	Frederickson	Kroening	Neuville	Runbeck
Belanger	Hanson	Laidig	Novak	Sams
Berg	Janezich	Langseth	Oliver	Samuelson
Berglin	Johnson, D.E.	Larson	Olson	Scheevel
Bertram	Johnson, D.J.	Lesewski	Ourada	Solon
Betzold	Johnson, J.B.	Lessard	Pappas	Spear
Chandler	Johnston	Limmer	Pariseau	Stevens
Chmielewski	Kelly	Marty	Piper	Stumpf
Cohen	Kiscaden	Merriam	Pogemiller	Terwilliger
Day	Kleis	Metzen	Price	Vickerman
Dille	Knutson	Moe, R.D.	Reichgott Junge	Wiener
Finn	Kramer	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 communication was received and referred to the committee indicated.

December 15, 1994

The Honorable Allan H. Spear
President of the Senate

Dear Sir:

The following appointment for the Director of the Office of Environmental Assistance is respectfully submitted to the Minnesota State Senate for confirmation as required by law:

Edward A. Garvey, 32 Lawton Street, St. Paul, Ramsey County, effective January 3, 1995.

(Referred to the Committee on Environment and Natural Resources.)

Sincerely,
Charles W. Williams
Commissioner
Pollution Control Agency

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the adoption by the House of the following Senate Concurrent Resolution, herewith returned:

Senate Concurrent Resolution No. 6: A Senate concurrent resolution relating to adoption of revenue targets under Minnesota Statutes 1994, section 16A.102, subdivision 2.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 9, 1995

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 228, 273, 496, 282, 782, 346, 536, 565 and 624.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 9, 1995

FIRST READING OF HOUSE BILLS

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

H.F. No. 228: A bill for an act relating to occupations and professions; board of medical practice; reinstating certain advisory councils.

Referred to the Committee on Governmental Operations and Veterans.

H.F. No. 273: A bill for an act relating to motor vehicles; allowing license plates for collector vehicles to be transferred and reissued; imposing fees; amending Minnesota Statutes 1994, section 168.10, subdivisions 1a, 1b, 1c, 1d, 1h, and by adding a subdivision.

Referred to the Committee on Transportation and Public Transit.

H.F. No. 496: A bill for an act relating to education; providing for disclosure of past buyout arrangements by superintendents to be; amending Minnesota Statutes 1994, section 123.34, by adding a subdivision.

Referred to the Committee on Judiciary.

H.F. No. 282: A bill for an act relating to state government; permitting state employees to donate vacation leave for the benefit of a certain state employee.

Referred to the Committee on Governmental Operations and Veterans.

H.F. No. 782: A bill for an act relating to Western Lake Superior Sanitary District; providing for compliance with certain requirements of the Internal Revenue Code; proposing coding for new law in Minnesota Statutes, chapter 458D.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 427.

H.F. No. 346: A bill for an act relating to health; defining first responder; amending Minnesota Statutes 1994, section 144.801, by adding a subdivision.

Referred to the Committee on Health Care.

H.F. No. 536: A bill for an act relating to commerce; residential building contractors; regulating licensees; providing a clarification; amending Minnesota Statutes 1994, sections 326.83, subdivision 5, and by adding a subdivision; 326.84, subdivision 3; 326.91, subdivision 1; 326.95, subdivision 2; and 326.975, subdivision 1.

Referred to the Committee on Commerce and Consumer Protection.

H.F. No. 565: A bill for an act relating to metropolitan area housing; authorizing the metropolitan council to operate a federal section 8 housing program within the metropolitan area pursuant to joint exercise of powers agreements; amending Minnesota Statutes 1994, section 473.195, subdivision 1.

Referred to the Committee on Metropolitan and Local Government.

H.F. No. 624: A bill for an act relating to public employees; providing a leave of absence for public employees who are candidates for elective office; proposing coding for new law in Minnesota Statutes, chapter 179A.

Referred to the Committee on Governmental Operations and Veterans.

REPORTS OF COMMITTEES

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

Mr. Bertram from the Committee on Agriculture and Rural Development, to which was re-referred

S.F. No. 325: A bill for an act relating to taxation; providing a sales tax exemption for sales of certain nonprocessed feed and bedding for horses; amending Minnesota Statutes 1994, section 297A.25, by adding a subdivision.

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

Page 1, line 11, delete "other than" and insert "including"

Amend the title as follows:

Page 1, line 3, delete "certain nonprocessed"

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

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

S.F. No. 446: A bill for an act relating to commerce; restraint of trade; repealing price markup provisions in the sales discrimination law; amending Minnesota Statutes 1994, section 325D.06; and repealing Minnesota Statutes 1994, section 325D.08.

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

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

S.F. No. 588: A bill for an act relating to consumer protection; regulating deceptive trade practices related to environmental marketing claims; amending Minnesota Statutes 1994, section 8.31, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 325E.

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

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

S.F. No. 305: A bill for an act relating to commerce; motor vehicle sales and distribution; regulating the establishment and relocation of dealerships; amending Minnesota Statutes 1994, section 80E.14.

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

Page 2, line 21, delete the first comma and insert "or" and delete ", or acquiescence"

Page 2, line 22, delete "in the establishment" and delete "a" and insert "an additional" and after "location" insert "by its line make dealer"

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

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

S.F. No. 423: A bill for an act relating to real estate; requiring the commissioner of commerce to design a required disclosure short form to be used in all residential real estate transactions.

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

Delete everything after the enacting clause and insert:

"Section 1. [UNIFORM DISCLOSURE BOOKLET.]

The commissioner of commerce shall design a uniform disclosure booklet to be used in all Minnesota residential real estate transactions. The uniform disclosure booklet shall combine as many of the required federal and state disclosures as is practical into one readable and concise document that simplifies the disclosure process. The booklet shall organize the disclosures into subject categories. The commissioner shall not change the language of the disclosures included in the booklet. The commissioner shall present the uniform disclosure booklet, along with any enacting legislation, to the legislature by January 15, 1996.

The commissioner may appoint a study group to provide advice in designing the uniform disclosure booklet. If the commissioner appoints a study group, members shall include, but are not limited to, representatives of real estate agents, the real property law section of the Minnesota state bar association, closing agents, title insurers, mortgage bankers, the attorney general's consumer division, the commissioner of health, and the pollution control agency.

The commissioner also may recommend amending or repealing any state mandated real estate disclosure currently in effect.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day after final enactment."

Delete the title and insert:

"A bill for an act relating to real estate; requiring the commissioner of commerce to design a uniform disclosure booklet to be used in all residential real estate transactions."

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

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

S.F. No. 121: A bill for an act relating to insurance; providing a remedy to an insured when an

insurer refuses in bad faith to pay or to settle a claim; awarding attorney fees and costs to an insured who prevails in a first-party coverage action against an insurer; proposing coding for new law in Minnesota Statutes, chapter 72A.

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

Delete everything after the enacting clause and insert:

"Section 1. [72A.136] [INSURER BAD FAITH; REMEDY.]

Subdivision 1. [CAUSE OF ACTION.] An insured under any fire or homeowner's insurance policy issued pursuant to section 60A.06, subdivision 1, clause (1), may bring an action against the insurer issuing the policy alleging that the insurer refused in bad faith to pay a claim made by the insured under the provisions of the policy. An insurer has refused to pay a claim in bad faith if the insurer refused to pay the claim without having a reasonable basis for the refusal, and, at the time of the refusal, the insurer knew there was no reasonable basis for the refusal or acted in reckless disregard of the lack of a reasonable basis for the refusal. An insurer has not acted in bad faith in refusing to pay an insured's claim if the claim is fairly debatable, in law or in fact. This section shall not apply to an action by an insured or a third party against an insurer for wrongful failure to provide a defense or to settle a third-party claim under a liability insurance contract. This section shall not apply to a township mutual fire insurance company.

Subd. 2. [DAMAGES.] In an action under this section, an insured may recover compensatory damages in excess of the policy limits and also may recover punitive damages pursuant to sections 549.191 and 549.20. An insured shall not recover punitive damages in excess of \$100,000 under this section. An insured who prevails in an action under this section shall recover reasonable attorney fees and costs.

Subd. 3. [NONPREEMPTION.] The remedy specified in this section does not preempt any other remedy or cause of action provided for pursuant to statute or pursuant to the common law of this state.

Subd. 4. [LIMITATION PERIOD.] An action under this section shall be commenced within three years of the bad faith act, notwithstanding any policy provision to the contrary.

Sec. 2. Minnesota Statutes 1994, section 72A.20, subdivision 12, is amended to read:

Subd. 12. [UNFAIR SERVICE.] Causing or permitting with such frequency to indicate a general business practice any unfair, deceptive, or fraudulent act concerning any claim or complaint of an insured or claimant including, but not limited to, the following practices:

- (1) misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
- (2) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;
- (3) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (4) refusing to pay claims without conducting a reasonable investigation based upon all available information;
- (5) failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- (6) not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;
- (7) compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by the insureds;
- (8) attempting to settle a claim for less than the amount to which reasonable persons would have believed they were entitled by reference to written or printed advertising material accompanying or made part of an application;

(9) attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of, the insured;

(10) making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;

(11) making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(12) delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(13) failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;

(14) failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement;

(15) except for proof of ownership, requiring an insured as part of executing a proof of loss on a claim arising from a fire loss, to produce documentation or information that is dated more than five years from the date of loss.

Sec. 3. Minnesota Statutes 1994, section 72A.201, subdivision 4, is amended to read:

Subd. 4. [STANDARDS FOR CLAIM FILING AND HANDLING.] The following acts by an insurer, an adjuster, a self-insured, or a self-insurance administrator constitute unfair settlement practices:

(1) except for claims made under a health insurance policy, after receiving notification of claim from an insured or a claimant, failing to acknowledge receipt of the notification of the claim within ten business days, and failing to promptly provide all necessary claim forms and instructions to process the claim, unless the claim is settled within ten business days. The acknowledgment must include the telephone number of the company representative who can assist the insured or the claimant in providing information and assistance that is reasonable so that the insured or claimant can comply with the policy conditions and the insurer's reasonable requirements. If an acknowledgment is made by means other than writing, an appropriate notation of the acknowledgment must be made in the claim file of the insurer and dated. An appropriate notation must include at least the following information where the acknowledgment is by telephone or oral contact:

- (i) the telephone number called, if any;
- (ii) the name of the person making the telephone call or oral contact;
- (iii) the name of the person who actually received the telephone call or oral contact;
- (iv) the time of the telephone call or oral contact; and
- (v) the date of the telephone call or oral contact;

(2) failing to reply, within ten business days of receipt, to all other communications about a claim from an insured or a claimant that reasonably indicate a response is requested or needed;

(3) unless provided otherwise by law or in the policy, failing to complete its investigation and inform the insured or claimant of acceptance or denial of a claim within 30 business days after receipt of notification of claim unless the investigation cannot be reasonably completed within that time. In the event that the investigation cannot reasonably be completed within that time, the insurer shall notify the insured or claimant within the time period of the reasons why the

investigation is not complete and the expected date the investigation will be complete. For claims made under a health policy the notification of claim must be in writing;

(4) where evidence of suspected fraud is present, the requirement to disclose their reasons for failure to complete the investigation within the time period set forth in clause (3) need not be specific. The insurer must make this evidence available to the department of commerce if requested;

(5) failing to notify an insured who has made a notification of claim of all available benefits or coverages which the insured may be eligible to receive under the terms of a policy and of the documentation which the insured must supply in order to ascertain eligibility;

(6) unless otherwise provided by law or in the policy, requiring an insured to give written notice of loss or proof of loss within a specified time, and thereafter seeking to relieve the insurer of its obligations if the time limit is not complied with, unless the failure to comply with the time limit prejudices the insurer's rights and then only if the insurer gave prior notice to the insured of the potential prejudice;

(7) advising an insured or a claimant not to obtain the services of an attorney or an adjuster, or representing that payment will be delayed if an attorney or an adjuster is retained by the insured or the claimant;

(8) failing to advise in writing an insured or claimant who has filed a notification of claim known to be unresolved, and who has not retained an attorney, of the expiration of a statute of limitations at least 60 days prior to that expiration. For the purposes of this clause, any claim on which the insurer has received no communication from the insured or claimant for a period of two years preceding the expiration of the applicable statute of limitations shall not be considered to be known to be unresolved and notice need not be sent pursuant to this clause;

(9) demanding information which would not affect the settlement of the claim;

(10) unless expressly permitted by law or the policy, refusing to settle a claim of an insured on the basis that the responsibility should be assumed by others;

(11) failing, within 60 business days after receipt of a properly executed proof of loss, to advise the insured of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to the provision, condition, or exclusion is included in the denial. The denial must be given to the insured in writing with a copy filed in the claim file;

(12) denying or reducing a claim on the basis of an application which was altered or falsified by the agent or insurer without the knowledge of the insured;

(13) failing to notify the insured of the existence of the additional living expense coverage when an insured under a homeowners policy sustains a loss by reason of a covered occurrence and the damage to the dwelling is such that it is not habitable;

(14) failing to inform an insured or a claimant that the insurer will pay for an estimate of repair if the insurer requested the estimate and the insured or claimant had previously submitted two estimates of repair;

(15) failing to inform the insured or claimant of acceptance or denial of a claim arising from a fire loss within 180 days after receipt of notification of the claim.

Sec. 4. Minnesota Statutes 1994, section 72A.201, subdivision 8, is amended to read:

Subd. 8. [STANDARDS FOR CLAIM DENIAL.] The following acts by an insurer, adjuster, or self-insured, or self-insurance administrator constitute unfair settlement practices:

(1) denying a claim or any element of a claim on the grounds of a specific policy provision, condition, or exclusion, without informing the insured of the policy provision, condition, or exclusion on which the denial is based;

- (2) denying a claim without having made a reasonable investigation of the claim;
- (3) denying a liability claim because the insured has requested that the claim be denied;
- (4) denying a liability claim because the insured has failed or refused to report the claim, unless an independent evaluation of available information indicates there is no liability;
- (5) denying a claim without including the following information:
 - (i) the basis for the denial;
 - (ii) the name, address, and telephone number of the insurer's claim service office or the claim representative of the insurer to whom the insured or claimant may take any questions or complaints about the denial; and
 - (iii) the claim number and the policy number of the insured;
- (6) denying a claim because the insured or claimant failed to exhibit the damaged property unless:
 - (i) the insurer, within a reasonable time period, made a written demand upon the insured or claimant to exhibit the property; and
 - (ii) the demand was reasonable under the circumstances in which it was made;
- (7) denying a claim by an insured or claimant based on the evaluation of a chemical dependency claim reviewer selected by the insurer unless the reviewer meets the qualifications specified under subdivision 8a. An insurer that selects chemical dependency reviewers to conduct claim evaluations must annually file with the commissioner of commerce a report containing the specific evaluation standards and criteria used in these evaluations. The report must be filed at the same time its annual statement is submitted under section 60A.13. The report must also include the number of evaluations performed on behalf of the insurer during the reporting period, the types of evaluations performed, the results, the number of appeals of denials based on these evaluations, the results of these appeals, and the number of complaints filed in a court of competent jurisdiction;
- (8) denying a claim arising from a fire loss without informing the insured of the right to file a complaint with the department of commerce and the address of the department.

Sec. 5. [EFFECTIVE DATE; APPLICABILITY.]

Section 1 is effective the day following final enactment and shall apply to all acts occurring on or after that date.

Sections 2 to 4 are effective January 1, 1996, and apply to all claims submitted to an insurer after that date."

Delete the title and insert:

"A bill for an act relating to insurance; providing a remedy to an insured when an insurer refuses in bad faith to pay or to settle a claim; regulating fire loss claims; amending Minnesota Statutes 1994, sections 72A.20, subdivision 12; and 72A.201, subdivisions 4 and 8; proposing coding for new law in Minnesota Statutes, chapter 72A."

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

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

S.F. No. 687: A bill for an act relating to traffic regulations; requiring minimum clearance when passing bicycle or individual on roadway or bikeway; prohibiting certain conduct toward bicycle riders; requiring bicycle traffic laws to be included in driver's manual and driver's license tests; imposing a penalty; amending Minnesota Statutes 1994, sections 169.18, subdivision 3;

169.222, subdivision 4; and 171.13, subdivision 1, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 169.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 169.18, subdivision 3, is amended to read:

Subd. 3. [PASSING.] The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations, exceptions, and special rules hereinafter stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle;

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible warning, and shall not increase the speed of the overtaken vehicle until completely passed by the overtaking vehicle; and

(3) The operator of a motor vehicle overtaking a bicycle or individual proceeding in the same direction on the roadway shall leave a safe distance, but in no case less than three feet clearance, when passing the bicycle or individual and shall maintain clearance until safely past the overtaken bicycle or individual.

Sec. 2. Minnesota Statutes 1994, section 169.222, subdivision 4, is amended to read:

Subd. 4. [RIDING ON ROADWAYS OR SHOULDERS.] (a) Every person operating a bicycle upon a roadway shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

(i) When overtaking and passing another vehicle proceeding in the same direction.

(ii) When preparing for a left turn at an intersection or into a private road or driveway.

(iii) When reasonably necessary to avoid conditions, including fixed or moving objects, vehicles, pedestrians, animals, surface hazards, or narrow width lanes, that make it unsafe to continue along the right-hand curb or edge.

(b) If a bicycle is traveling on a shoulder of a roadway, the bicycle shall travel in the same direction as adjacent vehicular traffic.

(c) Persons riding bicycles upon a roadway or shoulder shall not ride more than two abreast and shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

(d) A person operating a bicycle upon a sidewalk, or across a roadway or shoulder on a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal when necessary before overtaking and passing any pedestrian. No person shall ride a bicycle upon a sidewalk within a business district unless permitted by local authorities. Local authorities may prohibit the operation of bicycles on any sidewalk or crosswalk under their jurisdiction.

(e) An individual operating a bicycle or other vehicle on a bikeway shall leave a safe distance when overtaking a bicycle or individual proceeding in the same direction on the bikeway, and shall maintain clearance until safely past the overtaken bicycle or individual.

A person lawfully operating a bicycle on a sidewalk, or across a roadway or shoulder on a crosswalk, shall have all the rights and duties applicable to a pedestrian under the same circumstances.

Sec. 3. Minnesota Statutes 1994, section 171.13, subdivision 1, is amended to read:

Subdivision 1. [APPLICANTS.] Except as otherwise provided in this section, the commissioner shall examine each applicant for a driver's license by such agency as the commissioner directs. This examination must include a test of applicant's eyesight; ability to read and understand highway signs regulating, warning, and directing traffic; knowledge of traffic laws; knowledge of the effects of alcohol and drugs on a driver's ability to operate a motor vehicle safely and legally; knowledge of railroad grade crossing safety; knowledge of slow-moving vehicle safety; knowledge of traffic laws related to bicycles; an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle; and other physical and mental examinations as the commissioner finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways, provided, further however, no driver's license shall be denied an applicant on the exclusive grounds that the applicant's eyesight is deficient in color perception. Provided, however, that war veterans operating motor vehicles especially equipped for handicapped persons, shall, if otherwise entitled to a license, be granted such license. The commissioner shall make provision for giving these examinations either in the county where the applicant resides or at a place adjacent thereto reasonably convenient to the applicant.

Sec. 4. Minnesota Statutes 1994, section 171.13, is amended by adding a subdivision to read:

Subd. 1f. [DRIVER'S MANUAL; BICYCLE TRAFFIC.] The commissioner shall include in each edition of the driver's manual published by the department after August 1, 1995, a section relating to bicycle traffic laws, including any changes in the law which affect bicycle traffic.

Sec. 5. [EFFECTIVE DATE.]

Section 3 is effective at the time of the first revision of the driver's license examination following final enactment."

Delete the title and insert:

"A bill for an act relating to traffic regulations; requiring minimum clearance when passing bicycle or individual on roadway or bikeway; requiring bicycle traffic laws to be included in driver's manual and driver's license tests; amending Minnesota Statutes 1994, sections 169.18, subdivision 3; 169.222, subdivision 4; and 171.13, subdivision 1, and by adding a subdivision."

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

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

S.F. No. 673: A bill for an act relating to motor vehicles; providing for determination of base value of motor vehicle for purposes of registration tax; amending Minnesota Statutes 1994, section 168.013, subdivision 1a.

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

Page 3, after line 10, insert:

"Sec. 2. Minnesota Statutes 1994, section 168.017, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] All vehicles subject to registration under the monthly series system shall be registered by the registrar for a period of 12 consecutive calendar months, except as follows:

(a) if the application is an original rather than renewal application; or,

(b) if the applicant is a licensed motor vehicle lessor under section 168.27, in which case the applicant may apply for original registration of a ~~group of ten or more vehicles~~ vehicle for a period of four or more months, the month of expiration to be designated by the applicant at the time of registration. However, to qualify for this exemption, the applicant must present the application to the registrar at St. Paul, or at deputy registrar offices as the registrar may designate.

In any instance except that of a licensed motor vehicle lessor, the registrar may register the

vehicle which is the subject of the application for a period of not less than three nor more than 15 calendar months, when the registrar determines that to do so will help to equalize the registration and renewal work load of the department."

Amend the title as follows:

Page 1, line 5, delete "section" and insert "sections" and before the period, insert "; and 168.017, subdivision 3"

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

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

S.F. No. 378: A bill for an act relating to highways; designating the Veterans Memorial Highway; amending Minnesota Statutes 1994, section 161.14, by adding a subdivision.

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

Page 1, line 8, delete "Trunk highway" and insert "Legislative route"

Page 1, line 12, after the period, insert "Veterans' organizations, having resolved to support and financially back the marking of the highway, shall reimburse the department for costs incurred in marking this highway."

Sec. 2. Minnesota Statutes 1994, section 161.14, is amended by adding a subdivision to read:

Subd. 32. [POW/MIA MEMORIAL HIGHWAY.] Trunk highway marked No. 169 from its intersection with trunk highway marked No. 10 in or near the city of Elk River to its intersection with state highway marked No. 18 in or near the city of Garrison and state highway marked No. 18 from its intersection with trunk highway marked No. 169 in or near Garrison to its intersection with trunk highway marked No. 371 in or near the city of Brainerd is designated the "POW/MIA Memorial Highway." The commissioner of transportation shall adopt a suitable marking design to mark this highway and shall erect the appropriate signs. Veterans' organizations, having resolved to support and financially back the marking of the highway, shall reimburse the department for costs incurred in marking this highway.

Sec. 3. Minnesota Statutes 1994, section 161.14, is amended by adding a subdivision to read:

Subd. 33. [JOHN RILEY MEMORIAL DRIVE.] The segment of old county road 21 from its intersection with marked trunk highway No. 73 to the Moose Lake Minnesota Psychopathic Center, is named and designated the "John Riley Memorial Drive." The commissioner shall adopt a suitable marking design to mark this highway and shall erect the appropriate signs. The people of the community, having resolved to support and financially back the marking of the highway, shall reimburse the department for costs incurred in marking this highway."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "designating the POW/MIA Memorial Highway; designating the John Riley Memorial Drive;"

Page 1, line 4, delete "a subdivision" and insert "subdivisions"

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

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

H.F. No. 216: A bill for an act relating to motor vehicles; changing definition of fleet for vehicle registration purposes; amending Minnesota Statutes 1994, section 168.011, subdivision 34.

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

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

S.F. No. 700: A resolution memorializing Congress to fund the Amtrak system to enable it to continue to serve Minnesota.

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

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

S.F. No. 333: A bill for an act relating to motor carriers; clarifying who may conduct physical examinations for motor carrier drivers; amending Minnesota Statutes 1994, section 221.031, by adding a subdivision.

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

Page 1, line 14, after the period, insert "Any health care provider performing a physical examination for the purpose stated herein is allowed to perform only those procedures within the provider's scope of practice as provided in chapters 147 and 148 and rules promulgated thereto."

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

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

S.F. No. 691: A bill for an act relating to drivers' licenses; authorizing and allocating charges for driver's license reinstatement; providing that a person whose license has been suspended due to failure to appear in a court outside the state, but who subsequently appears for determination of the case, does not have to pay the license reinstatement fee; amending Minnesota Statutes 1994, section 171.20, subdivision 4.

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

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

S.F. No. 677: A bill for an act relating to motor vehicles; authorizing suspension of a vehicle's registration in certain circumstances; requiring a form to be provided in a vehicle's certificate of title and completed under certain circumstances; amending Minnesota Statutes 1994, sections 168.17; 168A.05, subdivision 5; and 168A.10, subdivisions 1, 2, and 5.

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

Page 1, after line 9, insert:

"Section 1. Minnesota Statutes 1994, section 168.11, subdivision 3, is amended to read:

Subd. 3. If the registrar fails to mail to the registered owner of a motor vehicle a notification of renewal for the motor vehicle at least 30 days before the expiration of the vehicle's registration, and all past due taxes and fees have been paid, the registrar must provide at no charge a written statement to that effect to the registered owner at the owner's request. The registrar must retain in the registrar's files a record sufficient to demonstrate whether any owner of a registered motor vehicle has been notified by mail of the renewal of the registration. The registrar shall mail, with each notification of renewal mailed in 1996, a "Notice of Sale" in postcard form, which contains the vehicle's title number and vehicle identification number, with sufficient space for the owner to record the name, address, and driver's license number of a purchaser, the vehicle's purchase price, and its date of sale. The form must include clear instructions regarding the owner's responsibility to complete and return the form pursuant to section 168A.10, subdivision 1."

Page 2, line 13, delete "separate"

Page 2, line 14, delete "detachable" and delete "automobile's" and insert "vehicle's"

Page 2, line 30, delete "form on the"

Page 2, line 31, delete "certificate entitled" and delete "if one is provided,"

Page 2, line 34, delete "detach and"

Page 3, delete section 5 and insert:

"Sec. 6. [EFFECTIVE DATE.]

Sections 1, 3, and 4 are effective January 1, 1996. Sections 2 and 5 are effective for sales on and after August 1, 1995."

Re-number the sections in sequence

Amend the title as follows:

Page 1, line 7, after "sections" insert "168.11, subdivision 3;"

Page 1, line 8, delete the first comma and insert "and" and delete ", and 5"

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

Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred

S.F. No. 526: A bill for an act relating to local government; modifying the local approval requirements for the Nashwauk area ambulance district law; amending Laws 1994, chapter 587, article 9, section 10, subdivision 6.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred

S.F. No. 427: A bill for an act relating to Western Lake Superior Sanitary District; providing for compliance with certain requirements of the Internal Revenue Code; proposing coding for new law in Minnesota Statutes, chapter 458D.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred

S.F. No. 170: A bill for an act relating to local government; providing that maintenance of abandoned or neglected cemeteries by nonprofit organizations does not create an employment relationship or liability for local governments; amending Minnesota Statutes 1994, sections 306.243, subdivision 3; and 306.246.

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

Page 1, line 13, strike the first comma and strike ", or"

Page 1, line 14, strike everything before "must"

Page 1, line 17, strike "Boy Scouts of America Area Council, or"

Page 1, line 18, strike "institution" and insert "organization"

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

Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred

S.F. No. 531: A bill for an act relating to local government; authorizing home rule charter cities to issue tax anticipation certificates; proposing coding for new law in Minnesota Statutes, chapter 410.

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

Page 1, line 14, delete "80"

Page 1, line 15, delete "percent of" and insert "any limits in the charter relating to"

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

Ms. Flynn from the Committee on Judiciary, to which was re-referred

S.F. No. 16: A bill for an act relating to health; modifying provisions relating to the administration and prescription of neuroleptic medications; changing the name of a court in certain circumstances; amending Minnesota Statutes 1994, sections 13.42, subdivision 3; 253B.03, subdivisions 6b and 6c; 253B.05, subdivisions 2 and 3; 253B.09, subdivision 2; 253B.12, subdivision 1; and 253B.17, subdivision 1.

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

Page 1, after line 18, insert:

"(b) Pursuant to section 253B.03, subdivision 6c;"

Page 1, line 19, strike "(b)" and insert "(c)"

Page 1, line 20, strike "(c)" and insert "(d)"

Page 1, line 21, strike "(d)" and insert "(e)"

Page 1, line 25, strike "(e)" and insert "(f)"

Page 2, line 1, reinstate the stricken "or"

Page 2, line 2, strike "(f)" and delete the new language

Page 2, lines 3 to 5, delete the new language

Page 2, line 6, delete the paragraph coding

Page 2, line 22, delete "must make" and insert "makes"

Page 2, line 24, delete "has access to" and insert "may have access to the physician's order section of"

Page 2, line 26, before the period, insert ", if the patient lacks the capacity to authorize the release of records"

Page 2, line 30, after the period, insert "A patient who has the capacity to authorize the release of data retains the right to make decisions regarding access to medical records as provided by section 144.335."

Page 4, line 1, after the second "the" insert "first" and after "hearing" insert a comma

Page 4, line 2, after the period, insert "If the petition for authorization to administer medication is filed in conjunction with a petition for commitment and the court makes a determination at the preliminary hearing under section 253B.07, subdivision 7, that there is sufficient cause to continue the physician's order until the hearing under section 253B.08, the treating physician may continue the medication until that hearing, if the emergency continues to exist."

Page 4, line 28, delete everything after the period

Page 4, delete lines 29 and 30

Page 4, line 36, after "petition" insert "pursuant to section 253B.17"

Page 5, line 12, after "court" insert ", to the county attorney,"

Page 5, line 28, after "whether" insert ", because of the patient's mental illness,"

Page 5, line 34, before "or" insert "witness testimony,"

Page 6, line 17, delete "for the duration" and insert "until the termination"

Page 9, delete section 6

Page 10, line 33, delete "where appropriate,"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 7, delete "253B.09,"

Page 1, line 8, delete "subdivision 2;"

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

Ms. Flynn from the Committee on Judiciary, to which was re-referred

S.F. No. 144: A bill for an act relating to traffic regulations; allowing certain holders of disabled parking certificates to make their address or name and address private; amending Minnesota Statutes 1994, sections 13.99, by adding a subdivision; and 169.345, subdivisions 1, 3, 4, and by adding subdivisions.

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

Page 1, delete section 1 and insert:

"Section 1. Minnesota Statutes 1994, section 13.69, subdivision 1, is amended to read:

Subdivision 1. [CLASSIFICATIONS.] (a) The following government data of the department of public safety are private data:

(1) medical data on driving instructors, licensed drivers, and applicants for parking certificates and special license plates issued to physically handicapped persons; and

(2) other data on holders of a disability certificate under section 169.345, except that data under this clause may be released to law enforcement agencies; and

(3) social security numbers in driver's license and motor vehicle registration records, except that social security numbers must be provided to the department of revenue for purposes of tax administration.

(b) The following government data of the department of public safety are confidential data: data concerning an individual's driving ability when that data is received from a member of the individual's family."

Page 4, lines 2 to 5, delete the new language

Page 4, delete sections 5 and 6

Amend the title as follows:

Page 1, line 2, delete "allowing certain" and insert "limiting access to data on"

Page 1, line 3, delete "to make their"

Page 1, line 4, delete everything before the semicolon and after the semicolon, insert "modifying provisions governing display and use of certificates;"

Page 1, line 5, delete "13.99, by adding a"

Page 1, line 6, delete "subdivision" and insert "13.69, subdivision 1" and delete "4, and by" and insert "and 4"

Page 1, line 7, delete "adding subdivisions"

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

Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred

S.F. No. 713: A bill for an act relating to Olmstead county; authorizing the county to create a nonprofit corporation to own and operate a hospital and medical center; providing the county board with related powers and duties.

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

Page 1, line 7, delete "OLMSTEAD" and insert "OLMSTED"

Page 1, lines 11 and 13, delete "Olmstead" and insert "Olmsted"

Page 2, line 9, delete "BILLS" and insert "BIDS"

Page 3, line 10, delete "Olmstead" and insert "Olmsted"

Amend the title as follows:

Page 1, line 2, delete "Olmstead" and insert "Olmsted"

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

Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred

H.F. No. 887: A bill for an act relating to public administration; providing St. Paul with additional authority in regard to the teacher training institute; amending Laws 1994, chapter 643, section 72.

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

Page 1, line 18, after "leased" insert "to"

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

Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred

S.F. No. 453: A bill for an act relating to towns; providing for damage award to affected property owner when town board adopts a recorded town road map; amending Minnesota Statutes 1994, section 164.35, subdivision 4.

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

Mr. Vickerman from the Committee on Metropolitan and Local Government, to which was referred

S.F. No. 715: A bill for an act relating to towns; prohibiting the Minnesota pollution control agency from charging towns a fee for permits for certain town road, bridge, or culvert projects; amending Minnesota Statutes 1994, section 116.07, subdivision 4d.

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

Page 4, line 9, delete "or any other law"

Page 4, line 10, after "fee" insert "in excess of \$85"

Amend the title as follows:

Page 1, line 2, delete "prohibiting" and insert "limiting"

Page 1, line 3, delete "from charging towns a"

And when so amended the bill be re-referred to the Committee on Environment and Natural Resources without recommendation. Amendments adopted. Report adopted.

Mr. Novak from the Committee on Jobs, Energy and Community Development, to which was referred

S.F. No. 752: A bill for an act relating to telecommunications; allowing for alternative regulation of telephone companies for a limited period; authorizing rulemaking to promote fair and reasonable competition for local exchange service; making technical changes; amending Minnesota Statutes 1994, sections 237.01, subdivision 6; 237.09; and 237.16; proposing coding for new law in Minnesota Statutes, chapter 237.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 237.01, subdivision 6, is amended to read:

Subd. 6. [TELECOMMUNICATIONS CARRIER.] "Telecommunications carrier" means a person, firm, association, or corporation authorized to furnish one or more of the following telephone service services to the public, but not otherwise authorized to furnish local exchange service: (1) interexchange telephone service; (2) local telephone service pursuant to a certificate granted under the authority of section 237.16, subdivision 4, before August 1, 1995; or (3) local service pursuant to a certificate granted under section 237.16, for the first time after August 1, 1995, except if granted to a successor to a telephone company otherwise authorized to furnish local exchange service. Telecommunications carrier does not include entities that derive more than 50 percent of their revenues from operator services provided to transient locations such as hotels, motels, and hospitals. In addition, telecommunications carrier does not include entities that provide centralized equal access services.

Sec. 2. Minnesota Statutes 1994, section 237.035, is amended to read:

237.035 [TELECOMMUNICATIONS CARRIER EXEMPTION.]

(a) Telecommunications carriers are ~~not~~ subject to regulation under this chapter, ~~except that only to the extent required under paragraphs (b) to (e).~~

(b) Telecommunications carriers shall comply with ~~the requirements of section~~ sections 237.121 and 237.74.

(c) Telecommunications carriers shall comply with section 237.16, subdivisions 8 and 9.

(d) To the extent a telecommunications carrier offers local service, it shall obtain a certificate under section 237.16 for that local service.

(e) In addition, a telecommunications carrier's local service is subject to this chapter except that:

(1) a telecommunications carrier is not subject to rate-of-return or earnings investigations under section 237.075 or 237.081; and

(2) a telecommunications carrier is not subject to section 237.22.

Sec. 3. Minnesota Statutes 1994, section 237.09, is amended to read:

237.09 [DISCRIMINATION PROHIBITED.]

Subdivision 1. [GENERALLY.] No telephone company, or any agent or officer thereof, shall, directly or indirectly, in any manner, knowingly or willfully, charge, demand, collect, or receive from any person, firm, or corporation, a greater or less compensation for any intrastate service rendered or to be rendered by it than it charges, demands, collects, or receives from any other firm, person, or corporation for a like and contemporaneous intrastate service under similar circumstances.

Subd. 2. [PARTICULAR SERVICES.] (a) A telephone company that offers or provides a service or services, service elements, features, or functionalities on a separate, stand-alone basis to any customer shall provide that service, service element, feature, or functionality pursuant to tariff to all similarly situated persons, including all telecommunications carriers and competitors. To the extent prohibited by the Federal Communications Commission or public utilities commission, a telephone company shall not give preference or discriminate in providing services, products, or facilities to an affiliate or to its own or an affiliate's retail department that sells to consumers.

(b) For purposes of establishing an appropriate rate or price floor for a rate for a telephone service, a telephone company shall impute, on a service-by-service basis, into the rate or price for that service, the tariffed rate or price for the same services, service elements, or network functions that the company provides to others who use it to provide a service that competes with the telephone service offered by the company. A company is not required to impute a rate or price under this paragraph if it demonstrates to the commission, in an expedited proceeding under section 237.61, that:

(1) the competitor can obtain substantially equivalent services, service elements, or network functions within the relevant market or geographic area on reasonably comparable terms and conditions through self-provision or from a provider other than the telephone company; or

(2) application of the imputation requirement otherwise would be inconsistent with the public interest.

Sec. 4. [237.121] [PROHIBITED PRACTICES.]

A telephone company or telecommunications carrier may not do any of the following with respect to services regulated by the commission:

(1) upon request, fail to disclose in a timely and uniform manner information necessary for the design of equipment and services that will meet the specifications for interconnection;

(2) intentionally impair the speed, quality, or efficiency of services, products, or facilities offered to a consumer under a tariff, contract, or price list;

(3) fail to provide a service, product, or facility to a consumer other than a telephone company or telecommunications carrier in accordance with its applicable tariffs, price lists, or contracts and with the commission's rules and orders;

(4) refuse to provide a service, product, or facility to a telephone company or telecommunications carrier in accordance with its applicable tariffs, price lists, or contracts and with the commission's rules and orders;

(5) impose restrictions on the resale or shared use of its services or network functions, provided that:

- (i) it may require that residential service may not be resold as a different class of service; and
- (ii) the commission may prohibit resale of services it has approved for provision for not-for-profit entities at rates less than those offered to the general public; or

(6) provide telephone service to a person acting as a telephone company or telecommunications carrier if the commission has ordered the telephone company or telecommunications carrier to discontinue service to that person.

Sec. 5. Minnesota Statutes 1994, section 237.16, is amended to read:

237.16 [CONSTRUCTING TELEPHONE LINES AND EXCHANGES LOCAL EXCHANGE COMPETITION, RULES.]

Subdivision 1. [LOCAL NEW SERVICE, CERTIFICATE OF AUTHORITY.] (a) For the purpose of bringing about uniformity of practice fair and reasonable competition for local exchange telephone services, the commission shall have has the exclusive right authority to grant authority to:

(1) authorize any telephone company person to construct telephone lines or exchanges for furnishing or to otherwise furnish local service to subscribers in any municipality of this state, and to prescribe the terms and conditions upon which construction or service delivery may be carried on; and whenever the commission grants such authority, it shall be in the form of a permit of indeterminate duration — coupled with the right to the municipality to purchase the telephone plant within the city, as hereinafter provided. No lines or equipment shall be constructed or installed for the purpose of furnishing local telephone service to the inhabitants or telephone users in any locality in this state, where there is then in operation in the locality or territory affected thereby another telephone company already furnishing such service, without first securing from the commission a declaration, after a public hearing, that public convenience requires such proposed telephone lines or equipment; but

(2) establish terms and conditions for the entry of telephone service providers so as to protect consumers from monopolistic practices and preserve the state's commitment to universal service.

(b) No person shall provide telephone service in Minnesota without first obtaining a determination that the person possesses the technical, managerial, and financial resources to provide the proposed telephone services and a certificate of authority from the commission under terms and conditions the commission finds to be consistent with fair and reasonable competition, universal service, the provision of affordable telephone service at a quality consistent with commission rules, and the commission's rules.

(c) The commission shall make a determination on an application for a certificate within 120 days of the filing of the application.

(d) The governing body of any municipality shall have the same powers of regulation which it now possesses with reference to the location of poles and wires so as to prevent any interference with the safe and convenient use of streets and alleys by the public.

(e) A telephone company or telecommunications carrier shall provide for repair or restoration of streets, alleys, and other public areas to their original condition if necessitated by the installation or operation of telephone or telecommunications carrier facilities.

Subd. 2. [CERTIFICATE OF TERRITORIAL AUTHORITY.] All telephone companies operating exchanges in the state of Minnesota as of April 21, 1961, shall be entitled to receive a certificate of territorial authority from the commission authorizing such company to continue to serve the areas presently included within the exchange boundaries as indicated by the exchange boundary maps now on record with the commission provided however that such exchange boundaries shall be subject to review by the commission upon the filing of a complaint by any interested party, the time for filing such complaints to be limited to 60 days after the passage of Laws 1961, chapter 637. If more than one company files maps indicating service in the same

~~territory, the commission shall, after hearing, on reasonable notice to the interested parties, determine, from such evidence as it may reasonably require, which of such companies shall be entitled to a certificate of territorial authority. In making such determination, the commission shall consider the ability of such company to furnish thereafter reasonably adequate service in the territory in question. Any company operating a switchboard that does not presently have a map on record with the commission shall have three months from April 21, 1961, to file such map showing the territory being served by such company.~~

~~Subd. 3. [MAPS; RULES.] The style, size and kind of map, together with the information to be shown thereon, shall be as required by Every company authorized to provide local telephone service under this section shall file a territorial map. The map must comply with the rules prescribed by the commission. Such rules shall indicate the time and place for filing such maps and shall require that such maps be kept current.~~

~~Subd. 4. [NEW AMENDED CERTIFICATE REQUIRED FOR EXPANSION.] No company authorized to provide local service shall construct or operate any line, plant or system, or any extension thereof, or provide local telephone service in any area for which it has not been certified nor shall any person acquire ownership or control thereof, of another telephone company either directly or indirectly, without first obtaining from the commission a determination that the present or future public convenience and necessity require or will require such construction, operation, or acquisition, and a new an amended certificate of territorial authority; provided that. The applicant for an amended certificate shall file with the commission notice of the expansion or acquisition, along with a new map under subdivision 3, identifying the territory to be served. Notice of the filing shall be served on any affected municipality and local telephone company certified in that territory. If no objection is filed with the commission by any interested party or raised by the commission within 20 days of the filing, it is considered approved, except if it involves an acquisition governed by section 237.23, in which case no certificate shall be granted until approval is obtained pursuant to that section and subdivision 1 of this section. If an objection is filed, the commission shall determine whether to approve the amendment in an expedited proceeding under section 237.61. This section shall not be construed to require a telephone company operating an exchange in Minnesota to secure a certificate for an extension within any territory within which such company has heretofore filed maps or for substitute facilities within such territories, or for extensions into territories contiguous to that already occupied by such company and not receiving similar service from another company if no certificate of territorial authority has been issued to or applied for by any other company.~~

~~Subd. 5. [REVOCATION.] Any certificate of territorial authority may, after notice of hearing and a hearing, be revoked by the commission, in whole or in part, for: the failure of the its holder thereof to furnish reasonably adequate telephone service within the area or areas determined and defined in such the certificate of territorial authority; failure to meet the terms and conditions of its certificate; or intentional violation of the commission's rules or orders.~~

~~Subd. 6. [EXPANSION OF SERVICE AREA NOT REQUIRED.] Nothing contained in This section shall be construed to does not require any telephone company operating exchanges providing local service in the state of Minnesota to render telephone service in any portion of any territorial area in which such not included on the telephone company does not render and does not propose to render telephone service company's territorial map.~~

~~Subd. 7. [EXISTING CERTIFICATES RETAINED.] This section does not limit the ability of telephone companies possessing certificates of territorial authority on August 1, 1995, including, but not limited to, certificates authorizing resale of local telephone service, to continue to provide telephone service within their designated territories.~~

~~Subd. 8. [RULES.] (a) Before August 1, 1997, the commission shall adopt rules applicable to all telephone companies and telecommunications carriers required to obtain or having obtained a certificate for provision of telephone service using any existing federal standards as minimum standards and incorporating any additional standards or requirements necessary to ensure the provision of high quality telephone services throughout the state. The rules must, at a minimum:~~

~~(1) define procedures for competitive entry and exit;~~

~~(2) require the provisions of equal access and interconnection with the company's network and~~

other features, functions, and services which the commission considers necessary to promote fair and reasonable competition;

(3) require unbundling of network services and functions to at least the level required by existing federal standards;

(4) prescribe, if necessary, methods of reciprocal compensation between telephone companies;

(5) provide for local telephone number portability;

(6) prescribe appropriate regulatory standards for new local telephone service providers, that facilitate and support the development of competitive services;

(7) protect against cross-subsidization, unfair competition, and other practices harmful to promoting fair and reasonable competition;

(8) prescribe methods for the preservation of universal and affordable local telephone services;

(9) prescribe standards for quality of service; and

(10) provide for the continued provision of local emergency telephone services under chapter 403.

(b) Before January 1, 1998, in a separate rulemaking, the commission shall adopt separate rules regarding the issues described in paragraph (a), clauses (1) to (10), as may be appropriate to provision of competitive local telephone service in areas served by telephone companies with less than 50,000 subscribers originally certified to provide local telephone services before January 1, 1988.

Subd. 9. [UNIVERSAL SERVICE FUND.] The commission shall establish and require contributions to a universal service fund, to be supported by all providers of telephone services, whether or not they are telephone companies under section 237.01, including, but not limited to, local telephone companies, independent telephone companies, cooperative telephone companies, municipal telephone companies, telecommunications carriers, radio common carriers, personal communication service providers, and cellular carriers. Services that should be considered for inclusion as universal include, at a minimum, single-party service with touch-tone capability, line quality capable of carrying facsimile and data transmissions, equal access, emergency services number capability, statewide telecommunications relay service for the hearing-impaired, and blocking of long-distance toll services. The fund must be administered and distributed in accordance with rules adopted by the commission and designed to preserve the availability of universal service throughout the state. Any state universal service fund must be coordinated with any federal universal service fund. The department shall make recommendations to the legislature by January 1, 1996, regarding a plan for contributions to and expenditures from the universal service fund. In particular, the department shall address the following issues:

(1) what additional services should be included in the basic set of essential telephone services which the state should encourage in its mandate to ensure universal service;

(2) whether and how expenditures from the fund should be used to ensure citizens access to local government and other public access programming; and

(3) whether expenditures from the fund should be used to encourage construction of infrastructure for, and access to, advanced services, especially in high-cost areas of the state, and, if the commission determines the fund should be used for this purpose, a plan to accomplish these goals.

Subd. 10. [INTERIM AUTHORITY.] (a) Before adopting the rules required under subdivision 8, the commission shall grant an applicant a certificate to provide a proposed local telephone service when the commission finds that the applicant meets the conditions of subdivision 1. Any applicant for a certificate pursuant to subdivision 1 shall, at the time its application is filed, provide notice of its application to all local telephone companies authorized to provide local exchange service in the geographic area identified in the application. The applicant and telephone companies shall negotiate a temporary arrangement pertaining to interconnection matters for the

effective interconnection of local exchange networks, pending the adoption of the rules under subdivision 8. If the applicant and the telephone companies fail to reach agreement within 60 days of filing the application, the commission shall set the terms of the temporary arrangement at the time of the issuance of the certificate.

(b) Any company previously certified to provide local telephone services may request a temporary arrangement for the effective interconnection with the local exchange network of another telephone company in the same territory, pursuant to the time frames and procedures of this subdivision.

(c) In addition, through and until the rules are adopted under subdivision 8, each telephone company serving more than 50,000 access lines in the state shall:

(1) permit interconnection or discontinue interconnection for intrastate services to the same extent and in the same manner and time frame as the Federal Communications Commission requires interconnection or permits discontinuance of interconnection for interstate services; and

(2) unbundle its intrastate services and facilities used for intrastate services to the same extent and in the same manner as the Federal Communications Commission requires unbundling for interstate purposes.

Subd. 11. [INTERIM AUTHORITY IN AREAS SERVED BY TELEPHONE COMPANIES WITH LESS THAN 50,000 SUBSCRIBERS.] (a) Before adopting the rules required under subdivision 8 for telephone companies with less than 50,000 subscribers, when an applicant requests certification to provide local telephone service in an area served by a telephone company with less than 50,000 subscribers originally certified to provide local telephone service before January 1, 1988, the commission shall grant the application if it finds the applicant meets the requirements of subdivision 1. The commission shall make its determination on the application, including whether to provide a temporary arrangement for the effective interconnection of the local exchange networks, after a hearing under chapter 14 or expedited proceeding under section 237.61, within nine months of the application, and considering any facts unique to that telephone company. In addition, if an application is granted, that telephone company shall:

(1) permit interconnection or discontinue interconnection for intrastate services to the same extent and in the same manner and time frame as the Federal Communications Commission may thereafter require for that small telephone company for interstate purposes.

(2) unbundle its intrastate services and facilities used for intrastate services to the same extent and in the same manner as the Federal Communications Commission may thereafter require for that telephone company for interstate purposes.

(b) If a telephone company with less than 50,000 subscribers is authorized by the Federal Communications Commission to provide video common carrier services before the rules required under subdivision 8 are adopted, an application under this subdivision for certification to provide local telephone service in an area served by that telephone company shall be determined within 120 days of its filing.

Subd. 12. [EXTENSION OF INTEREXCHANGE FACILITIES.] In order to promote the development of competitive interexchange services and facilities, any interexchange facility that is owned by a certified telephone company, independent telephone company, telecommunications carrier or an affiliate and that is used to provide service to customers located in areas for which it has been previously certified to provide service may be extended to meet and interconnect with the facility of another telephone company, small telephone company, or telecommunications carrier, whether at a point inside or outside of its territories, without further proceeding, order, or determination of current or future public convenience and necessity, upon mutual consent with the other telephone company, small telephone company, or telecommunications carrier whose facilities will be met and interconnected. Written notice of the extension and interconnection must be provided to the public utilities commission and department of public safety within 30 days after completion. The written notice must be served on all local exchange companies certified before January 1, 1988, in all areas where the facilities are located.

Subd. 13. [APPLICATION OF OTHER LAW.] Notwithstanding any provisions of sections

237.035 and 237.74 to the contrary, before adopting the rules under subdivision 8, the local services provided by a telecommunications carrier are subject to this chapter in the same manner as those local services of a telephone company regulated under this chapter, except that the telecommunications carrier is not subject to section 237.22 and is not subject to rate-of-return regulation or earnings investigations under section 237.075 or 237.081. Before offering a local telephone service a telecommunications carrier must be certified to provide local service under this section.

Sec. 6. Minnesota Statutes 1994, section 237.461, subdivision 2, is amended to read:

Subd. 2. [CIVIL PENALTY.] A person who knowingly and intentionally violates a provision of this chapter or rule or order of the commission adopted under this chapter shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of at least \$100 and not more than ~~\$1,000~~ \$5,000 for each day of each violation. The civil penalties provided for in this section may be recovered by a civil action brought by the attorney general in the name of the state. Amounts recovered under this section must be paid into the state treasury.

Sec. 7. [237.76] [PURPOSE.]

A telephone company may petition the commission for approval of an alternative regulation plan under sections 237.76 to 237.774. The purpose of an alternative regulation plan is to provide a telephone company's customers with service of a quality consistent with commission rules at affordable rates, to facilitate the development of telecommunication alternatives for customers, and to provide, where appropriate, a regulatory environment with greater flexibility than is available under traditional rate-of-return regulation as reflected in other provisions of this chapter.

Sec. 8. [237.761] [ALTERNATIVE REGULATION PLAN; SERVICES.]

Subdivision 1. [CLASSIFICATION OF SERVICES.] An alternative regulation plan must contain provisions that provide for classification of all telephone services as price regulated, flexibly priced, or nonprice regulated consistent with subdivisions 2 to 5.

Subd. 2. [PRICE-REGULATED SERVICE; DEFINITION.] For purposes of this section, the term "price-regulated service" includes only those services that are:

- (1) essential for providing local telephone service and access to the local telephone network;
- (2) integrally related to privacy, health, and safety of the company's customers; and
- (3) for which no reasonable alternative exists within the relevant market or geographic area on reasonably comparable terms and conditions.

Subd. 3. [SPECIFIC PRICE-REGULATED SERVICES.] Price-regulated telephone services are the following:

(1) residential and business service for local calling, including measured local service, two-party service, private branch exchange (PBX) trunks, trunk type hunting services, direct inward dialing, the network access portion of central office switched exchange service, and public access lines for customer-owned coin-operated telephones;

- (2) extended area service;
- (3) switched network access service;
- (4) call tracing;
- (5) calling number blocking;
- (6) touch tone service when provided separately from basic local exchange service;
- (7) local exchange, white-page, printed directories;
- (8) 911 emergency services;

- (9) installation and repair of local network access;
- (10) local operator services, excluding directory assistance; and
- (11) toll service blocking and 1-900 or 976 access blocking.

Subd. 4. [FLEXIBLY PRICED SERVICES.] (a) A service not listed in subdivision 3 or not otherwise determined to be price regulated under subdivision 6 or 7 or nonprice regulated must be classified as a flexibly priced service.

(b) Flexibly priced services are regulated consistent with section 237.60, subdivision 2, except that:

(1) rate decreases may be effective immediately upon filing and are considered approved if no objection is filed or raised by an interested party or the commission within ten days after the filing; and

(2) rate increases may be effective 20 days after filing and are considered approved if no objection is filed or raised by an interested party or the commission within 20 days after the filing.

Subd. 5. [NON-PRICE-REGULATED SERVICES.] (a) A service must be classified as nonprice regulated if the commission finds, based upon evidence filed by the telephone company and other evidence available to the commission and consistent with the company's proposed plan, that there is sufficient competition to justify classification as nonprice regulated. In making that determination, the factors the commission shall consider include:

(1) the number, size, and identity of competitors providing the same or functionally equivalent service;

(2) the geographic area in which competitive service is actually available to and being used by customers, to the extent this information is available to the commission;

(3) the importance of the service to the public; and

(4) the effect of classification of the service on the development of a competitive telecommunications market.

(b) Telephone companies shall file tariffs or price lists for non-price-regulated services with the commission, but the rates for these services are not subject to commission approval or investigation except as provided in subdivision 6 and sections 237.762, subdivision 6, 237.770, and 237.771.

Subd. 6. [RECLASSIFICATION.] An alternative regulation plan may contain provisions allowing for the reclassification of services during the course of the plan upon a showing that the service meets the criteria contained in subdivision 2, 3, 4, or 5, and the plan, for the requested classification.

Subd. 7. [NEW SERVICES; CLASSIFICATION; RATES.] At the time the company first offers a service, it shall file a tariff or price list and the proposed classification for the service under the plan along with a written explanation of why the proposed classification is consistent with this section. New services classified as flexibly priced or nonprice regulated may be offered on one day's notice to the commission and the department. New services classified as price regulated may be offered pursuant to the terms set forth in the plan. A service is not considered a new service if it consists of a repackaging including bundling, unbundling, or repricing of an already existing service. If no interested party or the commission objects to the company's proposed classification within 30 days of the filing of the petition, the company's proposed classification of the service is approved. If an objection is filed, the commission shall determine the classification of the service within 90 days of the filing of the new service.

Sec. 9. [237.762] [RATES; PRICES.]

Subdivision 1. [INITIAL RATES.] As part of its evaluation of an alternative regulation plan, the commission shall determine whether the telephone company's existing service substantially

complies with commission rules and if its rates and rate design are appropriate in light of the proposed plan or whether changes should be made before the plan is implemented or phased in during the course of the plan. An alternative regulation plan approved by the commission under this section must provide that the recurring and nonrecurring rates or prices that may be charged by a telephone company for price-regulated services are no higher than the approved rate or prices on file with the commission for those services on the date of the filing of the plan. Furthermore, no plan may in any way change the terms or conditions of any access charge settlements approved by the commission or exempt any company from compliance with any commission access charge order issued before the filing of a plan. The plan must address implementation of additional access charge reductions that may occur during that portion of the plan that extends beyond expiration of commission-approved settlements.

Subd. 2. [NEW SERVICE; RATES.] For services offered by the telephone company for the first time after August 1, 1995, the rates or prices must equal or exceed the total service long-run incremental cost of the service.

Subd. 3. [RATE CHANGES.] (a) An alternative regulation plan must set forth the procedures under which the telephone company may reduce the rates or prices for price-regulated services below the initial rates or prices or thereafter increase the rates or prices during the term of the plan. The rates or prices may not be reduced below the total service long-run incremental cost of providing the service. The rates or prices may not exceed the initial rates or prices for the service determined under subdivision 1 for the first three years of the plan. After a plan has been in effect for three years, price-regulated rates may be changed as appropriate under a procedure set forth in an approved plan. Rates for price-regulated services may not be increased unless the company has demonstrated substantial compliance with the quality of service standards set forth in the plan.

(b) An approved plan may allow changes in rates for price-regulated services after three years to reflect:

(1) substantial financial impacts of government mandates to construct specific telephone infrastructure and increases or decreases in state and federal taxes, if the mandate applies to local telephone companies and the company would not otherwise be compensated through some other manner under the plan; and

(2) changes in jurisdictional allocations from the Federal Communications Commission, the amount of which the telephone company cannot control and for which equal and opposite exogenous changes are made on the federal level.

Subd. 4. [BUNDLED RATES.] When the rates or prices for services are unbundled, the price for each basic network function must be set to equal or exceed its total service long-run incremental cost. Before August 1, 1997, if the rates or prices for price-regulated services are bundled, the bundled rate or price may not exceed the sum of the unbundled rates or prices for the individual service elements or services or the total initial bundled rate or price for those service elements or services.

Subd. 5. [INCOME-NEUTRAL CHANGES.] Other than as authorized in this subdivision, an alternative regulation plan must not permit income-neutral rate changes for price-regulated services during the plan except as is necessary to implement extended area service or any successor to that service. Any plan must provide that after the rules issued pursuant to section 237.16 are adopted, rates for price-regulated services may be increased, as approved by the commission, to the extent necessary to carry out the purpose of those rules. However, rate increases, if any, for those services must be incorporated with a universal service fund so that the effective rate for the customers of those services does not increase during the first three years of the plan.

Subd. 6. [RATES FOR OTHER SERVICES.] The telephone company shall file price lists with the commission for all flexibly priced or non-price-regulated services. The rate or price for each flexibly priced and non-price-regulated service must be equal to or exceed the total service long-run incremental cost of providing that service. In any proceeding regarding the appropriateness of a rate or price for a flexibly priced or non-price-regulated service, the telephone company has the burden of proving that the rate or price is above the total service long-run incremental cost of providing that service.

Sec. 10. [237.763] [EXEMPTION FROM RATE-OF-RETURN REGULATION AND RATE INVESTIGATIONS.]

Except as provided in the plan and any subsequent plans, a company that has an alternative regulation plan approved under section 237.764, is not subject to the rate-of-return regulation or earnings investigations provisions of section 237.075 or 237.081 during the term of the plan. A company with an approved plan is not subject to the provisions of section 237.57; 237.58; 237.59; 237.60, subdivisions 1, 2, 4, and 5; 237.62; 237.625; 237.63; or 237.65, during the term of the plan. Except as specifically provided in this section or in the approved plan, the commission retains all of its authority under section 237.081 to investigate other matters and to issue appropriate orders, and the department retains its authority under sections 216A.07 and 237.15 to investigate matters other than the earnings of the company.

Sec. 11. [237.764] [PLAN ADOPTION; EFFECT.]

Subdivision 1. [PETITION, NOTICE, HEARING, AND DECISION.] (a) Before acting on a petition for approval of an alternative regulation plan, the commission shall conduct any public meetings it may consider necessary.

(b) The commission shall require the petitioning telephone company to provide notice of the proposed plan to its customers, along with a summary description of the plan provisions and the dates, times, and locations of public meetings scheduled by the commission.

(c) The company's petition shall contain an explanation of how ratepayers will benefit from the plan and a justification of the appropriateness of earnings levels and rates in light of the proposed plan as well as any proposed changes in rates for price-regulated services for the first three years of the proposed plan. If a telephone company has completed a general rate proceeding, rate investigation, or audit of its earnings by the department or commission within two years of the initial application for an alternative form of regulation plan, the commission order or department audit report, updated for the most recent calendar year, is sufficient justification of earnings levels to initiate the filing of an alternative regulation plan.

(d) The commission shall conduct a proceeding under section 237.61 to decide whether to approve the plan and shall grant discovery as appropriate.

(e) The commission shall issue findings of fact and conclusions concerning the appropriateness of the proposed initial rates and the proposed plan, or any modifications to it, but may not order that a modified plan take effect without the agreement of the petitioning telephone company. The commission shall issue its decision on a plan within six months after receiving the petition to approve the plan unless the commission and the petitioning company agree to an extension of the time for commission action.

(f) If a settlement is submitted to the commission, the commission shall accept, reject, or modify the proposed settlement within 60 days from the date it was submitted.

Subd. 2. [SETTLEMENT; STIPULATION; FINAL ORDER.] Upon receipt of a petition for an alternative regulation plan, the commission shall convene a conference including all interested parties to encourage settlement or stipulation of issues. Any settlement or stipulation must be submitted to the commission, which shall accept or reject the proposal in its entirety or modify it. If the commission modifies the proposal, all parties have 30 days to comment on the proposed modifications, after which the commission shall issue its final order. If the final order contains modifications to the proposal, each party to the settlement has ten days to reject the proposed modifications, in which case the matter must be decided under section 237.61. After appropriate notice and hearing for all parties, the commission may adopt a stipulation submitted by a substantial number of, but less than all, parties.

Subd. 3. [EFFECT ON INCENTIVE PLAN.] The approval of a plan under this section automatically terminates any existing incentive plan previously approved under section 237.625 upon the effective date of the plan approved under this section, provided, however, the company remains obligated to share earnings under the terms of the incentive plan through the date of the termination of that plan and also is required to complete the performance of any other unexecuted commitments under the incentive plan.

Sec. 12. [237.765] [QUALITY OF SERVICE.]

For an alternative regulation plan to be approved by the commission under sections 237.76 to 237.774, the plan must contain and the commission shall require:

(1) evidence that current service quality substantially complies with commission rules as to justify lessened rate regulation;

(2) a baseline measurement of the quality of service levels as achieved by the company during the previous three years, to the extent the data are available, and specific statewide standards for measuring the quality of price-regulated and flexibly priced services provided by the company, including, but not limited to (i) time intervals for installation, (ii) time intervals for restoration or repair of service, (iii) trouble rates, (iv) exchange access line held orders, and (v) customer service answer time;

(3) provisions for reporting to the commission at least annually the company's performance as to the quality of service standards by quarter for the previous year;

(4) provisions that index quality of service standards for local residence services to similar standards for local business services;

(5) appropriate remedies, including penalties and customer-specific adjustments or payments to compensate customers for specific quality of service failures, so as to ensure substantial compliance with the quality of service standards set forth in the plan; and

(6) provisions for informing customers of their rights as to quality of service and how customers can register their complaints regarding service.

Any penalties under clause (5) may be paid into a universal service fund or returned to customers under a method set forth in the plan.

Sec. 13. [237.766] [PLAN DURATION.]

An alternative regulation plan approved by the commission under section 237.764 must remain in force as approved for the term specified in the plan, which must be for no less than four years. Within six months prior to the termination of the plan, the plan must be reviewed by the commission and, with the consent of the company, revised or renewed consistent with sections 237.76 to 237.774, after notice to and comment by all interested parties. The plan must specify the reports required of the telephone company for review of the plan and specify that the telephone company shall maintain records in sufficient detail to facilitate the review.

Sec. 14. [237.767] [DISCONTINUANCE OF SERVICE.]

Without the express approval of the commission, a telephone company subject to a plan may not discontinue the provision of a service or basic network function that has been classified as price regulated or flexibly priced.

Sec. 15. [237.768] [PERIODIC FINANCIAL REPORTS.]

In addition to the reports required under section 237.766, an alternative regulation plan may require a telephone company to file with the department an annual report of financial matters for the previous calendar year on or before May 1 of each year on report forms furnished by the department of public service in the same manner as is required of other telephone companies on August 1, 1995. In addition, any company subject to a plan shall file with the commission and department a copy of any filings it has made to the Federal Communications Commission regarding the provisions of video programming provided through a video dial tone facility in Minnesota. An alternative regulation plan may require a telephone company to maintain its accounts in accordance with the system of accounts prescribed for the company by the commission under section 237.10.

Sec. 16. [237.769] [UNBUNDLING AND INTERCONNECTION.]

Every plan must contain, and the commission shall approve, rates for and procedures under

which the telephone company will, on or before the effective date of the plan, permit interconnection with and unbundle its intrastate services and facilities to the same extent and in the same manner as the Federal Communications Commission requires the interconnection and unbundling for interstate purposes for that company. Any company under a plan is subject to any rules adopted under section 237.16 on the same date as those rules are applicable to other companies.

Sec. 17. [237.770] [SUBSIDIZATION.]

No telephone company shall subsidize flexibly priced or non-price-regulated services from other services. A telephone service is not subsidized if the aggregate revenues for the service equal or exceed the total service long-run incremental costs of providing the service. If the commission determines, after a proceeding under section 237.081, that subsidization exists, it shall order changes in rates to price the subsidized service above total service long-run incremental cost and may invoke any other remedies otherwise available under this chapter.

Sec. 18. [237.771] [DISCRIMINATION.]

The rates of a telephone company under a plan must be the same in all geographic locations of the state except for good cause. A plan may contain provisions that define good cause, including consideration of the ability to respond to competition. Sections 237.09 and 237.121 apply to a telephone company under a plan.

Sec. 19. [237.772] [COST STUDY METHODOLOGY.]

Subdivision 1. [TOTAL SERVICE LONG-RUN INCREMENTAL COST.] (a) For purposes of this chapter, total service long-run incremental cost (TSLRIC) means the total cost to the company of supplying a service, group of services, or basic network function. The term "long-run" means a period of time sufficient so that all inputs are avoidable based on the total increment of service, group of services, or basic network function and includes the relevant costs resulting from the company's decision to provide the service, group of services, or basic network function, holding constant the production levels of all other services, groups of services, or basic network functions provided by the company.

(b) A telephone company is not required to prepare or file TSLRIC or variable cost studies for all of its services as a prerequisite to filing a plan. However, the commission may order cost studies to be prepared for specific services as a condition of approval of the plan.

Subd. 2. [PETITION FOR VARIABLE COST STUDY.] To the extent that this section or the commission may require a company to provide a TSLRIC study, a company may submit a petition to the commission for permission to submit a variable cost study instead of a TSLRIC study. The commission shall grant the petition if the telephone company demonstrates:

(1) that a TSLRIC study is burdensome in relation to its annual revenue from the service involved;

(2) in the case of an existing service, that the service is no longer being offered to new customers; or

(3) if the telephone company shows other good cause.

Sec. 20. [237.773] [ALTERNATIVE REGULATION FOR SMALL TELEPHONE COMPANIES.]

Subdivision 1. [DEFINITION.] For purposes of this section, "small telephone company" means a local exchange telephone company with fewer than 50,000 subscribers that has made an election under subdivision 2 whether or not the company is subject to sections 237.58, 237.59, 237.60, subdivisions 1, 2, and 5, 237.62, and 237.625.

Subd. 2. [ELECTION; EFFECT.] A local telephone company with fewer than 50,000 subscribers may elect to become a small telephone company by notice to the commission, in writing, of its decision. The small telephone company may not revoke its election for three years after making the election. While that election remains in effect, a small telephone company is not

subject to the rate-of-return regulation or earnings investigation provisions of section 237.075 or 237.081.

If, before electing under this subdivision, a small telephone company has been found by the commission to have significant quality of service problems in violation of applicable commission rules, that company must either resolve the quality of service problems or develop a plan to resolve the quality of service problems in conformance with section 237.765. The quality of service plan must be approved by the commission in order for an election under this subdivision to be effective. The commission shall make a determination on the quality of service plan within 60 days after it is submitted.

Subd. 3. [LOCAL RATES.] (a) Except as provided in paragraph (b), a small telephone company shall not implement a rate increase for any service listed in section 237.761, subdivision 3, beyond the level in effect 60 days prior to an election under subdivision 2, until the later of January 1, 1998, or two years after making an election. However, a small telephone company may implement any new service and establish rates for any new service and may change rates for any other service at any time subject to the requirements of section 237.761, subdivision 4.

A small company shall provide to its customers the ability to block, at no extra charge, any new service which it offers, provides, or bills. This requirement shall not apply to services that require affirmative subscription by the customer. Nothing in this section shall prevent the commission from requiring blocking or other privacy or safety protections for other types of telecommunications services under section 237.081.

(b) At any time following one year after electing under subdivision 2, a small telephone company may change rates for local services except switched network access services, listed in section 237.761, subdivision 3, to reflect:

(1) changes in state and federal taxes;

(2) changes in jurisdictional allocations from the Federal Communications Commission, the amount of which the small telephone company cannot control and for which equal and opposite exogenous changes are made on the federal level;

(3) substantial financial impacts of investments in network upgrades which are made; or

(i) if the investment exceeds 20 percent of the gross plant investment of the company; or

(ii) as the result of government mandates to construct specific telephone infrastructure, if the mandate applies to local telephone companies and the company would not otherwise be compensated.

A small telephone company may change rates for local services listed in section 237.761, subdivision 3, at any time, to implement extended area service or any successor to that service on an income neutral basis.

A small telephone company proposing an increase under this subdivision, shall provide 60 days' advance written notice to the department and each of the company's customers including the individual rates affected and the procedure necessary for the customers to petition for investigation. If the department receives a petition within 45 days after the notice from five percent or 500, whichever is fewer, of the customers of the small telephone company, the department shall determine if the petition is valid and, if so, may investigate the rate change to determine if it conforms to the limitations of this subdivision. The department shall report its findings to the commission, which shall either adopt the report or order changes to conform to this subdivision.

(c) On or after the later of January 1998, or two years after making an election under subdivision 2, a small telephone company may increase rates for local services, except switched network access services, listed in section 237.761, subdivision 3.

A small telephone company proposing an increase shall provide 60 days' advance written notice to its customers including individual rates affected and the procedure necessary for the customers to petition for investigation. If the commission receives a petition within 45 days after

such notice, from five percent or 500, whichever is fewer, of the customers of the small telephone company, the department shall determine if the petition is valid and, if so, may investigate the proposed rate increase to determine if it is appropriate in light of rates charged by other local exchange telephone companies for comparable services, taking into account calling scope, quality of service, the availability of competitive alternatives, service costs, and the features available to the customers. The department shall file a report with the commission which shall then approve appropriate rates for those services. Rates established by the commission under this paragraph shall not be increased within one year of implementation.

Subd. 4. [ACCESS RATES.] (a) No election by a small telephone company may in any way change the terms or conditions of any interexchange access charge settlements approved by the commission before an election under subdivision 2.

(b) While any interexchange access charge settlement approved by the commission remains in effect, the commission and department shall enforce the agreement without further investigation of interexchange access charges or earnings relating to the interexchange access service. Except as specifically provided in this section, the commission retains all of its authority under section 237.081 to investigate other matters relating to interexchange access charges and to issue appropriate orders, and the department retains its authority under sections 216A.07 and 237.15 to investigate matters relating to interexchange access charges.

Subd. 5. [DEPRECIATION.] While an election under subdivision 2 is in effect, the company shall be subject to complaints by the department or others concerning its depreciation rates and practices pursuant to section 237.081, subdivision 1a, and shall submit to the department the information required by Minnesota Rules, parts 7810.7700 and 7810.7800, but shall not otherwise be subject to section 237.22 or the certification procedures of Minnesota Rules, part 7810.7000.

Sec. 21. [237.774] [OTHER LAWS.]

Except as provided in sections 237.76 to 237.773, a telephone company subject to a plan approved under sections 237.764 and 237.773, shall comply with any state or federal laws governing the provision of telephone services. Nothing contained in sections 237.76 to 237.773 is intended in any way to change or modify the definitions contained in section 237.01 or what constitutes the provision of telephone service under this chapter or other laws.

Sec. 22. [PUBLIC ACCESS.]

The department shall investigate how to ensure citizen access to local government and other public access programming on emerging communication technologies such as video dial-tone and satellite transmission equivalent to that required of cable franchise operators pursuant to Minnesota Statutes, chapter 238, and the alternatives available to the state to ensure that access.

The department shall make recommendations to the legislature by January 1, 1996, concerning public access.

Sec. 23. [EFFECTIVE DATE; EXPIRATION.]

Sections 1 to 22 are effective August 1, 1995, and expire January 1, 2006."

Amend the title as follows:

Page 1, line 7, after the first semicolon, insert "237.035;" and delete "and"

Page 1, line 8, after the semicolon, insert "and 237.461, subdivision 2;"

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

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

H.F. No. 670 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS**CONSENT CALENDAR****CALENDAR**H.F. No.
670S.F. No.
494

H.F. No.

S.F. No.

H.F. No.

S.F. No.

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 670 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 670 and insert the language after the enacting clause of S.F. No. 494, the first engrossment; further, delete the title of H.F. No. 670 and insert the title of S.F. No. 494, the first engrossment.

And when so amended H.F. No. 670 will be identical to S.F. No. 494, and further recommends that H.F. No. 670 be given its second reading and substituted for S.F. No. 494, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Ms. Berglin from the Committee on Health Care, to which was referred

S.F. No. 845: A bill for an act relating to health; MinnesotaCare; establishing requirements for integrated service networks; modifying requirements for health plan companies; establishing the standard health coverage; delaying the regulated all-payer option; modifying universal coverage and insurance reform provisions; revising the research and data initiatives; expanding eligibility for the MinnesotaCare program; establishing prescription drug coverage for low-income Medicare beneficiaries; extending the health care commission and regional coordinating boards; making technical changes; reducing tax deductions for the voluntarily insured; providing penalties; appropriating money; amending Minnesota Statutes 1994, sections 13.99, by adding a subdivision; 60A.02, subdivision 1a; 60B.02; 60B.03, subdivision 2; 60G.01, subdivisions 2, 4, and 5; 62A.10, subdivisions 1 and 2; 62A.65, subdivisions 5 and 8; 62D.02, subdivision 8; 62D.042, subdivision 2; 62D.11, subdivision 1; 62E.141; 62H.04; 62H.08; 62J.017; 62J.04, subdivision 3; 62J.05, subdivisions 2 and 9; 62J.06; 62J.09, subdivisions 1, 2, 6, 8, and by adding a subdivision; 62J.17, subdivision 4a; 62J.212; 62J.37; 62J.38; 62J.40; 62J.41, subdivision 1; 62J.48; 62J.55; 62L.02, subdivisions 11, 16, 24, and 26; 62L.03, subdivisions 3, 4, and 5; 62L.09, subdivision 1; 62L.12, subdivision 2; 62N.02, by adding subdivisions; 62N.04; 62N.10, by adding a subdivision; 62N.11, subdivision 1; 62N.13; 62N.14, subdivision 3; 62P.03; 62P.05, by adding a subdivision; 62P.07, subdivision 4; 62P.31; 62Q.01, subdivisions 2, 3, and by adding subdivisions; 62Q.03, subdivisions 1, 6, 7, 8, 9, 10, and by adding subdivisions; 62Q.07, subdivisions 1 and 2; 62Q.09, subdivision 3; 62Q.11, subdivision 2; 62Q.165; 62Q.17, subdivisions 2, 6, 8, and by adding a subdivision; 62Q.18; 62Q.19; 62Q.25; 136A.1355, subdivisions 3 and 5; 136A.1356, subdivisions 3 and 4; 144.1464, subdivisions 2, 3, and 4; 144.147, subdivision 1; 144.1484, subdivision 1; 144.1486, subdivision 4; 144.1489, subdivision 3; 151.48; 214.16, subdivisions 2 and 3; 256.9354, subdivisions 1, 4, 5, and by adding a subdivision; 256.9357, subdivisions 1, 2, and 3; 256.9358, by adding a subdivision; 256B.057, subdivision 3; 270.101, subdivision 1; 290.01, subdivision 19a; 295.50, subdivisions 3, 4, and 10a; 295.53, subdivisions 1, 3, and 4; 295.55, subdivision 4; and 295.57; Laws 1990, chapter 591, article 4, section 9; Laws 1994, chapter 625, article 5, section 10, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 62J; 62L; 62N; 62Q; and 295; repealing Minnesota Statutes 1994, sections 62J.045; 62J.07, subdivision 4; 62J.09, subdivision 1a; 62J.19; 62J.30; 62J.31; 62J.32; 62J.33; 62J.34; 62J.35; 62J.41, subdivisions 3 and 4; 62J.44; 62J.45; 62J.65; 62L.08, subdivision 7a; 62Q.03, subdivisions 2, 3, 4, 5, and 11; 62Q.21; and 62Q.27; Laws 1993, chapter 247, article 1, sections 12, 13, 14, 15, 18, and 19; Minnesota Rules, part 4685.1700, subpart 1, item D.

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

Page 11, line 13, delete "is" and insert "are"

Page 14, line 29, delete "policy holder" and insert "policyholder"

Page 17, line 8, delete "Supplement" and insert "supplement"

Page 18, lines 5 and 6, delete "medicare" and insert "Medicare"

Page 18, line 23, delete "7" and insert "10"

Page 18, line 35, delete the comma and insert "and"

Page 20, line 12, delete "reviewed" and insert "revised"

Page 21, lines 4 and 7, delete "collected" and insert "obtained by the commissioner"

Page 21, line 20, before "as" insert "of the risk adjustment system"

Page 21, after line 32, insert:

"Sec. 17. Minnesota Statutes 1994, section 62Q.03, is amended by adding a subdivision to read:

Subd. 12. [PARTICIPATION BY ALL HEALTH PLAN COMPANIES.] Upon its implementation, all health plan companies, as a condition of licensure, must participate in the risk adjustment system to be implemented under this section."

Page 25, line 32, after "decision" insert "by a health plan company"

Page 25, line 34, delete "a" and insert "the"

Page 32, line 4, delete everything before "the" and insert "further define"

Page 32, line 11, after the period, insert "In developing the standard exclusions, the commissioners shall consider current market practices and the effect of exclusions on the cost of premiums."

Page 33, line 6, delete "out-of-network"

Page 33, line 14, delete "in network" and insert "in-network"

Page 33, lines 16 and 17, delete "by health plan companies"

Page 33, line 18, before the period, insert "by the health plan companies or at prices reflecting discounts received from bulk purchasing by the individual health care provider"

Page 34, after line 1, insert:

"(f) 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."

"(g) 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."

Page 34, line 15, delete from "over" through page 34, line 17, to "counseling"

Page 34, line 18, delete "(iii)" and insert "(ii)" and delete "and"

Page 34, line 19, delete "(iv)" and insert "(iii)"

Page 34, after line 20, insert:

"(iv) postnatal care; and"

Page 34, line 21, after "(2)" insert "if coverage for" and after "services" insert "is offered, these services"

Page 34, line 25, delete "coinsurance"

Page 34, line 27, delete from "over" through page 34, line 28, to "screening" and insert "vision and hearing exams, mental health and chemical dependency assessment or diagnosis"

Page 34, line 30, delete "Coinsurance"

Page 35, line 5, after "(2)" insert "if coverage for" and after "services" insert "is offered, these services"

Page 35, delete lines 17 to 19

Page 35, line 20, delete "(2)" and insert "(1)"

Page 35, line 22, delete "(3)" and insert "(2)"

Page 35, line 25, delete "(4)" and insert "(3)"

Page 35, line 26, delete "(5)" and insert "(4)"

Page 35, line 28, delete "(6)" and insert "(5)"

Page 35, line 30, delete "(7)" and insert "(6)"

Page 35, lines 32 and 33, delete "(hospital and residential)"

Page 35, line 34, delete "(8)" and insert "(7) if coverage for" and after "services" insert "is offered, these services"

Page 36, line 1, delete "(9)" and insert "(8)"

Page 36, line 19, after "(5)" insert "if coverage for" and after "services" insert "is offered, these services"

Page 37, line 23, delete "29" and insert "30"

Page 38, line 14, delete the new language

Page 38, lines 15 to 19, delete the new language and strike the old language

Page 38, line 20, strike "all-payer law pursuant to chapter 62P" and delete the new language

Pages 38 and 39, delete sections 2 to 4 and insert:

"Sec. 2. Minnesota Statutes 1994, 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 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 February 15 of each year on differences between the projected increase in health care expenditures, 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 option health plan companies and revenues for providers.~~ 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~~ health plan companies, with adjustments for changes in enrollment, benefits, severity, and risks. ~~If an integrated service network a health plan company exceeds the growth limits, the commissioner may reduce future limits on growth in aggregate premium revenues expenses for that integrated service network health plan company by up to the amount overspent. If the integrated service network system health plan company exceeds a systemwide spending limit, the commissioner may reduce future limits on growth in premium revenues expenses for the integrated service network system health plan company by up to the amount overspent.~~

~~(d) The commissioner shall set prices, utilization controls, and other requirements for the regulated all-payer 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 growth limits for a calendar year are exceeded, the commissioner may reduce reimbursement rates or otherwise recoup amounts exceeding the limit for all or part of the next calendar year. To the extent possible, the commissioner may reduce reimbursement rates or otherwise recoup amounts over the limit from individual providers who exceed the 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~~ health plan companies and providers. 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 systemwide limits imposed on all ~~integrated service networks~~ health plan companies.

(e) The commissioner, in consultation with the health care commission, shall make recommendations and report to the legislature by December 30, 1995, on the most effective way to implement growth limits on the fee-for-service system, in the absence of a regulated all-payer system.

~~(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. 3. Minnesota Statutes 1994, section 62J.152, subdivision 5, is amended to read:

Subd. 5. [USE OF TECHNOLOGY EVALUATION.] (a) The final report on the technology evaluation and the commission's comments and recommendations may be used:

- (1) by the commissioner in retrospective and prospective review of major expenditures;
- (2) by integrated service networks and other group purchasers and by employers, in making coverage, contracting, purchasing, and reimbursement decisions;
- ~~(3) by government programs and regulators of the regulated all-payer option, in making coverage, contracting, purchasing, and reimbursement decisions;~~
- (4) by the commissioner and other organizations in the development of practice parameters;
- ~~(5)~~ (4) by health care providers in making decisions about adding or replacing technology and the appropriate use of technology;
- ~~(6)~~ (5) by consumers in making decisions about treatment;
- ~~(7)~~ (6) by medical device manufacturers in developing and marketing new technologies; and
- ~~(8)~~ (7) as otherwise needed by health care providers, health care plans, consumers, and purchasers.

(b) At the request of the commissioner, the health care commission, in consultation with the health technology advisory committee, shall submit specific recommendations relating to technologies that have been evaluated under this section for purposes of retrospective and prospective review of major expenditures and coverage, contracting, purchasing, and reimbursement decisions affecting state programs ~~and the all-payer option.~~

Sec. 4. Minnesota Statutes 1994, section 62Q.01, subdivision 4, is amended to read:

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; or
- (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. 5. Minnesota Statutes 1994, section 62Q.30, is amended to read:

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~~ health plan companies 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 health coverage.~~ 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~~ a health plan company that is the subject of repeated orders by the commissioner that suggests a pattern of inappropriate underutilization.

Sec. 6. Minnesota Statutes 1994, section 62Q.41, is amended to read:

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. 7. Laws 1994, chapter 625, article 5, section 5, subdivision 1, is amended to read:

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."

Page 39, after line 33, insert:

"Sec. 9. [REPEALER.]

Minnesota Statutes 1994, sections 62J.152, subdivision 6; 62P.01; 62P.02; 62P.03; 62P.07; 62P.09; 62P.11; 62P.13; 62P.15; 62P.17; 62P.19; 62P.21; 62P.23; 62P.25; 62P.27; 62P.29; 62P.31; and 62P.33, are repealed."

Page 40, line 29, delete "provided that coverage" and insert "Coverage"

Page 41, line 14, delete "allowed"

Page 41, line 15, after "Code" insert "allowed in calculating state personal income tax liability under chapter 290"

Page 41, line 31, delete "form" and insert "return"

Page 42, line 4, delete "form" and insert "return"

Pages 48 and 49, delete section 4

Page 50, delete section 6

Page 85, after line 14, insert:

"Section 1. [62J.66] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] For purposes of sections 62J.66 and 62J.68, the following definitions apply.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of administration.

Subd. 3. [CONTRACT PRICE.] "Contract price" means the price of a prescription drug, as established through negotiations between the multistate pharmaceutical contracting alliance and drug manufacturers and drug wholesalers.

Subd. 4. [ELIGIBLE SENIOR.] "Eligible senior" means a senior citizen eligible for the senior drug purchasing benefit program under section 62J.68, subdivision 3.

Subd. 5. [MULTISTATE PHARMACEUTICAL CONTRACTING ALLIANCE.] "Multistate pharmaceutical contracting alliance" or "alliance" means the alliance established and administered by the commissioner of administration, under the authority granted in section 471.59.

Subd. 6. [SENIOR CITIZEN.] "Senior citizen" means a resident of Minnesota who is age 65 or older.

Subd. 7. [SENIOR DRUG PURCHASING BENEFIT PROGRAM.] "Senior drug purchasing benefit program" means the program established in section 62J.68.

Sec. 2. [62J.68] [SENIOR DRUG PURCHASING BENEFIT PROGRAM.]

Subdivision 1. [ESTABLISHMENT AND ADMINISTRATION.] The commissioner of administration shall extend drug prices negotiated through the multistate pharmaceutical contracting alliance to eligible seniors participating in the senior drug purchasing benefit program. The commissioner shall: (1) establish and administer the senior drug purchasing benefit program, to be operational by July 1, 1996; (2) negotiate multistate contracting prices for prescription drugs for eligible seniors; and (3) enroll participating pharmacies into the senior drug purchasing benefit program.

Subd. 2. [PARTICIPATING PHARMACIES.] The commissioner shall accept as a participating pharmacy any pharmacy that agrees to comply with the requirements established by the commissioner for participation in the senior drug purchasing benefit program.

Subd. 3. [ELIGIBILITY.] (a) Senior citizens are eligible for the program if:

(1) their household income does not exceed 200 percent of the federal poverty guidelines;

(2) they are enrolled in Medicare Part A and Part B;

(3) they do not have coverage for prescription drugs under a health plan, as defined in section 62Q.01, subdivision 3;

(4) they do not have coverage for prescription drugs under a Medicare supplement plan, 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; and

(5) they are not eligible for the medical assistance, general assistance medical care, or the MinnesotaCare programs.

(b) Eligibility shall be determined by the commissioner of human services. The commissioner of human services may use volunteers to carry out this requirement.

Subd. 4. [PURCHASE OF PRESCRIPTION DRUGS.] Participating pharmacies shall charge eligible seniors, for each prescription filled, the contract price of the prescription drug, plus a dispensing fee in the amount established by the commissioner.

Subd. 5. [PHARMACY REIMBURSEMENT.] The commissioner, using electronic credit exchange, shall reimburse pharmacies on a weekly basis for each prescription drug purchased by an eligible senior. The reimbursement for each prescription must equal the difference between the pharmacy's purchase price for the prescription drug and the sum of the contract price for the prescription drug and the dispensing fee. The commissioner may contract with an on-line claims adjudicator to process pharmacy claims. The cost for on-line claims processing may be passed on to participating pharmacies.

Subd. 6. [ADMINISTRATIVE COSTS.] An administrative fee, to be determined by the commissioner, may be used by the commissioner for administrative and contract costs. This administrative fee shall be set at a percentage of estimated acquisition cost and may be determined through negotiations with drug manufacturers and drug wholesalers."

Page 86, line 30, after "1" insert "or 4a"

Page 86, line 31, strike "subdivision" and delete "4a" and insert "those subdivisions"

Page 87, line 21, delete "section" and insert "subdivision"

Page 89, lines 20 and 21, delete "employer subsidized" and insert "employer-subsidized"

Page 91, after line 8, insert:

"Sec. 10. Minnesota Statutes 1994, section 256.9358, subdivision 3, is amended to read:

Subd. 3. [SLIDING SCALES AFTER JUNE 30, 1993.] Beginning July 1, 1993, the sliding scales begin with a premium of 1.5 percent of gross family income for individuals with incomes below the limits for the medical assistance program set at 133-1/3 percent of the AFDC payment standard and proceed through the following evenly spaced steps: 1.8, 2.3, 3.1, 3.8, 4.8, 5.9, 7.4, and 8.8. These percentages are matched to evenly spaced income steps ranging from the medical assistance income limit to a gross monthly income of \$1,600 for an individual, \$2,160 for a household of two, \$2,720 for a household of three, \$3,280 for a household of four, and \$3,840 for a household of five, and \$4,400 for households of six or more persons. For the period October 1, 1992 through June 30, 1993, the commissioner shall employ a sliding scale that sets required premiums at percentages of gross family income equal to two-thirds of the percentages specified in this subdivision."

Page 91, line 11, delete "SLIDING SCALES AFTER JUNE 30, 1995" and insert "MINIMUM PREMIUM PAYMENT"

Page 91, after line 14, insert:

"Sec. 12. Minnesota Statutes 1994, section 256B.057, subdivision 3, is amended to read:

Subd. 3. [QUALIFIED MEDICARE BENEFICIARIES.] A person who is entitled to Part A Medicare benefits, whose income is equal to or less than 85 ~~150~~ percent of the federal poverty guidelines, and whose assets are no more than twice the asset limit used to determine eligibility for the supplemental security income program, is eligible for medical assistance reimbursement of

Part A and Part B premiums, Part A and Part B coinsurance and deductibles, and cost-effective premiums for enrollment with a health maintenance organization or a competitive medical plan under section 1876 of the Social Security Act, and prescription drugs. ~~The income limit shall be increased to 90 percent of the federal poverty guidelines on January 1, 1990; and to 100 percent on January 1, 1991.~~ Reimbursement of the Medicare coinsurance and deductibles, when added to the amount paid by Medicare, must not exceed the total rate the provider would have received for the same service or services if the person were a medical assistance recipient with Medicare coverage. Increases in benefits under Title II of the Social Security Act shall not be counted as income for purposes of this subdivision until the first day of the second full month following publication of the change in the federal poverty guidelines. The coverage of drugs shall be in accordance with section 256B.0625, subdivision 13, except that a copayment of \$3 shall be required for each prescription filled. Medical assistance payment for prescription drugs for persons eligible under this subdivision shall be reduced by \$3 to account for the copayment.

Sec. 13. [EFFECTIVE DATE.]

The amendments to section 12 (section 256B.057, subdivision 3) shall be effective only if federal approval is obtained and a notice of approval is published in the State Register. The effective date shall be July 1, 1996, or the first of the month occurring 90 days after the receipt of written federal approval, whichever is later.

Page 92, line 12, delete the comma

Page 107, line 10, after "participation" insert a comma

Page 107, line 18, delete "MCHA" and insert "the comprehensive health association"

Page 107, line 19, delete the first "and" and insert "the"

Page 107, line 26, delete "are" and insert "is"

Page 107, line 27, after "plan" insert a comma

Page 109, line 13, delete "clause" and insert "paragraph"

Page 120, line 6, strike from "the" through page 120, line 7, to "option" and insert "health plan companies"

Page 120, line 8, strike from "community" through page 120, line 9, to "insurers" and insert "health plan companies"

Page 120, line 13, strike the second "an"

Page 120, strike line 14

Page 120, line 15, strike "network" and insert "a health plan company" and strike "an"

Page 120, line 16, delete the new language and strike the old language

Page 120, line 17, strike "network" and insert "a health plan company"

Page 120, after line 26, insert:

"Sec. 10. Minnesota Statutes 1994, section 62M.02, subdivision 12, is amended to read:

Subd. 12. [HEALTH BENEFIT PLAN.] "Health benefit plan" means a policy, contract, or certificate issued by a health carrier to an employer or individual for the coverage of medical, dental, or hospital benefits. A 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 issued under chapter 62B;

(6) blanket accident and sickness insurance as defined in section 62A.11; or

(7) accident only coverage issued by a licensed and tested insurance agent; ~~or~~

~~(8) workers' compensation.~~

Sec. 11. Minnesota Statutes 1994, section 62M.07, is amended to read:

62M.07 [PRIOR AUTHORIZATION OF SERVICES.]

(a) Utilization review organizations conducting prior authorization of services must have written standards that meet at a minimum the following requirements:

(1) written procedures and criteria used to determine whether care is appropriate, reasonable, or medically necessary;

(2) a system for providing prompt notification of its determinations to enrollees and providers and for notifying the provider, enrollee, or enrollee's designee of appeal procedures under clause (4);

(3) compliance with section 72A.201, subdivision 4a, regarding time frames for approving and disapproving prior authorization requests;

(4) written procedures for appeals of denials of prior authorization which specify the responsibilities of the enrollee and provider, and which meet the requirements of section 72A.285, regarding release of summary review findings; ~~and~~

(5) procedures to ensure confidentiality of patient-specific information, consistent with applicable law; and

(6) a system for making determinations, and notifying providers and enrollees of these determinations, during weekends to allow access for determination.

(b) No utilization review organization, health plan company, or claims administrator may conduct or require prior authorization of emergency confinement or emergency treatment. The enrollee or the enrollee's authorized representative may be required to notify the health plan company, claims administrator, or utilization review organization as soon after the beginning of the emergency confinement or emergency treatment as reasonably possible.

Sec. 12. Minnesota Statutes 1994, section 62M.09, subdivision 5, is amended to read:

Subd. 5. [WRITTEN CLINICAL CRITERIA.] A utilization review organization's decisions must be supported by written clinical criteria and review procedures, based on improved patient care or proven patient outcomes. Clinical criteria and review procedures must be established with appropriate involvement from actively practicing physicians. A utilization review organization must use written clinical criteria, as required, for determining the appropriateness of the certification request. The utilization review organization must have a procedure for ensuring, at a minimum, the periodic annual evaluation and updating of the written criteria based on sound clinical principles.

Sec. 13. Minnesota Statutes 1994, section 62M.10, is amended by adding a subdivision to read:

Subd. 7. [AVAILABILITY OF CRITERIA.] Upon request, a utilization review organization shall provide to an enrollee or to an attending physician or provider the criteria used for a specific procedure to determine the necessity, appropriateness, and efficacy of that procedure and identify the database, professional treatment guideline, or other basis for the criteria.

Sec. 14. Minnesota Statutes 1994, section 62P.05, subdivision 4, is amended to read:

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. 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 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 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, and 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 percentage increase in the average fee from 1995 to 1996, and from 1996 to 1997 is subject to the change in the regional consumer price index for urban consumers for the previous year published in the State Register in January of the year that the growth limit is in effect. 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.

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."

Page 120, line 30, delete ", as defined in Minnesota Rules, chapter 4650,"

Page 121, line 4, after the period, insert "For purposes of this subdivision, small rural hospital is defined as a licensed hospital with less than 50 beds."

Page 121, after line 4, insert:

"Sec. 16. Minnesota Statutes 1994, section 72A.20, is amended by adding a subdivision to read:

Subd. 32. [UNFAIR HEALTH RISK AVOIDANCE.] No insurer or health plan company may design a network of providers, policies on access to providers, or marketing strategy in such a way as to discourage enrollment by individuals or groups whose health care needs are perceived as likely to be more expensive than the average. This subdivision does not prohibit underwriting and rating practices that comply with Minnesota law.

Sec. 17. Minnesota Statutes 1994, section 72A.20, is amended by adding a subdivision to read:

Subd. 33. [PROHIBITION OF INAPPROPRIATE INCENTIVES.] No insurer or health plan company may give any financial incentive to a health care provider based on the number of services denied or referrals not authorized by the provider. This subdivision does not prohibit capitation or other compensation methods that serve to hold health care providers financially accountable for the cost of caring for a patient population."

Page 129, line 4, before the period, insert ", except that the revisor shall retain the reference to "children's health plan" in Minnesota Statutes, section 256.9357, subdivision 1"

Page 129, line 15, delete "17 to 21 and 22" and insert "24 to 29"

Page 132, line 21, delete "program" and insert "coverage"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, delete "delaying" and insert "repealing"

Page 1, line 9, delete "establishing"

Page 1, delete line 10

Page 1, line 11, delete "beneficiaries" and insert "creating the prescription drug purchasing authority; establishing a drug purchasing benefit program for senior citizens"

Page 1, line 14, delete "insured" and insert "uninsured"

Page 1, line 21, delete "subdivision" and insert "subdivisions 1a and"

Page 1, line 23, after the first semicolon, insert "62J.152, subdivision 5;"

Page 1, line 27, after "2;" insert "62M.02, subdivision 12; 62M.07; 62M.09, subdivision 5; 62M.10, by adding a subdivision;"

Page 1, delete lines 30 and 31 and insert "62P.05, subdivision 4, and by adding a subdivision; 62Q.01, subdivisions 2, 3, 4, and"

Page 1, line 36, after "62Q.25;" insert "62Q.30; 62Q.41; 72A.20, by adding subdivisions;"

Page 1, line 43, before "by" insert "subdivision 3, and"

Page 2, line 3, delete "section" and insert "sections 5, subdivision 1; and"

Page 2, line 8, after "1a;" insert "62J.152, subdivision 6;"

Page 2, line 10, after "7a;" insert "62P.01; 62P.02; 62P.03; 62P.07; 62P.09; 62P.11; 62P.13; 62P.15; 62P.17; 62P.19; 62P.21; 62P.23; 62P.25; 62P.27; 62P.29; 62P.31; 62P.33;"

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

Mr. Spear from the Committee on Crime Prevention, to which was referred

S.F. No. 512: A bill for an act relating to human services; licensing; administrative hearings; vulnerable adults reporting act; imposing criminal penalties; amending Minnesota Statutes 1994, sections 13.82, subdivision 10, and by adding subdivisions; 245A.04, subdivision 3; 256.045, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, and by adding a subdivision; 268.09, subdivision 1; 595.02, subdivision 3; 609.205; 609.224, subdivision 2; 609.72, by adding a subdivision; and 626.557, subdivisions 1, 3, 3a, 4, 5, 6, 7, 8, 9, 10, 14, 16, 17, 18, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 609; and 626; repealing Minnesota Statutes 1994, sections 609.23; 609.231; 626.556, subdivision 2; and 626.557, subdivisions 10a, 11, 11a, 12, 13, 15, and 19.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

VULNERABLE ADULTS ACT AMENDMENTS

Section 1. Minnesota Statutes 1994, section 626.557, subdivision 1, is amended to read:

Subdivision 1. [PUBLIC POLICY.] The legislature declares that the public policy of this state is to protect adults who, because of physical or mental disability or dependency on institutional services, are particularly vulnerable to ~~abuse or neglect~~ maltreatment; to assist in providing safe environments for vulnerable adults; and to provide safe institutional or residential services, community-based services, or living environments for vulnerable adults who have been ~~abused or neglected~~; and to assist persons charged with the care of vulnerable adults to provide safe environments maltreated.

In addition, it is the policy of this state to require the reporting of suspected ~~abuse or neglect~~ maltreatment of vulnerable adults, to provide for the voluntary reporting of ~~abuse or neglect~~ maltreatment of vulnerable adults, to require the investigation of the reports, and to provide protective and counseling services in appropriate cases.

Sec. 2. Minnesota Statutes 1994, section 626.557, subdivision 3, is amended to read:

Subd. 3. [~~PERSONS MANDATED TO~~ TIMING OF REPORT.] ~~A professional or the professional's delegate who is engaged in the care of vulnerable adults, education, social services, law enforcement, or any of the regulated occupations referenced in subdivision 2, clause (g)(3) and (4), or an employee of a rehabilitation facility certified by the commissioner of economic security for vocational rehabilitation, or an employee of or person providing services in a facility who has knowledge of the abuse or neglect of a vulnerable adult, has reasonable cause to believe~~ (a) A mandated reporter who has reason to believe that a vulnerable adult is being or has been abused or neglected maltreated, or who has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained by the history of injuries provided by the caretaker or caretakers of the vulnerable adult shall immediately report the information to the local police department, county sheriff, local welfare agency, or appropriate licensing or certifying agency common entry point. If an individual is a vulnerable adult solely because the individual is admitted to a facility, a mandated reporter is not required to report suspected maltreatment of the individual that occurred prior to admission, unless:

(1) the individual was admitted to the facility from another facility and the reporter has reason to believe that the vulnerable adult was maltreated in the previous facility; or

(2) the reporter knows or has reason to believe that the individual is a vulnerable adult as defined in section 626.5572, subdivision 21, clause (4). The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency. The local welfare agency, upon receiving a report, shall immediately notify the local police department or the county sheriff and the appropriate licensing agency or agencies.

(b) A person not required to report under the provisions of this subdivision section may voluntarily report as described above. Medical examiners or coroners shall notify the police department or county sheriff and the local welfare department in instances in which they believe that a vulnerable adult has died as a result of abuse or neglect.

(c) Nothing in this subdivision shall be construed to require the reporting or transmittal of information regarding an incident of abuse or neglect or suspected abuse or neglect if the incident has been reported or transmitted to the appropriate person or entity section requires a report of known or suspected maltreatment, if the reporter knows or has reason to know that a report has been made to the common entry point.

(d) Nothing in this section shall preclude a reporter from also reporting to a law enforcement agency.

Sec. 3. Minnesota Statutes 1994, section 626.557, subdivision 3a, is amended to read:

Subd. 3a. [REPORT NOT REQUIRED.] The following events are not required to be reported under this section:

(a) ~~Where federal law specifically prohibits a person from disclosing patient identifying information in connection with a report of suspected abuse or neglect under Laws 1983, chapter 273, section 3 maltreatment, then that person need not make a required report otherwise required by this section, unless the vulnerable adult, or the vulnerable adult's guardian, conservator, or legal representative, has consented to disclosure in a manner which conforms to federal requirements. Facilities whose patients or residents are covered by such a federal law shall seek consent to the disclosure of suspected abuse or neglect maltreatment from each patient or resident, or a guardian, conservator, or legal representative, upon the patient's or resident's admission to the facility. Persons who are prohibited by federal law from reporting an incident of suspected abuse or neglect maltreatment shall promptly immediately seek consent to make a report.~~

(b) ~~Except as defined in subdivision 2, paragraph (d), clause (1), Verbal or physical aggression occurring between patients, residents, or clients of a facility, or self-abusive behavior of these persons does not constitute "abuse" maltreatment for the purposes of subdivision 3 unless it causes serious harm. The operator of the facility or a designee shall record incidents of aggression and self-abusive behavior in a manner that facilitates periodic to facilitate review by licensing agencies and county and local welfare agencies.~~

(c) Accidents as defined in section 626.5572, subdivision 3.

(d) Events occurring in a facility that result from an individual's single mistake, as defined in section 626.5572, subdivision 17, paragraph (c), clause (4).

(e) Nothing in this section shall be construed to require a report of abuse financial exploitation, as defined in section 626.5572, subdivision 2 9, paragraph (d), clause (4), solely on the basis of the transfer of money or property by gift or as compensation for services rendered.

Sec. 4. Minnesota Statutes 1994, section 626.557, subdivision 4, is amended to read:

Subd. 4. ~~[REPORT REPORTING.] A person required to report under subdivision 3 mandated reporter shall immediately make an oral report immediately by telephone or otherwise. A person required to report under subdivision 3 shall also make a report as soon as possible in writing to the appropriate police department, the county sheriff, local welfare agency, or appropriate licensing agency. The written report shall to the common entry point. Use of a telecommunications device for the deaf or other similar device shall be considered an oral report. The common entry point may not require written reports. To the extent possible, the report must be of sufficient content to identify the vulnerable adult, the caretaker caregiver, the nature and extent of the suspected abuse or neglect maltreatment, any evidence of previous abuse or neglect maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected abuse or neglect maltreatment. Written reports received by a police department or a county sheriff shall be forwarded immediately to the local welfare agency. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department shall be forwarded immediately to the local police department or the county sheriff and the appropriate licensing agency or agencies.~~

Sec. 5. Minnesota Statutes 1994, section 626.557, is amended by adding a subdivision to read:

Subd. 4a. [INTERNAL REPORTING OF MALTREATMENT.] (a) Each facility shall establish and enforce an ongoing written procedure in compliance with applicable licensing rules, to ensure that all cases of suspected maltreatment are reported. If a facility has an internal reporting procedure, then a mandated reporter may meet the reporting requirements of this section by reporting internally. However, the facility remains responsible for complying with the immediate reporting requirements of this section.

(b) A facility with an internal reporting procedure that receives an internal report by a mandated reporter shall give the mandated reporter a written notice stating whether the facility has reported

the incident to the common entry point. The written notice must be provided within two working days and in a manner that protects the confidentiality of the reporter.

(c) The written response to the mandated reporter shall note that if the mandated reporter is not satisfied with the action taken by the facility on whether to report the incident to the common entry point, then the mandated reporter may report externally.

(d) A facility may not prohibit a mandated reporter from reporting externally, and a facility is prohibited from retaliating against a mandated reporter who reports an incident to the common entry point in good faith. The written notice by the facility must inform the mandated reporter of this protection from retaliatory measures by the facility against the mandated reporter for reporting externally.

Sec. 6. Minnesota Statutes 1994, section 626.557, subdivision 5, is amended to read:

~~Subd. 5. [IMMUNITY; FROM LIABILITY PROTECTION FOR REPORTERS.]~~ (a) A person making a voluntary or mandated report under subdivision 3 or participating in an investigation under this section is immune from any civil or criminal liability that otherwise might result from the person's actions, if the person is acting in good faith who makes a good faith report is immune from any civil or criminal liability that might otherwise result from making the report, or from participating in the investigation, or for failure to comply with the reporting obligation.

(b) A person employed by a ~~local welfare~~ lead agency or a state licensing agency who is conducting or supervising an investigation or enforcing the law in compliance with ~~subdivision 10, 11, or 12~~ this section or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is acting in good faith and exercising due care.

(c) A person who knows or has reason to know a report has been made to a common entry point and who in good faith participates in an investigation of alleged maltreatment is immune from civil or criminal liability that otherwise might result from making a report or from failure to comply with the reporting obligation or from participating in the investigation.

(d) The identity of any reporter may not be disclosed, except as provided in subdivision 12b.

Sec. 7. Minnesota Statutes 1994, section 626.557, subdivision 6, is amended to read:

~~Subd. 6. [FALSIFIED REPORTS.] A person or facility who intentionally makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the facility, or person or persons so reported and for any punitive damages set by the court or jury up to \$10,000 and attorney fees.~~

Sec. 8. Minnesota Statutes 1994, section 626.557, subdivision 7, is amended to read:

~~Subd. 7. [FAILURE TO REPORT.] (a) A person required to report by this section who intentionally fails to report is guilty of a misdemeanor.~~

(b) A person required by this section to report A mandated reporter who negligently or intentionally fails to report is liable for damages caused by the failure. Nothing in this subdivision imposes vicarious liability for the acts or omissions of others.

Sec. 9. Minnesota Statutes 1994, section 626.557, subdivision 8, is amended to read:

~~Subd. 8. [EVIDENCE NOT PRIVILEGED.] No evidence regarding the abuse or neglect maltreatment of the vulnerable adult shall be excluded in any proceeding arising out of the alleged abuse or neglect maltreatment on the grounds of lack of competency under section 595.02.~~

Sec. 10. Minnesota Statutes 1994, section 626.557, subdivision 9, is amended to read:

~~Subd. 9. [MANDATORY REPORTING TO A MEDICAL EXAMINER OR CORONER THE COMMON ENTRY POINT.] A person required to report under the provisions of subdivision 3 who has reasonable cause to believe that a vulnerable adult has died as a direct or indirect result of abuse or neglect shall report that information to the appropriate medical examiner or coroner in~~

addition to the local welfare agency, police department, or county sheriff or appropriate licensing agency or agencies. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff, the local welfare agency, and, if applicable, each licensing agency. A person or agency that receives a report under this subdivision concerning a vulnerable adult who was receiving services or treatment for mental illness, mental retardation or a related condition, chemical dependency, or emotional disturbance from an agency, facility, or program as defined in section 245.91, shall also report the information and findings to the ombudsman established under sections 245.91 to 245.97. (a) Each county board shall designate a common entry point for reports of suspected maltreatment. Two or more county boards may jointly designate a single common entry point. The common entry point is the unit responsible for receiving the report of suspected maltreatment under this section.

(b) The common entry point must be available 24 hours per day to take calls from reporters of suspected maltreatment. The common entry point shall use a standard intake form that includes:

- (1) the time and date of the report;
- (2) the name, address, and telephone number of the person reporting;
- (3) the time, date, and location of the incident;
- (4) the names of the persons involved, including but not limited to, perpetrators, alleged victims, and witnesses;
- (5) whether there was a risk of imminent danger to the alleged victim;
- (6) a description of the suspected maltreatment;
- (7) the disability, if any, of the alleged victim;
- (8) the relationship of the alleged perpetrator to the alleged victim;
- (9) whether a facility was involved and, if so, which agency licenses the facility;
- (10) any action taken by the common entry point;
- (11) whether law enforcement has been notified;
- (12) whether the reporter wishes to receive notification of the initial and final reports; and
- (13) if the report is from a facility with an internal reporting procedure, the name, mailing address, and telephone number of the person who initiated the report internally.

(c) The common entry point is not required to complete each item on the form prior to dispatching the report to the appropriate investigative agency.

(d) The common entry point shall immediately report to a law enforcement agency any incident in which there is reason to believe a crime has been committed.

(e) If a report is initially made to a law enforcement agency or a lead agency, those agencies shall take the report on the appropriate common entry point intake forms and immediately forward a copy to the common entry point.

(f) The common entry point staff must receive training on how to screen and dispatch reports efficiently and in accordance with this section.

(g) When a centralized database is available, the common entry point has access to the centralized database and must log the reports in on the database.

Sec. 11. Minnesota Statutes 1994, section 626.557, is amended by adding a subdivision to read:

Subd. 9a. [EVALUATION AND REFERRAL OF REPORTS MADE TO THE COMMON ENTRY POINT.] The common entry point must screen the reports of alleged or suspected maltreatment for immediate risk and make all necessary referrals as follows:

(1) if the common entry point determines that there is an immediate need for adult protective services, the common entry point agency shall immediately notify the appropriate county agency;

(2) if the report contains suspected criminal activity against a vulnerable adult, the common entry point shall immediately notify the appropriate law enforcement agency;

(3) if the report references alleged or suspected maltreatment and there is no immediate need for adult protective services, the common entry point shall notify the appropriate lead agency as soon as possible, but in any event no longer than two working days;

(4) if the report does not reference alleged or suspected maltreatment, the common entry point may determine whether the information will be referred; and

(5) if the report contains information about a suspicious death, the common entry point shall immediately notify the appropriate law enforcement agencies and the ombudsman established under section 245.92. Law enforcement agencies shall coordinate with the local medical examiner and the ombudsman as provided by law.

Sec. 12. Minnesota Statutes 1994, section 626.557, is amended by adding a subdivision to read:

Subd. 9b. [RESPONSE TO REPORTS.] Law enforcement is the primary agency to conduct investigations of any incident in which there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved. County adult protection shall initiate a response immediately. Each lead agency shall complete the investigative process for reports within its jurisdiction. Any other lead agency, county, adult protective agency, licensed facility, or law enforcement agency shall cooperate and may assist another agency upon request within the limits of its resources and expertise. The lead agency shall obtain the results of any investigation conducted by law enforcement officials. The lead agency has the right to enter facilities and inspect and copy records as part of investigations. Each lead agency shall develop guidelines for prioritizing reports for investigation.

Sec. 13. Minnesota Statutes 1994, section 626.557, is amended by adding a subdivision to read:

Subd. 9c. [LEAD AGENCY; NOTIFICATIONS, DISPOSITIONS, AND DETERMINATIONS.] (a) Upon request of the reporter, the lead agency shall notify the reporter that it has received the report, and provide information on the initial disposition of the report within five business days of receipt of the report, provided that the notification will not endanger the vulnerable adult or hamper the investigation.

(b) Upon conclusion of every investigation it conducts, the lead agency shall make a final disposition as defined in section 626.5572, subdivision 8.

(c) When determining whether the facility or individual is the responsible party for substantiated maltreatment, the lead agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were in accordance with, and followed the terms of, an erroneous physician order, prescription, resident care plan, or directive. This is not a mitigating factor when the facility or caregiver is responsible for the issuance of the erroneous order, prescription, plan, or directive or knows or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) the comparative responsibility between the facility, other caregivers, and requirements placed upon the employee, including but not limited to, the facility's compliance with related regulatory standards and factors such as the adequacy of facility policies and procedures, the adequacy of facility training, the adequacy of an individual's participation in the training, the adequacy of caregiver supervision, the adequacy of facility staffing levels, and a consideration of the scope of the individual employee's authority; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

(d) The lead agency shall complete its final disposition within 60 calendar days. If the lead agency is unable to complete its final disposition within 60 calendar days, the lead agency shall notify the vulnerable adult or the vulnerable adult's legal guardian, when known, and the facility, where applicable, of the reason for the delay and the projected completion date, provided that the notification will not endanger the vulnerable adult or hamper the investigation. If the lead agency is unable to complete its final disposition by a subsequent projected completion date, the lead agency shall again notify the vulnerable adult or the vulnerable adult's legal guardian, when known, and the facility, where applicable, of the reason for the delay and the revised projected completion date provided that the notification will not endanger the vulnerable adult or hamper the investigation. A lead agency's inability to complete the final disposition within 60 calendar days or by any projected completion date does not invalidate the final disposition.

(e) Within ten calendar days of completing the final disposition, the lead agency shall provide a copy of the public investigation memorandum, when required to be completed under this section, to the following persons: (1) the vulnerable adult, or the vulnerable adult's legal guardian, if known; (2) the reporter, if the reporter requested notification when making the report, provided this notification would not endanger the well-being of the vulnerable adult; (3) the alleged perpetrator, if known; (4) the facility; and (5) the ombudsman for long-term care, or the ombudsman for mental health and mental retardation, as appropriate.

(f) The lead agency shall notify the vulnerable adult who is the subject of the report or the vulnerable adult's legal guardian, if known, and any person or facility determined to have maltreated a vulnerable adult, of their appeal rights under this section.

(g) If the lead agency does not complete the investigation by the projected completion date, the lead agency shall again notify the vulnerable adult or the vulnerable adult's legal guardian, when known, and the facility, where applicable, of the delay and the revised projected completion date.

(h) The lead agency shall routinely provide investigation memoranda for substantiated reports to the appropriate licensing boards. These reports must include the names of substantiated perpetrators. The lead agency may not provide investigative memoranda for inconclusive or false reports to the appropriate licensing boards unless the lead agency's investigation gives reason to believe that there may have been a violation of the applicable professional practice laws.

(i) In order to avoid duplication, licensing boards shall consider the findings of the lead agency in their investigations if they choose to investigate. This does not preclude licensing boards from considering other information.

(j) The lead agency must provide to the commissioner of human services its final dispositions, including the names of all substantiated perpetrators. The commissioner of human services shall establish records to retain the names of substantiated perpetrators.

Sec. 14. Minnesota Statutes 1994, section 626.557, is amended by adding a subdivision to read:

Subd. 9d. [ADMINISTRATIVE RECONSIDERATION OF THE FINAL DISPOSITION.] Any individual or facility which a lead agency determines has maltreated a vulnerable adult, or the vulnerable adult or vulnerable adult's legal guardian, regardless of the lead agency's determination, who contests the lead agency's final disposition of an allegation of maltreatment, may request the lead agency to reconsider its final disposition. The request for reconsideration must be submitted in writing to the lead agency within 15 calendar days after receipt of notice of final disposition.

If the lead agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045, may submit to the commissioner of human services a written request for a hearing under that statute.

If, as a result of the reconsideration, the lead agency changes the final disposition, it shall notify the parties specified in subdivision 9c, paragraph (d).

If the lead agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the vulnerable adult or vulnerable adult's designee may submit a challenge to accuracy and completeness of the data as provided in section 13.04.

Sec. 15. Minnesota Statutes 1994, section 626.557, is amended by adding a subdivision to read:

Subd. 9e. [EDUCATION REQUIREMENTS.] (a) The commissioners of health, human services, and public safety shall cooperate in the development of a joint program for education of lead agency investigators in the appropriate techniques for investigation of complaints of maltreatment. This program must be developed by July 1, 1996. The program must include but need not be limited to the following areas: (1) information collection and preservation; (2) analysis of facts; (3) levels of evidence; (4) conclusions based on evidence; (5) interviewing skills, including specialized training to interview people with unique needs; (6) report writing; (7) coordination and referral to other necessary agencies such as law enforcement and judicial agencies; (8) human relations and cultural diversity; (9) the dynamics of adult abuse and neglect within family systems and the appropriate methods for interviewing relatives in the course of the assessment or investigation; (10) the protective social services that are available to protect alleged victims from further abuse, neglect, or financial exploitation; and (11) the methods by which lead agency investigators and law enforcement workers cooperate in conducting assessments and investigations in order to avoid duplication of efforts.

(b) The commissioners of health, human services, and public safety shall offer at least annual education to others on the requirements of this section, on how this section is implemented, and investigation techniques.

(c) The commissioner of human services, in coordination with the commissioner of public safety, shall provide training for the common entry point staff as required in this subdivision and the program courses described in this subdivision, at least four times per year. At a minimum, the training must be held twice annually in the seven-county metropolitan area and twice annually outside the seven-county metropolitan area. The commissioners shall give priority in the program areas cited in paragraph (a) to persons currently performing assessments and investigations pursuant to this section.

(d) The commissioner of public safety shall notify in writing law enforcement personnel of any new requirements under this section. The commissioner of public safety shall conduct regional training for law enforcement personnel regarding their responsibility under this section.

(e) Each lead agency investigator must complete the education program specified by this subdivision within the first 12 months of work as a lead agency investigator.

A lead agency investigator employed when these requirements take effect must complete the program within the first year after training is available or as soon as training is available.

All lead agency investigators having responsibility for investigation duties under this section must receive a minimum of eight hours of continuing education or in-service training each year specific to their duties under this section.

Sec. 16. Minnesota Statutes 1994, section 626.557, subdivision 10, is amended to read:

Subd. 10. [DUTIES OF LOCAL WELFARE THE COUNTY SOCIAL SERVICE AGENCY UPON A RECEIPT OF A REPORT.] (a) The local welfare Upon receipt of a report from the common entry point staff, the county social service agency shall immediately ~~investigate~~ assess and offer emergency and continuing protective social services for purposes of preventing further ~~abuse or neglect~~ maltreatment and for safeguarding and ~~enhancing~~ the welfare of the ~~abused or neglected~~ maltreated vulnerable adult. ~~Local welfare agencies may enter facilities and inspect and copy records as part of investigations.~~ In cases of suspected sexual abuse, the ~~local welfare~~ county social service agency shall immediately arrange for and make available to the ~~victim~~ vulnerable adult appropriate medical examination and treatment. ~~The investigation shall not be limited to the written records of the facility, but shall include every other available source of information.~~ When necessary in order to protect the vulnerable adult from further harm, the ~~local welfare~~ county social service agency shall seek authority to remove the vulnerable adult from the situation in which the ~~neglect or abuse~~ maltreatment occurred. The ~~local welfare~~ county social service agency shall ~~may~~ also investigate to determine whether the conditions which resulted in the reported ~~abuse or neglect~~ maltreatment place other vulnerable adults in jeopardy of being ~~abused or neglected~~ maltreated and offer protective social services that are called for by its determination. ~~In performing any of these duties, the local welfare agency shall maintain appropriate records.~~

~~(b) If the report indicates, or if the local welfare agency finds that the suspected abuse or neglect occurred at a facility, or while the vulnerable adult was or should have been under the care of or receiving services from a facility, or that the suspected abuse or neglect involved a person licensed by a licensing agency to provide care or services, the local welfare agency shall immediately notify each appropriate licensing agency, and provide each licensing agency with a copy of the report and of its investigative findings. County social service agencies may enter facilities and inspect and copy records as part of an investigation. The inquiry is not limited to the written records of the facility, but may include every other available source of information.~~

(c) When necessary in order to protect a vulnerable adult from serious harm, the ~~local~~ county social service agency shall immediately intervene on behalf of that adult to help the family, ~~victim~~ vulnerable adult, or other interested person by seeking any of the following:

(1) a restraining order or a court order for removal of the perpetrator from the residence of the vulnerable adult pursuant to section 518B.01;

(2) the appointment of a guardian or conservator pursuant to sections 525.539 to 525.6198, or guardianship or conservatorship pursuant to chapter 252A;

(3) replacement of ~~an abusive or neglectful~~ a guardian or conservator suspected of maltreatment and appointment of a suitable person as guardian or conservator, pursuant to sections 525.539 to 525.6198; or

(4) a referral to the prosecuting attorney for possible criminal prosecution of the perpetrator under chapter 609.

The expenses of legal intervention must be paid by the county in the case of indigent persons, under section 525.703 and chapter 563.

In proceedings under sections 525.539 to 525.6198, if a suitable relative or other person is not available to petition for guardianship or conservatorship, a county employee shall present the petition with representation by the county attorney. The county shall contract with or arrange for a suitable person or ~~nonprofit~~ organization to provide ongoing guardianship services. If the county presents evidence to the probate court that it has made a diligent effort and no other suitable person can be found, a county employee may serve as guardian or conservator. The county shall not retaliate against the employee for any action taken on behalf of the ward or conservatee even if the action is adverse to the county's interest. Any person retaliated against in violation of this subdivision shall have a cause of action against the county and shall be entitled to reasonable attorney fees and costs of the action if the action is upheld by the court.

Sec. 17. Minnesota Statutes 1994, section 626.557, is amended by adding a subdivision to read:

Subd. 12b. [DATA MANAGEMENT.] (a) [COUNTY DATA.] In performing any of the duties of this section as a lead agency, the county social service agency shall maintain appropriate records. Data collected by the county social service agency under this section are welfare data under section 13.46. The identity of the reporter may only be disclosed as provided in paragraph (c).

Data received and maintained by the common entry point are confidential data on individuals as defined in section 13.02. Notwithstanding section 138.163, the common entry point shall destroy data after one calendar year after date of receipt.

(b) [LEAD AGENCY DATA.] The commissioner of health and the commissioner of human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. During an investigation by a lead agency, data collected under this section are confidential. Upon completion of the investigation, the data are classified as provided in clauses (1) and (2) and paragraph (c).

(1) The investigation memorandum must contain the following data, which is public:

(i) name of facility investigated;

(ii) a statement of the nature of the alleged maltreatment;

- (iii) pertinent information obtained from medical or other records reviewed;
- (iv) identity of the investigator;
- (v) a summary of the investigation's findings;
- (vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;
- (vii) a statement of any action taken by the facility;
- (viii) a statement of any action taken by the lead agency; and
- (ix) when a lead agency's determination has substantiated maltreatment, the investigation memorandum shall also identify, if known, whether an individual or individuals were responsible for the substantiated maltreatment, and whether a facility was responsible for the substantiated maltreatment.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the name or, to the extent possible, data on individuals or private data listed in clause (2).

(2) Data on individuals collected and maintained in the investigation memorandum are private data, including:

- (i) the name of the vulnerable adult;
- (ii) the identity of the individual alleged to be the perpetrator;
- (iii) the identity of the individual substantiated as the perpetrator; and
- (iv) the identity of all individuals interviewed as part of the investigation.

(c) [IDENTITY OF REPORTER.] The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) [DESTRUCTION OF DATA.] Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be destroyed under the following schedule:

- (1) reports determined to be false, two years after the finding was made;
- (2) reports determined to be inconclusive, four years after the finding was made;
- (3) reports determined to be substantiated, seven years after the finding was made; and
- (4) data from reports which were not investigated by a lead agency and for which there is no final disposition, one year from the date of the report.

(e) [SUMMARY OF REPORTS.] The commissioner of health and the commissioner of human services shall each annually prepare a summary of the number and type of reports of alleged maltreatment involving licensed facilities reported under this act.

(f) [RECORD RETENTION POLICY.] Each lead agency must have a record retention policy.

(g) [EXCHANGE OF INFORMATION.] Notwithstanding laws to the contrary, lead agencies, prosecuting authorities, and law enforcement agencies may exchange information, provided the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section.

(h) [COMPLETION TIME.] Each lead agency shall keep records of the length of time it takes to complete its investigations.

(i) [NOTIFICATION OF OTHER AFFECTED PARTIES.] If a lead agency has reason to believe that maltreatment occurred, the lead agency may notify other affected parties if the lead agency determines the information will safeguard the well-being of the affected parties or to dispel widespread rumor or unrest.

(j) [FEDERAL REQUIREMENTS.] Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead agency may not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

Sec. 18. Minnesota Statutes 1994, section 626.557, subdivision 14, is amended to read:

Subd. 14. [ABUSE PREVENTION PLANS.] (a) Each facility, except home health agencies, shall establish and enforce an ongoing written abuse prevention plan. The plan shall contain an assessment of the physical plant, its environment, and its population identifying factors which may encourage or permit abuse, and a statement of specific measures to be taken to minimize the risk of abuse. The plan shall comply with any rules governing the plan promulgated by the licensing agency.

(b) Each facility, including a home health care agency, shall develop an individual abuse prevention plan for each vulnerable adult residing there. Facilities designated in subdivision 2, clause (b)(2) or clause (b)(3) shall develop plans for any vulnerable adults receiving services from them. The plan shall contain an individualized assessment of the person's susceptibility to abuse, and a statement of the specific measures to be taken to minimize the risk of abuse to that person. For the purposes of this clause, the term "abuse" includes self-abuse.

Sec. 19. Minnesota Statutes 1994, section 626.557, subdivision 16, is amended to read:

Subd. 16. ~~[ENFORCEMENT IMPLEMENTATION AUTHORITY.] (a) A facility that has not complied with this section within 60 days of the effective date of passage of emergency rules is ineligible for renewal of its license. A person required by subdivision 3 to report and who is licensed or credentialed to practice an occupation by a licensing agency who willfully fails to comply with this section shall be disciplined after a hearing by the appropriate licensing agency. By September 1, 1995, the attorney general, and the commissioners of health and human services, in coordination with representatives of other entities that receive or investigate maltreatment reports, shall develop the common report form described in subdivision 9. The form may be used by mandated reporters, county social service agencies, law enforcement entities, licensing agencies, or ombudsman offices.~~

~~(b) Licensing agencies The commissioner of health shall as soon as possible promulgate rules necessary to implement the requirements of subdivisions 11, 12, 13, 14, 15, and 16, clause (a) this section. Agencies The commissioner of health may promulgate emergency rules pursuant to sections 14.29 to 14.36.~~

~~(c) The commissioner of human services shall promulgate amend as necessary any rules as necessary to implement the requirements of subdivision 10 adopted under the authority of this section.~~

~~(d) By December 31, 1995, the commissioners of health, human services, and public safety shall develop criteria for the design of a statewide database utilizing data collected on the common intake form of the common entry point. The statewide database must be accessible to all entities required to conduct investigations under this section, and must be accessible to ombudsman and advocacy programs.~~

~~(e) By September 1, 1995, each lead agency shall develop the guidelines required in subdivision 9b.~~

Sec. 20. Minnesota Statutes 1994, section 626.557, subdivision 17, is amended to read:

Subd. 17. [RETALIATION PROHIBITED.] (a) A facility or person shall not retaliate against

any person who reports in good faith suspected ~~abuse or neglect~~ maltreatment pursuant to this section, or against a vulnerable adult with respect to whom a report is made, because of the report.

(b) In addition to any remedies allowed under sections 181.931 to 181.935, any facility or person which retaliates against any person because of a report of suspected ~~abuse or neglect~~ maltreatment is liable to that person for actual damages and, in addition, a penalty, punitive damages up to \$10,000, and attorney fees.

(c) There shall be a rebuttable presumption that any adverse action, as defined below, within 90 days of a report, is retaliatory. For purposes of this clause, the term "adverse action" refers to action taken by a facility or person involved in a report against the person making the report or the person with respect to whom the report was made because of the report, and includes, but is not limited to:

- (1) Discharge or transfer from the facility;
- (2) Discharge from or termination of employment;
- (3) Demotion or reduction in remuneration for services;
- (4) Restriction or prohibition of access to the facility or its residents; or
- (5) Any restriction of rights set forth in section 144.651.

Sec. 21. Minnesota Statutes 1994, section 626.557, subdivision 18, is amended to read:

Subd. 18. [OUTREACH.] The commissioner of human services shall ~~establish~~ maintain an aggressive program to educate those required to report, as well as the general public, about the requirements of this section using a variety of media. The commissioner of human services shall print and make available the form developed under subdivision 9.

Sec. 22. [626.5572] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purpose of section 626.557, the following terms have the meanings given them, unless otherwise specified.

Subd. 2. [ABUSE.] "Abuse" means:

(a) Any act against a vulnerable adult, which constitutes a violation of any of the following criminal statutes, or attempts or aiding and abetting in the commission of the crimes listed in clauses (1) to (4); a violation means any action which meets the elements of the crime or the conviction of the crime:

- (1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224;
- (2) the use of drugs to injure or facilitate crime as defined in section 609.235;
- (3) the solicitation, inducement, and promotion of prostitution as defined in section 609.322;
and
- (4) criminal sexual conduct in the first through fifth degrees as defined in sections 609.342 to 609.3451.

(b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following:

- (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult;
- (2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening;
- (3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult; and

(4) use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section 245.825.

(c) Any sexual contact as defined in section 609.341 between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility.

(d) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another.

(e) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult, under section 144.651, chapter 145C or 252A, or section 253B.03 or 525.539 to 525.6199, refuses consent or withdraws consent, within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or to provide nutrition and hydration parenterally or through intubation.

(f) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult.

(g) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with: (1) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or (2) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship. Nothing in this section is intended to prohibit sexual contact between a vulnerable adult and the vulnerable adult's spouse or domestic partner.

Subd. 3. [ACCIDENT.] "Accident" means a sudden, unforeseen, and unexpected occurrence or event which:

(1) is not likely to occur and which could not have been prevented by exercise of due care; and

(2) if occurring while a vulnerable adult is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

Subd. 4. [CAREGIVER.] "Caregiver" means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.

Subd. 5. [COMMON ENTRY POINT.] "Common entry point" means the entity designated by each county responsible for receiving reports under section 626.557.

Subd. 6. [FACILITY.] (a) "Facility" means a hospital or other entity required to be licensed under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults under section 144A.02; a residential or nonresidential facility required to be licensed to serve adults under sections 245A.01 to 245A.16; a home care provider licensed or required to be licensed under section 144A.46; or a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, and 256B.0627.

(b) For home care providers and personal care attendants, the term "facility" refers to the provider or person or organization that exclusively offers, provides, or arranges for personal care services, and does not refer to the client's home or other location at which services are rendered.

Subd. 7. [FALSE.] "False" means a preponderance of the evidence shows that an act that meets the definition of maltreatment did not occur.

Subd. 8. [FINAL DISPOSITION.] "Final disposition" is the determination of an investigation by a lead agency that a report of maltreatment under this act is substantiated, inconclusive, false, or that no determination will be made. When a lead agency determination has substantiated maltreatment, the final disposition also identifies, if known, which individual or individuals were responsible for the substantiated maltreatment, and whether a facility was responsible for the substantiated maltreatment.

Subd. 9. [FINANCIAL EXPLOITATION.] "Financial exploitation" means:

(a) In breach of a fiduciary relationship recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section 144.6501 a person:

(1) engages in unauthorized expenditure of funds entrusted to the actor by the vulnerable adult which results or is likely to result in detriment to the vulnerable adult; or

(2) fails to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct or supervision for the vulnerable adult, and the failure results or is likely to result in detriment to the vulnerable adult.

(b) In the absence of legal authority a person:

(1) willfully uses, withholds, or disposes of funds or property of a vulnerable adult;

(2) obtains for the actor or another the performance of services by a third person for the wrongful profit or advantage of the actor or another to the detriment of the vulnerable adult;

(3) acquires possession or control of, or an interest in, funds or property of a vulnerable adult through the use of undue influence, harassment, duress, deception, or fraud; or

(4) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another.

(c) Nothing in this definition requires a facility or caregiver to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.

Subd. 10. [IMMEDIATELY.] "Immediately" means as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received.

Subd. 11. [INCONCLUSIVE.] "Inconclusive" means there is less than a preponderance of evidence to show that maltreatment did or did not occur.

Subd. 12. [INITIAL DISPOSITION.] "Initial disposition" is the lead agency's determination of whether the report will be assigned for further investigation.

Subd. 13. [LEAD AGENCY.] "Lead agency" is the primary administrative agency responsible for investigating reports made under section 626.557.

(a) The department of health is the lead agency for the facilities which are licensed or are required to be licensed as hospitals, home care providers, nursing homes, residential care homes, or boarding care homes.

(b) The department of human services is the lead agency for the programs licensed or required to be licensed as adult day care, adult foster care, programs for people with developmental disabilities, mental health programs, chemical health programs, or personal care provider organizations.

(c) The county social service agency or its designee is the lead agency for all other reports.

Subd. 14. [LEGAL AUTHORITY.] "Legal authority" includes, but is not limited to: (1) a fiduciary relationship recognized elsewhere in law, including pertinent regulations; (2) a contractual obligation; or (3) documented consent by a competent person.

Subd. 15. [MALTREATMENT.] "Maltreatment" means abuse as defined in subdivision 2, neglect as defined in subdivision 17, or financial exploitation as defined in subdivision 9.

Subd. 16. [MANDATED REPORTER.] "Mandated reporter" means a professional or professional's delegate who is engaged in: (1) social services; (2) law enforcement; (3) education; (4) the care of vulnerable adults; (5) any of the occupations referred to in section 214.01, subdivision 2; (6) an employee of a rehabilitation facility certified by the commissioner of jobs and training for vocational rehabilitation; (7) an employee or person providing services in a facility as defined in subdivision 6; or (8) a person that performs the duties of the medical examiner or coroner.

Subd. 17. [NEGLECT.] "Neglect" means:

(a) The failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is:

(1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and

(2) which is not the result of an accident or therapeutic conduct.

(b) The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult.

(c) For purposes of this section, a vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult, under section 144.651, chapter 145C or 252A, or section 253B.03 or 525.539 to 525.6199, refuses or withdraws consent, within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult, or to provide nutrition and hydration parenterally or through intubation;

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult;

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in sexual contact with: (i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship. Nothing in this section is intended to prohibit sexual contact between a vulnerable adult and the vulnerable adult's spouse or domestic partner; or

(4) an individual makes a single mistake in the provision of therapeutic conduct to a vulnerable adult which: (i) does not result in injury or harm which reasonably requires the care of a physician or mental health professional, whether or not the care was sought; (ii) is immediately reported internally by the employee or person providing services in the facility; and (iii) is sufficiently documented for review and evaluation by the facility and any applicable licensing and certification agency.

(d) Nothing in this definition requires a caregiver, if regulated, to provide services in excess of those required by the caregiver's license, certification, registration, or other regulation.

Subd. 18. [REPORT.] "Report" means a statement concerning all the circumstances surrounding the alleged or suspected maltreatment of a vulnerable adult which are known to the reporter at the time the statement is made.

Subd. 19. [SUBSTANTIATED.] "Substantiated" means a preponderance of the evidence shows that an act that meets the definition of maltreatment occurred.

Subd. 20. [THERAPEUTIC CONDUCT.] "Therapeutic conduct" means the provision of program services, health care, or other personal care services done in good faith in the interests of the vulnerable adult by: (1) an individual, facility, or employee or person providing services in a facility under the rights, privileges and responsibilities conferred by state license, certification, or registration; or (2) a caregiver.

Subd. 21. [VULNERABLE ADULT.] "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident or inpatient of a facility;

(2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under section 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, and 256B.0627; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect himself or herself from maltreatment.

Sec. 23. [REPEALER.]

Minnesota Statutes 1994, section 626.557, subdivisions 2, 10a, 11, 11a, 12, 13, 15, and 19, are repealed.

ARTICLE 2 EVIDENTIARY STANDARDS AND CRIMINAL PENALTIES

Section 1. Minnesota Statutes 1994, section 609.224, subdivision 2, is amended to read:

Subd. 2. [GROSS MISDEMEANOR.] (a) Whoever violates the provisions of subdivision 1 against the same victim during the time period between a previous conviction under this section, sections 609.221 to 609.2231, 609.342 to 609.345, or 609.713, or any similar law of another state, and the end of the five years following discharge from sentence for that conviction, 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. Whoever violates the provisions of subdivision 1 against a family or household member as defined in section 518B.01, subdivision 2, during the time period between a previous conviction under this section or sections 609.221 to 609.2231, 609.342 to 609.345, or 609.713 against a family or household member, and the end of the five years following discharge from sentence for that conviction 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.

(b) Whoever violates the provisions of subdivision 1 within two years of a previous conviction under this section or sections 609.221 to 609.2231 or 609.713 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.

(c) A caregiver, as defined in section 609.232, who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, 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. 2. [609.232] [CRIMES AGAINST VULNERABLE ADULTS; DEFINITIONS.]

Subdivision 1. [SCOPE.] As used in sections 609.2325, 609.233, 609.2335, and 609.234, the terms defined in this section have the meanings given.

Subd. 2. [CAREGIVER.] "Caregiver" means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.

Subd. 3. [FACILITY.] (a) "Facility" means a hospital or other entity required to be licensed under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults under section 144A.02; a home care provider licensed or required to be licensed under section 144A.46; a residential or nonresidential facility required to be licensed to serve adults under sections 245A.01 to 245A.16; or a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, and 256B.0627.

(b) For home care providers and personal care attendants, the term "facility" refers to the provider or person or organization that exclusively offers, provides, or arranges for personal care services, and does not refer to the client's home or other location at which services are rendered.

Subd. 4. [IMMEDIATELY.] "Immediately" means as soon as possible, but no longer than 24 hours from the time of initial knowledge that the incident occurred has been received.

Subd. 5. [LEGAL AUTHORITY.] "Legal authority" includes, but is not limited to:

- (1) a fiduciary relationship recognized elsewhere in law, including pertinent regulations;
- (2) a contractual obligation; or
- (3) documented consent by a competent person.

Subd. 6. [MALTREATMENT.] "Maltreatment" means any of the following:

- (1) abuse under section 609.2325;
- (2) neglect under section 609.233; or
- (3) financial exploitation under section 609.2335.

Subd. 7. [OPERATOR.] "Operator" means any person whose duties and responsibilities evidence actual control of administrative activities or authority for the decision making of or by a facility.

Subd. 8. [PERSON.] "Person" means any individual, corporation, firm, partnership, incorporated and unincorporated association, or any other legal, professional, or commercial entity.

Subd. 9. [REPORT.] "Report" means a statement concerning all the circumstances surrounding the alleged or suspected maltreatment, as defined in this section, of a vulnerable adult which are known to the reporter at the time the statement is made.

Subd. 10. [THERAPEUTIC CONDUCT.] "Therapeutic conduct" means the provision of program services, health care, or other personal care services done in good faith in the interests of the vulnerable adult by: (1) an individual, facility or employee, or person providing services in a facility under the rights, privileges, and responsibilities conferred by state license, certification, or registration; or (2) a caregiver.

Subd. 11. [VULNERABLE ADULT.] "Vulnerable adult" means any person 18 years of age or older who:

- (1) is a resident or inpatient of a facility; or

(2) possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction that impairs the individual's ability to, without assistance, provide adequately for the individual's own care and protection from maltreatment, regardless of residence or whether any type of service is received; or

(3) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (2); or

(4) receives services from a home care provider required to be licensed under section 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, and 256B.0627.

Sec. 3. [609.2325] [CRIMINAL ABUSE.]

Subdivision 1. [CRIMES.] (a) A caregiver who, with intent to produce physical or mental pain or injury to a vulnerable adult, subjects a vulnerable adult to any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, is guilty of criminal abuse and may be sentenced as provided in subdivision 3.

This paragraph does not apply to therapeutic conduct.

(b) A caregiver, facility staff person, or person providing services in a facility who engages in sexual contact, as defined in section 609.341, under circumstances other than those described in sections 609.342 to 609.3451, with a resident, patient, or client of the facility is guilty of criminal abuse and may be sentenced as provided in subdivision 3.

Subd. 2. [EXEMPTIONS.] For the purposes of this section, a vulnerable adult is not abused for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult, under section 144.651, chapter 145C or 252A, or section 253B.03 or 525.539 to 525.6199, refuses to consent or withdraws consent, within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or to provide nutrition and hydration parenterally or through intubation;

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult; or

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with: (i) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship. Nothing in this section is intended to prohibit sexual contact between a vulnerable adult and the vulnerable adult's spouse or domestic partner.

Subd. 3. [PENALTIES.] (a) A person who violates subdivision 1, paragraph (a), may be sentenced as follows:

(1) if the act results in the death of a vulnerable adult, imprisonment for not more than 15 years or payment of a fine of not more than \$30,000, or both;

(2) if the act results in great bodily harm, imprisonment for not more than ten years or payment of a fine of not more than \$20,000, or both;

(3) if the act results in substantial bodily harm or the risk of death, imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both; or

(4) in other cases, imprisonment for not more than one year or payment of a fine of not more than \$3,000, or both.

(b) A person who violates subdivision 1, paragraph (b), 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. 4. [609.233] [CRIMINAL NEGLECT.]

Subdivision 1. [CRIME.] (a) A caregiver or operator who commits any of the acts or omissions listed in paragraph (b) is guilty of criminal neglect and may be sentenced as provided in subdivision 3, if the act or omission constitutes a conscious disregard for danger to human life and reckless indifference to the risk of harm.

(b) This subdivision applies to the following acts or omissions:

(1) the failure or omission to supply a vulnerable adult with care or services, including but not limited to food, clothing, shelter, health care, or supervision when the care or services are reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical or mental capacity or dysfunction of the vulnerable adult, and the failure or omission is not therapeutic conduct; or

(2) knowingly permitting conditions to exist by failing to take corrective action within the scope of that person's authority, resulting in the abuse, as defined in section 626.5572, subdivision 2, or neglect, as defined in section 626.5572, subdivision 17, of a vulnerable adult.

Subd. 2. [EXEMPTIONS.] A vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult, under section 144.651, chapter 145C or 252A, or section 253B.03 or 525.539 to 525.6199, refuses to consent or withdraws consent, within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or to provide nutrition and hydration parenterally or through intubation;

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult; or

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with: (i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship. Nothing in this section is intended to prohibit sexual contact between a vulnerable adult and the vulnerable adult's spouse or domestic partner.

Subd. 3. [CRIMINAL PENALTIES.] A person who violates this section may be sentenced as follows:

(1) if the act results in great bodily harm, imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both;

(2) if the act results in substantial bodily harm or the risk of death, imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both; or

(3) otherwise, imprisonment for not more than one year or payment of a fine of not more than \$3,000, or both.

Subd. 4. [DEFENSES.] Nothing in this section requires a caregiver, if regulated, to provide services in excess of those required by the caregiver's license, certification, registration, or other regulation.

Sec. 5. [609.2335] [FINANCIAL EXPLOITATION OF A VULNERABLE ADULT.]

Subdivision 1. [CRIME.] Whoever does any of the following acts commits the crime of financial exploitation:

(1) in breach of a fiduciary relationship recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section 144.6501, intentionally fails to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct, or supervision for the vulnerable adult; or

(2) in the absence of legal authority:

(i) acquires possession or control of an interest in funds or property of a vulnerable adult through the use of undue influence, harassment, or duress; or

(ii) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another.

Subd. 2. [DEFENSES.] Nothing in this section requires a facility or caregiver to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.

Subd. 3. [CRIMINAL PENALTIES.] A person who violates subdivision 1, clause (1) or clause (2), item (i), may be sentenced as provided in section 609.52, subdivision 3. A person who violates subdivision 1, clause (2), item (ii), 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. 6. [609.234] [FAILURE TO REPORT.]

Any mandated reporter who is required to report under section 626.557, who knows or has reason to believe that a vulnerable adult is being or has been maltreated, as defined in section 626.5572, subdivision 15, and who does any of the following is guilty of a misdemeanor:

(1) intentionally fails to make a report;

(2) knowingly provides information which is false, deceptive, or misleading; or

(3) intentionally fails to provide all of the material circumstances surrounding the incident which are known to the reporter when the report is made.

Sec. 7. Minnesota Statutes 1994, section 609.72, is amended by adding a subdivision to read:

Subd. 3. [CAREGIVER; PENALTY FOR DISORDERLY CONDUCT.] A caregiver, as defined in section 609.232, who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, 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. 8. [REPEALER.]

Minnesota Statutes 1994, sections 609.23 and 609.231, are repealed.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 10 are effective August 1, 1995, and apply to crimes committed on or after that date.

ARTICLE 3

OTHER LAWS AFFECTING VULNERABLE ADULTS

Section 1. Minnesota Statutes 1994, section 13.82, is amended by adding a subdivision to read:

Subd. 5c. [VULNERABLE ADULT IDENTITY DATA.] Active or inactive investigative data that identify a victim of vulnerable adult maltreatment under section 626.557 are private data on individuals. Active or inactive investigative data that identify a reporter of vulnerable adult maltreatment under section 626.557 are private data on individuals, unless the subject of the report compels disclosure under section 626.557, subdivision 12b, paragraph (c).

Sec. 2. Minnesota Statutes 1994, section 13.82, is amended by adding a subdivision to read:

Subd. 5d. [INACTIVE VULNERABLE ADULT MALTREATMENT DATA.] Investigative data that becomes inactive under subdivision 5, paragraph (a) or (b), and that relate to the alleged maltreatment of a vulnerable adult by a caregiver or facility are private data on individuals.

Sec. 3. Minnesota Statutes 1994, section 13.82, subdivision 10, is amended to read:

Subd. 10. [PROTECTION OF IDENTITIES.] A law enforcement agency or a law enforcement dispatching agency working under direction of a law enforcement agency may withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

- (a) when access to the data would reveal the identity of an undercover law enforcement officer;
- (b) when access to the data would reveal the identity of a victim of criminal sexual conduct or of a violation of section 617.246, subdivision 2;
- (c) when access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant;
- (d) when access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, and the agency reasonably determines that revealing the identity of the victim or witness would threaten the personal safety or property of the individual;
- (e) when access to the data would reveal the identity of a deceased person whose body was unlawfully removed from a cemetery in which it was interred;
- (f) when access to the data would reveal the identity of a person who placed a call to a 911 system or the identity or telephone number of a service subscriber whose phone is used to place a call to the 911 system and: (1) the agency determines that revealing the identity may threaten the personal safety or property of any person; or (2) the object of the call is to receive help in a mental health emergency. For the purposes of this paragraph, a voice recording of a call placed to the 911 system is deemed to reveal the identity of the caller; or
- (g) when access to the data would reveal the identity of a juvenile witness and the agency reasonably determines that the subject matter of the investigation justifies protecting the identity of the witness; or
- (h) when access to the data would reveal the identity of a mandated reporter under sections 626.556 and 626.557.

Data concerning individuals whose identities are protected by this subdivision are private data about those individuals. Law enforcement agencies shall establish procedures to acquire the data and make the decisions necessary to protect the identity of individuals described in clauses (d) and (g).

Sec. 4. [144.057] [BACKGROUND STUDIES ON LICENSEES.]

The commissioner shall perform background study activities for hospitals or other entities required to be licensed under sections 144.50 and 144.58; nursing homes required to be licensed to serve adults under section 144A.02; and home care providers licensed or required to be licensed under section 144A.46. The commissioner shall adopt rules to establish procedures for these background study activities that address disqualifications, reconsiderations, and related issues.

Until the rules are adopted, the commissioner shall use the procedures in chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. When the commissioner adopts rules, the standards and procedures must be substantially similar to those found in chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. Background checks carried out under this subdivision satisfy the background check requirements for home health care providers required by section 144A.45.

Sec. 5. Minnesota Statutes 1994, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [STUDY OF THE APPLICANT.] (a) Before the commissioner issues a license, the commissioner shall conduct a study of the individuals specified in clauses (1) to (4) (5) according to rules of the commissioner. The applicant, license holder, the bureau of criminal apprehension, the commissioner of health and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about abuse or neglect of adults in licensed programs substantiated under section 626.557 and the maltreatment of minors in licensed programs substantiated under section 626.556. The individuals to be studied shall include:

- (1) the applicant;
- (2) persons over the age of 13 living in the household where the licensed program will be provided;
- (3) current employees or contractors of the applicant who will have direct contact with persons served by the program; and
- (4) volunteers who have direct contact with persons served by the program to provide program services, if the contact is not directly supervised by the individuals listed in clause (1) or (3); and
- (5) any person who, as an individual or as a member of an organization, exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, and 256B.0625, subdivision 19.

The juvenile courts shall also help with the study by giving the commissioner existing juvenile court records on individuals described in clause (2) relating to delinquency proceedings held within either the five years immediately preceding the application or the five years immediately preceding the individual's 18th birthday, whichever time period is longer. The commissioner shall destroy juvenile records obtained pursuant to this subdivision when the subject of the records reaches age 23.

For purposes of this subdivision, "direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by a program. For purposes of this subdivision, "directly supervised" means an individual listed in clause (1) or (3), or (5) is within sight or hearing of a volunteer to the extent that the individual listed in clause (1) or (3), or (5) is capable at all times of intervening to protect the health and safety of the persons served by the program who have direct contact with the volunteer.

A study of an individual in clauses (1) to (4) (5) shall be conducted at least upon application for initial license and reapplication for a license. No applicant, license holder, or individual who is the subject of the study shall pay any fees required to conduct the study.

(b) The individual who is the subject of the study must provide the applicant or license holder with sufficient information to ensure an accurate study including the individual's first, middle, and last name; home address, city, county, and state of residence; zip code; sex; date of birth; and driver's license number. The applicant or license holder shall provide this information about an individual in paragraph (a), clauses (1) to (4) (5), on forms prescribed by the commissioner. The commissioner may request additional information of the individual, which shall be optional for the individual to provide, such as the individual's social security number or race.

(c) Except for child foster care, adult foster care, and family day care homes, a study must include information from the county agency's record of substantiated abuse or neglect of adults in licensed programs, and the maltreatment of minors in licensed programs, information from juvenile courts as required in paragraph (a) for persons listed in paragraph (a), clause (2), and

information from the bureau of criminal apprehension. For child foster care, adult foster care, and family day care homes, the study must include information from the county agency's record of substantiated abuse or neglect of adults, and the maltreatment of minors, information from juvenile courts as required in paragraph (a) for persons listed in paragraph (a), clause (2), and information from the bureau of criminal apprehension. The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, the commissioner of health, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or a national criminal record repository if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual listed in paragraph (a), clauses (1) to (4) (5).

(d) An applicant's or license holder's failure or refusal to cooperate with the commissioner is reasonable cause to deny an application or immediately suspend, suspend, or revoke a license. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended, suspended, or revoked.

(e) The commissioner shall not consider an application to be complete until all of the information required to be provided under this subdivision has been received.

(f) No person in paragraph (a), clause (1), (2), (3), or (4), or (5) who is disqualified as a result of this section may be retained by the agency in a position involving direct contact with persons served by the program.

(g) Termination of persons in paragraph (a), clause (1), (2), (3), or (4), or (5) made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.

(h) The commissioner may establish records to fulfill the requirements of this section.

(i) The commissioner may not disqualify an individual subject to a study under this section because that person has, or has had, a mental illness as defined in section 245.462, subdivision 20.

(j) An individual who is subject to an applicant background study under this section and whose disqualification in connection with a license would be subject to the limitations on reconsideration set forth in subdivision 3b, paragraph (c), shall be disqualified for conviction of the crimes specified in the manner specified in subdivision 3b, paragraph (c). The commissioner of human services shall amend Minnesota Rules, part 9543.3070, to conform to this section.

(k) An individual must be disqualified if it has been determined that the individual failed to make required reports under sections 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (1) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (2) the maltreatment was recurring or serious as defined in Minnesota Rules, part 9543.3020, subpart 10.

(l) An individual subject to disqualification under this subdivision has the applicable rights in subdivision 3a, 3b, or 3c.

Sec. 6. Minnesota Statutes 1994, section 256.045, subdivision 1, is amended to read:

Subdivision 1. [POWERS OF THE STATE AGENCY.] The commissioner of human services may appoint one or more state human services referees to conduct hearings and recommend orders in accordance with subdivisions 3, 3a, 3b, 4a, and 5. Human services referees designated pursuant to this section may administer oaths and shall be under the control and supervision of the commissioner of human services and shall not be a part of the office of administrative hearings established pursuant to sections 14.48 to 14.56.

Sec. 7. Minnesota Statutes 1994, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] Any person applying for, receiving or having received public assistance or a program of social services granted by the state agency or a county agency under sections 252.32, 256.031 to 256.036, and 256.72 to 256.879, chapters 256B, 256D,

256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid, or any patient or relative aggrieved by an order of the commissioner under section 252.27, or a party aggrieved by a ruling of a prepaid health plan, or any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557, may contest that action or, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action or, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under section 626.557 is the only administrative appeal to the final lead agency disposition specifically, including a challenge to the accuracy and completeness of data under section 13.04.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section.

An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan developed under section 256E.081, subdivision 3, if the county agency has met the requirements in section 256E.081.

Sec. 8. Minnesota Statutes 1994, section 256.045, is amended by adding a subdivision to read:

Subd. 3b. [STANDARD OF EVIDENCE FOR MALTREATMENT HEARINGS.] The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under section 626.557.

The state human services referee shall recommend an order to the commissioner of health or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapter 245A and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's findings as to whether maltreatment occurred is conclusive.

Sec. 9. Minnesota Statutes 1994, section 256.045, subdivision 4, is amended to read:

Subd. 4. [CONDUCT OF HEARINGS.] (a) All hearings held pursuant to subdivision 3, 3a, 3b, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. County agencies shall install equipment necessary to conduct telephone hearings. A state human services referee may schedule a telephone conference hearing when the distance or time required to travel to the county agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, or former recipient, person, or facility contesting maltreatment objects. The hearing shall not be held earlier than five days after filing of the required notice with the county or state agency. The state human services referee shall notify all interested persons of the time, date, and location of the hearing at least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, or former recipient, person, or facility contesting maltreatment shall have the opportunity to examine the contents of the case file and all documents and records to be used by the county agency at the hearing at a reasonable time before the date of the hearing and during the hearing. In cases alleging discharge for maltreatment, either party may subpoena the private data relating to the investigation memorandum prepared by the lead agency under section 626.557, provided the name of the reporter may not be disclosed.

(b) The private data must be subject to a protective order which prohibits its disclosure for any other purpose outside the hearing provided for in this section without prior order of the district court. Disclosure without court order is punishable by a sentence of not more than 90 days imprisonment or a fine of not more than \$700, or both. These restrictions on the use of private data do not prohibit access to the data under section 13.03, subdivision 6. Upon request, the county agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal, except in appeals brought under subdivision 3b. All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3.

Sec. 10. Minnesota Statutes 1994, section 256.045, subdivision 5, is amended to read:

Subd. 5. [ORDERS OF THE COMMISSIONER OF HUMAN SERVICES.] This subdivision does not apply to appeals under subdivision 3b. A state human services referee shall conduct a hearing on the appeal and shall recommend an order to the commissioner of human services. The recommended order must be based on all relevant evidence and must not be limited to a review of the propriety of the state or county agency's action. A referee may take official notice of adjudicative facts. The commissioner of human services may accept the recommended order of a state human services referee and issue the order to the county agency and the applicant, recipient, former recipient, or prepaid health plan. The commissioner on refusing to accept the recommended order of the state human services referee, shall notify the county agency and the applicant, recipient, former recipient, or prepaid health plan of that fact and shall state reasons therefor and shall allow each party ten days' time to submit additional written argument on the matter. After the expiration of the ten-day period, the commissioner shall issue an order on the matter to the county agency and the applicant, recipient, former recipient, or prepaid health plan.

A party aggrieved by an order of the commissioner may appeal under subdivision 7, or request reconsideration by the commissioner within 30 days after the date the commissioner issues the order. The commissioner may reconsider an order upon request of any party or on the commissioner's own motion. A request for reconsideration does not stay implementation of the commissioner's order. Upon reconsideration, the commissioner may issue an amended order or an order affirming the original order.

Any order of the commissioner issued under this subdivision shall be conclusive upon the parties unless appeal is taken in the manner provided by subdivision 7. Any order of the commissioner is binding on the parties and must be implemented by the state agency or a county agency until the order is reversed by the district court, or unless the commissioner or a district court orders monthly assistance or aid or services paid or provided under subdivision 10.

Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing or seek judicial review of an order issued under this section.

Sec. 11. Minnesota Statutes 1994, section 256.045, subdivision 6, is amended to read:

Subd. 6. [ADDITIONAL POWERS OF THE COMMISSIONER; SUBPOENAS.] (a) The commissioner of human services may initiate a review of any action or decision of a county agency and direct that the matter be presented to a state human services referee for a hearing held under subdivision 3, 3a, 3b, or 4a. In all matters dealing with human services committed by law to the discretion of the county agency, the commissioner's judgment may be substituted for that of the county agency. The commissioner may order an independent examination when appropriate.

(b) Any party to a hearing held pursuant to subdivision 3, 3a, 3b, or 4a may request that the commissioner issue a subpoena to compel the attendance of witnesses at the hearing. The issuance, service, and enforcement of subpoenas under this subdivision is governed by section 357.22 and the Minnesota Rules of Civil Procedure.

(c) The commissioner may issue a temporary order staying a proposed demission by a

residential facility licensed under chapter 245A while an appeal by a recipient under subdivision 3 is pending or for the period of time necessary for the county agency to implement the commissioner's order.

Sec. 12. Minnesota Statutes 1994, section 256.045, subdivision 7, is amended to read:

Subd. 7. [JUDICIAL REVIEW.] Any party who is aggrieved by an order of the commissioner of human services may appeal the order to the district court of the county responsible for furnishing assistance, or, in appeals under subdivision 3b, the county where the maltreatment occurred, by serving a written copy of a notice of appeal upon the commissioner and any adverse party of record within 30 days after the date the commissioner issued the order, the amended order, or order affirming the original order, and by filing the original notice and proof of service with the court administrator of the district court. Service may be made personally or by mail; service by mail is complete upon mailing; no filing fee shall be required by the court administrator in appeals taken pursuant to this subdivision, with the exception of appeals taken under subdivision 3b. The commissioner may elect to become a party to the proceedings in the district court. Except for appeals under subdivision 3b, any party may demand that the commissioner furnish all parties to the proceedings with a copy of the decision, and a transcript of any testimony, evidence, or other supporting papers from the hearing held before the human services referee, by serving a written demand upon the commissioner within 30 days after service of the notice of appeal. Any party aggrieved by the failure of an adverse party to obey an order issued by the commissioner under subdivision 5 may compel performance according to the order in the manner prescribed in sections 586.01 to 586.12.

Sec. 13. Minnesota Statutes 1994, section 256.045, subdivision 8, is amended to read:

Subd. 8. [HEARING.] Any party may obtain a hearing at a special term of the district court by serving a written notice of the time and place of the hearing at least ten days prior to the date of the hearing. Except for appeals under subdivision 3b, the court may consider the matter in or out of chambers, and shall take no new or additional evidence unless it determines that such evidence is necessary for a more equitable disposition of the appeal.

Sec. 14. Minnesota Statutes 1994, section 256.045, subdivision 9, is amended to read:

Subd. 9. [APPEAL.] Any party aggrieved by the order of the district court may appeal the order as in other civil cases. Except for appeals under subdivision 3b, no costs or disbursements shall be taxed against any party nor shall any filing fee or bond be required of any party.

Sec. 15. Minnesota Statutes 1994, section 268.09, subdivision 1, is amended to read:

Subdivision 1. [DISQUALIFYING CONDITIONS.] An individual separated from any employment under paragraph (a), (b), or (d) shall be disqualified for waiting week credit and benefits. For separations under paragraphs (a) and (b), the disqualification shall continue until four calendar weeks have elapsed following the individual's separation and the individual has earned eight times the individual's weekly benefit amount in insured work.

(a) [VOLUNTARY LEAVE.] The individual voluntarily and without good cause attributable to the employer discontinued employment with such employer. For the purpose of this paragraph, a separation from employment by reason of its temporary nature or for inability to pass a test or for inability to meet performance standards necessary for continuation of employment shall not be deemed voluntary.

A separation shall be for good cause attributable to the employer if it occurs as a consequence of sexual harassment. Sexual harassment means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other conduct or communication of a sexual nature when: (1) the employee's submission to such conduct or communication is made a term or condition of the employment, (2) the employee's submission to or rejection of such conduct or communication is the basis for decisions affecting employment, or (3) such conduct or communication has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment and the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

(b) [DISCHARGE FOR MISCONDUCT.] The individual was discharged for misconduct, not amounting to gross misconduct connected with work or for misconduct which interferes with and adversely affects employment.

(c) [EXCEPTIONS TO DISQUALIFICATION.] An individual shall not be disqualified under paragraphs (a) and (b) under any of the following conditions:

(1) the individual voluntarily discontinued employment to accept employment offering substantially better conditions or substantially higher wages or both;

(2) the individual is separated from employment due to personal, serious illness provided that such individual has made reasonable efforts to retain employment.

An individual who is separated from employment due to the individual's illness of chemical dependency which has been professionally diagnosed or for which the individual has voluntarily submitted to treatment and who fails to make consistent efforts to maintain the treatment the individual knows or has been professionally advised is necessary to control that illness has not made reasonable efforts to retain employment.

(3) the individual accepts work from a base period employer which involves a change in location of work so that said work would not have been deemed to be suitable work under the provisions of subdivision 2 and within a period of 13 weeks from the commencement of said work voluntarily discontinues employment due to reasons which would have caused the work to be unsuitable under the provision of said subdivision 2;

(4) the individual left employment because of reaching mandatory retirement age and was 65 years of age or older;

(5) the individual is terminated by the employer because the individual gave notice of intention to terminate employment within 30 days. This exception shall be effective only through the calendar week which includes the date of intended termination, provided that this exception shall not result in the payment of benefits for any week for which the individual receives the individual's normal wage or salary which is equal to or greater than the weekly benefit amount;

(6) the individual is separated from employment due to the completion of an apprenticeship program, or segment thereof, approved pursuant to chapter 178;

(7) the individual voluntarily leaves part-time employment with a base period employer while continuing full-time employment if the individual attempted to return to part-time employment after being separated from the full-time employment, and if substantially the same part-time employment with the base period employer was not available for the individual;

(8) the individual is separated from employment based solely on a provision in a collective bargaining agreement by which an individual has vested discretionary authority in another to act on behalf of the individual;

(9) except as provided in paragraph (d), separations from part-time employment will not be disqualifying when the claim is based on sufficient full-time employment to establish a valid claim from which the claimant has been separated for nondisqualifying reasons; or

(10) the individual accepts employment which represents a substantial departure from the individual's customary occupation and experience and would not be deemed suitable work as defined under subdivision 2, paragraphs (a) and (b), and within a period of 30 days from the commencement of that work voluntarily discontinues the employment due to reasons which would have caused the work to be unsuitable under the provisions of subdivision 2 or, if in commission sales, because of a failure to earn gross commissions averaging an amount equal to or in excess of the individual's weekly benefit amount. Other provisions notwithstanding, applying this provision precludes the use of these wage credits to clear a disqualification.

(d) [DISCHARGE FOR GROSS MISCONDUCT.] The individual was discharged for gross misconduct connected with work or gross misconduct which interferes with and adversely affects the individual's employment. For a separation under this clause, the commissioner shall impose a total disqualification for the benefit year and cancel all of the wage credits from the last employer from whom the individual was discharged for gross misconduct connected with work.

For the purpose of this paragraph "gross misconduct" is defined as misconduct involving assault and battery or the malicious destruction of property or arson or sabotage or embezzlement or any other act, including theft, the commission of which amounts to a felony or gross misdemeanor. For an employee of a ~~health-care~~ facility, as defined in section 626.5572, gross misconduct also includes misconduct involving an act of patient or resident abuse, financial exploitation, or recurring or serious neglect, as defined in section 626.557, ~~subdivision 2, clause (d)~~ and applicable rules.

If an individual is convicted of a felony or gross misdemeanor for the same act or acts of misconduct for which the individual was discharged, the misconduct is conclusively presumed to be gross misconduct if it was connected with the individual's work.

(e) [LIMITED OR NO CHARGE OF BENEFITS.] Benefits paid subsequent to an individual's separation under any of the foregoing paragraphs, excepting paragraphs (c)(3), (c)(5), and (c)(8), shall not be used as a factor in determining the future contribution rate of the employer from whose employment such individual separated.

Benefits paid subsequent to an individual's failure to accept an offer of suitable reemployment or to accept reemployment which offered substantially the same or better hourly wages and conditions of work as were previously provided by that employer, but was deemed unsuitable under subdivision 2, shall not be used as a factor in determining the future contribution rate of the employer whose offer of reemployment was not accepted or whose offer of reemployment was refused solely due to the distance of the available work from the individual's residence, the individual's own serious illness, the individual's other employment at the time of the offer, or if the individual is in training with the approval of the commissioner.

Benefits paid by another state as a result of Minnesota transferring wage credits under the federally required combined wage agreement shall not be directly charged to either the taxpaying or reimbursing employer.

(f) [ACTS OR OMISSIONS.] An individual who was employed by an employer shall not be disqualified for benefits under this subdivision for any acts or omissions occurring after separation from employment with the employer.

(g) [DISCIPLINARY SUSPENSIONS.] An individual shall be disqualified for waiting week credit and benefits for the duration of any disciplinary suspension of 30 days or less resulting from the individual's own misconduct. Disciplinary suspensions of more than 30 days shall constitute a discharge from employment."

Delete the title and insert:

"A bill for an act relating to human services; licensing; administrative hearings; vulnerable adults reporting act; imposing criminal penalties; amending Minnesota Statutes 1994, sections 13.82, subdivision 10, and by adding subdivisions; 245A.04, subdivision 3; 256.045, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, and by adding a subdivision; 268.09, subdivision 1; 609.224, subdivision 2; 609.72, by adding a subdivision; and 626.557, subdivisions 1, 3, 3a, 4, 5, 6, 7, 8, 9, 10, 14, 16, 17, 18, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 144; 609; and 626; repealing Minnesota Statutes 1994, sections 609.23; 609.231; and 626.557, subdivisions 2, 10a, 11, 11a, 12, 13, 15, and 19."

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

SECOND READING OF SENATE BILLS

S.F. Nos. 446, 588, 305, 423, 121, 687, 673, 378, 700, 691, 526, 427, 16, 144, 453 and 752 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 216, 887 and 670 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Moe, R.D. moved that the name of Ms. Olson be added as a co-author to S.F. No. 699. The motion prevailed.

Mr. Laidig moved that the name of Ms. Krentz be added as a co-author to S.F. No. 720. The motion prevailed.

Mr. Ourada moved that his name be stricken as a co-author to S.F. No. 760. The motion prevailed.

Ms. Ranum moved that the name of Mr. Mondale be added as a co-author to S.F. No. 881. The motion prevailed.

Ms. Ranum moved that the name of Ms. Johnson, J.B. be added as a co-author to S.F. No. 882. The motion prevailed.

Mr. Stumpf moved that the name of Ms. Johnson, J.B. be added as a co-author to S.F. No. 951. The motion prevailed.

Ms. Anderson moved that the name of Ms. Johnson, J.B. be added as a co-author to S.F. No. 946. The motion prevailed.

Ms. Johnson, J.B. moved that the name of Mr. Limmer be added as a co-author to S.F. No. 948. The motion prevailed.

Mr. Metzen moved that the name of Mr. Limmer be added as a co-author to S.F. No. 1010. The motion prevailed.

Mr. Kramer moved that the name of Ms. Johnson, J.B. be added as a co-author to S.F. No. 1016. The motion prevailed.

Mr. Mondale moved that the name of Mr. Novak be added as a co-author to S.F. No. 1019. The motion prevailed.

Mr. Johnson, D.E. introduced--

Senate Resolution No. 34: A Senate resolution commending West Central Tribune on the occasion of its 100th anniversary.

Referred to the Committee on Rules and Administration.

Mr. Larson introduced--

Senate Resolution No. 35: A Senate resolution congratulating Hillcrest Lutheran Academy of Fergus Falls, Minnesota, on winning the Junior Engineering Technological Society (JETS) state academic competition.

Referred to the Committee on Rules and Administration.

Mr. Larson introduced--

Senate Resolution No. 36: A Senate resolution congratulating Fergus Falls High School on winning the Junior Engineering Technological Society (JETS) state academic competition.

Referred to the Committee on Rules and Administration.

Mr. Moe, R.D. introduced--

Senate Concurrent Resolution No. 7: A Senate concurrent resolution relating to adjournment for more than three days.

BE IT RESOLVED by the Senate of the State of Minnesota, the House of Representatives concurring:

1. Upon its adjournment on Wednesday, March 15, 1995, the House of Representatives may set its next day of meeting more than three days after the day of adjournment.

2. Pursuant to the Minnesota Constitution, Article IV, Section 12, the Senate consents to the adjournment of the House of Representatives for more than three days.

Mr. Moe, R.D. moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

Ms. Flynn moved that S.F. No. 691, on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Mr. Cohen moved that S.F. No. 1002 be withdrawn from the Committee on Crime Prevention and re-referred to the Committee on Judiciary. The motion prevailed.

Ms. Johnson, J.B. moved that S.F. No. 902 be withdrawn from the Committee on Taxes and Tax Laws and re-referred to the Committee on Jobs, Energy and Community Development. The motion prevailed.

Ms. Lesewski moved that S.F. No. 637 be withdrawn from the Committee on Taxes and Tax Laws and re-referred to the Committee on Jobs, Energy and Community Development. The motion prevailed.

CALENDAR

S.F. No. 145: A bill for an act relating to motor vehicles; providing time limit for refunding motor vehicle registration tax overpayment; amending Minnesota Statutes 1994, section 168.16.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

CONSENT CALENDAR

S.F. No. 318: A bill for an act relating to insurance; changing the date on which crop hail

insurance rates must be filed with the commissioner; amending Minnesota Statutes 1994, section 60A.32; repealing Minnesota Statutes 1994, section 70A.06, subdivision 5.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 521: A bill for an act relating to adoption; requiring the listing of all children freed for adoption on the state adoption exchange within 20 days; amending Minnesota Statutes 1994, section 259.75, subdivisions 1, 2, 3, 4, 5, 7, and by adding a subdivision.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

H.F. No. 37: A bill for an act relating to local government; allowing either the town of Glen or the town of Kimberly in Aitkin county to have an alternate annual meeting day.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 62 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Berglin	Chmielewski	Finn	Janezich
Beckman	Bertram	Cohen	Flynn	Johnson, D.E.
Belanger	Betzold	Day	Frederickson	Johnson, D.J.
Berg	Chandler	Dille	Hanson	Johnson, J.B.

Johnston	Larson	Neuville	Price	Spear
Kelly	Lessard	Novak	Reichgott Junge	Stevens
Kiscaden	Limmer	Oliver	Riveness	Stumpf
Kleis	Marty	Olson	Robertson	Terwilliger
Knutson	Merriam	Ourada	Runbeck	Vickerman
Kramer	Metzen	Pappas	Sams	Wiener
Krentz	Moe, R.D.	Pariseau	Samuelson	
Laidig	Mondale	Piper	Scheevel	
Langseth	Morse	Pogemiller	Solon	

Mr. Kroening voted in the negative.

So the bill passed and its title was agreed to.

H.F. No. 554: A bill for an act relating to securities; regulating enforcement actions against licensees; modifying the definition of investment metal; amending Minnesota Statutes 1994, sections 80A.07, subdivision 5; and 80A.14, subdivision 10.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 831: A bill for an act relating to crime; expanding the definition of "value" in the theft statute; amending Minnesota Statutes 1994, section 609.52, subdivision 1.

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

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

S.F. No. 127: A bill for an act relating to state lands; authorizing the conveyance of certain tax-forfeited land that borders public water or natural wetlands in Hennepin county.

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

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Mr. Metzen in the chair.

After some time spent therein, the committee arose, and Mr. Metzen reported that the committee had considered the following:

H.F. Nos. 95, 749 and 362, which the committee recommends to pass.

H.F. No. 125, which the committee reports progress, subject to the following motion:

Mr. Beckman moved that the amendment made to H.F. No. 125 by the Committee on Rules and Administration in the report adopted March 9, 1995, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 125 was then progressed.

On motion of Mr. Moe, R.D., the report of the Committee of the Whole, as kept by the Secretary, was adopted.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Messrs. Lessard and Merriam introduced--

S.F. No. 1021: A bill for an act relating to state departments; abolishing the pollution control agency; creating the department of environmental protection; amending Minnesota Statutes 1994, sections 15.01; 115C.03, subdivision 7a; 116.02, subdivisions 1, 2, 3, 4, and by adding subdivisions; 116.03, subdivisions 1 and 2; 116C.69, subdivision 3; and 514.673, subdivision 3; repealing Minnesota Statutes 1994, sections 116.02, subdivision 5; and 116.03, subdivision 6.

Referred to the Committee on Environment and Natural Resources.

Mr. Lessard introduced--

S.F. No. 1022: A bill for an act relating to state lands; authorizing public sale of certain tax-forfeited land that borders public water in Koochiching county.

Referred to the Committee on Environment and Natural Resources.

Mr. Lessard introduced--

S.F. No. 1023: A bill for an act relating to public lands; notice requirements for sales of tax-forfeited lands; leasing of tax-forfeited lands; roads used by counties on tax-forfeited lands; amending Minnesota Statutes 1994, sections 282.02; and 282.04, subdivision 1, and by adding a subdivision.

Referred to the Committee on Environment and Natural Resources.

Mr. Lessard introduced--

S.F. No. 1024: A bill for an act relating to paternity; changing time limits for bringing certain actions; amending Minnesota Statutes 1994, section 257.57, subdivision 2.

Referred to the Committee on Judiciary.

Messrs. Solon, Metzen and Larson introduced--

S.F. No. 1025: A bill for an act relating to financial institutions; regulating mortgage prepayments; allowing written waivers of the right to prepay without penalty under certain circumstances; amending Minnesota Statutes 1994, section 47.20, subdivisions 5 and 10.

Referred to the Committee on Commerce and Consumer Protection.

Messrs. Oliver, Larson, Solon, Ms. Wiener and Mr. Day introduced--

S.F. No. 1026: A bill for an act relating to insurance; regulating risk-based capital for insurers; enacting the model act of the National Association of Insurance Commissioners; proposing coding for new law in Minnesota Statutes, chapter 60A.

Referred to the Committee on Commerce and Consumer Protection.

Mr. Sams, Ms. Lesewski, Messrs. Solon, Frederickson and Berg introduced--

S.F. No. 1027: A resolution memorializing the President and Congress to abandon the proposed sale of the Western Area Power Administration.

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

Ms. Pappas, Messrs. Janezich, Metzen, Ms. Hanson and Mr. Oliver introduced--

S.F. No. 1028: A bill for an act relating to the state building code; requiring temporary restroom facilities at certain construction and engineering projects; establishing standards for temporary restroom facilities; proposing coding for new law in Minnesota Statutes, chapter 16B.

Referred to the Committee on Governmental Operations and Veterans.

Messrs. Vickerman, Chmielewski and Ms. Lesewski introduced--

S.F. No. 1029: A bill for an act relating to alternative transportation fuels; eliminating alternative fuel vehicle permits and providing for refunds of fees paid for unused portions of permits; specifying excise taxes for certain gasoline and special fuel; amending Minnesota Statutes 1994, sections 216C.01, subdivisions 1a and 1b; 296.01, subdivisions 30, 34, and by adding subdivisions; 296.02, subdivisions 1, 1a, and 1b; 296.025, subdivisions 1, 1a, and by adding a subdivision; and 296.0261, by adding a subdivision; repealing Minnesota Statutes 1994, section 296.0261, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, and 9.

Referred to the Committee on Transportation and Public Transit.

Mr. Hottinger introduced--

S.F. No. 1030: A bill for an act relating to state government; providing certain people an opportunity for reinstatement of certain insurance benefits.

Referred to the Committee on Governmental Operations and Veterans.

Mr. Hottinger introduced--

S.F. No. 1031: A bill for an act relating to retirement; requiring certain notices to be sent to retired state employees before terminating insurance coverage; requiring the Minnesota state retirement system to permit deduction of certain insurance payments from retirement benefits; amending Minnesota Statutes 1994, sections 43A.23, by adding a subdivision; and 352.15, subdivision 3.

Referred to the Committee on Governmental Operations and Veterans.

Mr. Sams introduced--

S.F. No. 1032: A bill for an act relating to human services; modifying provisions relating to ancillary services on long-term care facilities; amending Minnesota Statutes 1994, section 256B.433, subdivision 3.

Referred to the Committee on Health Care.

Messrs. Oliver, Larson, Solon, Metzen and Limmer introduced--

S.F. No. 1033: A bill for an act relating to insurance; solvency; regulating disclosures, reinsurance, capital stock, managing general agents, and contracts issued on a variable basis; amending Minnesota Statutes 1994, sections 60A.03, subdivision 9; 60A.07, subdivision 10; 60A.09, subdivision 5; 60A.093, subdivision 2; 60A.705, subdivision 8; 60A.75; 60H.02, subdivision 4; 60H.05, subdivision 1; 60H.08; 61A.19; 67A.231; proposing coding for new law in Minnesota Statutes, chapter 60A.

Referred to the Committee on Commerce and Consumer Protection.

Ms. Wiener, Messrs. Stumpf, Pogemiller, Moe, R.D. and Ms. Olson introduced--

S.F. No. 1034: A bill for an act relating to education; establishing a consortium to meet statewide post-secondary learning needs; providing for a study and report for the development of an open learning institution; appropriating money.

Referred to the Committee on Education.

Messrs. Terwilliger, Riveness, Mses. Runbeck, Wiener and Mr. Bertram introduced--

S.F. No. 1035: A bill for an act relating to health; requiring the commissioner of health to prescribe minimum standards for all new landscape irrigation system installations; requiring the commissioner to license landscape irrigation contractors for installations in cities or towns of 5,000 or more; requiring bond and insurance filings; amending Minnesota Statutes 1994, sections 326.57, by adding a subdivision; 326.58; 326.60; 326.601, subdivisions 1, 2, 3, and 4; 326.61, by adding subdivisions; and 326.62.

Referred to the Committee on Governmental Operations and Veterans.

Mr. Limmer, Ms. Olson, Messrs. Kramer, Betzold and Ms. Reichgott Junge introduced--

S.F. No. 1036: A bill for an act relating to education; authorizing the use of a portion of capital expenditure facilities revenue for equipment uses; amending Minnesota Statutes 1994, section 124.243, subdivision 8.

Referred to the Committee on Education.

Messrs. Chmielewski, Vickerman and Novak introduced--

S.F. No. 1037: A bill for an act relating to workers' compensation; repealing the sunset of the targeted industry fund for loggers.

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

Messrs. Sams, Pogemiller and Janezich introduced--

S.F. No. 1038: A bill for an act relating to education; providing for an alternative debt service plan for independent school district Nos. 789, Clarissa, and 790, Eagle Bend.

Referred to the Committee on Education.

Ms. Wiener, Messrs. Stevens, Hottinger, Laidig and Novak introduced--

S.F. No. 1039: A bill for an act relating to insurance; workers' compensation; modifying provision relating to self-insurance; amending Minnesota Statutes 1994, sections 79A.01, by adding subdivisions; 79A.02, subdivisions 1 and 4; 79A.03, subdivisions 2, 6, 7, 8, 9, and 11; 79A.08; and 79A.09, subdivision 1.

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

Messrs. Samuelson, Hottinger, Solon, Belanger and Oliver introduced--

S.F. No. 1040: A bill for an act relating to insurance; regulating the sale of long-term care insurance; making technical changes; amending Minnesota Statutes 1994, sections 61A.072, subdivisions 1, 4, and by adding a subdivision; 62A.011, subdivision 3; 62A.31, subdivision 6; 62L.02, subdivision 15; and 295.50, subdivisions 6 and 6a; proposing coding for new law in Minnesota Statutes, chapter 62A; repealing Minnesota Statutes 1994, sections 62A.46; 62A.48; 62A.50; 62A.52; 62A.54; and 62A.56.

Referred to the Committee on Commerce and Consumer Protection.

Mses. Reichgott Junge, Piper, Mr. Samuelson, Mses. Ranum and Kiscaden introduced--

S.F. No. 1041: A bill for an act relating to homeless youth; providing for transitional housing; appropriating money; amending Minnesota Statutes 1994, section 256E.115.

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

Ms. Reichgott Junge, Messrs. Betzold and Knutson introduced--

S.F. No. 1042: A bill for an act relating to partnerships; modifying name requirements; eliminating a filing requirement; clarifying when debts arise or accrue; amending Minnesota Statutes 1994, sections 319A.02, subdivision 7; 319A.07; 319A.08; 322B.12, subdivision 1; and 323.14, by adding a subdivision.

Referred to the Committee on Judiciary.

Messrs. Berg, Bertram and Larson introduced--

S.F. No. 1043: A bill for an act relating to agriculture; modifying provisions related to farmed cervidae; amending Minnesota Statutes 1994, sections 17.451, subdivision 2; and 17.452, subdivisions 10 and 12.

Referred to the Committee on Agriculture and Rural Development.

Messrs. Berg and Neuville introduced--

S.F. No. 1044: A bill for an act relating to gambling; terminating existing tribal-state gaming compacts effective June 30, 1998.

Referred to the Committee on Gaming Regulation.

Messrs. Hottinger, Murphy, Limmer, Riveness and Metzen introduced--

S.F. No. 1045: A bill for an act relating to higher education; abolishing the higher education coordinating board and transferring some of its duties; creating a higher education services office and a higher education administrators council; amending Minnesota Statutes 1994, sections 15A.081, subdivision 7b; 126.663, subdivision 3; 126A.02, subdivision 2; 135A.10, subdivision 1; 136A.01; 136A.03; 136A.08; 136A.101, subdivisions 2 and 3; 136A.15, subdivisions 3 and 4; 136A.16, subdivision 1; 136A.233, subdivision 2; 136A.62, subdivision 2; 136C.042, subdivision 1; and 298.2214, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 135A; and 136A; repealing Minnesota Statutes 1994, sections 135A.052, subdivisions 2 and 3; 135A.08; 135A.12, subdivision 5; 136A.02; 136A.04; 136A.041; 136A.043; 136A.85; 136A.86; 136A.87; and 136A.88.

Referred to the Committee on Education.

Mses. Anderson, Ranum and Mr. Knutson introduced--

S.F. No. 1046: A bill for an act relating to crime prevention; limiting who can benefit from profits derived from prostitution; amending Minnesota Statutes 1994, section 609.323, subdivisions 2, 3, and by adding a subdivision.

Referred to the Committee on Crime Prevention.

Mses. Reichgott Junge, Ranum, Messrs. Chandler, Mondale and Ms. Olson introduced--

S.F. No. 1047: A bill for an act relating to education; modifying the state aid for school district tax abatements; amending Minnesota Statutes 1994, section 124A.032.

Referred to the Committee on Education.

Mr. Hottinger, Ms. Flynn, Mr. Terwilliger, Mses. Pappas and Runbeck introduced--

S.F. No. 1048: A bill for an act relating to local government; limiting development in unincorporated areas; proposing coding for new law in Minnesota Statutes, chapter 414.

Referred to the Committee on Metropolitan and Local Government.

Mr. Hottinger, Ms. Flynn, Mr. Terwilliger, Mses. Pappas and Runbeck introduced--

S.F. No. 1049: A bill for an act relating to cities; providing for annexation; proposing coding for new law as Minnesota Statutes, chapter 414A; repealing Minnesota Statutes 1994, sections 414.01; 414.011; 414.012; 414.02; 414.031; 414.0325; 414.033; 414.035; 414.036; 414.041; 414.051; 414.06; 414.061; 414.063; 414.065; 414.067; 414.07; 414.08; and 414.09.

Referred to the Committee on Metropolitan and Local Government.

Mses. Reichgott Junge, Krentz, Ranum, Messrs. Mondale and Knutson introduced--

S.F. No. 1050: A bill for an act relating to education; increasing the general formula allowance, training and experience revenue, and transportation revenue by inflationary amounts; amending Minnesota Statutes 1994, sections 124.225, subdivisions 3a, 7b, and 7d; and 124A.22, subdivisions 2 and 4.

Referred to the Committee on Education.

Mr. Frederickson, Ms. Johnson, J.B.; Mr. Sams and Ms. Lesewski introduced--

S.F. No. 1051: A bill for an act relating to emergency telephone services; requiring provider of cellular telephone services to include in its billings a notice regarding 911 calls; making technical changes; amending Minnesota Statutes 1994, sections 403.02, subdivision 1; 403.07, subdivision 1; and 403.09; proposing coding for new law in Minnesota Statutes, chapter 403.

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

Mses. Reichgott Junge; Johnson, J.B.; Ranum and Mr. Spear introduced--

S.F. No. 1052: A bill for an act relating to abuse; conforming domestic abuse definitions; including persons with certain significant relationships; allowing certain minors to petition on their own behalf for orders for protection; modifying petition requirements; providing for subsequent petitions; modifying requirements for alternate service; extending time period for certain domestic abuse arrests; providing for licensure revocation for peace officers convicted of assault; appropriating money; amending Minnesota Statutes 1994, sections 518B.01, subdivisions 2, 4, 8, 14, and by adding a subdivision; 611A.31, subdivision 2; 626.843, by adding a subdivision; 629.341, subdivision 1; and 629.72, subdivisions 1, 2, and 6.

Referred to the Committee on Judiciary.

Mr. Finn introduced--

S.F. No. 1053: A bill for an act relating to family law; child support enforcement; modifying the accrual of interest on child support arrearages; amending Minnesota Statutes 1994, section 548.091, subdivision 1a.

Referred to the Committee on Judiciary.

Ms. Ranum, Messrs. Laidig, Beckman, Ms. Anderson and Mr. Kelly introduced--

S.F. No. 1054: A bill for an act relating to juveniles; clarifying jurisdiction, procedures, and dispositions; directing that rules be adopted; providing for educational programs and studies; establishing youth service centers and pilot projects; providing direction to courts for secure placement dispositions; authorizing secure treatment program administrators to make certain decisions regarding juveniles; appropriating money; amending Minnesota Statutes 1994, sections 120.17, subdivisions 5a, 6, and 7; 120.181; 124.18, by adding a subdivision; 124.32, subdivision 6; 242.31, subdivision 1; 260.115, subdivision 1; 260.125; 260.126, subdivision 5; 260.131, subdivision 4; 260.181, subdivision 4; 260.185, subdivision 6, and by adding subdivisions; 260.193, subdivision 4; 260.215, subdivision 1; 260.291, subdivision 1; 609.055, subdivision 2; and 641.14; proposing coding for new law in Minnesota Statutes, chapters 120; and 260; repealing Minnesota Statutes 1994, section 121.166.

Referred to the Committee on Crime Prevention.

Ms. Piper, Messrs. Terwilliger, Samuelson, Ms. Berglin and Mr. Kramer introduced--

S.F. No. 1055: A bill for an act relating to occupations and professions; exempting certain social workers from requirement to obtain home care provider license; exempting some social workers employed in a hospital or nursing home from examination; modifying licensure requirements; requiring hospital and nursing home social workers to be licensed; amending Minnesota Statutes 1994, sections 144A.46, subdivision 2; 148B.23, subdivisions 1 and 2; 148B.27, subdivision 2, and by adding a subdivision; and 148B.60, subdivision 3; repealing Minnesota Statutes 1994, sections 148B.23, subdivision 1a; and 148B.28, subdivision 6.

Referred to the Committee on Health Care.

Mr. Kroening and Ms. Anderson introduced--

S.F. No. 1056: A bill for an act relating to real property; authorizing municipalities to establish trust or escrow accounts for proceeds from losses arising from fire or explosion of certain insured real property; authorizing municipalities to utilize escrowed funds to secure, repair, or demolish damaged or destroyed structures; shortening the period of redemption for certain properties sold at mortgage foreclosure sales; amending Minnesota Statutes 1994, section 580.23, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 65A.

Referred to the Committee on Commerce and Consumer Protection.

Messrs. Berg, Dille, Sams and Bertram introduced--

S.F. No. 1057: A bill for an act relating to taxation; expanding the sales and use tax exemption for the sale of horses; amending Minnesota Statutes 1994, sections 297A.01, subdivision 3; and 297A.25, subdivision 57.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Johnson, D.E.; Beckman; Ms. Lesewski, Messrs. Dille and Vickerman introduced--

S.F. No. 1058: A bill for an act relating to health; requiring the commissioner of health to study the need for an alternative licensing model for rural hospitals; requiring the rural health advisory committee to study regulatory barriers to health care access and the provision of efficient care.

Referred to the Committee on Health Care.

Mrs. Pariseau introduced--

S.F. No. 1059: A bill for an act relating to elections; recall of city officials; providing a process for recall of elected city officials; proposing coding for new law in Minnesota Statutes, chapter 205.

Referred to the Committee on Ethics and Campaign Reform.

Messrs. Chandler, Novak and Frederickson introduced--

S.F. No. 1060: A bill for an act relating to employment; modifying provisions relating to reemployment insurance; amending Minnesota Statutes 1994, sections 268.04, subdivision 10; 268.06, subdivisions 3a, 18, 19, 20, and 22; 268.08, subdivision 6; 268.10, subdivision 2; 268.12, subdivision 12; 268.16, subdivision 6, and by adding a subdivision; 268.161, subdivisions 8 and 9; 268.162, subdivision 2; 268.163, subdivision 3; 268.164, subdivision 3; 268.18, subdivisions 1, 2, 3, and 6; 270A.09, subdivision 1a; 352.01, subdivision 2b; 352.22, subdivision 10; and 574.26, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 1994, sections 268.10, subdivisions 3, 4, 5, 6, 7, 8, 9, and 10; and 268.12, subdivisions 9, 10, and 13.

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

Ms. Anderson, Mr. Kelly, Ms. Runbeck and Mr. Novak introduced--

S.F. No. 1061: A bill for an act relating to landlord tenant; forcible entry and unlawful detainer; providing a partial refund of the filing fee in matters resolved after one court appearance; amending Minnesota Statutes 1994, section 566.07.

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

Mr. Finn and Ms. Flynn introduced--

S.F. No. 1062: A bill for an act relating to civil actions; allowing recovery of damages for emotional anguish and grief; amending Minnesota Statutes 1994, section 573.02, subdivision 1.

Referred to the Committee on Judiciary.

Messrs. Cohen and Hottinger introduced--

S.F. No. 1063: A bill for an act relating to civil actions; providing for the survival of actions for personal injury after the death of the injured person; proposing coding for new law in Minnesota Statutes, chapter 573; repealing Minnesota Statutes 1994, section 573.01.

Referred to the Committee on Judiciary.

Mrs. Pariseau and Ms. Johnston introduced--

S.F. No. 1064: A bill for an act relating to taxation; property; exempting certain airport property; amending Minnesota Statutes 1994, section 272.01, subdivision 2.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Price, Metzen, Limmer, Ms. Johnston and Mr. Solon introduced--

S.F. No. 1065: A bill for an act relating to commerce; requiring licensing of motor vehicle brokers; permitting a new motor vehicle dealer to contract for the services of a motor vehicle broker and to pay a fee for those services; amending Minnesota Statutes 1994, section 168.27, subdivisions 1, 10, and by adding a subdivision.

Referred to the Committee on Commerce and Consumer Protection.

Mr. Laidig introduced--

S.F. No. 1066: A bill for an act relating to the environment; repealing obsolete provisions of pollution control agency rules and statutes; amending Minnesota Statutes 1994, sections 115B.22, subdivision 3a; and 116.36, subdivision 1; Minnesota Rules, parts 7009.0080; and 7035.2835, subpart 3; repealing Minnesota Statutes 1994, sections 116.36, subdivisions 2, 3, and 5; 116.37; and 116.98, subdivision 4; Minnesota Rules, parts 7011.0400; 7011.0405; 7011.0410; 7100.0300; 7100.0310; 7100.0320; 7100.0330; 7100.0335; 7100.0340; and 7100.0350.

Referred to the Committee on Environment and Natural Resources.

Mr. Laidig introduced--

S.F. No. 1067: A bill for an act relating to the environment; conforming state regulation of chlorofluorocarbons to federal law; amending Minnesota Statutes 1994, sections 116.731, subdivisions 2, 4, and 4a; and 116.735.

Referred to the Committee on Environment and Natural Resources.

Mr. Laidig introduced--

S.F. No. 1068: A bill for an act relating to the environment; conforming the definition of sewage sludge to federal language; amending Minnesota Statutes 1994, section 115A.03, subdivision 29.

Referred to the Committee on Environment and Natural Resources.

Messrs. Merriam, Laidig, Morse and Novak introduced--

S.F. No. 1069: A bill for an act relating to natural resources protection; requiring disclosure of information to electric energy consumers regarding reduction of mercury emissions related to

generation sources of electricity they consume; proposing coding for new law in Minnesota Statutes, chapter 116.

Referred to the Committee on Environment and Natural Resources.

Ms. Pappas, Messrs. Hottinger, Mondale and Ms. Runbeck introduced--

S.F. No. 1070: A bill for an act relating to counties; providing for the filling by appointment of certain offices in counties; providing for conforming changes; amending Minnesota Statutes 1994, sections 375A.10, subdivisions 2, 3, and 5; and 375A.12, subdivision 2.

Referred to the Committee on Metropolitan and Local Government.

Ms. Johnston, Messrs. Neuville and Betzold introduced--

S.F. No. 1071: A bill for an act relating to crime; clarifying the definition of "dangerous weapon" in the criminal code; clarifying criminal liability for possessing a dangerous weapon on school property when the object possessed is not designed as a weapon; providing an exception for the possession or use of weapons when required for instructional purposes; amending Minnesota Statutes 1994, sections 609.02, subdivision 6; and 609.66, subdivision 1d.

Referred to the Committee on Crime Prevention.

Ms. Anderson, Messrs. Cohen, Neuville, Beckman and Kelly introduced--

S.F. No. 1072: A bill for an act relating to violence prevention; expanding funding for adult basic education; appropriating money.

Referred to the Committee on Education.

Messrs. Chandler, Mondale, Riveness, Laidig and Limmer introduced--

S.F. No. 1073: A bill for an act relating to the environment; establishing a private cause of action for abandonment of hazardous waste; proposing coding for new law in Minnesota Statutes, chapter 116.

Referred to the Committee on Environment and Natural Resources.

Mr. Chandler introduced--

S.F. No. 1074: A bill for an act relating to retirement; providing for crediting of certain time served as a member of the St. Paul police relief association.

Referred to the Committee on Governmental Operations and Veterans.

Ms. Piper, Mr. Betzold, Ms. Kiscaden and Berglin introduced--

S.F. No. 1075: A bill for an act relating to health; modifying provisions relating to X-ray operators and inspections; establishing an advisory committee; amending Minnesota Statutes 1994, section 144.121, by adding subdivisions.

Referred to the Committee on Health Care.

Mses. Johnson, J.B.; Lesewski; Messrs. Novak, Dille and Vickerman introduced--

S.F. No. 1076: A bill for an act relating to energy; regulating wind energy conversion systems siting; authorizing rulemaking; proposing coding for new law in Minnesota Statutes, chapter 116C.

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

Ms. Anderson, Mr. Kelly, Mses. Runbeck and Pappas introduced--

S.F. No. 1077: A bill for an act relating to real property; requiring recordation of contracts for deed and assignments; amending Minnesota Statutes 1994, section 507.235, subdivisions 1 and 2.

Referred to the Committee on Judiciary.

Messrs. Frederickson; Merriam; Kelly; Johnson, D.E. and Ms. Johnston introduced--

S.F. No. 1078: A bill for an act relating to state finance; changing certain accounting procedures; changing the dollar threshold for approval of gifts to the state; changing procedures for collection of debt by the state; changing terminology for the petroleum tank release cleanup account; amending Minnesota Statutes 1994, sections 7.09, subdivision 1; 15.415; 16A.129, subdivision 3; 16A.28, subdivisions 1 and 6; 16A.40; 16A.57; 16A.72; 115C.02, by adding a subdivision; and 115C.08, subdivisions 1, 2, and 4; proposing coding for new law in Minnesota Statutes, chapter 16D; repealing Minnesota Statutes 1994, section 115C.02, subdivision 1a.

Referred to the Committee on Finance.

Messrs. Frederickson and Johnson, D.E. introduced--

S.F. No. 1079: A bill for an act relating to financing of government of this state; reducing 1995 appropriations; providing supplemental 1995 appropriations for certain purposes.

Referred to the Committee on Finance.

Messrs. Price, Dille, Hottinger, Mses. Kiscaden and Pappas introduced--

S.F. No. 1080: A bill for an act relating to taxation; cigarette and other tobacco taxes; increasing the tax on cigarettes and other tobacco products and providing for indexing the rates; providing for the proceeds of the increased tax; amending Minnesota Statutes 1994, sections 297.02, subdivision 1; 297.03, subdivision 5; 297.13, subdivision 1; and 297.32, subdivisions 1, 2, and 9; proposing coding for new law in Minnesota Statutes, chapter 297.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Frederickson, Chmielewski, Mses. Johnson, J.B. and Lesewski introduced--

S.F. No. 1081: A bill for an act relating to employment; appropriating money for the displaced homemaker program.

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

Messrs. Frederickson; Johnson, D.E.; Beckman; Ms. Johnston and Mr. Berg introduced--

S.F. No. 1082: A bill for an act relating to waters; establishing a Minnesota river basin commission to coordinate clean-up efforts; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 103F.

Referred to the Committee on Environment and Natural Resources.

Messrs. Morse, Riveness, Stumpf, Pogemiller and Terwilliger introduced--

S.F. No. 1083: A bill for an act relating to retirement; providing for early retirement incentives for employees of the state university, community college, technical college systems, and the higher education board.

Referred to the Committee on Governmental Operations and Veterans.

Mr. Johnson, D.J.; Ms. Piper, Messrs. Vickerman and Samuelson introduced--

S.F. No. 1084: A bill for an act relating to occupations and professions; providing for the licensure of opticians by the commissioner of health; requiring rulemaking; proposing coding for new law as Minnesota Statutes, chapter 148D.

Referred to the Committee on Health Care.

Messrs. Chmielewski, Frederickson, Ms. Johnson, J.B.; Messrs. Novak and Metzen introduced--

S.F. No. 1085: A bill for an act relating to energy; providing grants to identify energy-efficiency investment opportunities for business; appropriating money.

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

Messrs. Johnson, D.J.; Novak; Moe, R.D.; Marty and Pogemiller introduced--

S.F. No. 1086: A bill for an act relating to elections; campaign finance; prohibiting lobbying by a principal campaign committee or political party committee that issues refund receipt forms; amending Minnesota Statutes 1994, sections 10A.322, subdivisions 1, 2, 4, and by adding a subdivision; and 290.06, subdivision 23; proposing coding for new law in Minnesota Statutes, chapter 10A.

Referred to the Committee on Ethics and Campaign Reform.

Ms. Piper, Messrs. Hottinger and Scheevel introduced--

S.F. No. 1087: A bill for an act relating to capital improvements; appropriating money for the Shooting Star Trail; authorizing the sale of state bonds.

Referred to the Committee on Environment and Natural Resources.

Ms. Krentz, Mr. Beckman, Ms. Flynn, Mr. Spear and Ms. Hanson introduced--

S.F. No. 1088: A bill for an act relating to courts; civil actions; modifying the requirements for an application to proceed in forma pauperis; allowing the court to dismiss an action for false allegations of poverty or if it is frivolous or malicious; providing for a hearing; providing for the payment of fees and costs by inmates; providing for the disposition of damages recovered by an inmate; requiring disciplinary rules on false claims or evidence by an inmate; amending Minnesota Statutes 1994, sections 243.23, subdivision 3; and 563.01, subdivision 3, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 243; 244; and 563.

Referred to the Committee on Judiciary.

Mses. Lesewski, Johnston and Mr. Kramer introduced--

S.F. No. 1089: A bill for an act relating to traffic regulations; allowing turn on red arrow traffic signal, under certain conditions; regulating speed limits in residential areas; providing for disposition of proceeds of fines collected for violation of work zone speed limits; making technical changes; amending Minnesota Statutes 1994, sections 169.06, subdivision 5; and 169.14, subdivisions 2 and 5d; repealing Minnesota Statutes 1994, section 169.01, subdivision 81.

Referred to the Committee on Transportation and Public Transit.

Messrs. Kramer, Scheevel, Kleis and Ourada introduced--

S.F. No. 1090: A bill for an act relating to health; repealing reporting and study requirements relating to certain health facility grievance procedures; repealing Minnesota Statutes 1994, section 144.691, subdivision 4.

Referred to the Committee on Health Care.

Mr. Kramer, Mses. Johnston, Krentz, Messrs. Ourada and Belanger introduced--

S.F. No. 1091: A bill for an act relating to transportation; expanding authority of commissioner of transportation to regulate providers of special transportation service; classifying data; providing for administrative fees and penalties; amending Minnesota Statutes 1994, sections 13.99, by adding subdivisions; 174.30, subdivisions 2, 3, 4, 6, and by adding subdivisions; and 174.315.

Referred to the Committee on Transportation and Public Transit.

Messrs. Neuville and Knutson introduced--

S.F. No. 1092: A bill for an act relating to public safety; clarifying duties of the office of crime victim ombudsman; amending Minnesota Statutes 1994, sections 611A.73, subdivision 3; and 611A.74.

Referred to the Committee on Crime Prevention.

Ms. Robertson, Messrs. Janezich and Beckman introduced--

S.F. No. 1093: A bill for an act relating to telecommunications; mandating that public and private schools be included as eligible system recipients and users of the STARS program; amending Minnesota Statutes 1994, section 16B.465.

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

Messrs. Dille, Solon, Mses. Flynn and Johnson, J.B. introduced--

S.F. No. 1094: A bill for an act relating to family law; child visitation; expanding grandparent and great-grandparent visitation rights; amending Minnesota Statutes 1994, section 257.022, by adding a subdivision; repealing Minnesota Statutes 1994, section 257.022, subdivisions 1, 2, and 2a.

Referred to the Committee on Judiciary.

Mses. Ranum, Pappas, Messrs. Beckman, Knutson and Ms. Reichgott Junge introduced--

S.F. No. 1095: A bill for an act relating to education; appropriating money for school breakfast and lunch programs.

Referred to the Committee on Education.

Mr. Bertram introduced--

S.F. No. 1096: A bill for an act relating to drivers' licenses; providing for firearms safety designation on driver's license; amending Minnesota Statutes 1994, section 171.07, by adding a subdivision.

Referred to the Committee on Transportation and Public Transit.

Messrs. Bertram, Chmielewski, Ms. Johnston, Messrs. Langseth and Day introduced--

S.F. No. 1097: A bill for an act relating to transportation; authorizing cities, counties, and transit commissions and authorities outside the metropolitan area to provide certain paratransit outside their service areas; requiring such service to be under contract; amending Minnesota Statutes 1994, section 174.24, by adding a subdivision.

Referred to the Committee on Transportation and Public Transit.

Mr. Bertram introduced--

S.F. No. 1098: A bill for an act relating to retirement; authorizing purchase of prior service credit by a certain member of the public employees retirement association.

Referred to the Committee on Governmental Operations and Veterans.

Messrs. Bertram and Kleis introduced--

S.F. No. 1099: A bill for an act relating to elections; permitting election judges to serve outside the county where they reside in certain cases; amending Minnesota Statutes 1994, section 204B.19, subdivision 1.

Referred to the Committee on Ethics and Campaign Reform.

Messrs. Bertram and Berg introduced--

S.F. No. 1100: A bill for an act relating to lawful gambling; allowing unlimited use of the proceeds of lawful gambling for payment of real estate taxes and assessments; amending Minnesota Statutes 1994, section 349.12, subdivision 25.

Referred to the Committee on Gaming Regulation.

Messrs. Bertram and Beckman introduced--

S.F. No. 1101: A bill for an act relating to civil proceedings; expanding parties eligible for fees and expenses in certain proceedings involving the state; amending Minnesota Statutes 1994, section 15.471, subdivision 6.

Referred to the Committee on Judiciary.

Ms. Berglin introduced--

S.F. No. 1102: A bill for an act relating to health care; expanding medical assistance coverage to include tuberculosis related services; amending Minnesota Statutes 1994, section 256B.0625, subdivision 13, and by adding a subdivision.

Referred to the Committee on Health Care.

Mses. Ranum, Piper, Messrs. Janezich, Knutson and Ms. Anderson introduced--

S.F. No. 1103: A bill for an act relating to children's services; establishing the department of children, families, and learning; making related changes; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 119A; repealing Minnesota Statutes 1994, sections 121.02, subdivisions 1, 2a, and 3; 121.03; and 121.04, subdivision 2.

Referred to the Committee on Governmental Operations and Veterans.

Mr. Hottinger and Ms. Johnston introduced--

S.F. No. 1104: A bill for an act relating to children's services; establishing the department of children, families, and learning; making related changes; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 119A; repealing Minnesota Statutes 1994, sections 121.02, subdivisions 1, 2a, and 3; 121.03; and 121.04, subdivision 2.

Referred to the Committee on Governmental Operations and Veterans.

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. 47: Messrs. Morse, Marty and Frederickson.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

MEMBERS EXCUSED

Ms. Ranum, Messrs. Hottinger and Murphy were excused from the Session of today. Mr. Novak was excused from the Session of today at 11:40 a.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 9:00 a.m., Thursday, March 16, 1995. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate