

THIRTY-FOURTH DAY

St. Paul, Minnesota, Wednesday, April 5, 1995

The Senate met at 9:45 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. Kim Smith King.

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

March 31, 1995

The Honorable Allan H. Spear
President of the Senate

Dear President Spear:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. No. 229.

Warmest regards,
Arne H. Carlson, Governor

March 31, 1995

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

I have the honor to inform you that the following enrolled Act of the 1995 Session of the State Legislature has been received from the Office of the Governor and is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1995	Date Filed 1995
229		29	10:40 a.m. March 31	March 31

Sincerely,
Joan Anderson Growe
Secretary of State

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 399, 410, 1570, 1103 and H.F. No. 446. The motion prevailed.

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

S.F. No. 399: A bill for an act relating to recreational vehicles; driving while intoxicated; providing for forfeiture of snowmobiles, all-terrain vehicles, and motorboats for designated, DWI-related offenses; extending vehicle forfeiture law by expanding the definition of prior conviction to include other types of vehicles; amending Minnesota Statutes 1994, sections 84.83, subdivision 2; and 169.1217, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 84; and 86B.

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

Page 1, lines 17 and 18, delete "and all-terrain vehicles"

Page 1, line 26, delete everything after the period

Page 1, delete line 27

Page 2, line 3, before the colon, insert "or an ordinance in conformity with it"

Page 2, line 6, after "separate" insert "impaired driving" and after the semicolon, insert "or"

Page 2, line 9, after "separate" insert "impaired driving" and delete the semicolon and insert a period

Page 2, delete lines 10 to 16

Page 2, line 30, delete everything after the period

Page 2, delete line 31

Page 4, delete lines 23 to 25 and insert:

"(d) A vehicle is subject to forfeiture under this section only if the owner was privy to the act or omission upon which the forfeiture is based, or the act or omission occurred with the owner's knowledge or consent."

Page 5, line 21, before the period, insert ", if the vehicle was a snowmobile, or to the all-terrain vehicle account in the natural resources fund under section 84.927, subdivision 1"

Page 5, after line 21, insert:

"Subd. 10. [REPORTING REQUIREMENT.] The appropriate agency shall provide a written record of each forfeiture incident to the state auditor. The record shall include the amount forfeited, date, and a brief description of the circumstances involved. Reports shall be made on a monthly basis in a manner prescribed by the state auditor. The state auditor shall report annually to the legislature on the nature and extent of forfeitures."

Sec. 3. Minnesota Statutes 1994, section 84.927, subdivision 1, is amended to read:

Subdivision 1. [REGISTRATION REVENUE.] Fees from the registration of all-terrain vehicles and the unrefunded gasoline tax attributable to all-terrain vehicle use under section 296.16, as well as the net proceeds from the sale of all-terrain vehicles forfeited pursuant to section 84.912, shall be deposited in the state treasury and credited to the all-terrain vehicle account in the natural resources fund."

Page 5, line 29, before the colon, insert "or an ordinance in conformity with it"

Page 5, line 32, after "separate" insert "impaired driving" and after the semicolon, insert "or"

Page 5, line 35, after "separate" insert "impaired driving" and delete the semicolon and insert a period

Page 5, delete line 36

Page 6, delete lines 1 to 6

Page 6, line 8, delete everything after the period

Page 6, delete line 9

Page 8, delete lines 13 to 15 and insert:

"(d) A motorboat is subject to forfeiture under this section only if the owner was privy to the act or omission upon which the forfeiture is based, or the act or omission occurred with the owner's knowledge or consent."

Page 9, after line 10, insert:

"Subd. 10. [REPORTING REQUIREMENT.] The appropriate agency shall provide a written record of each forfeiture incident to the state auditor. The record shall include the amount forfeited, date, and a brief description of the circumstances involved. Reports shall be made on a monthly basis in a manner prescribed by the state auditor. The state auditor shall report annually to the legislature on the nature and extent of forfeitures."

Page 10, line 32, delete "4" and insert "5"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, after the semicolon, insert "84.927, subdivision 1;"

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

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

S.F. No. 26: A bill for an act relating to agriculture; modifying definitions and exclusions for food licensing; changing license fees and license periods for certain licensees; amending Minnesota Statutes 1994, sections 28A.03; 28A.04, subdivision 1; 28A.08; 28A.09, subdivision 1; 28A.15, subdivisions 3, 7, and 8; 28A.16; 28A.17; and 31.56, subdivision 5.

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

Pages 1 to 3, delete section 1

Pages 4 to 7, delete section 3

Page 9, delete section 10

Renumber the sections in sequence

Amend the title as follows:

Page 1, lines 2 and 3, delete "definitions and exclusions for" and insert "provisions relating to"

Page 1, line 5, delete "28A.03;"

Page 1, line 6, delete "28A.08;"

Page 1, line 7, after "28A.16;" insert "and" and delete "; and 31.56,"

Page 1, line 8, delete "subdivision 5"

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

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

S.F. No. 418: A bill for an act relating to education; authorizing special projects and programs to combat truancy; denying driving privileges for certain truant students; imposing parental liability for failure to exercise reasonable control; requiring the attorney general to report on the effectiveness of school safety programs; increasing school levy authority for crime prevention activities; providing for expulsion of students for possession of a firearm; providing a fee exception for school uniforms; requiring criminal history background checks for teachers and other school district personnel; clarifying authority to deny teacher licenses; modifying offender rehabilitation exceptions; providing for school security; clarifying access to data; limiting school liability for certain security measures; establishing grants for school safety programs; imposing penalties; appropriating money; amending Minnesota Statutes 1994, sections 120.14; 120.73, by adding a subdivision; 125.05, by adding a subdivision; 125.09, subdivision 1; 171.04, subdivision 1; 260.131, by adding a subdivision; 260.132, subdivisions 1 and 4; 260.161, subdivision 3; 260.191, subdivision 1; 260.315; 364.09; 466.03, by adding a subdivision; and 609.605, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 8; 123; and 127; proposing coding for new law as Minnesota Statutes, chapter 260A; repealing Minnesota Statutes 1994, section 126.25; and Laws 1994, chapter 576, section 1.

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

Page 9, after line 12, insert:

"A child is not a continuing truant if the child is withdrawn from school by the child's parents because of a dispute with the school concerning the provision of special education services under the Individuals with Disabilities Education Act or accommodations and modifications under the Americans with Disabilities Act, if the parent makes good faith efforts to provide the child educational services from any other source. No parent who withdraws a child from school during a dispute with the school concerning the provision of special education services or accommodations and modifications is required to file home school papers, if the parent provides written notice to the department of education or the district of the plan for the child's education."

Pages 20 and 21, delete section 9

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 24, delete "260.315;"

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

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

S.F. No. 1151: A bill for an act relating to crime prevention; directing the peace officer standards and training board to review its minimum standards of conduct every three years; requiring certain information to be compiled; requiring a model policy regarding professional conduct to be developed; directing a study; requiring reports; appropriating money; amending Minnesota Statutes 1994, section 626.843, subdivision 1.

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 626.843, subdivision 1, is amended to read:

Subdivision 1. [RULES REQUIRED.] The board shall adopt rules with respect to:

(a) The certification of peace officer training schools, programs, or courses including training schools for the Minnesota state patrol. Such schools, programs and courses shall include those administered by the state, county, school district, municipality, or joint or contractual combinations thereof, and shall include preparatory instruction in law enforcement and minimum basic training courses;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required at each certified peace officers training school located within the state;

(c) Minimum qualifications for instructors at certified peace officer training schools located within this state;

(d) Minimum standards of physical, mental, and educational fitness which shall govern the recruitment and licensing of peace officers within the state, by any state, county, municipality, or joint or contractual combination thereof, including members of the Minnesota state patrol;

(e) Minimum standards of conduct which would affect the individual's performance of duties as a peace officer;

These standards shall be established and published on or before July 1, 1979. The board shall review the minimum standards of conduct described in this paragraph for possible modification in 1998 and every three years after that time.

(f) Minimum basic training which peace officers appointed to temporary or probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following any such appointment to a temporary or probationary term;

(g) Minimum specialized training which part-time peace officers shall complete in order to be eligible for continued employment as a part-time peace officer or permanent employment as a peace officer, and the time within which the specialized training must be completed;

(h) Content of minimum basic training courses required of graduates of certified law enforcement training schools or programs. Such courses shall not duplicate the content of certified academic or general background courses completed by a student but shall concentrate on practical skills deemed essential for a peace officer. Successful completion of such a course shall be deemed satisfaction of the minimum basic training requirement;

(i) Grading, reporting, attendance and other records, and certificates of attendance or accomplishment;

(j) The procedures to be followed by a part-time peace officer for notifying the board of intent to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to clause (g), and section 626.845, subdivision 1, clause (g);

(k) The establishment and use by any political subdivision or state law enforcement agency which employs persons licensed by the board of procedures for investigation and resolution of allegations of misconduct by persons licensed by the board. The procedures shall be in writing and shall be established on or before October 1, 1984;

(l) The issues that must be considered by each political subdivision and state law enforcement agency that employs persons licensed by the board in establishing procedures under section 626.5532 to govern the conduct of peace officers who are in pursuit of a vehicle being operated in violation of section 609.487, and requirements for the training of peace officers in conducting pursuits. The adoption of specific procedures and requirements is within the authority of the political subdivision or agency;

(m) Supervision of part-time peace officers and requirements for documentation of hours worked by a part-time peace officer who is on active duty. These rules shall be adopted by December 31, 1993; and

(n) Such other matters as may be necessary consistent with sections 626.84 to 626.855. Rules promulgated by the attorney general with respect to these matters may be continued in force by resolution of the board if the board finds the rules to be consistent with sections 626.84 to 626.855.

Sec. 2. [626.8431] [AUTOMATIC LICENSE REVOCATION.]

The license of a peace officer convicted of a felony is automatically revoked. For purposes of this section, "conviction" includes a finding of guilt, whether or not the adjudication of guilt is stayed or executed, an admission of guilt, or a no contest plea.

Sec. 3. [PEACE OFFICER STANDARDS AND TRAINING BOARD; INFORMATION AND REPORTS REQUIRED.]

Subdivision 1. [INFORMATION REQUIRED TO BE COMPILED BY THE PEACE OFFICER STANDARDS AND TRAINING BOARD.] The peace officer standards and training board shall compile information on peace officers convicted of violating Minnesota Statutes, section 609.224, subdivision 1. This information must include the number of officers convicted, a brief description of the facts of each incident, and a brief description of the disposition of the case, including any disciplinary action taken or referrals made to mental health professionals.

Subd. 2. [REPORT REQUIRED.] The board shall report to the legislature by January 1, 1997, regarding the information compiled under subdivision 1.

Subd. 3. [CHIEF LAW ENFORCEMENT OFFICERS REQUIRED TO PROVIDE INFORMATION.] Chief law enforcement officers shall cooperate with the board by providing it any relevant information on peace officers convicted of violating Minnesota Statutes, section 609.224, subdivision 1, within a reasonable time after the conviction.

Sec. 4. [PROFESSIONAL CONDUCT OF PEACE OFFICERS.]

Subdivision 1. [MODEL POLICY TO BE DEVELOPED.] By July 1, 1996, the peace officer standards and training board shall develop and distribute to all chief law enforcement officers a model policy regarding the professional conduct of peace officers. The policy must address issues regarding professional conduct not addressed by the standards of conduct under Minnesota Rules, part 6700.1600. The policy must define unprofessional conduct to include, but not be limited to, conduct prohibited by Minnesota Statutes, section 609.43. The policy must also describe the procedures that a local law enforcement agency may follow in investigating and disciplining peace officers alleged to have behaved unprofessionally.

Subd. 2. [CHIEF LAW ENFORCEMENT OFFICERS; WRITTEN POLICY REQUIRED.] By January 1, 1997, all chief law enforcement officers shall establish and implement a written policy defining unprofessional conduct and governing the investigation and disposition of cases involving alleged unprofessional conduct by peace officers. A chief law enforcement officer shall adopt a policy identical or substantially similar to the model policy developed by the board under subdivision 1.

Sec. 5. [STUDY DIRECTED.]

The peace officer standards and training board, in consultation with chief law enforcement officers and peace officers, shall conduct a study to determine what statewide resources are available to peace officers in need of job-related professional counseling. The study must determine to what extent existing resources are used, what impediments exist to the resources' use, how resources could be better used, and what additional resources are required. The board shall report its findings to the legislature by July 1, 1996."

Delete the title and insert:

"A bill for an act relating to crime prevention; directing the peace officer standards and training board to review its minimum standards of conduct every three years; providing for automatic license revocation for peace officers convicted of felonies; requiring certain information to be compiled; requiring a model policy regarding professional conduct to be developed; directing a study; requiring reports; amending Minnesota Statutes 1994, section 626.843, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 626."

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

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

S.F. No. 435: A bill for an act relating to crime prevention; classifying name changes of protected witnesses as private data; expanding the crime of witness tampering; amending Minnesota Statutes 1994, sections 259.10; and 609.498, subdivision 1.

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 13.99, is amended by adding a subdivision to read:

Subd. 76a. [NAME CHANGES OF PROTECTED WITNESSES AND VICTIMS.] Court records of name changes of participants in a witness and victim protection program are governed by section 259.10, subdivision 2.

Sec. 2. Minnesota Statutes 1994, section 144.218, subdivision 4, is amended to read:

Subd. 4. [INCOMPLETE AND, INCORRECT, AND MODIFIED CERTIFICATES.] If a court finds that a birth certificate is incomplete, inaccurate or false, or if it is being issued pursuant to section 259.10, subdivision 2, it may order the registration of a new certificate, and shall, if necessary, set forth the correct information in the order. Upon receipt of the order the state registrar shall register a new certificate containing the findings of the court, and the prior certificate shall be confidential pursuant to section 13.02, subdivision 3, and shall not be disclosed except pursuant to court order.

Sec. 3. Minnesota Statutes 1994, section 259.10, is amended to read:

259.10 [PROCEDURE GENERAL REQUIREMENTS.]

Subdivision 1. [PROCEDURE.] A person who shall have resided in this state for six months may apply to the district court in the county where the person resides to change the person's name, the names of minor children, if any, and the name of a spouse, if the spouse joins in the application, in the manner herein specified. The person shall state in the application the name and age of the spouse and each of the children, if any, and shall describe all lands in the state in or upon which the person, the children and the spouse if their names are also to be changed by the application, claim any interest or lien, and shall appear personally before the court and prove identity by at least two witnesses. If the person be a minor, the application shall be made by the person's guardian or next of kin. The court shall accept the certificate of dissolution prepared pursuant to section 518.148 as conclusive evidence of the facts recited in the certificate and may not require the person to provide the court a copy of the judgment and decree of dissolution. Every person who, with intent to defraud, shall make a false statement in any such application shall be guilty of a misdemeanor provided, however, that no minor child's name may be changed without

both parents having notice of the pending of the application for change of name, whenever practicable, as determined by the court.

Subd. 2. [WITNESS AND VICTIM PROTECTION NAME CHANGES; PRIVATE DATA.] If the court determines that the name change for an individual is made in connection with the individual's participation in a witness and victim protection program, the court shall order that the court records of the name change are not accessible to the public; except that they may be released, upon request, to a law enforcement agency or probation officer conducting a lawful investigation. The existence of an application for a name change described in this subdivision may not be disclosed except to a law enforcement agency conducting a lawful investigation.

Sec. 4. Minnesota Statutes 1994, section 609.498, subdivision 1, is amended to read:

Subdivision 1. [TAMPERING WITH A WITNESS IN THE FIRST DEGREE.] Whoever does any of the following is guilty of tampering with a witness in the first degree and may be sentenced as provided in subdivision 1a:

(a) intentionally prevents or dissuades or intentionally attempts to prevent or dissuade by means of force or threats of injury to any person or property, a person who is or may become a witness from attending or testifying at any trial, proceeding, or inquiry authorized by law;

(b) by means of force or threats of injury to any person or property, intentionally coerces or attempts to coerce a person who is or may become a witness to testify falsely at any trial, proceeding, or inquiry authorized by law;

(c) intentionally causes injury or threatens to cause injury to any person or property in retaliation against a person who was summoned as a witness at any trial, proceeding, or inquiry authorized by law, within a year following that trial, proceeding, or inquiry or within a year following the actor's release from incarceration, whichever is later;

(d) intentionally prevents or dissuades or attempts to prevent or dissuade, by means of force or threats of injury to any person or property, a person from providing information to law enforcement authorities concerning a crime;

(e) by means of force or threats of injury to any person or property, intentionally coerces or attempts to coerce a person to provide false information concerning a crime to law enforcement authorities; or

(f) intentionally causes injury or threatens to cause injury to any person or property in retaliation against a person who has provided information to law enforcement authorities concerning a crime within a year of that person providing the information or within a year of the actor's release from incarceration, whichever is later.

Sec. 5. [EFFECTIVE DATE.]

This act is effective July 1, 1995. Section 4 applies to crimes committed on or after that date."

Amend the title as follows:

Page 1, line 5, after "sections" insert "13.99, by adding a subdivision; 144.218, subdivision 4;"

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

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

S.F. No. 410: A bill for an act relating to health; giving the commissioner of administration authority to negotiate contract prices for all prescription drugs sold in Minnesota; allowing correction orders to be issued; establishing a statewide drug formulary; requiring a pharmacy to post a sign on generic substitution; amending Minnesota Statutes 1994, sections 151.21, subdivisions 2, 3, and by adding a subdivision; and 256B.0625, subdivision 13; proposing coding for new law in Minnesota Statutes, chapters 16B; and 256.

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

Delete everything after the enacting clause and insert:

"Section 1. [16B.93] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] For purposes of sections 16B.93 to 16B.97, the following definitions apply.

Subd. 2. [CONTRACTOR.] "Contractor" means the individual, business entity, or other private organization who is awarded the contract by the commissioner to negotiate the prices for prescription drugs pursuant to section 16B.94, subdivision 1.

Subd. 3. [MULTISTATE PHARMACEUTICAL CONTRACTING ALLIANCE OR 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. 4. [MANUFACTURER.] "Manufacturer" means a manufacturer as defined in section 151.44, paragraph (c).

Subd. 5. [PRESCRIPTION DRUG.] "Prescription drug" means a drug as defined in section 151.44, paragraph (d).

Subd. 6. [PURCHASER.] "Purchaser" means a pharmacy as defined in section 151.01, subdivision 2, and includes health maintenance organizations and hospitals.

Subd. 7. [REBATE.] "Rebate" means any money, incentives, or credits given to a purchaser by a manufacturer or seller for purchasing a prescription drug.

Subd. 8. [SELLER.] "Seller" means any person, other than a manufacturer, who sells or distributes drugs to purchasers or other sellers within the state.

Subd. 9. [SINGLE SOURCE DRUG.] "Single source drug" means a prescription drug for which there is no other drug product sold or marketed in the state which the FDA has rated as therapeutically equivalent and has determined is pharmaceutically equivalent and bioequivalent.

Subd. 10. [STATE DRUG FORMULARY.] "State drug formulary" means a listing of drugs of proven safety, efficacy, and cost-effectiveness established by the commissioner of human services under section 256.996.

Sec. 2. [16B.94] [PRICE CONTRACT FOR PRESCRIPTION DRUGS ON THE STATE FORMULARY.]

Subdivision 1. [MINNESOTA POOLED CONTRACT FOR PRESCRIPTION DRUG DISCOUNTS.] (a) The commissioner shall negotiate price contracts for prescription drugs listed on the state drug formulary. The commissioner may contract with an individual, business entity, or other private organization to negotiate the contract price as required under this subdivision. The commissioner may negotiate a price differential based on volume purchasing.

(b) The contract price for each drug on the state drug formulary, with the exception of single source drugs, shall be based on the average manufacturer's price minus 15 percent, the best competitive bid price, or a negotiated price, whichever is lowest. In the case of single source drugs, the contract price shall be negotiated. The initial average manufacturer's price is the purchaser's actual acquisition cost as of March 1, 1995. For purposes of computing the contract price in 1996 and each year thereafter for those drugs on the state drug formulary, the commissioner or contractor shall not recognize increases in the average manufacturer's contracted price that exceed the rate of increase in the Consumer Price Index for All Items (U.S. city average) (CPI-U).

(c) Nothing in this section shall prohibit the commissioner or contractor from granting multiple awards.

Sec. 3. [16B.95] [STATE CONTRACT PRICE.]

Subdivision 1. [MANUFACTURER REQUIREMENT.] The contract price for all prescription drugs listed on the state formulary that the commissioner has negotiated shall be made available to any Minnesota purchaser by any manufacturer or seller who participates in the alliance. Any manufacturer who does not extend the negotiated contract price to a Minnesota purchaser shall be prohibited from participating in the alliance.

Subd. 2. [PURCHASER REQUIREMENT.] The commissioner of administration may require any Minnesota purchaser who plans on purchasing prescription drugs at the contract price negotiated by the commissioner of administration to submit any information deemed necessary by the commissioner regarding prescription drug purchase projections to assist the commissioner in the contract price negotiations.

Subd. 3. [PURCHASING PRESCRIPTION DRUGS NOT INCLUDED ON THE STATE DRUG FORMULARY.] Nothing in this section shall prevent a purchaser from purchasing a prescription drug that is not included on the state drug formulary.

Sec. 4. [16B.96] [NONDISCRIMINATION.]

No insurer or health plan company shall discriminate against a purchaser for participating in the multistate pharmaceutical contracting alliance or for taking advantage of the alliance contracting price.

Sec. 5. [62J.67] [PRESCRIPTION DRUG PRICE DISCLOSURE.]

Each health plan company and hospitals licensed under chapter 144 must annually submit to the commissioner of health the contract price paid for each prescription drug listed on its drug formulary. The contract price submitted must include any discount or rebate received from a manufacturer or drug wholesaler. The commissioner shall make this information available to the public through the information clearinghouse.

Sec. 6. Minnesota Statutes 1994, section 151.21, subdivision 2, is amended to read:

Subd. 2. When a pharmacist receives a written prescription on which the prescriber has personally written in handwriting "dispense as written - brand medically necessary," or "D.A.W.," or an oral prescription in which the prescriber has expressly indicated that the prescription is to be dispensed as communicated, the pharmacist shall dispense the brand name legend drug as prescribed. If the prescriber specifies orally that the prescription shall be dispensed as communicated, written certification in the prescriber's handwriting bearing the phrase "dispense as written - brand medically necessary" must be sent to the dispensing pharmacy within ten days.

Sec. 7. Minnesota Statutes 1994, section 151.21, subdivision 3, is amended to read:

Subd. 3. When a pharmacist receives a written prescription on which the prescriber has not personally written in handwriting "dispense as written - brand medically necessary," or "D.A.W.," or an oral prescription in which the prescriber has not expressly indicated that the prescription is to be dispensed as communicated, and there is available in the pharmacist's stock a less expensive generically equivalent drug that, in the pharmacist's professional judgment, is safely interchangeable with the prescribed drug, then the pharmacist shall, after disclosing the substitution to the purchaser, dispense the generic drug, unless the purchaser objects. A pharmacist may also substitute pursuant to the oral instructions of the prescriber. A pharmacist may not substitute a generically equivalent drug product unless, in the pharmacist's professional judgment, the substituted drug is therapeutically equivalent and interchangeable to the prescribed drug. A pharmacist shall notify the purchaser if the pharmacist is dispensing a drug other than the brand name drug prescribed.

Sec. 8. Minnesota Statutes 1994, section 151.21, is amended by adding a subdivision to read:

Subd. 4a. Each pharmacy must post a sign in a conspicuous location in a typeface easily seen at the counter where prescriptions are dispensed stating that, "This pharmacy will substitute whenever possible an FDA approved, less expensive, generic drug product which is therapeutically equivalent and safely interchangeable to the one prescribed by your doctor in order to save you money, unless you object to this substitution."

Sec. 9. [256.996] [STATE DRUG FORMULARY.]

Subdivision 1. [ESTABLISHMENT.] By January 1, 1996, the commissioner of human services shall establish a state drug formulary based on the criteria developed by the drug formulary committee established under section 256B.0625, subdivision 13. The commissioner shall publish the state drug formulary on an annual basis. Prior to publication, the drug formulary committee shall review and comment on the formulary contents. When developing the formulary contents, consideration must be given to drugs with a narrow therapeutic index.

Subd. 2. [DEVELOPMENT OF CRITERIA.] In developing the criteria to be used by the commissioner in establishing the state drug formulary, the drug formulary committee shall consult with health care professional experts in each therapeutic class of drugs. The criteria must also be based on review of scientific literature in peer-reviewed biomedical journals for purposes of identifying the most efficacious, safe, and cost-effective drugs in achieving optimal patient therapeutic outcomes.

Subd. 3. [STATE DRUG FORMULARY ADDITIONS AND DELETIONS.] (a) Any health care provider, consumer or consumer group, or seller of prescription drugs may apply to the commissioner on a form specified in the state drug formulary to add or delete a drug from the state drug formulary. For purposes of this subdivision, "health care provider" includes any vendor of medical care qualifying for reimbursement under the medical assistance program provided under chapter 256B.

(b) The drug formulary committee may recommend to the commissioner the addition or deletion of a prescription drug in the state drug formulary.

Subd. 4. [AVAILABILITY OF PRESCRIPTION DRUGS NOT INCLUDED ON THE STATE DRUG FORMULARY.] Nothing in this section shall prevent a physician or other person authorized to prescribe prescription drugs from prescribing a drug that is not included on the state drug formulary.

Sec. 10. Minnesota Statutes 1994, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. [DRUGS.] (a) Medical assistance covers drugs if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, or by a physician enrolled in the medical assistance program as a dispensing physician. The commissioner, after receiving recommendations from professional medical associations and professional pharmacist associations, shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The formulary committee shall consist of ~~nine~~ 11 members, ~~four of whom shall be three~~ physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, ~~three of whom shall be one~~ pharmacoeconomist, one nurse, four pharmacists who are not employed by the department of human services or by a health plan company as defined in section 62Q.01, subdivision 4, and a majority of whose practice is for persons paying privately or through health insurance, a one consumer representative, and a one nursing home representative. Committee members shall serve three-year terms and shall serve without compensation. Members may be reappointed once.

(b) The commissioner shall establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. The formulary committee shall review and recommend drugs which require prior authorization. The formulary committee may recommend drugs for prior authorization directly to the commissioner, as long as opportunity for public input is provided. Prior authorization may be requested by the commissioner based on medical and clinical criteria before certain drugs are eligible for payment. Before a drug may be considered for prior authorization at the request of the commissioner:

(1) the drug formulary committee must develop criteria to be used for identifying drugs; the development of these criteria is not subject to the requirements of chapter 14, but the formulary committee shall provide opportunity for public input in developing criteria;

(2) the drug formulary committee must hold a public forum and receive public comment for an additional 15 days; and

(3) the commissioner must provide information to the formulary committee on the impact that placing the drug on prior authorization will have on the quality of patient care and information regarding whether the drug is subject to clinical abuse or misuse. Prior authorization may be required by the commissioner before certain formulary drugs are eligible for payment. The formulary shall not include:

(i) drugs or products for which there is no federal funding;

(ii) over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, and vitamins for children under the age of seven and pregnant or nursing women;

(iii) any other over-the-counter drug identified by the commissioner, in consultation with the drug formulary committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14;

(iv) anorectics; and

(v) drugs for which medical value has not been established.

The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

(c) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee established by the commissioner, the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee or the usual and customary price charged to the public. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus 7.6 percent effective January 1, 1994. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the administrative procedure act. An additional dispensing fee of \$.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written - brand necessary" on the prescription as required by section 151.21, subdivision 2. Implementation of any change in the fixed dispensing fee that has not been subject to the administrative procedure act is limited to not more than 180 days, unless, during that time, the commissioner initiates rulemaking through the administrative procedure act.

(d) Until the date the on-line, real-time Medicaid Management Information System (MMIS) upgrade is successfully implemented, as determined by the commissioner of administration, a pharmacy provider may require individuals who seek to become eligible for medical assistance under a one-month spenddown, as provided in section 256B.056, subdivision 5, to pay for services to the extent of the spenddown amount at the time the services are provided. A pharmacy provider choosing this option shall file a medical assistance claim for the pharmacy services provided. If medical assistance reimbursement is received for this claim, the pharmacy provider shall return to

the individual the total amount paid by the individual for the pharmacy services reimbursed by the medical assistance program. If the claim is not eligible for medical assistance reimbursement because of the provider's failure to comply with the provisions of the medical assistance program, the pharmacy provider shall refund to the individual the total amount paid by the individual. Pharmacy providers may choose this option only if they apply similar credit restrictions to private pay or privately insured individuals. A pharmacy provider choosing this option must inform individuals who seek to become eligible for medical assistance under a one-month spenddown of (1) their right to appeal the denial of services on the grounds that they have satisfied the spenddown requirement, and (2) their potential eligibility for the MinnesotaCare program or the children's health plan."

Delete the title and insert:

"A bill for an act relating to health; giving the commissioner of administration authority to negotiate contract prices for prescription drugs on a state drug formulary; establishing a statewide drug formulary; requiring a pharmacy to post a sign on generic substitution; amending Minnesota Statutes 1994, sections 151.21, subdivisions 2, 3, and by adding a subdivision; and 256B.0625, subdivision 13; proposing coding for new law in Minnesota Statutes, chapters 16B; 62J; and 256."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Ms. Kiscaden questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

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

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; appropriating money; amending Minnesota Statutes 1994, sections 518B.01, subdivisions 2, 4, 8, 14, and by adding a subdivision; 611A.31, subdivision 2; 629.341, subdivision 1; and 629.72, subdivisions 1, 2, and 6.

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

Page 1, line 24, after "injury" insert a comma and after "assault" strike the comma

Page 1, line 25, delete the new language

Page 8, after line 5, insert:

"Sec. 6. 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.

Sec. 7. Minnesota Statutes 1994, section 609.224, subdivision 3, is amended to read:

Subd. 3. ~~[DOMESTIC ASSAULTS; FIREARMS.]~~ (a) When a person is convicted of a violation of this section or section 609.221, 609.222, or 609.223, the court shall determine and make written findings on the record as to whether:

~~(1) the assault was committed against a family or household member, as defined in section 518B.01, subdivision 2;~~

~~(2) the defendant owns or possesses a firearm; and~~

~~(3) (2) the firearm was used in any way during the commission of the assault.~~

~~(b) If the court determines that the assault was of a family or household member, and that the offender owns or possesses a firearm and used it in any way during the commission of the assault, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.~~

~~(c) When a person is convicted of assaulting a family or household member and is determined by the court to have used a firearm in any way during commission of the assault the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this firearm possession prohibition is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.~~

~~(d) Except as otherwise provided in paragraph (c), when a person is convicted of a violation of this section and the court determines that the victim was a family or household member, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for a period of three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.~~

~~(e) (b) Except as otherwise provided in paragraph (c) section 609.2241, subdivision 2, paragraph (c), a person is not entitled to possess a pistol if:~~

~~(1) the person has been convicted after August 1, 1992, of assault in the fifth degree if the offense was committed within three years of a previous conviction under sections 609.221 to 609.224; or~~

~~(2) the person has been convicted after August 1, 1992, of assault in the fifth degree under section 609.224 and the assault victim was a family or household member as defined in section 518B.01, subdivision 2, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.~~

Sec. 8. [609.2241] [DOMESTIC ASSAULT.]

Subdivision 1. [GROSS MISDEMEANOR.] Whoever violates section 609.224, subdivision 1, against a family or household member as defined in section 518B.01, subdivision 2, after a conviction under sections 609.221 to 609.2231, 609.224, 609.342 to 609.345, or 609.713 against a family or household member, unless five years have passed following discharge from sentence for that conviction is guilty of a gross misdemeanor.

Subd. 2. [DOMESTIC ASSAULTS; FIREARMS.] (a) When a person is convicted of a violation of section 609.221, 609.222, 609.223, or 609.224, the court shall determine and make written findings on the record as to whether:

(1) the assault was committed against a family or household member, as defined in section 518B.01, subdivision 2;

(2) the defendant owns or possesses a firearm; and

(3) the firearm was used in any way during the commission of the assault.

(b) If the court determines that the assault was of a family or household member, and that the offender owns or possesses a firearm and used it in any way during the commission of the assault, it shall order that the firearm be summarily forfeited under section 609.5316, subdivision 3.

(c) When a person is convicted of assaulting a family or household member and is determined by the court to have used a firearm in any way during commission of the assault, the court may order that the person is prohibited from possessing any type of firearm for any period longer than three years or for the remainder of the person's life. A person who violates this paragraph is guilty of a gross misdemeanor. At the time of the conviction, the court shall inform the defendant whether and for how long the defendant is prohibited from possessing a firearm and that it is a gross misdemeanor to violate this paragraph. The failure of the court to provide this information to a defendant does not affect the applicability of the firearm possession prohibition or the gross misdemeanor penalty to that defendant.

(d) Except as otherwise provided in paragraph (c), when a person is convicted of a violation of section 609.224 and the court determines that the victim was a family or household member, the court shall inform the defendant that the defendant is prohibited from possessing a pistol for three years from the date of conviction and that it is a gross misdemeanor offense to violate this prohibition. The failure of the court to provide this information to a defendant does not affect the applicability of the pistol possession prohibition or the gross misdemeanor penalty to that defendant.

(e) Except as otherwise provided in paragraph (c), a person is not entitled to possess a pistol if the person has been convicted after August 1, 1992, of assault in the fifth degree under section 609.224 and the assault victim was a family or household member as defined in section 518B.01, subdivision 2, unless three years have elapsed from the date of conviction and, during that time, the person has not been convicted of any other violation of section 609.224. Property rights may not be abated but access may be restricted by the courts. A person who possesses a pistol in violation of this paragraph is guilty of a gross misdemeanor.

Subd. 3. [FELONY.] Whoever violates the provisions of section 609.224, subdivision 1, against the same victim during the time period between the first of two or more previous convictions under sections 609.221 to 609.2231, 609.224, 609.342 to 609.345, or 609.713, and the end of the five years following discharge from sentence for that conviction is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.

Page 8, line 20, reinstate the stricken "has assaulted, threatened with a dangerous weapon, or"

Page 8, lines 21 to 27, delete the new language and reinstate the stricken language

Page 11, delete section 11 and insert:

"Sec. 14. [EFFECTIVE DATE.]

Sections 6 to 8 are effective August 1, 1995, and apply to prosecutions commenced on or after that date."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 9, delete "appropriating money" and insert "recodifying and clarifying portions of the assault in the fifth degree statute which concern domestic assault"

Page 1, line 11, after the semicolon, insert "609.224, subdivisions 2 and 3;"

Page 1, line 13, before the period, insert "; proposing coding for new law in Minnesota Statutes, chapter 609"

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

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

S.F. No. 621: A bill for an act relating to game and fish; extending protected status to and authorizing seasons on certain wild animals; dating of short-term nonresident angling licenses; clarifying the age for trapping without a license; posting of waters to prohibit fishing or motorboat operation; adjusting opening and closing dates of various seasons for taking fish; removing time limits on sale of fish by commercial licensees; amending Minnesota Statutes 1994, sections 97A.015, subdivisions 45 and 53; 97A.411, subdivision 1; 97A.451, subdivision 3; 97B.605; 97B.631; 97B.655, subdivision 1; 97C.025; 97C.345, subdivisions 1, 2, and 3; 97C.371, subdivision 4; 97C.395, subdivision 1; and 97C.821; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 1994, section 97B.301, subdivision 5.

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

Delete everything after the enacting clause and insert:

"Section 1. [10.51] [HUNTING HERITAGE WEEK.]

The week beginning the third Monday in September is an official week of observance to commemorate the state's valued heritage of hunting game animals. During this week, all residents of the state are urged to:

- (1) reflect on hunting as an expression of our culture and heritage;
- (2) acknowledge that it is our community of sportsmen, sportswomen, and hunters who have made the greatest contributions to the establishment of current game animal populations; and
- (3) celebrate this culture and heritage in all lawful ways.

Sec. 2. Minnesota Statutes 1994, section 97A.015, subdivision 24, is amended to read:

Subd. 24. [GAME BIRDS.] "Game birds" means migratory waterfowl, pheasant, ruffed grouse, sharp-tailed grouse, Canada spruce grouse, prairie chickens, gray partridge, bob-white quail, turkeys, coots, gallinules, sora and Virginia rails, American woodcock, mourning dove, and common snipe.

Sec. 3. Minnesota Statutes 1994, section 97A.015, subdivision 28, is amended to read:

Subd. 28. [MIGRATORY WATERFOWL.] "Migratory waterfowl" means brant, ducks, geese, tundra swans, trumpeter swans, and whooper swans.

Sec. 4. Minnesota Statutes 1994, section 97A.015, subdivision 52, is amended to read:

Subd. 52. [UNPROTECTED BIRDS.] "Unprotected birds" means English sparrow, blackbird, starling, magpie, cormorant, common pigeon, chukar partridge, quail other than bob-white quail, mute swan, and great horned owl.

Sec. 5. Minnesota Statutes 1994, section 97A.451, subdivision 3, is amended to read:

Subd. 3. [PERSONS UNDER AGE 16; SMALL GAME.] (a) A person under age 16 may not obtain a small game license but may take small game by firearms or bow and arrow without a license if the person is a resident:

- (1) age 14 or 15 and possesses a firearms safety certificate;
 - (2) age 13, possesses a firearms safety certificate, and is accompanied by a parent or guardian;
or
 - (3) age 12 or under and is accompanied by a parent or guardian.
- (b) A resident under age 16 may take small game by trapping without a small game license, but a resident over age 13 years of age or older must have a trapping license. A resident under age 14 13 may trap without a trapping license.

Sec. 6. Minnesota Statutes 1994, section 97A.475, subdivision 6, is amended to read:

Subd. 6. [RESIDENT FISHING.] Fees for the following licenses, to be issued to residents only, are:

- (1) to take fish by angling, for persons under age 65, \$13;
- (2) to take fish by angling, for persons age 65 and over, \$4.50;
- (3) to take fish by angling, for a combined license for a married couple, \$17.50;
- (4) to take fish by spearing from a dark house, \$13; and
- (5) to take fish by angling for a 24-hour period of 24 hours from the time of issuance selected by the licensee, \$7.50.

Sec. 7. Minnesota Statutes 1994, section 97A.475, subdivision 7, is amended to read:

Subd. 7. [NONRESIDENT FISHING.] Fees for the following licenses, to be issued to nonresidents, are:

- (1) to take fish by angling, \$27.50;
- (2) to take fish by angling limited to seven consecutive days selected by the licensee, \$19;
- (3) to take fish by angling for ~~three consecutive days~~ a 72-hour period selected by the licensee, \$16;
- (4) to take fish by angling for a combined license for a family, \$37.50;
- (5) to take fish by angling for a 24-hour period of 24 hours from the time of issuance selected by the licensee, \$7.50; and
- (6) to take fish by angling for a combined license for a married couple, limited to 14 consecutive days selected by one of the licensees, \$27.50.

Sec. 8. Minnesota Statutes 1994, section 97A.531, subdivision 1, is amended to read:

Subdivision 1. [~~SHIPPING COUPONS GENERAL.~~] A person may ship, within or out of the state, wild animals lawfully taken and possessed in Canada and that have lawfully entered the state. The shipment must have the shipping coupons required for a shipment originating in the province where the animals were taken. Fish that are lawfully taken and possessed in Canada may be brought into the state and may be transported within the state or out of the state.

Sec. 9. Minnesota Statutes 1994, section 97B.061, is amended to read:

97B.061 [REPORTS AND RECORDS.]

If requested by the commissioner, a person who has taken game must submit a report to the commissioner on a furnished form ~~before March 15~~, stating the number and or kind of each game animal taken during the preceding license year.

Sec. 10. Minnesota Statutes 1994, section 97B.075, is amended to read:

97B.075 [HUNTING RESTRICTED BETWEEN EVENING AND MORNING.]

A person may not take protected wild animals, except raccoon and fox, with a firearm between the evening and morning times established by commissioner's rule, or take big game by archery from one-half hour after sunset until one-half hour before sunrise.

Sec. 11. Minnesota Statutes 1994, section 97B.301, is amended by adding a subdivision to read:

Subd. 7. [TAKING ANTLERED DEER IN MORE THAN ONE ZONE.] (a) A license to take antlered deer in more than one zone allows the holder of the license to hunt for antlered deer in any area of the state in which antlered deer may be taken during an open season for taking deer with firearms prescribed under section 97B.311, paragraph (a), clause (1).

(b) This subdivision is effective for the 1996 hunting season.

Sec. 12. Minnesota Statutes 1994, section 97B.931, is amended to read:

97B.931 [TENDING TRAPS ~~RESTRICTED~~.]

Subdivision 1. [RESTRICTIONS.] A person may not tend a trap set for wild animals between 10:00 p.m. and 5:00 a.m. Between 5:00 a.m. and 10:00 p.m. a person on foot may use a portable artificial light to tend traps. While using a light in the field, the person may not possess or use a firearm other than a handgun of .22 caliber.

Subd. 2. [BODY-GRIPPING TRAPS.] A body-gripping, conibear-type trap need not be tended more frequently than once every third calendar day.

Sec. 13. Minnesota Statutes 1994, section 97C.025, is amended to read:

97C.025 [FISHING AND MOTORBOATS PROHIBITED IN CERTAIN AREAS.]

~~(a) Except as provided in paragraph (b), a person may not take fish from or drive motorboats over posted~~ The commissioner may prohibit fishing or the operation of motorboats by posting waters that:

(1) are designated as spawning beds or fish preserves; or

(2) are being used by the commissioner for fisheries research or management activities.

An area may be posted under this paragraph if necessary to prevent excessive depletion of fish or interference with fisheries research or management activities.

(b) Except as provided in paragraph (c), a person may not take fish or operate a motorboat if prohibited by posting under paragraph (a).

(c) An owner of riparian land adjacent to an area posted under paragraph (a) may operate a motorboat through the area by the shortest direct route at a speed of not more than five miles per hour.

Sec. 14. Minnesota Statutes 1994, section 97C.305, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] Except as provided in subdivision 2, a person over age 16 and under age 65 required to possess an angling license must have a trout and salmon stamp in possession to:

(1) take fish by angling in:

~~(1)~~ (i) a stream designated by the commissioner as a trout stream;

~~(2)~~ (ii) a lake designated by the commissioner as a trout lake; or

~~(3)~~ (iii) Lake Superior; or

(2) possess trout or salmon taken by angling.

Sec. 15. Minnesota Statutes 1994, section 97C.345, subdivision 1, is amended to read:

Subdivision 1. [PERIOD WHEN USE PROHIBITED.] Except as specifically authorized, a person may not take fish from the third Monday in February ~~16~~ to April 30 with a spear, fish trap, net, dip net, seine, or other device capable of taking fish.

Sec. 16. Minnesota Statutes 1994, section 97C.345, subdivision 2, is amended to read:

Subd. 2. [POSSESSION.] (a) Except as specifically authorized, a person may not possess a spear, fish trap, net, dip net, seine, or other device capable of taking fish on or near any waters. Possession includes personal possession and in a vehicle.

(b) A person may possess spears, dip nets, bows and arrows, and spear guns allowed under

section 97C.381 on or near waters between sunrise and sunset ~~between~~ from May 1 and to the third Sunday in February 15.

Sec. 17. Minnesota Statutes 1994, section 97C.345, subdivision 3, is amended to read:

Subd. 3. [DIP NETS.] A person may possess and use a dip net between one hour before sunrise and one hour after sunset ~~between~~ from May 1 and to the third Sunday in February 15.

Sec. 18. Minnesota Statutes 1994, section 97C.355, subdivision 7, is amended to read:

Subd. 7. [DATES AND TIMES HOUSES MAY REMAIN ON ICE.] (a) A fish house or dark house may not be on the ice between 12:00 a.m. and one hour before sunrise after the following dates:

(1) February 28, for state waters south of a line starting at the Minnesota-North Dakota border and formed by rights-of-way of U.S. Route No. 10, then east along U.S. Route No. 10 to Trunk Highway No. 34, then east along Trunk Highway No. 34 to Trunk Highway No. 200, then east along Trunk Highway No. 200 to U.S. Route No. 2, then east along U.S. Route No. 2 to the Minnesota-Wisconsin border; and

(2) March 15, for other state waters.

A fish house or dark house on the ice in violation of this subdivision is subject to the enforcement provisions of paragraph (b). The commissioner may, by rule, change the dates in this paragraph for any part of state waters. Copies of the rule must be conspicuously posted on the shores of the waters as prescribed by the commissioner.

(b) A conservation officer must confiscate a fish house or dark house in violation of paragraph (a). The officer may remove, burn, or destroy the house. The officer shall seize the contents of the house and hold them for 60 days. If the seized articles have not been claimed by the owner, they may be retained for the use of the division or sold at the highest price obtainable in a manner prescribed by the commissioner.

Sec. 19. Minnesota Statutes 1994, section 97C.371, subdivision 4, is amended to read:

Subd. 4. [OPEN SEASON.] The open season for spearing through the ice is December 1 to the third Sunday in February 15.

Sec. 20. Minnesota Statutes 1994, section 97C.395, subdivision 1, is amended to read:

Subdivision 1. [DATES FOR CERTAIN SPECIES.] (a) The open seasons to take fish by angling are as follows:

(1) for walleye, sauger, northern pike, muskellunge, largemouth bass, and smallmouth bass, the Saturday two weeks prior to the Saturday of Memorial Day weekend to the third ~~Monday~~ Sunday in February;

(2) for lake trout, from January 1 to October 31;

(3) for brown trout, brook trout, rainbow trout, and splake, between January 1 to October 31 as prescribed by the commissioner by rule except as provided in section 97C.415, subdivision 2; and

(4) for salmon, as prescribed by the commissioner by rule.

(b) The commissioner shall close the season in areas of the state where fish are spawning and closing the season will protect the resource.

Sec. 21. Minnesota Statutes 1994, section 97C.401, subdivision 2, is amended to read:

Subd. 2. [WALLEYE; NORTHERN PIKE.] (a) Except as provided in paragraphs (b) and (c), a person may take no more than one walleye larger than 24 inches and one northern pike larger than ~~30~~ 36 inches daily.

(b) The ~~restrictions~~ restriction in paragraph (a) ~~do~~ relating to walleye does not apply to boundary waters.

(c) On Lake of the Woods, a person may take no more than one walleye larger than 19.5 inches and ~~one northern pike larger than 36 inches daily.~~

Sec. 22. Minnesota Statutes 1994, section 97C.605, subdivision 3, is amended to read:

Subd. 3. [TAKING; METHODS PROHIBITED.] (a) Except as allowed in paragraph (b), a person may take turtles in any manner, except by use of:

- (1) explosives, drugs, poisons, lime, and other harmful substances;
- (2) turtle hooks or traps; or
- (3) nets other than anglers' fish landing nets.

(b) A person with a turtle seller's license may take turtles ~~for sale as prescribed by the commissioner with a floating turtle trap that:~~

(1) has one or more openings above the water surface that measure at least ten inches by four inches; and

(2) has a mesh size of not less than one-half inch, bar measure.

The commissioner may prescribe additional regulations for taking turtles for sale.

Sec. 23. Minnesota Statutes 1994, section 97C.821, is amended to read:

97C.821 [POSSESSION, SALE, AND TRANSPORTATION OF COMMERCIAL FISH.]

Subject to the applicable provisions of the game and fish laws, fish taken under commercial fishing licenses may be possessed in any quantity, bought, sold, and transported during the open seasons provided for the fish, and for seven days after the season closes. Fish frozen or cured during the open season may be transported, bought, and sold at any time. A commercial fishing licensee may transport the licensee's catch live to holding facilities, if the licensee has exclusive control of the facilities. Commercial fishing licensees may harvest fish from their holding facilities at any time with their licensed gear.

Sec. 24. [FIREARMS SAFETY PROGRAM; PLAN.]

The commissioner of natural resources shall develop a plan for the establishment of a firearms safety program directed at children that is value-neutral concerning firearms ownership, but that promotes awareness and understanding of the safe use and storage of firearms. The commissioner shall submit the plan and any necessary enabling legislation to the legislature by February 1, 1996.

Sec. 25. [STOCKING OF LONG LAKE IN MORRISON COUNTY.]

The Long Lake Homeowners Association may annually stock up to 5,000 walleye fingerlings in Long Lake in Richardson township in Morrison county.

Sec. 26. [REPEALER.]

Minnesota Statutes 1994, sections 97A.531, subdivisions 2, 3, 4, 5, and 6; 97B.301, subdivision 5; and 97B.731, subdivision 2, are repealed.

Sec. 27. [EFFECTIVE DATE.]

Sections 2, 8, and 26 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to game and fish; establishing hunting heritage week; designating mourning doves as game birds and mute swans as unprotected birds; clarifying terms of short-term angling licenses; removing certain requirements relating to fish taken in Canada; specifying the areas in which deer may be taken under a license to take antlered deer in more than one zone; modifying reporting requirements; modifying hours for taking certain animals; modifying provisions relating to trapping; providing for posting of waters to prohibit fishing or motorboat

operation; adjusting opening and closing dates of various seasons for taking fish; expanding the requirement to possess a trout and salmon stamp; modifying northern pike length limits; changing the date by which fish houses and dark houses must be removed from the ice in certain areas; authorizing the use of floating turtle traps; removing time limits on sale of fish by commercial licensees; requiring a plan for a firearms safety program; authorizing certain stocking activities; amending Minnesota Statutes 1994, sections 97A.015, subdivisions 24, 28, and 52; 97A.451, subdivision 3; 97A.475, subdivisions 6 and 7; 97A.531, subdivision 1; 97B.061; 97B.075; 97B.301, by adding a subdivision; 97B.931; 97C.025; 97C.305, subdivision 1; 97C.345, subdivisions 1, 2, and 3; 97C.355, subdivision 7; 97C.371, subdivision 4; 97C.395, subdivision 1; 97C.401, subdivision 2; 97C.605, subdivision 3; and 97C.821; proposing coding for new law in Minnesota Statutes, chapter 10; repealing Minnesota Statutes 1994, sections 97A.531, subdivisions 2, 3, 4, 5, and 6; 97B.301, subdivision 5; and 97B.731, subdivision 2."

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

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

S.F. No. 875: A bill for an act relating to capital improvements; changing the bonding authority amount for the public facilities authority; amending Minnesota Statutes 1994, section 446A.12, subdivision 1.

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

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

S.F. No. 1000: A bill for an act relating to metropolitan government; creating a contaminated site cleanup loan program within the metropolitan council; levying taxes; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 473.

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

Page 4, line 35, delete "APPROPRIATION" and insert "BOND PROCEEDS"

Page 4, line 36, delete from "\$14,000,000" through page 5, line 3, to "1."

Amend the title as follows:

Page 1, lines 4 and 5, delete "appropriating money;"

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. 342: A bill for an act relating to children; modifying liability provisions for child abuse investigations; providing for attorney fees in certain actions; providing for the establishment of protocols for investigations; prohibiting certain conflicts of interest; providing for access to data regarding determinations of maltreatment; amending Minnesota Statutes 1994, section 626.556, subdivisions 4, 10e, 11, and by adding subdivisions.

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 626.556, subdivision 4, is amended to read:

Subd. 4. [IMMUNITY FROM LIABILITY.] (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:

(1) any person making a voluntary or mandated report under subdivision 3 or under section 626.5561 or assisting in an assessment under this section or under section 626.5561;

(2) any ~~social worker~~ person with responsibility for performing duties under this section or supervisor employed by a local welfare agency or the commissioner complying with subdivision 10d ~~or the provisions of section 626.5561~~; and

(3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency or local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10 or under section 626.5561.

(b) A person who is a supervisor or ~~social worker~~ person with responsibility for performing duties under this section employed by a local welfare agency or the commissioner complying with subdivisions 10 and 11 or section 626.5561 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 (1) exercising due care, or (2) following the information collection procedures established under subdivision 10, paragraphs (h), (i), and (j).

(c) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs.

Sec. 2. Minnesota Statutes 1994, section 626.556, subdivision 5, is amended to read:

Subd. 5. [MALICIOUS AND RECKLESS REPORTS.] Any person who knowingly or recklessly makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury, plus costs and reasonable attorney fees.

Sec. 3. Minnesota Statutes 1994, section 626.556, subdivision 10, is amended to read:

Subd. 10. [DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT.] (a) If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, the local welfare agency shall immediately conduct an assessment and offer protective social services for purposes of preventing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97.

(c) Authority of the local welfare agency responsible for assessing the child abuse or neglect report and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged perpetrator

offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the ~~perpetrator~~ alleged offender or parent, legal custodian, guardian, or school official. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 49.02 of the Minnesota rules of procedure for juvenile courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare or local law enforcement agency determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded. Until that time, the local welfare or law enforcement agency shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged ~~perpetrator~~ alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(e) Where the ~~perpetrator~~ alleged offender or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the ~~perpetrator~~ alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(f) Before making an order under paragraph (e), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(g) The commissioner, the ombudsman for mental health and mental retardation, the local welfare agencies responsible for investigating reports, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's

records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(h) The local welfare agency shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency may make a determination of no maltreatment early in an assessment, and close the case and retain immunity, if the collected information shows no basis for a full assessment or investigation.

Information relevant to the assessment or investigation must be asked for, and may include:

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the child and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child.

Nothing in this paragraph precludes the local welfare agency from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11.

(i) In the initial stages of an assessment or investigation, the local welfare agency shall conduct a face-to-face observation of the child reported to be maltreated and a face-to-face interview of the alleged offender. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(j) The local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. The following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

Sec. 4. Minnesota Statutes 1994, section 626.556, subdivision 10b, is amended to read:

Subd. 10b. [DUTIES OF COMMISSIONER; NEGLECT OR ABUSE IN A FACILITY.] (a) The commissioner shall immediately investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically

abused, or sexually abused by an individual in that facility, or has been so neglected or abused by an individual in that facility within the three years preceding the report; or

(2) a child was neglected, physically abused, or sexually abused by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report.

The commissioner shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians.

(b) Prior to any interview, the commissioner or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in subdivision 10d, paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j).

Sec. 5. Minnesota Statutes 1994, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. [DETERMINATIONS.] Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed. Determinations under this subdivision must be made based on a preponderance of the evidence.

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions committed by a person responsible for the child's care:

- (1) physical abuse as defined in subdivision 2, paragraph (d);
- (2) neglect as defined in subdivision 2, paragraph (c);
- (3) sexual abuse as defined in subdivision 2, paragraph (a); or
- (4) mental injury as defined in subdivision 2, paragraph (k).

(b) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(c) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

Sec. 6. Minnesota Statutes 1994, section 626.556, subdivision 10f, is amended to read:

Subd. 10f. [NOTICE OF DETERMINATIONS.] Within ten working days of the conclusion of an assessment, the local welfare agency shall notify the parent or guardian of the child, the person determined to be maltreating the child, and if applicable, the director of the facility, of the determinations. Within ten working days of completing an investigation of a licensed facility, the local welfare agency shall notify the person alleged to be maltreating the child, the director of the facility, and the parent or guardian of the child of the determinations determination and a summary of the specific reasons for the determination. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition to the determinations, the notice shall include the length of time that the records will be kept under subdivision 11c. When there is no determination of either maltreatment or a need for services, the notice shall also include the alleged perpetrator's right to have the records destroyed.

Sec. 7. Minnesota Statutes 1994, section 626.556, is amended by adding a subdivision to read:

Subd. 14. [CONFLICT OF INTEREST.] (a) A potential conflict of interest related to assisting in an assessment under this section resulting in a direct or shared financial interest with a child abuse and neglect treatment provider or resulting from a personal or family relationship with a party in the investigation must be considered by the local welfare agency in an effort to prevent unethical relationships.

(b) A person who conducts an assessment under this section or section 626.5561 may not have:

(1) any direct or shared financial interest or referral relationship resulting in a direct shared financial gain with a child abuse and neglect treatment provider; or

(2) a personal or family relationship with a party in the investigation.

If an independent assessor is not available, the person responsible for making the determination under this section may use the services of an assessor with a financial interest, referral, or personal or family relationship.

Sec. 8. [INFORMATION SHEET ON INVESTIGATION PROCESS.]

The commissioner must distribute to all local welfare agencies an information sheet that summarizes the investigation process and is based upon the commissioner's report titled "Recommended Standards for Use when Investigating Reports of Maltreatment in Child Care Facilities." The local welfare agency shall give this information sheet to all parties involved in information collection procedures under Minnesota Statutes, section 626.556, subdivision 10.

Sec. 9. [ALTERNATIVE DISPUTE RESOLUTION PROCEDURES; RECOMMENDATIONS.]

The commissioner of human services, in consultation with county attorneys, law enforcement personnel, representatives of parent and foster parent groups, facilities, attorneys and other advocates who represent the interests of persons who may be accused of child abuse and neglect, other professional human services associations, and the representatives of communities of color shall review and make recommendations to the chairs of the legislative committees on health and human services, judiciary, family services, and crime prevention on possible alternative dispute resolution or fair hearing procedures to be used in reviewing and resolving issues of alleged maltreatment and determinations of whether child protective services are needed. The purpose of the alternative dispute resolution process shall be to provide a prompt and nonadversarial opportunity to resolve allegations of maltreatment. The commissioner shall make these recommendations by January 15, 1996."

Delete the title and insert:

"A bill for an act relating to children; modifying liability provisions for child abuse investigations; providing for attorney fees in certain actions; providing for the establishment of protocols for investigations; prohibiting certain conflicts of interest; providing for access to data regarding determinations of maltreatment; amending Minnesota Statutes 1994, section 626.556, subdivisions 4, 5, 10, 10b, 10e, 10f, and by adding a subdivision."

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

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.

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

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

S.F. No. 1122: A bill for an act relating to the environment; creating the drycleaner environmental response act; requiring rulemaking; providing penalties; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 115B.

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

Delete everything after the enacting clause and insert:

"Section 1. [115B.47] [CITATION.]

Sections 115B.47 to 115B.51 may be cited as the "drycleaner environmental response and reimbursement law."

Sec. 2. [115B.48] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in section 115B.02 and this section apply to sections 115B.47 to 115B.51.

Subd. 2. [DRYCLEANER ENVIRONMENTAL RESPONSE AND REIMBURSEMENT ACCOUNT; ACCOUNT.] "Drycleaner environmental response and reimbursement account" or "account" means the drycleaner environmental response and reimbursement account established in section 115B.49.

Subd. 3. [DRYCLEANING FACILITY.] "Drycleaning facility" means a facility located in this state that is or has been used for a drycleaning operation, other than:

- (1) a coin-operated drycleaning operation;
- (2) a facility located on a United States military base;
- (3) a uniform service or linen supply facility;
- (4) a prison or other penal institution;
- (5) a facility on the national priorities list established under the Federal Superfund Act; or
- (6) a facility at which a response action has been taken or started under section 115B.17 before July 1, 1995.

Subd. 4. [DRYCLEANING OPERATION.] "Drycleaning operation" means commercial cleaning of apparel and household fabrics for the general public, using one or more drycleaning solvents.

Subd. 5. [DRYCLEANING SOLVENT.] "Drycleaning solvent" means a chlorine- or hydrocarbon-based formulation or product that is used as a primary cleaning agent in drycleaning operations.

Subd. 6. [ENVIRONMENTAL RESPONSE COSTS.] "Environmental response costs" means those costs described in section 115B.17, subdivision 6.

Sec. 3. [115B.49] [DRYCLEANER ENVIRONMENTAL RESPONSE AND REIMBURSEMENT ACCOUNT.]

Subdivision 1. [ESTABLISHMENT.] The drycleaner environmental response and reimbursement account is established as an account in the state treasury.

Subd. 2. [REVENUE SOURCES.] Revenue from the following sources must be deposited in the state treasury and credited to the account:

- (1) the proceeds of the fees imposed by subdivision 4;
- (2) interest attributable to investment of money in the account;
- (3) penalties collected under subdivision 4, paragraphs (e) and (f); and
- (4) money received by the commissioner for deposit in the account in the form of gifts, grants, and appropriations.

Subd. 3. [EXPENDITURES.] (a) Money in the account may only be used:

- (1) for environmental response costs, except legal expenses, related to response actions taken by the commissioner under section 115B.50, subdivision 1;
- (2) for reimbursement of amounts spent by the commissioner from the environmental response, compensation, and compliance account for expenses described in clause (1); and
- (3) for reimbursements under section 115B.50, subdivision 2.

(b) Money in the account is appropriated to the commissioner for the purposes of this subdivision.

Subd. 4. [REGISTRATION; FEES.] (a) The owner or operator of a drycleaning facility shall register on or before July 1 of each year with the commissioner of revenue in a manner prescribed by the commissioner of revenue and pay a registration fee for the facility. The amount of the fee is:

- (1) \$500, for facilities with up to four employees;
- (2) \$1,000, for facilities with five to ten employees; and
- (3) \$1,500, for facilities with more than ten employees.

(b) A person who sells drycleaning solvents for use by drycleaning facilities in the state shall collect and remit to the commissioner of revenue, on or before the 20th day of the month following the month in which the sales of drycleaning solvents are made, a fee of:

- (1) \$3.50 for each gallon sold of perchloroethylene; and
- (2) 70 cents for each gallon sold of hydrocarbon-based drycleaning solvent.

(c) The commissioner of revenue shall provide each person who pays a registration fee under paragraph (a) with a receipt. The receipt or a copy of the receipt must be produced for inspection at the request of any authorized representative of the commissioner of revenue.

(d) The commissioner shall, after a public hearing but notwithstanding section 16A.1285, subdivision 4, annually adjust the fees in this subdivision as necessary to maintain an unencumbered balance in the account of at least \$1,000,000, but not more than \$2,000,000. Any adjustment under this paragraph must be prorated among all the fees in this subdivision. Fees adjusted under this paragraph may not exceed 200 percent of the fees in this subdivision.

(e) An owner of a drycleaning facility who fails to pay a fee under paragraph (a) when due is subject to a penalty of \$50 per facility for each day the fee is not paid.

(f) To enforce this subdivision, the commissioner of revenue may examine documents, assess and collect fees, impose sales and use tax penalties on the monthly fee under paragraph (b), and

administer appeals, in the manner provided in chapters 270 and 289A. Disclosure of data collected by the commissioner under this subdivision is governed by chapter 270B.

Sec. 4. [115B.50] [RESPONSE ACTIONS.]

Subdivision 1. [RESPONSE ACTIONS BY THE COMMISSIONER.] (a) Except where an owner or operator has elected to take response actions under subdivision 2, and in accordance with the priority list established under section 115B.17, subdivision 13, the commissioner shall take all response actions at or related to a drycleaning facility that the commissioner determines are reasonable and necessary to protect the public health or welfare or the environment under the standards required in sections 115B.01 to 115B.24.

(b) The commissioner may not seek recovery against the owner or operator of a drycleaning facility of any environmental response costs in excess of \$10,000 incurred by the commissioner at the facility, except:

(1) to the extent of insurance coverage, in excess of \$10,000, held by the owner or operator; or

(2) as provided in section 115B.51.

(c) Before taking a response action under this subdivision, the commissioner shall notify the owner or operator of the facility.

Subd. 2. [RESPONSE ACTIONS BY OWNERS OR OPERATORS; REIMBURSEMENT.] At the request of the owner or operator of a drycleaning facility who takes response actions at the facility in accordance with a response action plan approved by the commissioner, the commissioner shall reimburse the owner or operator for all but \$10,000 of the environmental response costs incurred by the owner or operator if the commissioner determines that the costs are reasonable and were actually incurred. If a request for reimbursement is denied, the owner or operator may appeal the decision as a contested case under chapter 14.

Subd. 3. [LIMITATION ON AMOUNT THAT MAY BE SPENT.] The commissioner may not, in a single fiscal year, make expenditures from the account related to a single drycleaning facility that exceed 20 percent of the balance in the account at the beginning of the fiscal year.

Sec. 5. [115B.51] [ILLEGAL ACTIONS.]

The commissioner may recover under section 115B.17, subdivision 6, that portion of the environmental response costs at a drycleaning facility that is attributable to a person who otherwise would be responsible for the release or threatened release under section 115B.03, and whose actions related to the release or threatened release were in violation of federal or state hazardous waste management laws in effect at the time of those actions.

Sec. 6. [EFFECTIVE DATE.]

Section 3, subdivision 4, paragraph (d), is effective for annual fees due by July 1, 1997, and for monthly fees due by July 20, 1997."

Delete the title and insert:

"A bill for an act relating to the environment; establishing a program for funding response actions to address environmental contamination from drycleaning facilities; proposing coding for new law in Minnesota Statutes, chapter 115B."

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

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

H.F. No. 568 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS**CONSENT CALENDAR****CALENDAR**H.F. No.
568S.F. No.
528

H.F. No.

S.F. No.

H.F. No.

S.F. No.

and that the above Senate File be indefinitely postponed.

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

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

H.F. No. 612 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.
612S.F. No.
543

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. 612 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 612 and insert the language after the enacting clause of S.F. No. 543, the second engrossment; further, delete the title of H.F. No. 612 and insert the title of S.F. No. 543, the second engrossment.

And when so amended H.F. No. 612 will be identical to S.F. No. 543, and further recommends that H.F. No. 612 be given its second reading and substituted for S.F. No. 543, and that the Senate File be indefinitely postponed.

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

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

H.F. No. 751 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.
751S.F. No.
649

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. 751 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 751 and insert the language after the enacting clause of S.F. No. 649, the first engrossment; further, delete the title of H.F. No. 751 and insert the title of S.F. No. 649, the first engrossment.

And when so amended H.F. No. 751 will be identical to S.F. No. 649, and further recommends that H.F. No. 751 be given its second reading and substituted for S.F. No. 649, and that the Senate File be indefinitely postponed.

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

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

H.F. No. 1363 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.
1363S.F. No.
1336

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. 1363 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1363 and insert the language after the enacting clause of S.F. No. 1336, the first engrossment; further, delete the title of H.F. No. 1363 and insert the title of S.F. No. 1336, the first engrossment.

And when so amended H.F. No. 1363 will be identical to S.F. No. 1336, and further recommends that H.F. No. 1363 be given its second reading and substituted for S.F. No. 1336, 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. 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.

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

Page 1, line 20, delete "may" and insert "shall"

Page 2, line 14, after the period, insert "The committee shall expire March 31, 1996."

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

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

S.F. No. 1417: A bill for an act relating to health; occupations and professions; modifying provisions relating to the office of mental health practice; licensing of chemical dependency counselors and hearing instrument dispensers; establishing an advisory council; providing penalties; amending Minnesota Statutes 1994, sections 148B.66, subdivisions 1 and 2, and by adding a subdivision; 148B.68, subdivision 1; 148B.70, subdivision 3; 148C.01; 148C.02; 148C.03, subdivision 1, and by adding a subdivision; 148C.04, subdivisions 2, 3, and 4; 148C.05; 148C.06; 148C.07; 148C.08; 148C.09; 148C.10; 148C.11; 153A.13; 153A.14; 153A.15, subdivisions 1 and 2; 153A.17; 153A.18; 153A.19; 214.01, subdivision 2; 214.10, subdivision 8; and 214.103, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 148C; and 153A; repealing Minnesota Statutes 1994, sections 148B.62; 148C.01, subdivision 8; 148C.03, subdivisions 2 and 3; 148C.035; 148C.09, subdivision 3; and 153A.19, subdivision 1; Minnesota Rules, chapters 4692; and 4745.

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

Page 8, line 31, strike "chemical dependency" and insert "alcohol and drug"

Page 8, line 33, after "program" insert "that offers no less than the required number of education and practicum hours as described in section 148C.04, subdivision 3, and the core functions as defined in subdivision 9, and"

Page 9, line 3, delete "chemical dependency" and insert "alcohol and drug" and delete everything after "counseling"

Page 9, line 4, delete "functions" and insert "for inclusion of the education, practicum, and core function standards in this chapter"

Page 18, after line 17, insert:

"Sec. 12. Minnesota Statutes 1994, section 148C.04, subdivision 1, is amended to read:

Subdivision 1. [GENERAL REQUIREMENTS.] The commissioner shall issue licenses to the individuals qualified under sections 148C.01 to 148C.11 to practice ~~chemical dependency~~ alcohol and drug counseling."

Page 29, delete lines 14 to 24

Page 33, delete lines 5 to 15

Page 33, line 16, delete "7" and insert "6"

Page 33, line 25, delete "8" and insert "7"

Page 33, line 26, delete "7" and insert "6"

Page 34, line 25, delete "; IMMUNITY"

Page 34, line 32, after the comma, insert "pursuant to this section and Code of Federal Regulations, title 42, part 2,"

Page 35, line 5, delete from "If" through page 35, line 12, to "proceeding."

Page 36, line 19, delete "gross"

Page 43, line 33, delete everything after "including"

Page 44, lines 13 and 19, after the first "of" insert "completion of"

Page 44, line 22, after the period, insert "The first report of evidence of completion of the continuing education credits shall be due October 1, 1997."

Page 46, line 11, delete "unless" and insert "and if for any reason"

Page 46, line 12, delete from "due" through page 46, line 14, to "documented" and insert "pursuant to the United States Food and Drug Administration guidelines, an audiologist shall evaluate the hearing and the need for a hearing instrument"

Page 46, line 24, delete "(LDL/UCL/TD)"

Page 50, line 11, delete "selling" and insert "dispensing"

Page 51, line 27, strike "sponsor" and insert "supervise"

Page 60, delete lines 14 to 17 and insert:

"Sections 1 to 38 are effective the day following final enactment."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 11, after "subdivisions" insert "1,"

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

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

S.F. No. 425: A bill for an act relating to health; providing rulemaking authority; modifying enforcement and fee provisions; providing penalties; amending Minnesota Statutes 1994, sections 144.414, subdivision 3; 144.417, subdivision 1; 144.99, subdivisions 1, 4, and 6; 144.991, subdivision 5; 326.75, subdivision 3a; and 326.78, subdivisions 2 and 9; proposing coding for new

law in Minnesota Statutes, chapter 144; repealing Minnesota Statutes 1994, section 144.8781, subdivision 4; Laws 1989, chapter 282, article 3, section 28; and Laws 1993, chapter 286, section 11.

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

Page 1, line 14, after "POOLS" insert "; ENCLOSED SPORTS ARENAS"

Page 1, line 15, before "The" insert "Subdivision 1. [PUBLIC POOLS.]"

Page 1, after line 21, insert:

"Subd. 2. [ENCLOSED SPORTS ARENAS.] The commissioner of health shall be responsible for the adoption of rules and enforcement of applicable laws and rules relating to indoor air quality in the operation and maintenance of enclosed sports arenas."

Page 2, line 8, delete "well-ventilated area" and insert "room ventilated at a rate of 60 cubic feet per minute per person"

Page 2, line 30, strike "144.878" and insert "144.879"

Page 3, after line 34, insert:

"Sec. 7. Minnesota Statutes 1994, section 144.99, subdivision 8, is amended to read:

Subd. 8. [DENIAL OR REFUSAL TO REISSUE PERMITS, LICENSES, REGISTRATIONS, OR CERTIFICATES.] (a) The commissioner may deny or refuse to renew an application for a permit, license, registration, or certificate required under the statutes or rules cited in subdivision 1, if the applicant does not meet or fails to maintain the minimum qualifications for holding a permit, license, registration, or certificate or has any unresolved violations related to the activity for which the permit, license, registration, or certificate was issued.

(b) The commissioner may also deny or refuse to renew a permit, license, registration, or certificate required under the statutes or rules cited in subdivision 1 if the applicant has a persistent pattern of violations related to the permit, license, registration, or certificate, or if the applicant submitted false material information to the department in connection with the application.

(c) The commissioner may condition the grant or renewal of a permit, license, registration, or certificate on a demonstration by the applicant that actions needed to ensure compliance with the requirements of the statutes listed in subdivision 1 have been taken, or may place conditions on or issue a limited permit, license, registration, or certificate as a result of previous violations by the applicant.

Sec. 8. Minnesota Statutes 1994, section 144.99, subdivision 10, is amended to read:

Subd. 10. [HEARINGS RELATED TO DENIAL, REFUSAL TO RENEW, SUSPENSION, OR REVOCATION OF A PERMIT, LICENSE, REGISTRATION, OR CERTIFICATE.] If the commissioner proposes to deny, refuses to renew, suspends, or revokes a permit, license, registration, or certificate under subdivision 8 or 9, the commissioner must first notify, in writing, the person against whom the action is proposed to be taken and provide the person an opportunity to request a hearing under the contested case provisions of chapter 14. If the person does not request a hearing by notifying the commissioner within 20 days after receipt of the notice of proposed action, the commissioner may proceed with the action without a hearing."

Page 4, line 13, delete "ten" and insert "15"

Page 5, after line 13, insert:

"Sec. 10. Minnesota Statutes 1994, section 326.71, subdivision 4, is amended to read:

Subd. 4. [ASBESTOS-RELATED WORK.] "Asbestos-related work" means the enclosure, removal, or encapsulation of asbestos-containing material in a quantity that meets or exceeds 260 lineal feet of friable asbestos-containing material on pipes, 160 square feet of friable asbestos-containing material on other facility components, or, if linear feet or square feet cannot

be measured, a total of 35 cubic feet of friable asbestos-containing material on or off all facility components in one facility. In the case of single or multifamily residences, "asbestos-related work" also means the enclosure, removal, or encapsulation of greater than ten but less than 260 lineal feet of friable asbestos-containing material on pipes or ducts or greater than six but less than 160 square feet of friable asbestos-containing material on other facility components. This provision excludes asbestos-containing floor tiles and sheeting, roofing materials, siding, and all ceilings with asbestos-containing material in single family residences and buildings with no more than four dwelling units. Asbestos-related work includes asbestos abatement area preparation; enclosure, removal, encapsulation, or repair operations; and an air quality monitoring specified in rule to assure that the abatement and adjacent areas are not contaminated with asbestos fibers during the project and after completion.

For purposes of this subdivision, the quantity of asbestos containing material applies separately for every project ~~permit fee paid under section 326.75, subdivision 3.~~"

Page 6, after line 24, insert:

"Sec. 14. [EXTENSION OF HEARING INSTRUMENT DISPENSER TRAINEE PERIOD.]

Notwithstanding Minnesota Statutes, section 153A.14, subdivision 4a, paragraph (a), persons approved by the commissioner of health as a hearing instrument dispenser trainee after July 1, 1994, and before December 1, 1994, may continue to dispense hearing instruments as a trainee until November 1, 1995."

Page 6, line 26, delete "section" and insert "sections 144.877, subdivision 5;" and delete "subdivision 4" and insert "subdivisions 4 and 6"

Page 6, line 27, delete "is" and insert "are" and delete everything after the period

Page 6, line 28, delete "are" and insert "is" and after the period, insert "Minnesota Rules, part 4620.1500, is repealed."

Sec. 16. [EFFECTIVE DATE.]

Section 14 is effective the day following final enactment."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, delete "and 6" and insert "6, 8, and 10"

Page 1, line 7, after the first semicolon, insert "326.71, subdivision 4;"

Page 1, delete lines 10 and 11 and insert "1994, sections 144.877, subdivision 5; 144.8781, subdivisions 4 and 6; Laws 1993,"

Page 1, line 12, before the period, insert "; Minnesota Rules, part 4620.1500"

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

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

S.F. No. 936: A bill for an act relating to alcoholic beverages; providing that restrictions on a manufacturer or brewer holding an interest in a retail license do not apply to brewers whose only manufacture is in brewery-restaurants; amending Minnesota Statutes 1994, section 340A.301, subdivision 7.

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 340A.101, subdivision 25, is amended to read:

Subd. 25. [RESTAURANT.] "Restaurant" is an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity for guests ~~in the following minimum numbers: as prescribed by the appropriate license issuing authority.~~

(a) First class cities	50
(b) Second and third class cities and statutory cities of over 10,000 population	30
(c) Unincorporated or unorganized territory other than in Cook, Itasca, Lake, Lake of the Woods, and St. Louis counties	100
(d) Unincorporated or unorganized territory in Cook, Itasca, Lake, Lake of the Woods, and St. Louis counties	50

~~In the case of classes (b) and (c) above, the governing body of a city or county may prescribe a higher minimum number. In fourth class cities and statutory cities under 10,000 population, minimum seating requirements are those prescribed by the governing body of the city.~~

Sec. 2. Minnesota Statutes 1994, section 340A.301, subdivision 6, is amended to read:

Subd. 6. [FEES.] The annual fees for licenses under this section are as follows:

(a) Manufacturers (except as provided in clauses (b) and (c))	\$15,000
Duplicates	\$ 3,000
(b) Manufacturers of wines of not more than 25 percent alcohol by volume	\$ 500
(c) Brewers other than those described in clauses (d) and (i)	\$ 2,500
(d) Brewers who also hold a one or more retail on-sale license licenses and who manufacture fewer than 3,500 barrels of malt liquor in a year, except as provided in subdivision 10, at any one licensed premises, the entire production of which is solely for consumption on tap on the licensed premises. A brewer licensed under this paragraph must obtain a separate license for each licensed premises where the brewer brews malt liquor. A brewer licensed under this paragraph may not be licensed as an importer under this chapter	\$ 500
(e) Wholesalers (except as provided in clauses (f), (g), and (h))	\$15,000
Duplicates	\$ 3,000
(f) Wholesalers of wines of not more than 25 percent alcohol by volume	\$ 2,000
(g) Wholesalers of intoxicating malt liquor	\$ 600
Duplicates	\$ 25
(h) Wholesalers of 3.2 percent malt liquor	\$ 10
(i) Brewers who manufacture fewer than 2,000 barrels of malt liquor in a year	\$ 150

If a business licensed under this section is destroyed, or damaged to the extent that it cannot be carried on, or if it ceases because of the death or illness of the licensee, the commissioner may refund the license fee for the balance of the license period to the licensee or to the licensee's estate.

Sec. 3. Minnesota Statutes 1994, section 340A.301, subdivision 7, is amended to read:

Subd. 7. [INTEREST IN OTHER BUSINESS.] (a) Except as provided in this subdivision, a holder of a license as a manufacturer, brewer, importer, or wholesaler may not have any ownership, in whole or in part, in a business holding a retail intoxicating liquor or 3.2 percent malt liquor license. The commissioner may not issue a license under this section to a manufacturer, brewer, importer, or wholesaler if a retailer of intoxicating liquor has a direct or indirect interest in the manufacturer, brewer, importer, or wholesaler. A manufacturer or wholesaler of intoxicating liquor may use or have property rented for retail intoxicating liquor sales only if the manufacturer or wholesaler has owned the property continuously since November 1, 1933. A retailer of intoxicating liquor may not use or have property rented for the manufacture or wholesaling of intoxicating liquor.

(b) ~~A licensed brewer of malt liquor described in~~ licensed under subdivision 6, clause (d), may be issued an on-sale intoxicating liquor or 3.2 percent malt liquor license by a municipality for a restaurant operated in or immediately adjacent to the place of manufacture. Malt liquor brewed by such a licensee may not be removed from the licensed premises unless the malt liquor is entered in a tasting competition where none of the malt liquor so removed is sold. A brewer licensed under subdivision 6, clause (d), may hold or have an interest in other retail on-sale licenses, but may not have an ownership interest in whole or in part, or be an officer, director, agent, or employee of, any other manufacturer, brewer, importer, or wholesaler, or be an affiliate thereof whether the affiliation is corporate or by management, direction, or control. Notwithstanding this prohibition, a brewer licensed under subdivision 6, clause (d), may be an affiliate or subsidiary company of a brewer licensed in Minnesota or elsewhere if that brewer's only manufacture of malt liquor is:

(1) manufacture licensed under subdivision 6, clause (d);

(2) manufacture in another state for consumption exclusively in a restaurant located in the place of manufacture; or

(3) manufacture in another state for consumption primarily in a restaurant located in or immediately adjacent to the place of manufacture if the brewer was licensed under subdivision 6, clause (d), as of January 1, 1995.

(c) Except as provided in subdivision 7a, no brewer as defined in subdivision 7a may have any interest, in whole or in part, directly or indirectly, in the license, business, assets, or corporate stock of a licensed malt liquor wholesaler.

Sec. 4. Minnesota Statutes 1994, section 340A.311, is amended to read:

340A.311 [BRAND REGISTRATION.]

(a) A brand of intoxicating liquor or 3.2 percent malt liquor may not be manufactured, imported into, or sold in the state unless the brand label has been registered with and approved by the commissioner. A brand registration must be renewed every three years in order to remain in effect. The fee for an initial brand registration is \$30. The fee for brand registration renewal is \$20. The brand label of a brand of intoxicating liquor or 3.2 percent malt liquor for which the brand registration has expired, is conclusively deemed abandoned by the manufacturer or importer.

(b) In this section "brand" and "brand label" include trademarks and designs used in connection with labels.

(c) The label of any brand of ~~wine or intoxicating or nonintoxicating malt~~ alcoholic beverage may be registered only by the brand owner or authorized agent. No such brand may be imported into the state for sale without the consent of the brand owner or authorized agent. This section does not limit the provisions of section 340A.307.

(d) The commissioner shall refuse to register a malt liquor brand label, and shall revoke the

registration of a malt liquor brand label already registered, if the brand label states or implies in a false or misleading manner a connection with an actual living or dead American Indian leader. This paragraph does not apply to a brand label registered for the first time in Minnesota before January 1, 1992.

Sec. 5. [340A.33] [BREW ON PREMISES STORE.]

Notwithstanding anything in this chapter, the owner of a brew on premises store shall not be considered a brewer, manufacturer, wholesaler, or retailer of intoxicating liquor if the owner complies with this section and with Code of Federal Regulations, title 27, part 25, subpart L, sections 25.205 and 25.206. For purposes of this section, a brew on premises store is a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Intoxicating liquor may not be sold or otherwise provided to customers of a brew on premises store, unless the owner of the brew on premises store holds the appropriate liquor license. Customers using the brew on premises store must be of a minimum age to purchase intoxicating liquor. Intoxicating malt liquor brewed by a customer in the store must not be sold and must be used by the customer solely for personal or family use.

Sec. 6. Minnesota Statutes 1994, section 340A.401, is amended to read:

340A.401 [LICENSE REQUIRED.]

Except as provided in this chapter, no person may directly or indirectly, on any pretense or by any device, sell, barter, keep for sale, charge for possession, or otherwise dispose of alcoholic beverages as part of a commercial transaction without having obtained a license.

Sec. 7. Minnesota Statutes 1994, section 340A.404, subdivision 2, is amended to read:

Subd. 2. [SPECIAL PROVISION; CITY OF MINNEAPOLIS.] (a) The city of Minneapolis may issue an on-sale intoxicating liquor license to the Guthrie Theatre, the Cricket Theatre, the Orpheum Theatre, and the State Theatre, notwithstanding the limitations of law, or local ordinance, or charter provision relating to zoning or school or church distances. The licenses authorize sales on all days of the week to holders of tickets for performances presented by the theatres and to members of the nonprofit corporations holding the licenses and to their guests.

(b) The city of Minneapolis may issue an intoxicating liquor license to 510 Groveland Associates, a Minnesota cooperative, for use by a restaurant on the premises owned by 510 Groveland Associates, notwithstanding limitations of law, or local ordinance, or charter provision.

(c) The city of Minneapolis may issue an on-sale intoxicating liquor license to Zuhrah Shrine Temple for use on the premises owned by Zuhrah Shrine Temple at 2540 Park Avenue South in Minneapolis, notwithstanding limitations of law, or local ordinances, or charter provision relating to zoning or school or church distances.

(d) The city of Minneapolis may issue an on-sale intoxicating liquor license to the American Association of University Women, Minneapolis branch, for use on the premises owned by the American Association of University Women, Minneapolis branch, at 2115 Stevens Avenue South, notwithstanding limitations of law, or local ordinances, or charter provisions relating to zoning or school or church distances.

Sec. 8. Minnesota Statutes 1994, section 340A.404, is amended by adding a subdivision to read:

Subd. 12. [CATERER'S PERMIT.] The commissioner may issue a caterer's permit to a restaurant that holds an on-sale intoxicating liquor license issued by any municipality. The holder of a caterer's permit may sell intoxicating liquor as an incidental part of a food service that serves prepared meals at a place other than the premises for which the holder's on-sale intoxicating liquor license is issued.

(a) A caterer's permit is auxiliary to the primary on-sale license held by the licensee.

(b) The restrictions and regulations which apply to the sale of intoxicating liquor on the licensed premises also apply to the sale under the authority of a caterer's permit, and any act that

is prohibited on the licensed premises is also prohibited when the licensee is operating other than on the licensed premises under a caterer's permit.

(c) Any act, which if done on the licensed premises would be grounds for cancellation or suspension of the on-sale licensee, is grounds for cancellation of both the on-sale license and the caterer's permit if done when the permittee is operating away from the licensed premises under the authority of the caterer's permit.

(d) The permittee shall notify prior to any catered event:

(1) the police chief of the city where the event will take place, if the event will take place within the corporate limits of a city; or

(2) the county sheriff of the county where the event will take place, if the event will be outside the corporate limits of any city.

(e) If the primary license ceases to be valid for any reason, the caterer's permit ceases to be valid.

(f) Permits issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except those laws and ordinances which by their nature are not applicable.

(g) The annual state fee for a caterer's permit is \$200.

Sec. 9. Minnesota Statutes 1994, section 340A.414, subdivision 1, is amended to read:

Subdivision 1. [PERMIT REQUIRED.] No business establishment or club which does not hold an on-sale intoxicating liquor license may directly or indirectly allow the consumption and display of ~~intoxicating liquor~~ alcoholic beverages or knowingly serve any liquid for the purpose of mixing with intoxicating liquor without first having obtained a permit from the commissioner.

Sec. 10. [CLAY COUNTY; ON-SALE LICENSE.]

Notwithstanding any state or local law or charter provision, the Clay county board may issue one on-sale intoxicating liquor license to a premises located in Elkton township. The license is not subject to the requirements of Minnesota Statutes, section 340A.101, subdivision 25. The license is subject to all other provisions of Minnesota Statutes, chapter 340A.

Sec. 11. [INTERNATIONAL FALLS; TEMPORARY LICENSE.]

Notwithstanding any law to the contrary, the city of International Falls may issue to a nonprofit organization or corporation a temporary on-sale license for the sale and serving of intoxicating liquor in a sports arena owned by independent school district No. 361. The license authorized under this section is valid for not more than seven consecutive days during the months of June and July, 1995. The license is in addition to the number of temporary on-sale licenses authorized by law. The city shall determine the fee for the license. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, apply to the license authorized by this section.

Sec. 12. [MINNEAPOLIS; ON-SALE LICENSE.]

Notwithstanding any state or local law or charter provision, the Minneapolis city council may issue an on-sale wine license to a restaurant located at 5000 Penn Avenue South. The license is subject to all other provisions of Minnesota Statutes, chapter 340A.

Sec. 13. [ST. LOUIS COUNTY; ON-SALE LICENSE.]

Notwithstanding any state or local law or charter provision to the contrary, the St. Louis county board may issue one on-sale intoxicating malt liquor license to an establishment located in township 65, range 18, section 33. The county board shall set the fee for the license. The license is subject to all provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section.

Sec. 14. [STEARNS COUNTY; ON-SALE LICENSE.]

Notwithstanding Minnesota Statutes, section 340A.412, subdivision 4, paragraph (a), clause (9), or any local law or charter provision, the Stearns county board may issue one combination off-sale and on-sale intoxicating liquor license to a premises located in Farming township. The license is subject to all provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section.

Sec. 15. [REPEALER.]

Minnesota Statutes 1994, section 340A.301, subdivision 10, is repealed.

Sec. 16. [EFFECTIVE DATE.]

Sections 3, 5, 6, and 9 are effective the day following final enactment.

Section 7 is effective on approval by the Minneapolis city council and compliance with Minnesota Statutes, section 645.021.

Section 10 is effective on approval by the Clay county board and compliance with Minnesota Statutes, section 645.021.

Section 11 is effective on approval by the International Falls city council and compliance with Minnesota Statutes, section 645.021.

Section 12 is effective on approval by the Minneapolis city council and compliance with Minnesota Statutes, section 645.021.

Section 13 is effective on approval by the St. Louis county board and compliance with Minnesota Statutes, section 645.021.

Section 14 is effective on approval by the Stearns county board and compliance with Minnesota Statutes, section 645.021."

Delete the title and insert:

"A bill for an act relating to liquor; removing statutory minimum restaurant seating capacities and permitting the local license issuing authority to establish minimum restaurant seating capacities; providing that restrictions on a manufacturer or brewer holding an interest in a retail license do not apply to brewers whose only manufacture is in brewery-restaurants; regulating alcoholic beverage brand registration; regulating brew on premises stores; authorizing the issuance of an on-sale liquor license; licensing and permitting requirements; regulating the standards of fill for distilled spirits; authorizing the Clay county board to issue one on-sale intoxicating liquor license; authorizing the city of International Falls to issue a temporary on-sale intoxicating liquor license for sales on property owned by a school district; authorizing the Minneapolis city council to issue an on-sale wine license to a restaurant; authorizing the St. Louis county board to issue one on-sale intoxicating malt liquor license; authorizing the Stearns county board to issue an intoxicating liquor license; amending Minnesota Statutes 1994, sections 340A.101, subdivision 25; 340A.301, subdivisions 6 and 7; 340A.311; 340A.401; 340A.404, subdivision 2, and by adding a subdivision; and 340A.414, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 340A; repealing Minnesota Statutes 1994, section 340A.301, subdivision 10."

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 1236: A bill for an act relating to agriculture; providing for land application of agricultural chemical contaminated media; amending Minnesota Statutes 1994, section 18D.01, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 18D.

Reports the same back with the recommendation that the report from the Committee on Agriculture and Rural Development, shown in the Journal for April 3, 1995, be adopted; that committee recommendation being;

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 1136: A bill for an act relating to human services; providing firearms background check; providing mental health services; adding provisions for paternity testing; adding provisions for paternity and child support; consolidating the prepaid medical assistance; providing penalties; amending Minnesota Statutes 1994, sections 245.041; 245.4871, subdivisions 12 and 33a; 245.4873, subdivision 6; 245.4874; 245.4875, subdivision 2; 245.4878; 245.4885, subdivision 2; 253B.091; 256.015, subdivision 7; 256.025, subdivisions 1 and 3; 256.12, subdivision 14; 256.74, by adding a subdivision; 256.76, subdivision 1; 256B.69, subdivisions 4, 6, and by adding subdivisions; 256E.08, subdivision 8; 257.55, subdivision 1; 257.57, subdivision 2; 257.62, subdivisions 1, 5, and 6; 257.64, subdivision 3; 257.69, subdivisions 1 and 2; 518.171, subdivisions 1, 3, 4, 5, 7, and 8; 518.611, subdivisions 2 and 4; 518.613, subdivision 7; and 518.615, subdivision 3; repealing Minnesota Statutes 1994, sections 62C.141; 62C.143; 62D.106; and 62E.04, subdivisions 9 and 10.

Reports the same back with the recommendation that the report from the Committee on Judiciary, shown in the Journal for April 3, 1995, be adopted; that committee recommendation being:

"the bill do pass". Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 1164: A bill for an act relating to transportation; allowing commissioner of transportation to act as agent to accept federal money for nonpublic organizations for transportation purposes; increasing maximum lump sum utility adjustment amount allowed for relocating utility facility; eliminating percentage limit for funding transportation research projects and providing for federal research funds and research partnerships; allowing counties more authority in disbursing certain state-aid highway funds; eliminating requirement to have permit identifying number affixed to highway billboard; eliminating legislative route No. 331 from trunk highway system and turning it back to the jurisdiction of Fillmore county; making technical corrections; amending Minnesota Statutes 1994, sections 161.085; 161.36, subdivisions 1, 2, 3, and 4; 161.46, subdivision 3; 161.53; 162.08, subdivisions 4 and 7; 162.14, subdivision 6; 173.07, subdivision 1; 174.04; repealing Minnesota Statutes 1994, sections 161.086; 161.115, subdivision 262.

Reports the same back with the recommendation that the report from the Committee on Transportation and Public Transit, shown in the Journal for April 3, 1995, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

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

H.F. No. 446: A bill for an act relating to occupations and professions; establishing licensure for acupuncture practitioners by the board of medical practice; providing penalties; proposing coding for new law as Minnesota Statutes, chapter 147B.

Reports the same back with the recommendation that the bill do pass. Mr. Merriam questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

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

H.F. No. 1060: A bill for an act relating to local government; excluding certain fire and police department employees from civil service in the city of South St. Paul.

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

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

H.F. No. 564: A bill for an act relating to notaries; providing licensed peace officers with the powers of a notary public for administering oaths upon information submitted to establish probable cause; amending Minnesota Statutes 1994, section 358.15.

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

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

S.F. No. 1343: A bill for an act relating to occupations and professions; providing for biennial license renewal for individual certified and licensed public accountants; amending Minnesota Statutes 1994, sections 326.20, subdivision 1; and 326.22, subdivision 2.

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

Page 2, after line 4, insert:

"Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective January 1, 1997."

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

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

H.F. No. 567: A bill for an act relating to data practices; providing for disclosure of certain hospital and health care provider tax data to the commissioner of human services and the United States Department of Health and Human Services; amending Minnesota Statutes 1994, section 270B.14, subdivision 1.

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. 1374: A bill for an act relating to government; modifying a budget report date for cities; eliminating certain budget publication requirements; amending Minnesota Statutes 1994, sections 6.745, subdivision 1; and 471.6965.

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

Page 2, line 5, after "(2)" insert "for a city in the metropolitan area as defined in section 473.121, subdivision 2,"

Page 2, line 6, delete "taxpayers" and insert "households"

Page 2, after line 6, insert:

"If the summary budget statement is published in a city newsletter, it must be the lead story. If the summary budget statement is published through a city newsletter or other city mailing, a copy of the newsletter or mailing shall be sent on request to any nonresident. If the summary budget statement is published by a mailing to households other than a newsletter, the color of the paper on which the summary budget statement is printed must be distinctively different than the paper containing other printed material included in the mailing."

Page 2, line 13, delete the new language

Page 2, delete lines 14 to 18

Amend the title as follows:

Page 1, line 3, delete "eliminating" and insert "modifying"

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

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

S.F. No. 1520: A bill for an act relating to the environment; extending the notification requirements for landfarming contaminated soil to unorganized townships; requiring that notice must be filed with the county recorder when a permit is issued to landfarm contaminated soil; amending Minnesota Statutes 1994, section 116.07, subdivision 11.

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

Page 1, line 15, strike "in" and delete "an organized or"

Page 1, line 16, delete "unorganized" and strike "township other than" and insert "outside" and strike the second "township" and insert "town"

Page 1, line 17, delete "organized"

Page 1, delete line 18 and insert "township town, where"

Page 1, line 19, after "occur" insert ", or the county board if the spreading would occur outside a town,"

Page 1, line 22, strike "township" and insert "town"

Page 1, line 23, strike "township" and delete the new language

Page 1, delete line 24 and insert "township town, where the soil is to"

Page 1, line 25, after "spread" insert ", or the county board if the spreading would occur outside a town,"

Page 1, delete lines 26 and 27

Page 2, delete line 1

Amend the title as follows:

Page 1, line 4, delete everything after "soil"

Page 1, delete line 5

Page 1, line 6, delete everything before the semicolon

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

Ms. Piper from the Committee on Family Services, to which was re-referred

S.F. No. 217: A bill for an act relating to family law; providing for enforcement of child support obligations; expanding enforcement remedies for child support; authorizing programs; providing for resolution of custody and visitation disputes; imposing penalties; appropriating money; amending Minnesota Statutes 1994, sections 13.46, subdivision 2; 168A.05, subdivisions 2, 3, 7, and by adding a subdivision; 168A.16; 168A.20, by adding a subdivision; 168A.21; 168A.29, subdivision 1; 214.101, subdivisions 1 and 4; 518.171, subdivision 2a; 518.24; and

518.551, subdivision 12, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 171; 256; and 518; repealing Minnesota Statutes 1994, sections 214.101, subdivisions 2 and 3; 518.561; and 518.611, subdivision 8.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

CHILD SUPPORT ENFORCEMENT AND COOPERATION FOR CHILDREN

Section 1. Minnesota Statutes 1994, section 13.46, subdivision 2, is amended to read:

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

- (1) pursuant to section 13.05;
- (2) pursuant to court order;
- (3) pursuant to a statute specifically authorizing access to the private data;
- (4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;
- (5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;
- (6) to administer federal funds or programs;
- (7) between personnel of the welfare system working in the same program;
- (8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names and social security numbers, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, and the income tax;
- (9) to the Minnesota department of economic security for the purpose of monitoring the eligibility of the data subject for reemployment insurance, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;
- (10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;
- (11) data maintained by residential facilities as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;
- (12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;
- (13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education coordinating board to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);
- (14) participant social security numbers and names collected by the telephone assistance program may be disclosed to the department of revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

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

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

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

(18) data on a child support obligor who is in arrears may be disclosed for purposes of publishing the data pursuant to section 518.575; or

(19) data in the employment registry may be disclosed under section 256.998, subdivision 7.

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

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

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

Sec. 2. Minnesota Statutes 1994, section 168A.05, subdivision 2, is amended to read:

Subd. 2. [RECORD OF CERTIFICATES ISSUED.] The department shall maintain a record of all certificates of title issued by it:

- (1) Under a distinctive title number assigned to the vehicle;
- (2) By vehicle identifying number;
- (3) Alphabetically, under the name of the owner.

Such record shall consist of the certificate of title, including the notations of all security interests recorded, assigned, terminated, or released and liens filed by a public authority responsible for child support enforcement of which the department has notice, of duplicate certificates issued or applied for, and such other information as the department may deem proper.

Sec. 3. Minnesota Statutes 1994, section 168A.05, subdivision 3, is amended to read:

Subd. 3. [CONTENT OF CERTIFICATE.] Each certificate of title issued by the department shall contain:

- (1) the date issued;
- (2) the first, middle, and last names, the dates of birth, and addresses of all owners who are natural persons, the full names and addresses of all other owners;
- (3) the names and addresses of any secured parties in the order of priority as shown on the application, or if the application is based on a certificate of title, as shown on the certificate, or as otherwise determined by the department;

(4) any liens filed by a public agency responsible for child support enforcement against the owner;

(5) the title number assigned to the vehicle;

(5) (6) a description of the vehicle including, so far as the following data exists, its make, model, year, identifying number, type of body, whether new or used, and if a new vehicle, the date of the first sale of the vehicle for use;

(6) (7) with respect to motor vehicles subject to the provisions of section 325E.15, the true cumulative mileage registered on the odometer or that the actual mileage is unknown if the odometer reading is known by the owner to be different from the true mileage;

(7) (8) with respect to vehicles subject to sections 325F.6641 and 325F.6642, the appropriate term "flood damaged," "rebuilt," "prior salvage," or "reconstructed"; and

(8) (9) any other data the department prescribes.

Sec. 4. Minnesota Statutes 1994, section 168A.05, subdivision 7, is amended to read:

Subd. 7. [JUDICIAL PROCESS RELATING TO CERTIFICATE OR VEHICLE.] A certificate of title for a vehicle is not subject to garnishment, attachment, execution, or other judicial process, but this subdivision does not prevent a lawful levy upon the vehicle or the lawful enforcement of an administrative lien or judgment debt or lien filed by a public authority responsible for child support enforcement.

Sec. 5. Minnesota Statutes 1994, section 168A.05, is amended by adding a subdivision to read:

Subd. 8. [LIENS FILED FOR ENFORCEMENT OF CHILD SUPPORT.] This subdivision applies if the court or a public authority responsible for child support enforcement orders or directs the commissioner to enter a lien, as provided in section 518.551, subdivision 14. If a certificate of title is applied for by the owner, the department shall enter a lien on the title in the name of the state of Minnesota or in the name of the obligee in accordance with the notice. The lien on the title is subordinate to any bona fide purchase money security interest as defined in section 336.9-107 regardless of when the purchase money security interest is perfected. With respect to all other security interests, the lien is perfected as of the date entered on the title. The lien is subject to an exemption in an amount of \$4,500.

Sec. 6. Minnesota Statutes 1994, section 168A.16, is amended to read:

168A.16 [INAPPLICABLE LIENS AND SECURITY INTERESTS.]

(a) Sections 168A.01 to 168A.31 do not apply to or affect:

(1) A lien given by statute or rule of law to a supplier of services or materials for the vehicle;

(2) A lien given by statute to the United States, ~~this state, or any political subdivision of this state;~~

(3) A security interest in a vehicle created by a manufacturer or dealer who holds the vehicle for sale.

(b) Sections 168A.17 to 168A.19 do not apply to or affect a lien given by statute or assignment to this state or any political subdivision of this state.

Sec. 7. Minnesota Statutes 1994, section 168A.20, is amended by adding a subdivision to read:

Subd. 4. [SATISFACTION OF LIEN FOR CHILD SUPPORT.] If the secured party is a public authority or a child support or maintenance obligee with a lien under section 168A.05, subdivision 8, upon either the satisfaction of a security interest in a vehicle for which the certificate of title is in the possession of the owner, or the execution by the owner of a written payment agreement determined to be acceptable by the court, an administrative law judge, the public authority, or the obligee, within 15 days the secured party shall execute a release of security interest on the form prescribed by the department and mail or deliver the notification with release to the owner or any person who delivers to the secured party an authorization from the owner to receive the release.

Sec. 8. Minnesota Statutes 1994, section 168A.21, is amended to read:

168A.21 [DISCLOSURE OF SECURITY INTEREST.]

Subdivision 1. [GENERAL.] A secured party named in a certificate of title shall upon written request of the owner or of another secured party named on the certificate disclose any pertinent information as to the security agreement and the indebtedness secured by it.

Subd. 2. [CHILD SUPPORT.] A secured party that is a public authority or an obligee with a lien under section 168A.05, subdivision 8, shall, upon written request of the owner, disclose the amount of the judgment debt secured.

Sec. 9. Minnesota Statutes 1994, section 168A.29, subdivision 1, is amended to read:

Subdivision 1. [AMOUNTS.] (a) The department shall be paid the following fees:

(1) for filing an application for and the issuance of an original certificate of title, the sum of \$2;

(2) for each security interest when first noted upon a certificate of title, including the concurrent notation of any assignment thereof and its subsequent release or satisfaction, the sum of \$2, except that no fee is due for a security interest filed by a public authority under section 168A.05, subdivision 8;

(3) for the transfer of the interest of an owner and the issuance of a new certificate of title, the sum of \$2;

(4) for each assignment of a security interest when first noted on a certificate of title, unless noted concurrently with the security interest, the sum of \$1;

(5) for issuing a duplicate certificate of title, the sum of \$4.

(b) In addition to each of the fees required under paragraph (a), clauses (1) and (3), the department shall be paid:

(1) from July 1, 1994, to June 30, 1997, \$3.50; but then

(2) after June 30, 1997, \$1.

The additional fee collected under this paragraph must be deposited in the transportation services fund and credited to the state patrol motor vehicle account established in section 299D.10.

Sec. 10. [171.186] [SUSPENSION; NONPAYMENT OF SUPPORT.]

Subdivision 1. [SUSPENSION.] The commissioner shall suspend a person's driver's license or operating privileges without a hearing upon receipt of a court order or notice from a public authority responsible for child support enforcement that states that the driver is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than four times the obligor's total monthly support and maintenance payments, and is not in compliance with a written payment agreement regarding both current support and arrearages approved by a court, an administrative law judge, or the public authority responsible for child support enforcement, in accordance with section 518.551, subdivision 13.

Subd. 2. [NOTICE.] Upon suspending a driver's license or operating privileges under this section, the department shall immediately notify the licensee, in writing, by mailing a notice addressed to the licensee at the licensee's last known address.

Subd. 3. [DURATION.] A license or operating privilege must remain suspended and may not be reinstated, nor may a license be subsequently issued to the person, until the commissioner receives notice from the court, an administrative law judge, or public authority responsible for child support enforcement that the person is in compliance with all current orders of support or written payment agreements regarding both current support and arrearages. A fee may not be assessed for reinstatement of a license under this section.

Sec. 11. Minnesota Statutes 1994, section 214.101, subdivision 1, is amended to read:

Subdivision 1. [COURT ORDER; HEARING ON SUSPENSION.] (a) For purposes of this section, "licensing board" means a licensing board or other state agency that issues an occupational license.

(b) If a licensing board receives an order from a court or an administrative law judge or a notice from a public authority responsible for child support enforcement agency under section 518.551, subdivision 12, dealing with suspension of a license of a person found by the court or the public agency authority to be in arrears in child support or maintenance payments, or both, the board shall, within 30 days of receipt of the court order or public agency authority notice, provide notice to the licensee and hold a hearing. If the board finds that the person is licensed by the board and evidence of full payment of arrearages found to be due by the court or the public agency is not presented at the hearing, the board shall suspend the license unless it determines that probation is appropriate under subdivision 2. The only issues to be determined by the board are whether the person named in the court order or public agency notice is a licensee, whether the arrearages have been paid, and whether suspension or probation is appropriate. The board may not consider evidence with respect to the appropriateness of the underlying child support order or the ability of the person to comply with the order. The board may not lift the suspension until the licensee files with the board proof showing that the licensee is current in child support payments and maintenance suspend the license as directed by the order or notice.

(c) If a person's license is improperly suspended under this subdivision, the person may recover reasonable expenses from the responsible agency for expenses associated with having the suspensions removed.

Sec. 12. Minnesota Statutes 1994, section 214.101, subdivision 4, is amended to read:

Subd. 4. [VERIFICATION OF PAYMENTS.] Before A board may terminate probation, remove a suspension, not issue, reinstate, or renew a license of a person who has been suspended or placed on probation or is the subject of an order or notice under this section, it shall contact until it receives notification from the court, administrative law judge, or public agency authority that referred the matter to the board to determine confirming that the applicant is not in arrears for in either child support or maintenance or both payments, or confirming that the person is in compliance with a written payment plan regarding both current support and arrearages. The board may not issue or renew a license until the applicant proves to the board's satisfaction that the applicant is current in support payments and maintenance.

Sec. 13. [256.996] [COOPERATION FOR THE CHILDREN PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of human services, in consultation with a representative from the office of administrative hearings and the office of the attorney general and with input from community groups, shall develop and implement the cooperation for the children program as an effort to promote parental relationships with children. The program must be designed with three distinct components:

(1) addressing the needs of parents for educational services pertaining to issues of child custody and visitation arrangements;

(2) providing a nonjudicial forum to aid in the resolution of custody and visitation issues through facilitation of written agreements; and

(3) providing mediation services to resolve conflicts related to custody and visitation issues, when appropriate.

Subd. 2. [PROGRAM DESIGN.] (a) The cooperation for the children program must be administered by the office of administrative hearings and, by contract, implemented in selected counties. The program may accept referrals from the district court, the child support administrative process, or self-referral by individuals. The program must be designed to provide services to individuals who are parents by virtue of birth or adoption of a child, individuals adjudicated as parents through a paternity action or through the recognition of parentage process, or individuals who have experienced a marriage dissolution. The program must be designed to screen all referrals for domestic abuse. The program must coordinate with existing agencies, such as court services, to provide program services to parents. If a participating county operates a parenting

education program, a nonjudicial conflict resolution program, or a mediation program, the cooperation for the children program must utilize the existing programs to the greatest extent possible in an effort to minimize costs. The program must be designed to charge participants a fee to cover the cost of the program, except that if a party is entitled to proceed in forma pauperis under section 563.01, the program shall waive the fee or direct its payment under section 563.01.

(b) The voluntary issue resolution component of the cooperation for the children program must facilitate the parents' discussion of custody and visitation issues in dispute. If there are allegations or indications of domestic abuse, the program shall allow the parents to attend separate sessions with the program facilitator. If agreement of both parties is reached to the disputed issues through the program and the agreement contains a sufficient factual basis to support a finding that the terms are in the best interests of the children, the agreement may be incorporated into a proposed order by program counsel for submission to an administrative law judge or district court judge for execution as a court order.

(c) The mediation component of the program must utilize certified mediators who are competent in recognizing the dynamics of domestic abuse and sensitive to the cultural issues of the participants. To provide services through the cooperation for the children program, mediators must be approved by the supreme court. Relationships that involve allegations or indications of domestic abuse are not appropriate for mediation services through the cooperation for the children program.

(d) In cases where no agreement is voluntarily reached through the program, both parents must be provided with forms sufficient to allow them access to the district court to seek formal adjudication of the dispute.

Subd. 3. [DEMONSTRATION.] The commissioner shall contract with the office of administrative hearings and any county to administer and operate a demonstration project of the cooperation for the children program.

Subd. 4. [EVALUATION.] By January 15, 1997, and every two years after that, the office of administrative hearings shall submit a report to the legislature that identifies the following information relevant to the implementation of this section:

- (1) the number of citizens offered and provided services by the program;
- (2) the circumstances in which the program provided services, whether in paternity adjudications, situations involving recognition of parentage executions, dissolutions, or postdecree matters;
- (3) the reduction in court actions, if any, resulting from the use of the program;
- (4) the effect of the program, if any, on the time period between court case filing and final court resolution; and
- (5) the cost of implementation and operation of the program in the participating counties.

Sec. 14. [256.997] [CHILD SUPPORT OBLIGOR COMMUNITY SERVICE WORK EXPERIENCE PROGRAM.]

Subdivision 1. [AUTHORIZATION.] The commissioner of human services may contract with a county that operates a community work experience program or a judicial district department of corrections that operates a community work experience program to include child support obligors who are physically able to work and fail to pay child support as participants in the community work experience program.

Subd. 2. [LIMITATIONS.] (a) Except as provided in paragraph (f), a person ordered to participate in a work program under section 518.617 shall do so if services are available.

(b) A person may not be required to participate for more than 32 hours per week in the program under this section.

(c) A person may not be required to participate for more than six weeks for each finding of contempt.

(d) If a person is required by a governmental entity to participate in another work or training program, the person may not be required to participate in a program under this section in a week for more than 32 hours minus the number of hours the person is required to participate in the other work or training program in that week.

(e) If a person is employed, the person may not be required to participate in a program under this section in a week for more than 80 percent of the difference between 40 hours and the number of hours actually worked in the unsubsidized job during that week, to a maximum of 32 hours.

(f) A person who works an average of 32 hours or more per week in an unsubsidized job is not required to participate in a program under this section.

Subd. 3. [NOTICE TO COURT.] If a person does not complete six weeks of participation in a program under this section, the county operating the program shall inform the court administrator, by affidavit, of that noncompletion.

Subd. 4. [INJURY PROTECTION FOR WORK EXPERIENCE PARTICIPANTS.] (a) This subdivision applies to payment of any claims resulting from an alleged injury or death of a participant in a community work experience program established and operated by a county or a judicial district department of corrections under this section.

(b) Claims of \$1,000 or less that are subject to this section must be investigated by the county agency responsible for supervising the work to determine if the claim is valid and if the loss is covered by the claimant's insurance. The investigating county agency shall submit all valid claims to the commissioner of human services. The commissioner shall pay the portion of an approved claim that is not covered by the claimant's insurance within three months of the date of submission. On or before February 1 of each year, the commissioner shall submit to the appropriate committees of the senate and the house of representatives a list of claims paid during the preceding calendar year that are to be reimbursed by legislative appropriation for claims that exceed the original appropriation provided to the commissioner to operate this program. Unspent money from this appropriation carries over to the second year of the biennium, and any unspent money remaining at the end of the second year must be returned to the general fund. A claim in excess of \$1,000 and a claim that was not paid by the commissioner may be presented to, heard, and determined by the appropriate committees of the senate and house of representatives and, if approved, paid under the legislative claims procedure.

(c) Claims for worksite injuries not otherwise covered by this section must be referred to the commissioner of labor and industry for assessment. The commissioner of labor and industry shall verify the validity of the claim and recommend compensation. The compensation recommended must afford the same protection for on-site injuries at the same level and to the same extent as provided in chapter 176.

(d) Compensation paid under this section is limited to reimbursement for medical expenses and compensation for disability as impairment compensation or death. Compensation may not be paid under this section for pain and suffering or lost wages. Payments made under this section must be reduced by any proceeds received by the claimant from any insurance policy covering the loss. For the purposes of this section, "insurance policy" does not include the medical assistance program authorized under chapter 256B or the general assistance medical care program authorized under chapter 256D.

(e) The procedure established by this section is exclusive of all other legal, equitable, and statutory remedies against the state, its political subdivisions, or employees of the state or its political subdivisions. The claimant may not seek damages from any state or county insurance policy or self-insurance program.

(f) A claim is not valid for purposes of this subdivision if the local agency responsible for supervising the work cannot verify:

(1) that appropriate safety training and information is provided to all persons being supervised by the agency under this subdivision; and

(2) that all programs involving work by those persons comply with federal Occupational Safety and Health Administration and state department of labor and industry safety standards.

A claim that is not valid because of failure to verify safety training or compliance with safety standards may not be paid by the commissioner of human services or through the legislative claims process and must be heard, decided, and paid, if appropriate, by the local government unit responsible for supervising the work of the claimant.

Subd. 5. [TRANSPORTATION EXPENSES.] A county shall reimburse a person for reasonable transportation costs incurred because of participation in a program under this section, up to a maximum of \$25 per month.

Subd. 6. [PAYMENT TO COUNTY.] The commissioner shall pay a county \$200 for each person who participates in the program under this section in that county. The county is responsible for any additional costs of the program.

Sec. 15. [256.998] [EMPLOYMENT REGISTRY.]

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

(b) "Date of hiring" means the earlier of: (1) the first day for which a worker is owed compensation by an employer; or (2) the first day that a worker reports to work or performs labor or services for an employer.

(c) "Earnings" means payment owed by an employer for labor or services rendered by a worker.

(d) "Worker" means a person who resides or works in Minnesota and performs services for compensation, in whatever form, for an employer. Worker does not include a person hired for domestic service in the private home of the employer, as defined in the federal tax code or a direct seller as defined in United States Code, title 26, section 3508.

(e) "Employer" means a person or entity located or doing business in this state that employs one or more workers for payment, and includes the state, political or other governmental subdivisions of the state, and the federal government.

(f) "Hiring" means engaging a person to perform services for compensation and includes the reemploying or return to work of any previous worker who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment.

Subd. 2. [REGISTRY ESTABLISHED.] The commissioner of human services shall establish a centralized employment registry for the purpose of receiving and maintaining information from employers on newly hired or rehired workers. The commissioner of human services shall take reasonable steps to inform the state's employers of the requirements of this section and the acceptable processes by which employers can comply with the requirements of this section.

Subd. 3. [DUTY TO REPORT.] Employers doing business in this state shall report to the commissioner of human services the hiring of any worker who resides or works in this state to whom the employer anticipates paying earnings. Employers shall submit reports required under this subdivision within 15 calendar days of the date of hiring of the worker.

Subd. 4. [MEANS TO REPORT.] Employers may report by delivering, mailing, or telefaxing a copy of the worker's federal W-4 form or W-9 form or any other document that contains the required information, submitting electronic media in a compatible format, toll-free telecommunication, or other means authorized by the commissioner of human services that will result in timely reporting. The commissioner shall provide employers with appropriately marked or addressed envelopes or other documents to facilitate the required reporting.

Subd. 5. [REPORT CONTENTS.] Reports required under this section must contain:

(1) the worker's name, address, social security number, and date of birth when available, which can be hand-written or otherwise added to the W-4 form, W-9 form, or other document submitted; and

(2) the employer's name, address, and federal identification number.

Subd. 6. [SANCTIONS.] If an employer fails to report under this section, the commissioner of human services shall send the employer a written notice of noncompliance requesting that the employer comply with the reporting requirements of this section. The notice of noncompliance must explain the reporting procedure under this section and advise the employer of the penalty for noncompliance. An employer who has received a notice of noncompliance and later incurs a second violation is subject to a civil penalty of \$50 for each intentionally unreported worker. An employer who has received a notice of noncompliance and later incurs a third or subsequent violation is subject to a civil penalty of \$500 for each intentionally unreported worker. These penalties may be imposed and collected by the commissioner of human services.

Subd. 7. [ACCESS TO DATA.] The commissioner of human services shall retain the information reported to the employment registry for a period of six months. Data in the employment registry may be disclosed to federal agencies, local agencies of this state, and state and local agencies of other states for the purposes of enforcing state and federal laws governing child support.

The commissioner of human services shall charge a state or federal department or agency accessing the information contained in the employment registry the proportionate costs of gathering and furnishing information under this subdivision.

Subd. 8. [AUTHORITY TO CONTRACT.] The commissioner may contract for services to carry out this section.

Sec. 16. Minnesota Statutes 1994, section 518.171, subdivision 2a, is amended to read:

Subd. 2a. [EMPLOYER AND OBLIGOR NOTICE RESPONSIBILITY.] If an individual is hired for employment, the employer shall request that the individual disclose whether the individual has court-ordered medical support obligations that are required by law to be withheld from income and the terms of the court order, if any. The employer shall request that the individual disclose whether the individual has been ordered by a court to provide health and dental dependent insurance coverage. The An individual shall disclose this information at the time of hiring. If an individual discloses that if medical support is required to be withheld, the. If an employee discloses that medical support is required to be withheld, the employer shall begin withholding according to the terms of the order and pursuant to section 518.611, subdivision 8. If an individual discloses an obligation to obtain health and dental dependent insurance coverage and coverage is available through the employer, the employer shall make all application processes known to the individual upon hiring and enroll the employee and dependent in the plan pursuant to subdivision 3.

Sec. 17. Minnesota Statutes 1994, section 518.24, is amended to read:

518.24 [SECURITY; SEQUESTRATION; CONTEMPT.]

In all cases when maintenance or support payments are ordered, the court may require sufficient security to be given for the payment of them according to the terms of the order. Upon neglect or refusal to give security, or upon failure to pay the maintenance or support, the court may sequester the obligor's personal estate and the rents and profits of real estate of the obligor, and appoint a receiver of them. The court may cause the personal estate and the rents and profits of the real estate to be applied according to the terms of the order. The obligor is presumed to have an income from a source sufficient to pay the maintenance or support order. A child support or maintenance order constitutes prima facie evidence that the obligor has the ability to pay the award. If the obligor disobeys the order, it is prima facie evidence of contempt. The court may cite the obligor for contempt under this section, section 518.617, or chapter 588.

Sec. 18. Minnesota Statutes 1994, section 518.551, subdivision 12, is amended to read:

Subd. 12. [OCCUPATIONAL LICENSE SUSPENSION.] (a) Upon petition of an obligee, if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than four times the obligor's total monthly support and maintenance payments, and is not in compliance with a written payment agreement regarding both current support and arrearages

approved by the court, an administrative law judge, or the public authority, the court may direct the licensing board or other licensing agency to ~~conduct a hearing~~ suspend the license under section 214.101 ~~concerning suspension of the obligor's license~~. If the obligor is a licensed attorney, the court may report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.

(b) If a public ~~agency~~ authority responsible for child support enforcement finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than four times the obligor's total monthly support and maintenance payments, and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the public ~~agency~~ authority may direct the licensing board or other licensing agency to ~~conduct a hearing~~ suspend the license under section 214.101 ~~concerning suspension of the obligor's license~~. If the obligor is a licensed attorney, the public ~~agency~~ authority may report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the public ~~agency~~ authority.

(c) At least 30 days before notifying a licensing authority under paragraph (b), the public authority shall mail a written notice to the license holder addressed to the license holder's last known address that the public authority intends to seek license suspension under this subdivision and that the license holder must request a hearing within 30 days in order to contest the suspension. If the license holder makes a written request for a hearing within 30 days of the date of the notice, either a court hearing or a contested administrative proceeding must be held under section 518.5511, subdivision 4. Notwithstanding any law to the contrary, the license holder must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the license holder. The notice may be served personally or by mail.

(d) The administrative law judge, on behalf of the public authority, or the court shall order the licensing board or licensing agency to suspend the license if the judge finds that:

(1) the person is licensed by a licensing board or other state agency that issues an occupational license;

(2) the person has not made full payment of arrearages found to be due by the public authority; and

(3) the person has not executed or is not in compliance with a payment plan approved by the court, an administrative law judge, or the public authority.

(e) Within 30 days of the date on which the obligor either makes full payment of arrearages found to be due by the court or public authority or executes and initiates good faith compliance with a written payment plan approved by the court, an administrative law judge, or the public authority, the court or public authority responsible for child support enforcement shall notify the licensing board or licensing agency that the obligor is no longer ineligible for license issuance, reinstatement, or renewal under this subdivision.

Sec. 19. Minnesota Statutes 1994, section 518.551, is amended by adding a subdivision to read:

Subd. 13. [DRIVER'S LICENSE SUSPENSION.] (a) Upon motion of an obligee, if a court finds that the obligor has been or may be issued a driver's license by the commissioner of public safety and the obligor is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than four times the obligor's total monthly support and maintenance payments, and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the court shall order the commissioner of public safety to suspend the obligor's driver's license. The court's order must be stayed for 90 days in order to allow the obligor to execute a written payment agreement regarding both current support and arrearages, which payment agreement must be approved by either the court or the public authority responsible for child support enforcement. If the obligor has not executed or is not in compliance with a written

payment agreement regarding both current support and arrearages after the 90 days expires, the court's order becomes effective and the commissioner of public safety shall suspend the obligor's driver's license. The remedy under this subdivision is in addition to any other enforcement remedy available to the court. An obligee may not bring a motion under this paragraph within 12 months of a denial of a previous motion under this paragraph.

(b) If a public authority responsible for child support enforcement determines that the obligor has been or may be issued a driver's license by the commissioner of public safety and the obligor is in arrears in court-ordered child support or maintenance payments or both in the amount equal to or greater than four times the obligor's total monthly support and maintenance payments, and not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the public authority shall direct the commissioner of public safety to suspend the obligor's driver's license. The remedy under this subdivision is in addition to any other enforcement remedy available to the public authority.

(c) At least 90 days prior to notifying the commissioner of public safety pursuant to paragraph (b), the public authority must mail a written notice to the obligor at the obligor's last known address, that it intends to seek suspension of the obligor's driver's license and that the obligor must request a hearing within 30 days in order to contest the suspension. If the obligor makes a written request for a hearing within 30 days of the date of the notice, either a court hearing or a contested administrative proceeding must be held under section 518.5511, subdivision 4. Notwithstanding any law to the contrary, the obligor must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the obligor. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice, and the obligor does not execute a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority within 90 days of the date of the notice, the public authority shall direct the commissioner of public safety to suspend the obligor's driver's license under paragraph (b).

(d) If a person's license is improperly suspended under this subdivision, the person may recover reasonable expenses from the responsible agency for expenses associated with having the suspension removed.

(e) At a hearing requested by the obligor under paragraph (c), and on finding that the obligor is in arrears in court-ordered child support or maintenance payments or both in the amount equal to or greater than four times the obligor's total monthly support and maintenance payments, the district court or the administrative law judge shall order the commissioner of public safety to suspend the obligor's driver's license or operating privileges unless the court or administrative law judge determines that the obligor has executed and is in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority.

(f) An obligor whose driver's license or operating privileges are suspended may provide proof to the court or the public authority responsible for child support enforcement that the obligor is in compliance with all written payment agreements regarding both current support and arrearages. Within 15 days of the receipt of that proof, the court or public authority shall inform the commissioner of public safety that the obligor's driver's license or operating privileges should no longer be suspended.

(g) On January 15, 1997, and every two years after that, the commissioner of human services shall submit a report to the legislature that identifies the following information relevant to the implementation of this section:

- (1) the number of child support obligors notified of an intent to suspend a driver's license;
- (2) the amount collected in payments from the child support obligors notified of an intent to suspend a driver's license;
- (3) the number of payment agreements executed in response to notification of an intent to suspend a driver's license;

(4) the number of drivers' licenses suspended; and

(5) the cost of implementation and operation of the requirements of this section.

Sec. 20. Minnesota Statutes 1994, section 518.551, is amended by adding a subdivision to read:

Subd. 14. [MOTOR VEHICLE LIEN.] (a) Upon motion of an obligee, if a court finds that the obligor is the registered owner of a motor vehicle and the obligor is a debtor for a judgment debt resulting from nonpayment of court-ordered child support or maintenance payments, or both, in an amount equal to or greater than four times the obligor's total monthly support and maintenance payments, the court shall order the commissioner of public safety to enter a lien in the name of the obligee or in the name of the state of Minnesota, as appropriate, in accordance with section 168A.05, subdivision 8, unless the court finds that the obligor is in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority or that the obligor's interest in the motor vehicle is valued at less than \$4,500. The court's order must be stayed for 90 days in order to allow the obligor to either execute a written payment agreement regarding both current support and arrearages, which agreement shall be approved by either the court or the public authority responsible for child support enforcement, or to allow the obligor to demonstrate that the ownership interest in the motor vehicle is valued at less than \$4,500. If the obligor has not executed or is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority or has not demonstrated that the ownership interest in the motor vehicle is valued at less than \$4,500 within the 90-day period, the court's order becomes effective and the commissioner of public safety shall record the lien. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.

(b) If a public authority responsible for child support enforcement determines that the obligor is the registered owner of a motor vehicle and the obligor is a debtor for judgment debt resulting from nonpayment of court-ordered child support or maintenance payments, or both, in the amount equal to or greater than four times the obligor's total monthly support and maintenance payments, the public authority shall direct the commissioner of public safety to enter a lien in the name of the obligee or in the name of the state of Minnesota, as appropriate, under section 168A.05, subdivision 8, unless the public authority determines that the obligor is in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority or that the obligor's ownership interest in the motor vehicle is valued at less than \$4,500. The remedy under this subdivision is in addition to any other enforcement remedy available to the public agency.

(c) At least 90 days prior to notifying the commissioner of public safety pursuant to paragraph (b), the public authority must mail a written notice to the obligor at the obligor's last known address, that it intends to record a lien on the obligor's motor vehicle certificate of title and that the obligor must request a hearing within 30 days in order to contest the action. If the obligor makes a written request for a hearing within 30 days of the date of the notice, either a court hearing or a contested administrative proceeding must be held under section 518.5511, subdivision 4. Notwithstanding any law to the contrary, the obligor must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the obligor. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice and the obligor does not execute a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority or demonstrate to the public authority that the obligor's ownership interest in the motor vehicle is valued at less than \$4,500 within 90 days of the date of the notice, the public authority shall direct the commissioner of public safety to record the lien under paragraph (b).

(d) At a hearing requested by the obligor under paragraph (c), and on finding that the obligor is in arrears in court-ordered child support or maintenance payments or both in the amount equal to or greater than four times the obligor's total monthly support and maintenance payments, the district court or the administrative law judge shall order the commissioner of public safety to record the lien unless the court or administrative law judge determines that:

(1) the obligor has executed and is in compliance with a written payment agreement regarding both current support and arrearages determined to be acceptable by the court, an administrative law judge, or the public authority; or

(2) the obligor has demonstrated that the ownership interest in the motor vehicle is valued at less than \$4,500.

(e) An obligor who has had a lien recorded against a motor vehicle certificate of title may provide proof to the court or the public authority responsible for child support enforcement that the obligor is in compliance with all written payment agreements regarding both current support and arrearages. Within 15 days of the receipt of that proof, the court or public authority shall execute a release of security interest under section 168A.20, subdivision 4, and mail or deliver the release to the owner or other authorized person.

Sec. 21. [518.553] [PAYMENT AGREEMENTS.]

In proposing or approving proposed written payment agreements for purposes of section 518.551, the court, an administrative law judge, or the public authority shall take into consideration the amount of the arrearages, the amount of the current support order, the pendency of a request for modification, and the earnings of the obligor.

Sec. 22. [518.616] [ADMINISTRATIVE SEEK EMPLOYMENT ORDERS.]

Subdivision 1. [COURT ORDER.] For any support order being enforced by the public authority, the public authority may seek a court order requiring the obligor to seek employment if employment of the obligor cannot be verified and if the obligor is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than four times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment plan. Upon proper notice being given to the obligor, the court may enter a seek employment order if it finds that the obligor has not provided proof of gainful employment and has not consented to an order for income withholding under section 518.611 or 518.613 or entered into a written payment plan approved by the court, an administrative law judge, or the public authority.

Subd. 2. [CONTENTS OF ORDER.] The order to seek employment shall:

(1) order that the obligor seek employment within a determinate amount of time;

(2) order that the obligor file with the public authority on a weekly basis a report of at least five new attempts to find employment or of having found employment, which report must include the names, addresses, and telephone numbers of any employers or businesses with whom the obligor attempted to seek employment and the name of the individual contact to whom the obligor made application for employment or to whom an inquiry was directed;

(3) notify the obligor that failure to comply with the order is evidence of a willful failure to pay support under section 518.617;

(4) order that the obligor provide the public authority with verification of any reason for noncompliance with the order; and

(5) specify the duration of the order, not to exceed three months.

Sec. 23. [518.617] [CONTEMPT PROCEEDINGS FOR NONPAYMENT OF SUPPORT.]

Subdivision 1. [GROUNDS.] If a person against whom an order or decree for support has been entered under this chapter, chapter 256, or a comparable law from another jurisdiction, is in arrears in court-ordered child support or maintenance payments in an amount equal to or greater than four times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment plan approved by the court, an administrative law judge, or the public authority, the person may be cited and punished by the court for contempt under section 518.64, chapter 588, or this section. Failure to comply with a seek employment order entered under section 518.616 is evidence of willful failure to pay support.

Subd. 2. [COURT OPTIONS.] (a) If a court cites a person for contempt under this section, and the obligor lives in a county that contracts with the commissioner of human services under section 256.997, the court may order the performance of community service work up to 32 hours per week for six weeks for each finding of contempt if the obligor:

(1) is able to work full time;

(2) works an average of less than 32 hours per week; and

(3) has actual weekly gross income averaging less than 40 times the federal minimum hourly wage under United States Code, title 29, section 206(a)(1), or is voluntarily earning less than the obligor has the ability to earn, as determined by the court.

An obligor is presumed to be able to work full time. The obligor has the burden of proving inability to work full time.

(b) A person ordered to do community service work under paragraph (a) may, during the six-week period, apply to the court, an administrative law judge, or the public authority to be released from the community service work requirement if the person:

(1) provides proof to the court, an administrative law judge, or the public authority that the person is gainfully employed and submits to an order for income withholding under section 518.611 or 518.613;

(2) enters into a written payment plan regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority; or

(3) provides proof to the court, an administrative law judge, or the public authority that, subsequent to entry of the order, the person's circumstances have so changed that the person is no longer able to fulfill the terms of the community service order.

Subd. 3. [CONTINUING OBLIGATIONS.] The performance of community service work does not relieve a child support obligor of any unpaid accrued or accruing support obligation.

Sec. 24. [REPORT.]

The commissioner shall evaluate all child support programs and enforcement mechanisms. The evaluation must include a cost-benefit analysis of each program or enforcement mechanism, and information related to which programs produce the highest revenue, reduce arrears, avoid litigation, and result in the best outcome for children and their parents.

The reports related to the provisions in this chapter are due two years after the implementation date. All other reports on existing programs and enforcement mechanisms are due January 15, 1997.

Sec. 25. [CHILD SUPPORT ASSURANCE WAIVER.]

The commissioner of human services shall seek a waiver from the secretary of the United States Department of Health and Human Services to enable the department of human services to operate a demonstration project of child support assurance. The commissioner shall seek authority from the legislature to implement a demonstration project of child support assurance when enhanced federal funds become available for this purpose.

Sec. 26. [APPROPRIATIONS.]

Subdivision 1. [CHILD SUPPORT OBLIGOR COMMUNITY SERVICE WORK EXPERIENCE PROGRAM.] \$..... is appropriated from the general fund to the commissioner of human services to fund the child support obligor community service work experience program in section 14, to be available until June 30, 1997.

Subd. 2. [MOTOR VEHICLE CERTIFICATES OF TITLE.] \$..... is appropriated from the general fund to the commissioner of public safety to fund the necessary changes to the existing computer system to allow for memorialization of liens on motor vehicle certificates of title and to allow for suspension of drivers' licenses, to be available until June 30, 1997.

Subd. 3. [SUSPENSION OF DRIVERS' LICENSES.] \$..... is appropriated from the general fund to the commissioner of human services to allow the commissioner to seek the suspension of drivers' licenses under Minnesota Statutes, section 518.551, subdivision 13, to be available until June 30, 1997.

Subd. 4. [EMPLOYMENT REGISTRY.] \$..... is appropriated from the general fund to the commissioner of human services to allow the commissioner to implement the employment registry under section 15, to be available until June 30, 1997.

Subd. 5. [PUBLIC EDUCATION.] \$..... is appropriated from the general fund to the commissioner of human services for transfer to the attorney general for continuance of the child support public education campaign, to be available until June 30, 1997.

Subd. 6. [COOPERATION FOR THE CHILDREN PROGRAM.] (a) \$..... is appropriated from the general fund to the commissioner of human services for purposes of developing and implementing the cooperation for the children program under section 13, to be available until June 30, 1997.

(b) \$..... is appropriated from the general fund to the commissioner of human services, for transfer to the office of administrative hearings, for purposes of developing and implementing the cooperation for the children program, to be available until June 30, 1997.

Sec. 27. [REPEALER.]

Minnesota Statutes 1994, sections 214.101, subdivisions 2 and 3; 518.561; and 518.611, subdivision 8, are repealed.

Sec. 28. [EFFECTIVE DATE.]

Sections 2 to 10, 19, and 20 are effective January 1, 1996. Sections 1 and 15 are effective July 1, 1996.

ARTICLE 2

CHILD SUPPORT PAYMENT CENTER

Section 1. [518.5851] [CHILD SUPPORT PAYMENT CENTER; DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of the child support center established under sections 518.5851 to 518.5853, the following terms have the meanings given.

Subd. 2. [CENTRAL COLLECTIONS UNIT.] "Central collections unit" means the unit created under section 518.5852.

Subd. 3. [LOCAL CHILD SUPPORT AGENCY.] "Local child support agency" means the entity at the county level that is responsible for providing child support enforcement services.

Subd. 4. [PAYMENT.] "Payment" means the payment of child support, medical support, maintenance, and related payments required by order of a tribunal, voluntary support, or statutory fees.

Subd. 5. [TRIBUNAL.] "Tribunal" has the meaning given in section 518C.101.

Sec. 2. [518.5852] [CENTRAL COLLECTIONS UNIT.]

The commissioner of human services shall create and maintain a central collections unit for the purpose of receiving, processing, and disbursing payments, and for maintaining a record of payments, in all cases in which:

- (1) the state or county is a party;
- (2) the state or county provides child support enforcement services to a party; or
- (3) payment is collected through income withholding.

The commissioner of human services may contract for services to carry out these provisions.

Sec. 3. [518.5853] [MANDATORY PAYMENT OF OBLIGATIONS TO CENTRAL COLLECTIONS UNIT.]

Subdivision 1. [LOCATION OF PAYMENT.] All payments described in section 518.5852 must be made to the central collections unit.

Subd. 2. [AGENCY DESIGNATION OF LOCATION.] Each local child support agency shall provide a location within the agency to receive payments. A local agency receiving a payment shall transmit the funds to the central collections unit within one working day of receipt of the payment.

Subd. 3. [INCENTIVES.] Notwithstanding any rule to the contrary, incentives must be paid to the county providing services and maintaining the case to which the payment is applied. Incentive payments awarded for the collection of child support must be based solely upon payments processed by the central collections unit.

Subd. 4. [ELECTRONIC TRANSFER OF FUNDS.] The central collections unit is authorized to engage in the electronic transfer of funds for the receipt and disbursement of funds.

Subd. 5. [REQUIRED CONTENT OF ORDER.] A tribunal issuing an order that establishes or modifies a payment shall issue an income withholding order in conformity with section 518.613, subdivision 2. The automatic income withholding order must include the name of the obligor, the obligor's social security number, the obligor's date of birth, and the name and address of the obligor's employer. The street mailing address and the electronic mail address for the central collections unit must be included in each automatic income withholding order issued by a tribunal.

Subd. 6. [TRANSMITTAL OF ORDER TO THE LOCAL AGENCY BY THE TRIBUNAL.] The tribunal shall transmit a copy of the order establishing or modifying the payment, and a copy of the automatic income withholding order, to the local child support agency within two working days of the approval of the order by the judge or administrative law judge or other person or entity authorized to sign the automatic withholding order.

Subd. 7. [TRANSMITTAL OF FUNDS FROM THE OBLIGOR OR PAYOR OF FUNDS TO THE CENTRAL COLLECTIONS UNIT.] The obligor or other payor of funds shall identify the obligor on the check or remittance by name, payor number, and social security number, and shall comply with section 518.611, subdivision 4.

Subd. 8. [SANCTION FOR CHECKS DRAWN ON INSUFFICIENT FUNDS.] A notice must be directed to any person or entity submitting a check drawn on insufficient funds stating that future payment must be paid by cash or certified funds. The central collections unit and the local child support agency may refuse a check from a person or entity that has been given notice that payments must be in cash or certified funds.

Subd. 9. [ADMISSIBILITY OF PAYMENT RECORDS.] A copy of the record of payments maintained by the central collections unit in section 518.5852 is admissible evidence in all tribunals as proof of payments made through the central collections unit without the need of testimony to prove authenticity.

Subd. 10. [TRANSITION PROVISIONS.] (a) The commissioner of human services shall develop a plan for the implementation of the central collections unit. The plan must require that payments be redirected to the central collections unit. Payments may be redirected in groups according to county of origin, county of payment, method of payment, type of case, or any other distinguishing factor designated by the commissioner.

(b) Notice that payments must be made to the central collections unit must be provided to the obligor and to the payor of funds within 30 days prior to the redirection of payments to the central collections unit. After the notice has been provided to the obligor or payor of funds, mailed payments received by a local child support agency must be forwarded to the central collections unit. A notice must be sent to the obligor or payor of funds stating that payment application may be delayed and provide directions to submit future payment to the central collections unit.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 (518.5851; 518.5852; and 518.5853) are effective January 1, 1997.

ARTICLE 3

CHILD SUPPORT DATA COLLECTION AND PUBLICATION

Section 1. Minnesota Statutes 1994, section 256.978, subdivision 1, is amended to read:

Subdivision 1. [REQUEST FOR INFORMATION.] The commissioner of human services, in order to locate a person to establish paternity, child support, or to enforce a child support obligation in arrears, may request information reasonably necessary to the inquiry from the records of all departments, boards, bureaus, or other agencies of this state, which shall, notwithstanding the provisions of section 268.12, subdivision 12, or any other law to the contrary, provide the information necessary for this purpose. Employers, utility companies, insurance companies, financial institutions, and labor associations doing business in this state shall provide information as provided under subdivision 2 upon written request by an agency responsible for child support enforcement regarding individuals owing or allegedly owing a duty to support within 30 days of the receipt of the written request made by the public authority. Information requested and used or transmitted by the commissioner pursuant to the authority conferred by this section may be made available only to public officials and agencies of this state and its political subdivisions and other states of the union and their political subdivisions who are seeking to enforce the support liability of parents or to locate parents. The commissioner may not release the information to an agency or political subdivision of another state unless the agency or political subdivision is directed to maintain the data consistent with its classification in this state. Information obtained under this section may not be released except to the extent necessary for the administration of the child support enforcement program or when otherwise authorized by law.

Sec. 2. Minnesota Statutes 1994, section 518.575, is amended to read:

518.575 [PUBLICATION OF NAMES OF DELINQUENT CHILD SUPPORT OBLIGORS.]

~~Every three months~~ (a) ~~Twice each year, the department~~ commissioner of human services shall ~~publish in the newspaper of widest circulation in each county a list of the names and last known addresses of each person who (1) is a child support obligor, (2) resides in the county, (3) is at least \$3,000 in arrears, and (4) has not made a child support payment, or has made only partial child support payments that total less than 25 percent of the amount of child support owed, for the last 12 months including any payments made through the interception of federal or state taxes. The rate charged for publication shall be the newspaper's lowest classified display rate, including all available discounts.~~ (3) is not in compliance with a written payment agreement regarding both current support and arrearages approved by the public authority. The commissioner of human services shall publish the name of each obligor in the newspaper or newspapers of widest circulation in the area where the obligor is most likely to be residing. For each publication, the commissioner shall release the list of all names being published not earlier than the first day on which names appear in any newspaper.

(b) An obligor's name may not be published if the obligor claims in writing, and the department commissioner of human services determines, there is good cause for the nonpayment of child support. Good cause includes the following: (1) there is a mistake in the obligor's identity or the amount of the obligor's arrears; (2) arrears are reserved by the court or there is a pending legal action concerning the unpaid child support; or (3) other circumstances as determined by the commissioner. The list must be based on the best information available to the state at the time of publication.

(c) Before publishing the name of the obligor, the department of human services shall send a notice to the obligor's last known address which states the department's intention to publish the obligor's name and the amount of child support the obligor owes. The notice must also provide an opportunity to have the obligor's name removed from the list by paying the arrearage or by entering into an agreement to pay the arrearage, and the final date when the payment or agreement can be accepted.

(d) The department of human services shall insert with the notices sent to the obligee, a notice

stating the intent to publish the obligor's name, and the criteria used to determine the publication of the obligor's name.

Sec. 3. Minnesota Statutes 1994, section 518.611, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] Whenever an obligation for support of a dependent child or maintenance of a spouse, or both, is determined and ordered by a court of this state, the amount of child support or maintenance as determined by court order must be withheld from the income, regardless of source, of the person obligated to pay the support or maintenance, and paid through the public authority. The court shall provide a copy of any order where withholding is ordered to the public authority responsible for support collections. Every order for maintenance or support must include:

(1) the obligor's social security number and date of birth and the name and address of the obligor's employer or other payor of funds; and

(2) provisions for the obligor to keep the public authority informed of the name and address of the obligor's current employer or payor of funds, and whether the obligor has access to employment-related health insurance coverage and, if so, the health insurance policy information.

Sec. 4. Minnesota Statutes 1994, section 518.611, subdivision 2, is amended to read:

Subd. 2. [CONDITIONS OF INCOME WITHHOLDING.] (a) Withholding shall result when:

(1) the obligor requests it in writing to the public authority;

(2) the custodial parent requests it by making a motion to the court; or

(3) the obligor fails to make the maintenance or support payments, and the following conditions are met:

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

(ii) the obligee or the public authority serves written notice of income withholding, showing arrearage, on the obligor at least 15 days before service of the notice of income withholding and a copy of the court's order on the payor of funds;

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

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

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

For those persons not applying for the public authority's IV-D services, a monthly service fee of \$15 must be charged to the obligor in addition to the amount of child support ordered by the court and withheld through automatic income withholding, or for persons applying for the public authority's IV-D services, the service fee under section 518.551, subdivision 7, applies. The county agency shall explain to affected persons the services available and encourage the applicant to apply for IV-D services.

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

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

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

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

Sec. 5. Minnesota Statutes 1994, section 518.611, subdivision 5, is amended to read:

Subd. 5. [ARREARAGE ORDER.] Nothing in this section shall prevent the court from ordering the payor of funds to withhold amounts to satisfy the obligor's previous arrearage in child support or maintenance payments, the obligor's liability for reimbursement of child support or of public assistance pursuant to sections 256.87 and 257.66, for pregnancy and confinement expenses and for blood test costs, and any service fees that may be imposed under section 518.551. This remedy shall not operate to exclude availability of other remedies to enforce judgments.

Sec. 6. Minnesota Statutes 1994, section 518.611, subdivision 8a, is amended to read:

Subd. 8a. [LUMP SUM PAYMENTS.] ~~(a) Upon the Before transmittal of the last reimbursement payment to the employee, where obligor of a lump sum payment including, but not limited to, severance pay, accumulated sick pay or, vacation pay is paid upon termination of employment, and where the employee is in arrears in making court ordered child support payments, the employer shall withhold an amount which is the lesser of (1) the amount in arrears or (2) that portion of the arrearages which is the product of the obligor's monthly court ordered support amount multiplied by the number of months of net income that the lump sum payment represents. (b), bonuses, commissions, or other pay or benefits, an employer, trustee, or other payor of funds who has been served with a notice of income withholding under subdivision 2 or section 518.613 must:~~

(1) notify the public authority of any lump sum payment of \$500 or more that is to be paid to the obligor;

(2) hold the lump sum payment for 30 days after the date on which the lump sum payment would otherwise have been paid to the obligor, notwithstanding sections 181.08, 181.101, 181.11, 181.13, and 181.145; and

(3) upon order of the court, pay any specified amount of the lump sum payment to the public authority for future support, or reimbursement of support judgment, judgments, or arrearages; or

(4) upon service by United States mail of a sworn affidavit from the public authority or a court order stating:

(i) that a judgment entered pursuant to section 548.091, subdivision 1a, exists against the obligor, or that other support arrearages exist;

(ii) that a portion of the judgment, judgments, or arrearages remains unpaid; and

(iii) the current balance of the judgment, judgments, or arrearages, the payor of funds shall pay to the public authority the lesser of the amount of the lump sum payment or the total amount of judgments plus arrearages as stated in affidavit or court order subject to the limits imposed under the consumer credit protection act.

Sec. 7. Minnesota Statutes 1994, section 518.613, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] Notwithstanding any provision of section 518.611, subdivision 2 or 3, to the contrary, whenever an obligation for child support or maintenance, enforced by the public authority, is initially determined and ordered or modified by the court ~~in a county in which this section applies~~, the amount of child support or maintenance ordered by the court and any fees assessed by the public authority responsible for child support enforcement must be withheld from the income and forwarded to the public authority, regardless of the source of income, of the person obligated to pay the support.

Sec. 8. Minnesota Statutes 1994, section 518.613, subdivision 2, is amended to read:

Subd. 2. [ORDER; COLLECTION SERVICES.] Every order for child support must include the obligor's social security number and date of birth and the name and address of the obligor's employer or other payor of funds. In addition, every order must contain provisions requiring the obligor to keep the public authority informed of the name and address of the obligor's current employer, or other payor of funds and whether the obligor has access to employment-related health insurance coverage and, if so, the health insurance policy information. Upon entry of the order for support or maintenance, the court shall ~~mail a copy of the court's automatic income withholding order and the provisions of section 518.611 and this section to the obligor's employer or other payor of funds and~~ provide a copy of the withholding order to the public authority responsible for child support enforcement. An obligee who is not a recipient of public assistance must decide to either apply for the IV-D collection services of the public authority or obtain income withholding only services when an order for support is entered unless the requirements of this section have been waived under subdivision 7. The supreme court shall develop a standard automatic income withholding form to be used by all Minnesota courts. This form shall be made a part of any order for support or decree by reference.

Sec. 9. Minnesota Statutes 1994, section 518.614, subdivision 1, is amended to read:

Subdivision 1. [STAY OF SERVICE.] If the court finds there is no arrearage in child support or maintenance as of the date of the court hearing, the court shall stay service of the order under section 518.613, subdivision 2, ~~in a county in which that section applies~~ if the obligor establishes a savings account for a sum equal to two months of the monthly child support or maintenance obligation and provides proof of the establishment to the court and the public authority on or before the day of the court hearing determining the obligation. This sum must be held in a financial institution in an interest-bearing account with only the public authority authorized as drawer of funds. Proof of the establishment must include the financial institution name and address, account number, and the amount of deposit.

Sec. 10. Minnesota Statutes 1994, section 518.64, subdivision 4, is amended to read:

Subd. 4. Unless otherwise agreed in writing or expressly provided in the order, provisions for the support of a child are not terminated ~~by emancipation of the child but not~~ by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump sum payment, to the extent just and appropriate in the circumstances.

Sec. 11. Minnesota Statutes 1994, section 518.64, is amended by adding a subdivision to read:

Subd. 4a. [AUTOMATIC TERMINATION OF SUPPORT.] (a) Unless a court order provides otherwise, a child support obligation in a specific amount per child terminates automatically and without any action by the obligor to reduce, modify, or terminate the order upon the emancipation of the child as provided under section 518.54, subdivision 2.

(b) A child support obligation for two or more children that is not a support obligation in a specific amount per child continues in the full amount until the emancipation of the last child for whose benefit the order was made, or until further order of the court.

(c) The obligor may request a modification of his or her child support order upon the emancipation of a child if there are still minor children under the order. The child support obligation shall be determined based on the income of the parties at the time the modification is sought. The court may provide that a modification order made under this paragraph is effective as of the date that the child was emancipated.

Sec. 12. Minnesota Statutes 1994, section 518C.310, is amended to read:

518C.310 [DUTIES OF STATE INFORMATION AGENCY.]

(a) The unit within the department of human services that receives and disseminates incoming interstate actions under title IV-D of the Social Security Act from section 518C.02, subdivision 1a, is the state information agency under this chapter.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security; and

(5) determine which foreign jurisdictions and Indian tribes have substantially similar procedures for issuance and enforcement of support orders. The state information agency shall compile and maintain a list, including addresses, of all these foreign jurisdictions and Indian tribes. The state information agency shall make this list available to all state tribunals and all support enforcement agencies.

Sec. 13. Minnesota Statutes 1994, section 548.15, is amended to read:

548.15 [DISCHARGE OF RECORD.]

Subdivision 1. [GENERAL.] Except as provided in subdivision 2, upon the satisfaction of a judgment, whether wholly or in part, or as to all or any of several defendants, the court administrator shall enter the satisfaction in the judgment roll, and note it, with its date, on the docket. If the docketing is upon a transcript from another county, the entry on the docket is sufficient. A judgment is satisfied when there is filed with the court administrator:

(1) an execution satisfied, to the extent stated in the sheriff's return on it;

(2) a certificate of satisfaction signed and acknowledged by the judgment creditor;

(3) a like certificate signed and acknowledged by the attorney of the creditor, unless that attorney's authority as attorney has previously been revoked and an entry of the revocation made upon the register; the authority of an attorney to satisfy a judgment ceases at the end of six years from its entry;

(4) an order of the court, made on motion, requiring the execution of a certificate of satisfaction, or directing satisfaction to be entered without it;

(5) where a judgment is docketed on transcript, a copy of either of the foregoing documents, certified by the court administrator in which the judgment was originally entered and in which the originals were filed.

A satisfaction made in the name of a partnership is valid if executed by a member of it while the partnership continues. The judgment creditor, or the creditor's attorney while the attorney's authority continues, may also satisfy a judgment of record by a brief entry on the register, signed by the creditor or the creditor's attorney and dated and witnessed by the court administrator, who shall note the satisfaction on the margin of the docket. Except as provided in subdivision 2, when a judgment is satisfied otherwise than by return of execution, the judgment creditor or the creditor's attorney shall file a certificate of it with the court administrator within ten days after the satisfaction or within 30 days of payment by check or other noncertified funds.

Subd. 2. [CHILD SUPPORT OR MAINTENANCE JUDGMENT.] In the case of a judgment

for child support or spousal maintenance, an execution or certificate of satisfaction need not be filed with the court until the judgment is satisfied in full.

Sec. 14. Minnesota Statutes 1994, section 609.375, subdivision 1, is amended to read:

Subdivision 1. Whoever is legally obligated to provide care and support to a spouse ~~who is in necessitous circumstances~~, or child, whether or not its custody has been granted to another, and knowingly omits and fails without lawful excuse to do so is guilty of a misdemeanor, and upon conviction may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both.

Sec. 15. [SUSPENSION OF PUBLICATIONS.]

Notwithstanding Minnesota Statutes, section 518.575, the commissioner of human services may not publish names of delinquent child support obligors until January 1, 1997; however, a county may publish names in accordance with Minnesota Statutes, section 518.575, provided the publication is cost-neutral to the state.

Sec. 16. [REPEALER.]

Minnesota Statutes 1994, section 518.64, subdivision 6, is repealed.

Sec. 17. [EFFECTIVE DATE.]

Sections 1 to 4, 6 to 9, 12, and 13 (256.978, subdivision 1; 518.575; 518.611, subdivision 1; 518.611, subdivision 2; 518.611, subdivision 8a; 518.613, subdivision 1; 518.613, subdivision 2; 518.614, subdivision 1; 518C.310; and 548.15) are effective July 1, 1995. Section 15 is effective the day following final enactment.

ARTICLE 4

RECOGNITION OF PARENTAGE

Section 1. Minnesota Statutes 1994, section 256.87, subdivision 5, is amended to read:

Subd. 5. [CHILD NOT RECEIVING ASSISTANCE.] A person or entity having physical custody of a dependent child not receiving assistance under sections 256.031 to 256.0361, or 256.72 to 256.87 has a cause of action for child support against the child's absent parents. Upon a motion served on the absent parent, the court shall order child support payments from the absent parent under chapter 518. The absent parent's liability may include up to the two years immediately preceding the commencement of the action. This subdivision applies only if the person or entity has physical custody with the consent of a custodial parent or approval of the court.

Sec. 2. Minnesota Statutes 1994, section 257.34, subdivision 1, is amended to read:

Subdivision 1. [ACKNOWLEDGMENT BY PARENTS.] The mother and father of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born may, in a writing signed by both of them before a notary public, declare and acknowledge under oath that they are the biological parents of the child. The declaration may provide that any such child born to the mother at any time before ~~or up to ten months after~~ the date of execution of the declaration is the biological child of the signatories. Execution of the declaration shall:

(a) have the same consequences as an acknowledgment by the signatories of parentage of the child for the purposes of sections 62A.041 and 62C.14, subdivision 5a;

(b) be conclusive evidence that the signatories are parents of the child for the purposes of sections 176.111, 197.75, and 197.752;

(c) create a presumption that the signatory is the biological father of the child for the purposes of sections 257.51 to 257.74;

(d) when timely filed with the division of vital statistics of the Minnesota department of health

as provided in section 259.51, qualify as an affidavit stating the intention of the signatories to retain parental rights as provided in section 259.51 if it contains the information required by section 259.51 or rules promulgated thereunder;

(e) have the same consequences as a writing declaring paternity of the child for the purposes of section 524.2-109; and

(f) be conclusive evidence that the signatories are parents of the child for the purposes of chapter 573.

Sec. 3. Minnesota Statutes 1994, section 257.34, is amended by adding a subdivision to read:

Subd. 4. [EXPIRATION OF AUTHORITY FOR DECLARATIONS.] An acknowledgment of parentage under this section may not be entered into on or after August 1, 1995. The mother and father of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born may execute a recognition of parentage under section 257.75.

Sec. 4. Minnesota Statutes 1994, section 257.55, subdivision 1, is amended to read:

Subdivision 1. [PRESUMPTION.] A man is presumed to be the biological father of a child if:

(a) He and the child's biological mother are or have been married to each other and the child is born during the marriage, or within 280 days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution, or divorce, or after a decree of legal separation is entered by a court;

(b) Before the child's birth, he and the child's biological mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) if the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 280 days after its termination by death, annulment, declaration of invalidity, dissolution or divorce; or

(2) if the attempted marriage is invalid without a court order, the child is born within 280 days after the termination of cohabitation;

(c) After the child's birth, he and the child's biological mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared void, voidable, or otherwise invalid, and,

(1) he has acknowledged his paternity of the child in writing filed with the state registrar of vital statistics;

(2) with his consent, he is named as the child's father on the child's birth certificate; or

(3) he is obligated to support the child under a written voluntary promise or by court order;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his biological child;

(e) He and the child's biological mother acknowledge his paternity of the child in a writing signed by both of them under section 257.34 and filed with the state registrar of vital statistics. If another man is presumed under this paragraph to be the child's father, acknowledgment may be effected only with the written consent of the presumed father or after the presumption has been rebutted;

(f) Evidence of statistical probability of paternity based on blood testing establishes the likelihood that he is the father of the child, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater;

(g) He and the child's biological mother have executed a recognition of parentage in accordance with section 257.75 and another man is presumed to be the father under this subdivision; or

(h) He and the child's biological mother have executed a recognition of parentage in accordance with section 257.75 and another man and the child's mother have executed a recognition of parentage in accordance with section 257.75; or

(i) He and the child's biological mother executed a recognition of parentage in accordance with section 257.75 when either or both of the signatories were less than 18 years of age.

Sec. 5. Minnesota Statutes 1994, section 257.57, subdivision 2, is amended to read:

Subd. 2. The child, the mother, or personal representative of the child, the public authority chargeable by law with the support of the child, the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor may bring an action:

(1) at any time for the purpose of declaring the existence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (d), (e), (f), (g), or (h), or the nonexistence of the father and child relationship presumed under clause (d) of that subdivision;

(2) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (e) or (g), only if the action is brought within three years after the date of the execution of the declaration or recognition of parentage; or

(3) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.55, subdivision 1, paragraph (f), only if the action is brought within three years after the party bringing the action, or the party's attorney of record, has been provided the blood test results; or

(4) for the purpose of declaring the nonexistence of the father and child relationship presumed under section 257.75, subdivision 9, only if the action is brought by the minor signatory within six months after the minor signatory reaches the age of 18. In the case of a recognition of parentage executed by two minor signatories, the action to declare the nonexistence of the father and child relationship must be brought within six months after the youngest signatory reaches the age of 18.

Sec. 6. Minnesota Statutes 1994, section 257.60, is amended to read:

257.60 [PARTIES.]

The child may be made a party to the action. If the child is a minor and is made a party, a general guardian or a guardian ad litem shall be appointed by the court to represent the child. The child's mother or father may not represent the child as guardian or otherwise. The biological mother, each man presumed to be the father under section 257.55, and each man alleged to be the biological father, shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and shall be given an opportunity to be heard. The public agency responsible for support enforcement is joined as a party in each case in which rights are assigned under section 256.74, subdivision 5, and in each case in which the public agency is providing services pursuant to an application for child support services. A person who may bring an action under section 257.57 may be made a party to the action. The court may align the parties. The child shall be made a party whenever:

(1) the child is a minor and the case involves a compromise under section 257.64, subdivision 1, or a lump sum payment under section 257.66, subdivision 4, in which case the commissioner of human services shall also be made a party subject to department of human services rules relating to paternity suit settlements; or

(2) the child is a minor and the action is to declare the nonexistence of the father and child relationship; or

(3) an action to declare the existence of the father and child relationship is brought by a man presumed to be the father under section 257.55, or a man who alleges to be the father, and the mother of the child denies the existence of the father and child relationship.

Sec. 7. [257.651] [DEFAULT ORDER OF PARENTAGE.]

In an action to determine the existence of the father and child relationship under sections 257.51 to 257.74, if the alleged father fails to appear at a hearing after service duly made and proved, the court shall enter a default judgment or order of paternity.

Sec. 8. Minnesota Statutes 1994, section 257.67, subdivision 1, is amended to read:

Subdivision 1. If existence of the parent and child relationship is declared, or parentage or a duty of support has been acknowledged or adjudicated under sections 257.51 to 257.74 or under prior law, the obligation of the noncustodial parent may be enforced in the same or other proceedings by the custodial parent, the child, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent that person has furnished or is furnishing these expenses. Full faith and credit shall be given to a determination of paternity made by another state, whether established through voluntary acknowledgment or through administrative or judicial processes.

Sec. 9. Minnesota Statutes 1994, section 257.75, subdivision 3, is amended to read:

Subd. 3. [EFFECT OF RECOGNITION.] Subject to subdivision 2 and section 257.55, subdivision 1, paragraph (g) or (h), the recognition has the force and effect of a judgment or order determining the existence of the parent and child relationship under section 257.66. If the conditions in section 257.55, subdivision 1, paragraph (g) or (h), exist, the recognition creates only a presumption of paternity for purposes of sections 257.51 to 257.74. Until an order is entered granting custody to another, the mother has sole custody. The recognition is:

(1) a basis for bringing an action to award custody or visitation rights to either parent, establishing a child support obligation which may include up to the two years immediately preceding the commencement of the action, ordering a contribution by a parent under section 256.87, or ordering a contribution to the reasonable expenses of the mother's pregnancy and confinement, as provided under section 257.66, subdivision 3, or ordering reimbursement for the costs of blood or genetic testing, as provided under section 257.69, subdivision 2;

(2) determinative for all other purposes related to the existence of the parent and child relationship; and

(3) entitled to full faith and credit in other jurisdictions.

Sec. 10. Minnesota Statutes 1994, section 257.75, is amended by adding a subdivision to read:

Subd. 9. [EXECUTION BY A MINOR PARENT.] A recognition of parentage executed and filed in accordance with this section by a minor parent creates a presumption of paternity for the purposes of sections 257.51 to 257.74.

Sec. 11. [518.255] [PROVISION OF LEGAL SERVICES BY THE PUBLIC AUTHORITY.]

The provision of services under the child support enforcement program that includes services by an attorney or an attorney's representative employed by, under contract to, or representing the public authority does not create an attorney-client relationship with any party other than the public authority. Attorneys employed by or under contract with the public authority have an affirmative duty to inform applicants and recipients of services in writing under the child support enforcement program that no attorney-client relationship exists between the attorney and the applicant or recipient. The written notice must inform the individual applicant or recipient of services that no attorney-client relationship exists between the attorney and the applicant or recipient, the rights of the individual as a subject of data under section 13.04, subdivision 2, and that the individual has a right to have an attorney represent the individual. This section applies to all legal services provided by the child support enforcement program.

ARTICLE 5

CHILD SUPPORT PROCEDURES

Section 1. Minnesota Statutes 1994, section 518.5511, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] (a) An administrative process is established to obtain, modify, and

enforce child and medical support orders and parentage orders and modify maintenance if combined with a child support proceeding. All laws governing these actions apply insofar as they are not inconsistent with the provisions of this section and section 518.5512. Wherever other laws are inconsistent with this section and section 518.5512, the provisions in this section and section 518.5512 shall apply.

(b) All proceedings for obtaining, modifying, or enforcing child and medical support orders and modifying maintenance orders if combined with a child support proceeding, are required to be conducted in the administrative process when the public authority is a party or provides services to a party or parties to the proceedings. At county option, the administrative process may include contempt motions or actions to establish parentage. Nothing contained herein shall prevent a party, upon timely notice to the public authority, from commencing an action or bringing a motion for the establishment, modification, or enforcement of child support or modification of maintenance orders if combined with a child support proceeding in district court, if additional issues involving domestic abuse, establishment or modification of custody or visitation, property issues, or other issues outside the jurisdiction of the administrative process, are part of the motion or action, or from proceeding with a motion or action brought by another party containing one or more of these issues if it is pending in district court.

(c) A party may make a written request to the public authority to initiate an uncontested administrative proceeding. If the public authority denies the request, the public authority shall issue a summary order notice which denies the request for relief, states the reasons for the denial, and notifies the party of the right to commence an action for relief. If the party commences an action or serves and files a motion within 30 days after the public authority's denial and the party's action results in a modification of a child support order, the modification may be retroactive to the date the written request was received by the public authority.

(d) After August 1, 1994, all counties shall participate in the administrative process established in this section in accordance with a statewide implementation plan to be set forth by the commissioner of human services. No county shall be required to participate in the administrative process until after the county has been trained. The implementation plan shall include provisions for training the counties by region no later than July 1, 1995.

(e) For the purpose of the administrative process, all powers, duties, and responsibilities conferred on judges of district court to obtain and enforce child and medical support and parentage and maintenance obligations, subject to the limitations of this section are conferred on administrative law judges, including the power to issue subpoenas, orders to show cause, and bench warrants for failure to appear.

The administrative law judge has the authority to approve parentage orders that contain uncontested custody and visitation provisions.

Sec. 2. Minnesota Statutes 1994, section 518.5511, subdivision 2, is amended to read:

Subd. 2. [UNCONTESTED ADMINISTRATIVE PROCEEDING.] (a) A party may petition the chief administrative law judge, the chief district court judge, or the chief family court referee to proceed immediately to a contested hearing upon good cause shown.

(b) The public authority shall give the parties written notice requesting the submission of information necessary for the public authority to prepare a proposed ~~child support~~ order. The written notice shall be sent by first class mail to the parties' last known addresses. The written notice shall describe the information requested, state the purpose of the request, state the date by which the information must be postmarked or received (which shall be at least 30 days from the date of the mailing of the written notice), state that if the information is not postmarked or received by that date, the public authority will prepare a proposed order on the basis of the information available, and identify the type of information which will be considered.

(c) Following the submission of information or following the date when the information was due, the public authority shall, on the basis of all information available, complete and sign a proposed ~~child support~~ order and notice. In preparing the proposed ~~child support~~ order, the public authority will establish child support in the highest amount permitted under section 518.551, subdivision 5. The proposed order shall include written findings in accordance with section

518.551, subdivision 5, clauses (i) and (j). The notice shall state that the proposed ~~child support~~ order will be entered as a final and binding default order unless one of the parties requests a conference under subdivision 3 within 14 days following the date of service of the proposed ~~child support~~ order. The method for requesting the conference shall be stated in the notice. The notice and proposed ~~child support~~ order shall be served under the rules of civil procedure. For the purposes of the contested hearing, and notwithstanding any law or rule to the contrary, the service of the proposed order pursuant to this paragraph shall be deemed to have commenced a proceeding and the judge, including an administrative law judge or a referee, shall have jurisdiction over the contested hearing.

(d) If a conference under subdivision 3 is not requested by a party within 14 days after the date of service of the proposed ~~child support~~ order, the public authority may ~~enter~~ submit the proposed order as the default order. The default order becomes ~~effective 30 days after the date of service of the notice in paragraph (c)~~ enforceable upon signature by an administrative law judge or district court judge or referee. The public authority may also prepare and serve a new notice and proposed ~~child support~~ order if new information is subsequently obtained. The default ~~child support~~ order shall be a final order, and shall be served under the rules of civil procedure.

(e) The public authority shall file in the district court copies of all notices served on the parties, proof of service, and all orders.

Sec. 3. Minnesota Statutes 1994, section 518.5511, subdivision 3, is amended to read:

Subd. 3. [ADMINISTRATIVE CONFERENCE.] (a) If a party requests a conference within 14 days of the date of service of the proposed order, the public authority shall schedule a conference, and shall serve written notice of the date, time, and place of the conference on the parties.

(b) The purpose of the conference is to review all available information and seek an agreement to enter a consent ~~child support~~ order. The notice shall state the purpose of the conference, and that the proposed ~~child support~~ order will be entered as a final and binding default order if the requesting party fails to appear at the conference. The notice shall be served on the parties by first class mail at their last known addresses, and the method of service shall be documented in the public authority file.

(c) A party alleging domestic abuse by the other party shall not be required to participate in a conference. In such a case, the public authority shall meet separately with the parties in order to determine whether an agreement can be reached.

(d) If the party requesting the conference does not appear and fails to provide a written excuse (with supporting documentation if relevant) to the public authority within seven days after the date of the conference which constitutes good cause, the public authority may enter a default ~~child support~~ order through the uncontested administrative process. The public authority shall not enter the default order until at least seven days after the date of the conference.

For purposes of this section, misrepresentation, excusable neglect, or circumstances beyond the control of the person who requested the conference which prevented the person's appearance at the conference constitutes good cause for failure to appear. If the public authority finds good cause, the conference shall be rescheduled by the public authority and the public authority shall send notice as required under this subdivision.

(e) If the parties appear at the conference, the public authority shall seek agreement of the parties to the entry of a consent ~~child support~~ order which establishes child support in accordance with applicable law. The public authority shall advise the parties that if a consent order is not entered, the matter will be scheduled for a hearing before an administrative law judge, or a district court judge or referee, and that the public authority will seek the establishment of child support at the hearing in accordance with the highest amount permitted under section 518.551, subdivision 5. If an agreement to enter the consent order is not reached at the conference, the public authority shall schedule the matter ~~before an administrative law judge, district court judge, or referee~~ for a contested hearing.

(f) If an agreement is reached by the parties at the conference, a consent ~~child support~~ order shall be prepared by the public authority, and shall be signed by the parties. All consent and

default orders shall be signed by the nonattorney employee of the public authority and shall be submitted to an administrative law judge or the district court for countersignature approval and signature. The order is effective enforceable upon the signature by the administrative law judge or the district court and is retroactive to the date of signature by the nonattorney employee of the public authority. The consent order shall be served on the parties under the rules of civil procedure.

Sec. 4. Minnesota Statutes 1994, section 518.5511, subdivision 4, is amended to read:

Subd. 4. [CONTESTED ADMINISTRATIVE PROCEEDING.] (a) The commissioner of human services is authorized to designate counties to use the contested administrative hearing process based upon federal guidelines for county performance. The contested administrative hearing process may also be initiated upon request of a county board. The administrative hearing process shall be implemented in counties designated by the commissioner. All counties shall participate in the contested administrative process established in this section as designated in a statewide implementation plan to be set forth by the commissioner of human services. No county may be required to participate in the contested administrative process until after the county has been trained. The contested administrative process must be in operation in all counties except Hennepin by July 1, 1996.

A Hennepin county pilot program shall be jointly planned, implemented, and evaluated by the department of human services, the office of administrative hearings, the fourth judicial district court, and Hennepin county and be in operation by July 1, 1996. The pilot program shall provide that one-half of the case load use the contested administrative process. The pilot program shall include an evaluation which shall be conducted after one year of program operation. A preliminary evaluation report shall be submitted by the commissioner to the legislature by March 1, 1997. A final evaluation report shall be submitted by the commissioner to the legislature by January 15, 1998. The pilot program shall continue pending final decision by the legislature, or until the commissioner determines that Hennepin county will not participate in the contested administrative process.

In counties designated by the commissioner, contested hearings required under this section shall be scheduled before administrative law judges, and shall be conducted in accordance with the provisions under this section. In counties not designated by the commissioner, contested hearings shall be conducted in district court in accordance with the rules of civil procedure and the rules of family court.

(b) An administrative law judge may conduct hearings and approve a stipulation reached on a contempt motion brought by the public authority. Any stipulation that involves a finding of contempt and a jail sentence, whether stayed or imposed, shall require the review and signature of a district court judge.

(c) For the purpose of this process, all powers, duties, and responsibilities conferred on judges of the district court to obtain and enforce child and medical support and maintenance obligations, subject to the limitation set forth herein, are conferred on the administrative law judge conducting the proceedings, including the power to issue subpoenas, to issue orders to show cause, and to issue bench warrants for failure to appear. A party, witness, or attorney may appear or testify by telephone, audiovisual means, or other electronic means, at the discretion of the administrative law judge.

(d) Before implementing the process in a county, the chief administrative law judge, the commissioner of human services, the director of the county human services agency, the county attorney, the county court administrator, and the county sheriff shall jointly establish procedures, and the county shall provide hearing facilities for implementing this process in the county. A contested administrative hearing shall be conducted in a courtroom, if one is available, or a conference or meeting room with at least two exits and of sufficient size to permit adequate physical separation of the parties. The court administrator shall provide administrative support for the contested hearing. Security personnel shall either be present during the administrative hearings, or be available to respond to a request for emergency assistance.

(e) The contested administrative hearings shall be conducted under the rules of the office of administrative hearings, Minnesota Rules, parts 1400.5275, 1400.5500, 1400.6000 to 1400.6400,

1400.6600 to 1400.7000, 1400.7100 to 1400.7500, 1400.7700, and 1400.7800, and 1400.8100, as adopted by the chief administrative law judge.

For matters not initiated under section 518.5511, subdivision 2, documents from the moving party shall be served and filed at least 14 days prior to the hearing and the opposing party shall serve and file documents raising new issues at least ten days prior to the hearing. In all contested administrative proceedings, the administrative law judge may limit the extent and timing of discovery. Except as provided under this section, other aspects of the case, including, but not limited to, pleadings, discovery, and motions, shall be conducted under the rules of family court, the rules of civil procedure, and chapter 518.

(f) Pursuant to a contested administrative hearing, the administrative law judge shall make findings of fact, conclusions, and a final decision and issue an order. Orders issued by an administrative law judge may be enforceable by the contempt powers of the district courts.

(g) At the time the matter is scheduled for a contested hearing, the public authority shall file in the district court copies of all relevant documents sent to or received from the parties, in addition to the documents filed under subdivision 2, paragraph (e). For matters scheduled for a contested hearing which were not initiated under section 518.5511, subdivision 2, the public authority shall obtain any income information available to the public authority through the department of economic security and serve this information on all parties and file the information with the court at least five days prior to the hearing.

(h) The decision and order of the administrative law judge is appealable to the court of appeals in the same manner as a decision of the district court.

Sec. 5. Minnesota Statutes 1994, section 518.5511, subdivision 5, is amended to read:

Subd. 5. [NONATTORNEY AUTHORITY.] Nonattorney employees of the public authority responsible for child support may prepare, sign, serve, and file complaints, motions, notices, summary orders, notices, proposed orders, default orders, and consent orders for obtaining, modifying, or enforcing child and medical support orders, orders establishing paternity, and related documents, and orders to modify maintenance if combined with a child support order. The nonattorney may also conduct prehearing conferences, and participate in proceedings before an administrative law judge. This activity shall not be considered to be the unauthorized practice of law. Nonattorney employees may not represent the interests of any party other than the public authority, and may not give legal advice to any party.

Sec. 6. Minnesota Statutes 1994, section 518.5511, subdivision 7, is amended to read:

Subd. 7. [PUBLIC AUTHORITY LEGAL ADVISOR.] At all stages of the administrative process prior to the contested hearing, the county attorney, or other attorney under contract, shall act as the legal advisor for the public authority, but shall not play an active role in the review of information and the preparation of default and consent orders, and the contested hearings unless the nonattorney employee of the public authority requests the appearance of the county attorney.

Sec. 7. Minnesota Statutes 1994, section 518.5511, subdivision 9, is amended to read:

Subd. 9. [TRAINING AND RESTRUCTURING.] (a) The commissioner of human services, in consultation with the office of administrative hearings, shall be responsible for the supervision of the administrative process. The commissioner of human services shall provide training to child support officers and other employees of the public authority persons involved in the administrative process. The commissioner of human services shall prepare simple and easy to understand forms for all notices and orders prescribed in this subdivision section, and the public authority shall use them.

(b) The office of administrative hearings shall be responsible for training and monitoring the performance of administrative law judges, maintaining records of proceedings, providing transcripts upon request, and maintaining the integrity of the district court file.

Sec. 8. [518.5512] [ADMINISTRATIVE PROCEDURES FOR CHILD AND MEDICAL SUPPORT ORDERS AND PARENTAGE ORDERS.]

Subdivision 1. [GENERAL.] The provisions of this section apply to actions conducted in the administrative process pursuant to section 518.5511.

Subd. 2. [PATERNITY.] (a) A nonattorney employee of the public authority may request an administrative law judge or the district court to order the child, mother, or alleged father to submit to blood or genetic tests. The order is effective when signed by an administrative law judge or the district court. Failure to comply with the order for blood or genetic tests may result in a default determination of parentage.

(b) If parentage is contested at the administrative hearing, the administrative law judge may order temporary child support under section 257.62, subdivision 5, and shall refer the case to the district court.

(c) The district court may appoint counsel for an indigent alleged father only after the return of the blood or genetic test results from the testing laboratory.

Subd. 3. [COST-OF-LIVING ADJUSTMENT.] The notice of application for adjustment shall be treated as a proposed order under section 518.5511, subdivision 2, paragraph (c). The public authority shall stay the adjustment of support upon receipt of a request for an administrative conference. An obligor requesting an administrative conference shall provide all relevant information that establishes an insufficient increase in income to justify the adjustment of the support obligation. If the obligor fails to submit any evidence at the administrative conference, the cost-of-living adjustment will immediately go into effect."

Delete the title and insert:

"A bill for an act relating to family law; providing for enforcement of child support obligations; expanding enforcement remedies for child support; authorizing programs; providing for resolution of custody and visitation disputes; creating a central child support payment center; modifying child support data collection and publication; imposing penalties; adding provisions relating to recognition of parentage; adding provisions for administrative proceedings; appropriating money; amending Minnesota Statutes 1994, sections 13.46, subdivision 2; 168A.05, subdivisions 2, 3, 7, and by adding a subdivision; 168A.16; 168A.20, by adding a subdivision; 168A.21; 168A.29, subdivision 1; 214.101, subdivisions 1 and 4; 256.87, subdivision 5; 256.978, subdivision 1; 257.34, subdivision 1, and by adding a subdivision; 257.55, subdivision 1; 257.57, subdivision 2; 257.60; 257.67, subdivision 1; 257.75, subdivision 3, and by adding a subdivision; 518.171, subdivision 2a; 518.24; 518.551, subdivision 12, and by adding subdivisions; 518.5511, subdivisions 1, 2, 3, 4, 5, 7, and 9; 518.575; 518.611, subdivisions 1, 2, 5, and 8a; 518.613, subdivisions 1 and 2; 518.614, subdivision 1; 518.64, subdivision 4, and by adding a subdivision; 518C.310; 548.15; and 609.375, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 171; 256; 257; and 518; repealing Minnesota Statutes 1994, sections 214.101, subdivisions 2 and 3; 518.561; 518.611, subdivision 8; and 518.64, subdivision 6."

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

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

S.F. No. 462: A bill for an act relating to the environment; implementing the transfer of solid waste management duties of the metropolitan council to the office of environmental assistance; providing for the management of waste; providing penalties; amending Minnesota Statutes 1992, section 115A.33, as reenacted; Minnesota Statutes 1994, sections 115.071, subdivision 1; 115A.055; 115A.07, subdivision 3; 115A.072, subdivisions 1, 3, and 4; 115A.12; 115A.14, subdivision 4; 115A.15, subdivision 9; 115A.191, subdivisions 1 and 2; 115A.32; 115A.411; 115A.42; 115A.45; 115A.46, subdivisions 1 and 5; 115A.47, by adding a subdivision; 115A.55, by adding a subdivision; 115A.5501, subdivisions 2, 3, and 4; 115A.5502; 115A.551, subdivisions 2a, 4, 5, 6, and 7; 115A.554; 115A.557, subdivisions 3 and 4; 115A.558; 115A.63, subdivision 3; 115A.84, subdivision 3; 115A.86, subdivision 2; 115A.919, subdivision 3; 115A.921, subdivision 1; 115A.923, subdivision 1; 115A.9302, subdivisions 1 and 2; 115A.951, subdivision 4; 115A.965, subdivision 1; 115A.97, subdivisions 5 and 6; 115A.981, subdivision 3; 116.07,

subdivision 4j; 116.072; 400.16; 400.161; 473.149, subdivisions 1, 2d, 2e, 3, 4, and 6; 473.151; 473.516, subdivision 2; 473.801, subdivision 1, and by adding subdivisions; 473.8011; 473.803, subdivisions 1, 1c, 2, 2a, 3, 4, and 5; 473.804; 473.811, subdivisions 1, 4a, 5, 5c, 7, and 8; 473.813, subdivision 2; 473.823, subdivisions 3, 5, and 6; 473.843, subdivision 1; 473.844, subdivisions 1a and 4; 473.8441, subdivisions 2, 4, and 5; 473.845, subdivision 4; 473.846; and 473.848; Laws 1994, chapter 628, article 3, section 209; proposing coding for new law in Minnesota Statutes, chapter 480; repealing Minnesota Statutes 1994, sections 115A.81, subdivision 3; 115A.90, subdivision 3; 116.94; 383D.71, subdivision 2; 473.149, subdivisions 2, 2a, 2c, 2f, and 5; 473.181, subdivision 4; and 473.803, subdivisions 1b and 1e.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

POLICY

Section 1. Minnesota Statutes 1994, section 16B.122, subdivision 3, is amended to read:

Subd. 3. [PUBLIC ENTITY PURCHASING.] (a) Notwithstanding section 365.37, 375.21, 412.311, or 473.705, a public entity may purchase recycled materials when the price of the recycled materials does not exceed the price of nonrecycled materials by more than ten percent. In order to maximize the quantity and quality of recycled materials purchased, a public entity also may use other appropriate procedures to acquire recycled materials at the most economical cost to the public entity.

(b) When purchasing commodities and services, a public entity shall apply and promote the preferred waste management practices listed in section 115A.02, with special emphasis on reduction of the quantity and toxicity of materials in waste. A public entity, in developing bid specifications, shall consider the extent to which a commodity or product is durable, reusable, or recyclable and marketable through the applicable local or regional recycling program and the extent to which the commodity or product contains postconsumer material. When a project by a public entity involves the replacement of carpeting, the public entity may require all persons who wish to bid on the project to designate a carpet recycling company in their bids.

Sec. 2. [16B.124] [CONSIDERATION OF ENVIRONMENTAL IMPACTS OF METAL RECYCLING FACILITIES.]

(a) A public entity shall include consideration of environmental impacts in selecting a recycling facility for the recycling of scrap metal.

(b) For the purposes of this section:

(1) "public entity" has the meaning given in section 16B.122, subdivision 1; and

(2) "recycling facility" has the meaning given in section 115A.03, subdivision 25c.

Sec. 3. Minnesota Statutes 1994, section 115.071, subdivision 1, is amended to read:

Subdivision 1. [REMEDIES AVAILABLE.] The provisions of sections 103F.701 to 103F.761, this chapter and chapters 115A and 116, and sections 325E.10 to 325E.1251 and 325E.32 and all rules, standards, orders, stipulation agreements, schedules of compliance, and permits or terms or conditions thereof, including conditions established under section 473.823, subdivision 3, adopted or issued by the agency thereunder or under any other law now in force or hereafter enacted for the prevention, control, or abatement of pollution may be enforced by any one or any combination of the following: criminal prosecution; action to recover civil penalties; injunction; action to compel performance; or other appropriate action, in accordance with the provisions of said chapters and this section.

Sec. 4. [115A.0715] [CONSOLIDATED GRANT AND LOAN PROGRAMS.]

The director may consolidate and jointly administer the following grant and loan programs: public education under section 115A.072, technical and research assistance under section

115A.152, waste reduction under section 115A.154, waste processing and collection facilities and services under section 115A.156, market development under section 115A.48, waste separation projects under section 115A.53, solid waste reduction under section 115A.55, used oil under section 115A.9162, litter under section 115A.991, pollution prevention assistance under section 115D.04, and pollution prevention under section 115D.05.

Sec. 5. Minnesota Statutes 1994, section 115A.072, subdivision 3, is amended to read:

Subd. 3. [EDUCATION GRANTS.] (a) The director shall provide grants to persons for the purpose of developing and distributing waste education information.

~~(b) The director shall provide grants and technical assistance to formal and informal education facilities to develop and implement a model program to incorporate waste reduction, recycling, litter prevention, and proper management of problem materials into educational operations.~~

(e) The director shall provide grants or awards and technical assistance to formal and informal education facilities to develop or implement ongoing programs for waste reduction, recycling, litter prevention, and proper management of problem materials ~~programs~~.

Sec. 6. Minnesota Statutes 1994, section 115A.072, subdivision 4, is amended to read:

Subd. 4. [EDUCATION, PROMOTION, AND PROCUREMENT.] The director shall include: (1) waste reduction and reuse, including packaging reduction and reuse; and (2) the hazards of open burning, as defined in section 88.01, of mixed municipal solid waste, especially the hazards of dioxin emissions to children, as an element ~~elements~~ of the director's program of public education on waste management required under this section. The waste reduction and reuse education program must include dissemination of information and may include an award program for model waste reduction and reuse efforts. Waste reduction and reuse educational efforts must also include provision of information about and promotion of the model procurement program developed by the commissioner of administration under section 115A.15, subdivision 7, or any other model procurement program that results in significant waste reduction and reuse.

Sec. 7. Minnesota Statutes 1992, section 115A.33, as reenacted by sections 50 and 51, is amended to read:

115A.33 [ELIGIBILITY; REQUEST FOR REVIEW.]

The following persons shall be eligible to request supplementary review by the board pursuant to sections 115A.32 to 115A.39: (a) a generator of sewage sludge within the state who has been issued permits by the agency for a facility to dispose of sewage sludge or solid waste resulting from sewage treatment; (b) a political subdivision which has been issued permits by the agency, or a political subdivision acting on behalf of a person who has been issued permits by the agency, for a solid waste facility which is no larger than 250 acres, not including any proposed buffer area, and located outside the metropolitan area; (c) a generator of hazardous waste within the state who has been issued permits by the agency for a hazardous waste facility to be owned and operated by the generator, on property owned by the generator, and to be used by the generator for managing the hazardous wastes produced by the generator only; (d) a person who has been issued permits by the agency for a commercial hazardous waste processing facility at a site included in the board's inventory of preferred sites for such facilities adopted pursuant to section 115A.09; (e) a person who has been issued permits by the agency for a disposal facility for the nonhazardous sludge, ash, or other solid waste generated by a permitted hazardous waste processing facility operated by the person. ~~The metropolitan waste control commission shall not be eligible to request review under clause (a) for a sewage sludge disposal facility. The metropolitan waste control commission shall not be eligible to request review under clause (a) for a solid waste facility with a proposed permitted life of longer than four years.~~ The board may require completion of a plan conforming to the requirements of section 115A.46, before granting review under clause (b). A request for supplementary review shall show that the required permits for the facility have been issued by the agency and that a political subdivision has refused to approve the establishment or operation of the facility.

Sec. 8. Minnesota Statutes 1994, section 115A.411, is amended to read:

115A.411 [SOLID WASTE MANAGEMENT POLICY; CONSOLIDATED REPORT.]

Subdivision 1. [AUTHORITY; PURPOSE.] The director with assistance from the commissioner shall prepare and adopt a report on solid waste management policy ~~excluding the metropolitan area~~. The report must be submitted by the director to the legislative commission on waste management by July 1 of each ~~even-numbered~~ odd-numbered year and ~~may~~ shall include reports required under sections 115A.55, subdivision 4, paragraph (b); 115A.551, subdivision 4, and; 115A.557, subdivision 4; 473.149, subdivision 6; 473.846; and 473.848, subdivision 4.

Subd. 2. [CONTENTS.] (a) The report must also include:

(1) a summary of the current status of solid waste management, including the amount of solid waste generated, the manner in which it is collected, processed, and disposed, the extent of separation, recycling, reuse, and recovery of solid waste, and the facilities available or under development to manage the waste;

~~(2) a summary of current state solid waste management policies, goals, and objectives, including their statutory, administrative, and regulatory basis and the state agencies and political subdivisions responsible for implementation;~~

~~(3)~~ (2) an evaluation of the extent and effectiveness of implementation and an assessment of progress in accomplishing state policies, goals, and objectives, including those listed in paragraph (b);

~~(4) estimates of the generation of solid waste anticipated for the future, the manner in which the waste is likely to be managed, and the programs and facilities that will be available and needed for proper waste management;~~

~~(5)~~ (3) identification of issues requiring further research, study, and action, the appropriate scope of the research, study, or action, the state agency or political subdivision that should implement the research, study, or action, and a schedule for completion of the activity; and

~~(6)~~ (4) recommendations for establishing or modifying state solid waste management policies, authorities, and programs.

(b) Beginning in 1997, and every sixth year thereafter, the report shall be expanded to include the metropolitan area solid waste policy plan required in section 473.149, subdivision 1, and strategies for the office to advance the goals of this chapter, to manage waste as a resource, to further reduce the need for expenditures on resource recovery and disposal facilities, and to further reduce long-term environmental and financial liabilities. The expanded report must include strategies for:

(1) achieving the maximum feasible reduction in waste generation;

(2) encouraging manufacturers to design products that eliminate or reduce the adverse environmental impacts of resource extraction, manufacturing, use, and waste processing and disposal;

(3) educating businesses, public entities, and other consumers about the need to consider the potential environmental and financial impacts of purchasing products that may create a liability or that may be expensive to recycle or manage as waste, due to the presence of toxic or hazardous components;

(4) eliminating or reducing toxic or hazardous components in compost from municipal solid waste composting facilities, in ash from municipal solid waste incinerators, and in leachate and air emissions from municipal solid waste landfills, in order to reduce the potential liability of waste generators, facility owners and operators, and taxpayers;

(5) encouraging the source separation of materials to the extent practicable, so that the materials are most appropriately managed and to ensure that resources that can be reused or recycled are not disposed of or destroyed; and

(6) maximizing the efficiency of the waste management system by managing waste and

recyclables close to the point of generation, taking into account the characteristics of the resources to be recovered from the waste and the type and capacity of local facilities.

Sec. 9. Minnesota Statutes 1994, section 115A.46, subdivision 5, is amended to read:

Subd. 5. [JURISDICTION OF PLAN.] (a) After a county plan has been submitted for approval under subdivision 1, a ~~political-subdivision~~ public entity, as defined in section 16B.122, subdivision 1, within the county may not enter into a binding agreement governing a solid waste management activity that is inconsistent with the county plan without the consent of the county.

(b) After a county plan has been approved under subdivision 1, the plan governs all solid waste management in the county and a ~~political-subdivision~~ public entity, as defined in section 16B.122, subdivision 1, within the county may not develop or implement a solid waste management activity, other than an activity to reduce waste generation or reuse waste materials, that is inconsistent with the county plan that the county is actively implementing without the consent of the county.

Sec. 10. [115A.471] [PUBLIC ENTITIES; MANAGEMENT OF SOLID WASTE.]

(a) In order to minimize long-term liabilities and costs to Minnesota taxpayers, a public entity may not arrange for management of solid waste, or enter into a contract under which another person arranges for management of solid waste for the public entity, at a facility that uses a primary waste management method that is environmentally inferior to the primary waste management method chosen by the county in which the waste is generated.

(b) For the purpose of this subdivision, "public entity" means the state; an office, agency, or institution of the state; the metropolitan council; a metropolitan agency; the metropolitan mosquito control district; the legislature; the courts; a county; a statutory or home rule charter city; a town; a school district; another special taxing district; or any other general or special purpose unit of government in the state.

Sec. 11. Minnesota Statutes 1994, section 115A.55, is amended by adding a subdivision to read:

Subd. 4. [STATEWIDE SOURCE REDUCTION GOAL.] (a) It is a goal of the state that there be a minimum ten percent per capita reduction in the amount of mixed municipal solid waste generated in the state by December 31, 2000, based on a reasonable estimate of the amount of mixed municipal solid waste that was generated in calendar year 1993.

(b) As part of the 1997 report required under section 115A.411, the director shall submit to the legislative commission on waste management a proposed strategy for meeting the goal in paragraph (a). The strategy must include a discussion of the different reduction potentials to be found in various sectors and may include recommended interim goals. The director shall report progress on meeting the goal in paragraph (a), as well as recommendations and revisions to the proposed strategy, as part of the 1999 report required under section 115A.411.

Sec. 12. Minnesota Statutes 1994, section 115A.5501, subdivision 4, is amended to read:

Subd. 4. [REPORT.] The director shall apply the statewide percentage determined under subdivision 2 to the aggregate amount of solid waste determined under subdivision 3 to determine the amount of packaging in the waste stream. By July 1, 1996, the director shall submit to the legislative commission on waste management an analysis of the extent to which the waste packaging reduction goal in subdivision 1 has been met. In determining whether the goal has been met, the margin of error must be applied in favor of meeting the goal. The director shall use the statistical mean for the data collected in determining whether the goal has been met and shall include in the analysis a discussion of the margin of error and statistical reliability for the data collected.

Sec. 13. Minnesota Statutes 1994, section 115A.5502, is amended to read:

115A.5502 [PACKAGING PRACTICES; PREFERENCES; GOALS.]

Packaging forms a substantial portion of solid waste and contributes to environmental

degradation and the costs of managing solid waste. It is imperative to reduce the amount and toxicity of packaging that must be managed as solid waste. In order to achieve significant reduction of packaging in solid waste and to assist packagers and others to meet the packaging reduction goal in section 115A.5501, the goal of the state is that items be distributed without any packaging where feasible and, only when necessary to protect health and safety or product integrity, with the minimal amount of packaging possible. The following categories of packaging are listed in order of preference for use by all persons who find it necessary to package items for distribution or use in the state:

(1) minimal packaging that contains no intentionally introduced toxic materials and that is designed to be and actually is reused for its original purpose at least five times;

(2) minimal packaging that contains no intentionally introduced toxic materials and consists of a significant percentage of postconsumer material;

(3) minimal packaging that contains no intentionally introduced toxic materials, that is recyclable, and is regularly collected through recycling collection programs available to at least 75 percent of the residents of the state;

~~(3) (4) minimal packaging that does not comply with clauses clause (1) and, (2), or (3) because it is required under federal or state law and for which there does not exist a commercially feasible alternative that does comply with clauses clause (1) and, (2), or (3);~~

~~(4) (5) packaging that contains no intentionally introduced toxic materials but does not comply with clauses (1) to (3) (4); and~~

~~(5) (6) all other packaging.~~

Sec. 14. Minnesota Statutes 1994, section 115A.551, subdivision 2a, is amended to read:

Subd. 2a. [SUPPLEMENTARY RECYCLING GOALS.] (a) By December 31, 1996, each county will have as a goal to recycle the following amounts:

~~(1) for a county outside of the metropolitan area, 30 35 percent by weight of total solid waste generation;~~

~~(2) for a metropolitan county, 45 50 percent by weight of total solid waste generation.~~

Each county will develop and implement or require political subdivisions within the county to develop and implement programs, practices, or methods designed to meet its recycling goal. Nothing in this section or in any other law may be construed to prohibit a county from establishing a higher recycling goal. ~~For the purposes of this subdivision "recycle" and "total solid waste generation" have the meanings given them in subdivision 1, except that neither includes yard waste.~~

~~(b) For a county that, by January 1, 1995, is implementing a solid waste reduction program that is approved by the director, the director shall apply three percentage points toward achievement of the recycling goals in this subdivision. In addition, the director shall apply demonstrated waste reduction that exceeds three percent reduction toward achievement of the goals in this subdivision.~~

~~(c) No more than five percentage points may be applied toward achievement of the recycling goals in this subdivision for management of yard waste. The five percentage points must be applied as provided in this paragraph. The director shall apply three percentage points for a county in which residents, by January 1, 1996, are provided with:~~

~~(1) an ongoing comprehensive education program under which they are informed about how to manage yard waste and are notified of the prohibition in section 115A.931; and~~

~~(2) the opportunity to drop off yard waste at specified sites or participate in curbside yard waste collection.~~

The director shall apply up to an additional two percentage points toward achievement of the recycling goals in this subdivision for additional activities approved by the director that are likely to reduce the amount of yard waste generated and to increase the on-site composting of yard waste.

Sec. 15. Minnesota Statutes 1994, section 115A.551, subdivision 4, is amended to read:

Subd. 4. ~~[INTERIM MONITORING.]~~ The director, ~~for counties outside of the metropolitan area, and the metropolitan council, for counties within the metropolitan area,~~ shall monitor the progress of each county toward meeting the recycling goals in subdivisions 2 and 2a. The director shall report to the legislative commission on waste management on the progress of the counties by July 1 of each odd-numbered year. ~~The metropolitan council shall report to the legislative commission on waste management on the progress of the counties by July 1 of each year.~~ If the director ~~or the council~~ finds that a county is not progressing toward the goals in subdivisions 2 and 2a, it shall negotiate with the county to develop and implement solid waste management techniques designed to assist the county in meeting the goals, such as organized collection, curbside collection of source-separated materials, and volume-based pricing.

~~In even-numbered years The progress report may shall be included in the solid waste management policy report required under section 115A.411. The metropolitan council's progress report shall be included in the report required by section 473.149.~~

Sec. 16. Minnesota Statutes 1994, section 115A.551, subdivision 6, is amended to read:

Subd. 6. [COUNTY SOLID WASTE PLANS.] (a) Each county shall include in its solid waste management plan described in section 115A.46, or its solid waste master plan described in section 473.803, a plan recycling implementation strategy for implementing meeting the recycling goal established in subdivision 2 2a along with mechanisms for providing financial incentives to solid waste generators to reduce the amount of waste generated and to separate recyclable materials from the waste stream. The recycling plan must include detailed recycling implementation information to form the basis for the strategy required in subdivision 7.

~~(b) Each county required to submit its plan to the director under section 115A.46 shall amend its plan to comply with this subdivision within one year after October 4, 1989.~~

Sec. 17. Minnesota Statutes 1994, section 115A.551, subdivision 7, is amended to read:

Subd. 7. [RECYCLING IMPLEMENTATION STRATEGY.] ~~Within one year of approval of the portion of the plan required in subdivision 6,~~ Each nonmetropolitan county shall submit to the director for approval a local recycling implementation strategy required in subdivision 6. The local recycling implementation strategy must be submitted by October 31, 1995, and must:

- (1) be consistent with the approved county solid waste management plan;
- (2) identify the materials that are being and will be recycled in the county to meet the goals under this section and the parties responsible and methods for recycling the material; and
- (3) define the need for funds to ensure continuation of local recycling, methods of raising and allocating such funds, and permanent sources and levels of local funding for recycling provide a budget to ensure adequate funding for needed county and local programs and demonstrate an ongoing commitment to spending the money on recycling programs; and
- (4) include a schedule for implementing recycling activities needed to meet the goals in subdivision 2a.

Sec. 18. Minnesota Statutes 1994, section 115A.554, is amended to read:

115A.554 [AUTHORITY OF SANITARY DISTRICTS.]

A sanitary district has the authorities and duties of counties within the district's boundary for purposes of sections 115A.46, subdivision 4; 115A.48; 115A.551; 115A.552; 115A.553; 115A.919; 115A.929; 115A.93; 115A.96, subdivision 6; 115A.961; 115A.991; 116.072; 375.18, subdivision 14; 400.08, except subdivision 4, paragraph (b); 400.16; and 400.161.

Sec. 19. Minnesota Statutes 1994, section 115A.557, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY TO RECEIVE MONEY.] (a) To be eligible to receive money distributed by the director under this section, a county shall within one year of October 4, 1989:

- (1) create a separate account in its general fund to credit the money; and
- (2) set up accounting procedures to ensure that money in the separate account is spent only for the purposes in subdivision 2.

(b) In each following year, each county shall also:

(1) have in place an approved solid waste management plan or master plan including a recycling implementation strategy under section 115A.551, subdivision 7, ~~or 473.803, subdivision 1e,~~ and a household hazardous waste management plan under section 115A.96, subdivision 6, by the dates specified in those provisions;

(2) submit a report by April 1 of each year to the director detailing how the money was spent and the resulting gains achieved in solid waste management practices during the previous calendar year; and

(3) provide evidence to the director that local revenue equal to 25 percent of the money sought for distribution under this section will be spent for the purposes in subdivision 2.

(c) The director shall withhold all or part of the funds to be distributed to a county under this section if the county fails to comply with this subdivision and subdivision 2.

Sec. 20. Minnesota Statutes 1994, section 115A.557, subdivision 4, is amended to read:

Subd. 4. [REPORT.] By July 1 of each odd-numbered year, the director shall report on how the money was spent and the resulting statewide improvements in solid waste management to the house of representatives and senate appropriations and finance committees and the legislative commission on waste management. ~~In even-numbered years~~ The report may shall be included in the ~~solid waste management policy~~ report required under section 115A.411.

Sec. 21. Minnesota Statutes 1994, section 115A.919, subdivision 3, is amended to read:

Subd. 3. [EXEMPTIONS.] (a) Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from any fee imposed by a county under this section if there is at least an 85 percent ~~volume~~ weight reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate county, except that for facilities operating outside of the metropolitan area the commissioner shall prescribe procedures for verifying the required 85 percent ~~volume~~ weight reduction.

(b) A facility permitted for the disposal of construction debris is exempt from 25 percent of a fee imposed under subdivision 1 if the facility has implemented a recycling program approved by the county and 25 percent if the facility contains a liner and leachate collection system approved by the agency.

Sec. 22. Minnesota Statutes 1994, section 115A.921, subdivision 1, is amended to read:

Subdivision 1. [MIXED MUNICIPAL SOLID WASTE.] A city or town may impose a fee, not to exceed \$1 per cubic yard of waste, or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste located within the city or town. The revenue from the fees must be credited to the city or town general fund. Revenue produced by 25 cents of the fee must be used only for purposes of landfill abatement or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities. Revenue produced by the balance of the fee may be used for any general fund purpose.

Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from the fee imposed by a city or town under this section if there is at least an 85 percent ~~volume~~ weight reduction in the solid waste processed.

Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate city or town, except that for facilities operating outside of the metropolitan area the commissioner shall prescribe procedures for verifying the required 85 percent ~~volume~~ weight reduction.

Sec. 23. Minnesota Statutes 1994, section 115A.923, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT OF FEE.] (a) The operator of a mixed municipal solid waste disposal facility outside of the metropolitan area shall charge a fee on solid waste accepted and disposed of at the facility as follows:

(1) a facility that weighs the waste that it accepts must charge a fee of \$2 per cubic yard based on equivalent cubic yards of waste accepted at the entrance of the facility;

(2) a facility that does not weigh the waste but that measures the volume of the waste that it accepts must charge a fee of \$2 per cubic yard of waste accepted at the entrance of the facility; and

(3) waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse is exempt from the fee imposed by this subdivision if there is at least an 85 percent ~~volume~~ weight reduction in the solid waste processed.

(b) To qualify for exemption under paragraph (a), clause (3), waste residue must be brought to a disposal facility separately. The commissioner shall prescribe procedures for determining the amount of waste residue qualifying for exemption.

Sec. 24. Minnesota Statutes 1994, section 115A.9302, subdivision 1, is amended to read:

Subdivision 1. [DISCLOSURE REQUIRED.] By January 1, 1994, and at least annually thereafter between January 1 and March 31, a person that collects construction debris, industrial waste, or mixed municipal solid waste for transportation to a waste facility shall disclose to each waste generator from whom waste is collected the name, location, and type of, and the number of the permit issued by the agency, or its counterpart in another state, if applicable, for the processing or disposal facility or facilities, excluding a transfer station, at which the waste will be deposited. The collector shall note both the approximate percentage of waste deposited at each of the two primary facility at which the collector most often deposits waste facilities used for the type of waste collected from the generator in the county in which the generator generates the waste and any alternative facilities regularly used by the collector for the type of waste collected from the generator in the county in which the generator generates the waste. The disclosure must state:

(1) that the waste generator may be responsible for any financial liability that results from contamination at a facility where the generator's waste has been deposited;

(2) that Minnesota considers its state rules for waste disposal facilities located in Minnesota to be more protective than those of other states or those currently required by the federal government;

(3) whether each of the primary or alternative disposal facilities identified by the collector meets at the time of the disclosure, or meets on April 9, 1996, for notices issued in 1996: (i) standards for new disposal facilities as described in Code of Federal Regulations, title 40, parts 257 and 258; and (ii) state environmental and financial standards for the facility; and

(4) whether any of the facilities identified by the collector is currently on a state or federal list of facilities that require cleanup due to hazardous substance contamination, and must refer to such lists, where applicable, as state or federal "superfund" lists.

Sec. 25. Minnesota Statutes 1994, section 115A.9302, subdivision 2, is amended to read:

Subd. 2. [FORM OF DISCLOSURE.] (a) A collector shall make the disclosure to the waste generator in writing at least once per year ~~or~~ between January 1 and March 31 and on any written contract for collection services for that year. If the license issued by the county to the collector for collection within the county does not require the collector to submit a copy of the disclosure to the county, the collector shall submit a copy to the commissioner by March 31 of each year.

(b) A collector must provide the required disclosure orally in a succinct form to a waste generator at the time the generator inquires about beginning regular collection service and must provide written disclosure to the generator within 30 days from the date of request. This oral disclosure is not required if the city or county within which the waste is generated selects the collector that may provide collection services to the generator.

(c) If a collector provides one-time or occasional service to a waste generator, the collector must provide the required disclosure orally in a succinct form at the time the service is requested. The collector shall then provide written disclosure to the generator within 30 days from the date of request.

(d) If an additional facility becomes either a primary facility or an alternative facility during the year, the collector shall make the disclosure set forth in subdivision 1 within 30 days. A local government unit that collects solid waste without direct charges to waste generators shall make the disclosure on any statement that includes an amount for waste management, provided that, at a minimum, disclosure to waste generators must be made at least twice annually in a form likely to be available to all generators.

(e) The agency must develop a standard disclosure form containing the information that is required in this section. Collectors must use the form developed by the agency or a form that is substantially equivalent. In addition, the agency must develop instructions to collectors for the oral notification required in paragraphs (b) and (c).

Sec. 26. [115A.9512] [CORRUGATED PAPER PRODUCTS.]

Subdivision 1. [DEFINITION.] For the purposes of this section, "corrugated paper product" means a box, container, liner, sheet, or other product made from corrugated paper.

Subd. 2. [PROHIBITION.] A person may not place a corrugated paper product suitable for recycling:

- (1) in mixed municipal solid waste;
- (2) in a disposal facility; or
- (3) in a resource recovery facility, except a recycling facility.

Subd. 3. [EXCEPTION.] Subdivision 2 does not apply to a person whose residence or place of business is located in a county that lacks a convenient site for pickup or collection of corrugated paper products.

Sec. 27. Minnesota Statutes 1994, section 115A.96, subdivision 2, is amended to read:

Subd. 2. [MANAGEMENT PROGRAM.] (a) The agency shall establish a statewide program to manage household hazardous wastes. The program must include:

- (1) the establishment and operation of collection sites; and
- (2) the provision of information, education, and technical assistance regarding proper management of household hazardous wastes.

~~(b) The agency shall report on its progress on establishing permanent collection sites to the legislative commission on waste management by November 1, 1991.~~

Sec. 28. Minnesota Statutes 1994, section 115A.965, subdivision 1, is amended to read:

Subdivision 1. [PACKAGING.] (a) As soon as feasible but not later than August 1, 1993, no manufacturer or distributor may sell or offer for sale or for promotional purposes in this state packaging or a product that is contained in packaging if the packaging itself, or any inks, dyes, pigments, adhesives, stabilizers, or any other additives to the packaging contain any lead, cadmium, mercury, or hexavalent chromium that has been intentionally introduced as an element during manufacture or distribution of the packaging. Intentional introduction does not include the incidental presence of any of the prohibited elements.

(b) For the purposes of this section:

(1) "distributor" means a person who imports packaging or causes packaging to be imported into the state; and

(2) until August 15, 1995 1996, "packaging" does not include steel strapping containing a total concentration level of lead, cadmium, mercury, and hexavalent chromium, added together, of less than 100 parts per million by weight.

Sec. 29. Minnesota Statutes 1994, section 115A.9651, subdivision 3, is amended to read:

Subd. 3. [APPLICATION; ENFORCEMENT.] (a) This section does not apply to:

(1) art supplies; or

(2) wood preservatives that contain hexavalent chromium.

(b) This section may be enforced under sections 115.071 and 116.072. The attorney general or the commissioner of the agency shall coordinate enforcement of this section with the director of the office.

Sec. 30. Minnesota Statutes 1994, section 116.07, subdivision 4j, is amended to read:

Subd. 4j. [PERMITS; SOLID WASTE FACILITIES.] (a) The agency may not issue a permit for new or additional capacity for a mixed municipal solid waste resource recovery or disposal facility as defined in section 115A.03 unless each county using or projected in the permit to use the facility has in place a solid waste management plan approved under section 115A.46 or 473.803 and amended as required by section 115A.96, subdivision 6. The agency shall issue the permit only if the capacity of the facility is consistent with the needs for resource recovery or disposal capacity identified in the approved plan or plans. Consistency must be determined by the ~~metropolitan council for counties in the metropolitan area and by the agency for counties outside the metropolitan area~~ office of environmental assistance. Plans approved before January 1, 1990, need not be revised if the capacity sought in the permit is consistent with the approved plan or plans.

(b) The agency shall require as part of the permit application for a waste incineration facility identification of preliminary plans for ash management and ash leachate treatment or ash utilization. The permit issued by the agency must include requirements for ash management and ash leachate treatment.

(c) Within 30 days of receipt by the agency of a permit application for a solid waste facility, the commissioner shall notify the applicant in writing whether the application is complete and if not, what items are needed to make it complete, and shall give an estimate of the time it will take to process the application. Within 180 days of receipt of a completed application, the agency shall approve, disapprove, or delay decision on the application, with reasons for the delay, in writing.

Sec. 31. Minnesota Statutes 1994, section 116.072, is amended to read:

116.072 [ADMINISTRATIVE PENALTIES.]

Subdivision 1. [AUTHORITY TO ISSUE PENALTY ORDERS.] (a) The commissioner may issue an order requiring violations to be corrected and administratively assessing monetary penalties for violations of this chapter and chapters 115, 115A, 115D, and 115E, any rules adopted under those chapters, and any standards, limitations, or conditions established in an agency permit, including conditions established under section 473.823, subdivision 3; and for failure to respond to a request for information under section 115B.17, subdivision 3. The order must be issued as provided in this section.

(b) A county board may adopt an ordinance containing procedures for the issuance of administrative penalty orders beginning August 1, 1996. Before adopting ordinances, counties shall work cooperatively with the agency to develop an implementation plan for the orders that substantially conforms to a model ordinance developed by the counties and the agency. After adopting the ordinance, the county board may issue orders requiring violations to be corrected and

administratively assessing monetary penalties for violations of county ordinances adopted under section 400.16, 400.161, or 473.811 or chapter 115A that regulate solid and hazardous waste and any standards, limitations, or conditions established in a county license issued pursuant to these ordinances. For violations of ordinances relating to hazardous waste, a county's penalty authority is described in subdivisions 2 to 5. For violations of ordinances relating to solid waste, a county's penalty authority is described in subdivision 5a. Subdivisions 6 to 11 apply to violations of ordinances relating to both solid and hazardous waste.

(c) Monetary penalties collected by a county must be used to manage solid and hazardous waste. A county board's authority is limited to violations described in paragraph (b). Its authority to issue orders under this section expires August 1, 1999.

Subd. 2. [AMOUNT OF PENALTY; CONSIDERATIONS.] (a) The commissioner or county board may issue an order assessing a penalty up to \$10,000 for all violations identified during an inspection or other compliance review.

(b) In determining the amount of a penalty the commissioner or county board may consider:

- (1) the willfulness of the violation;
- (2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;
- (3) the history of past violations;
- (4) the number of violations;
- (5) the economic benefit gained by the person by allowing or committing the violation; and
- (6) other factors as justice may require, if the commissioner or county board specifically identifies the additional factors in the commissioner's or county board's order.

(c) For a violation after an initial violation, the commissioner or county board shall, in determining the amount of a penalty, consider the factors in paragraph (b) and the:

- (1) similarity of the most recent previous violation and the violation to be penalized;
- (2) time elapsed since the last violation;
- (3) number of previous violations; and
- (4) response of the person to the most recent previous violation identified.

Subd. 3. [CONTENTS OF ORDER.] An order assessing an administrative penalty under this section shall include:

- (1) a concise statement of the facts alleged to constitute a violation;
- (2) a reference to the section of the statute, rule, ordinance, variance, order, stipulation agreement, or term or condition of a permit or license that has been violated;
- (3) a statement of the amount of the administrative penalty to be imposed and the factors upon which the penalty is based; and
- (4) a statement of the person's right to review of the order.

Subd. 4. [CORRECTIVE ORDER.] (a) The commissioner or county board may issue an order assessing a penalty and requiring the violations cited in the order to be corrected within 30 calendar days from the date the order is received.

(b) The person to whom the order was issued shall provide information to the commissioner or county board before the 31st day after the order was received demonstrating that the violation has been corrected or that appropriate steps toward correcting the violation have been taken. The commissioner or county board shall determine whether the violation has been corrected and notify the person subject to the order of the commissioner's or county board's determination.

Subd. 5. [PENALTY.] (a) Except as provided in paragraph (b), if the commissioner or county board determines that the violation has been corrected or appropriate steps have been taken to correct the action, the penalty must be forgiven. Unless the person requests review of the order under subdivision 6 or 7 before the penalty is due, the penalty in the order is due and payable:

(1) on the 31st day after the order was received, if the person subject to the order fails to provide information to the commissioner or county board showing that the violation has been corrected or that appropriate steps have been taken toward correcting the violation; or

(2) on the 20th day after the person receives the commissioner's or county board's determination under subdivision 4, paragraph (b), if the person subject to the order has provided information to the commissioner or county board that the commissioner or county board determines is not sufficient to show the violation has been corrected or that appropriate steps have been taken toward correcting the violation.

(b) For a repeated or serious violation, the commissioner or county board may issue an order with a penalty that will not be forgiven after the corrective action is taken. The penalty is due by 31 days after the order was received unless review of the order under subdivision 6, 7, or 8 has been sought.

(c) Interest at the rate established in section 549.09 begins to accrue on penalties under this subdivision on the 31st day after the order with the penalty was received.

Subd. 5a. [COUNTY PENALTY AUTHORITY FOR SOLID WASTE VIOLATIONS.] (a) A county board's authority to issue a corrective order and assess a penalty for all violations relating to solid waste that are identified during an inspection or other compliance review is as described in this subdivision. The model ordinance described in subdivision 1, paragraph (b), must include provisions for letters or warnings that may be issued following the inspection and before proceeding under paragraph (b).

(b) For all violations described in paragraph (a), a county attorney or county department with responsibility for environmental enforcement may first issue a notice of violation that complies with the requirements of subdivision 4, except that no penalty may be assessed unless, in the opinion of the county board, the gravity of the violation and its potential for damage to, or actual damage to, public health or the environment is such that a penalty under paragraph (c) or (d) is warranted. In that case the county attorney or department may proceed directly to paragraph (c) or (d).

(c) If the violations are not corrected, if appropriate steps have not been taken to correct them, or if the county board has determined that the gravity of the violations are such that action under this paragraph is warranted, a county board may issue a corrective order as described in subdivision 4, except that the penalty may not exceed \$2,000.

(d) If the violations are still not corrected, if appropriate steps have not been taken to correct them, or if the county board has determined that the gravity of the violations are such that action under this paragraph is warranted, a county board may issue a corrective order as described in subdivision 4, except that the penalty may not exceed \$5,000.

(e) In determining the amount of the penalty in paragraph (c) or (d), the county board shall be governed by subdivision 2, paragraphs (b) and (c). The penalty assessed under paragraph (c) or (d) shall be due and payable, forgiven, or assessed without forgiveness as described in subdivision 5.

Subd. 6. [EXPEDITED ADMINISTRATIVE HEARING.] (a) Within 30 days after receiving an order or within 20 days after receiving notice that the commissioner or county board has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may request an expedited hearing, utilizing the procedures of Minnesota Rules, parts 1400.8510 to 1400.8612, to review the commissioner's or county board's action. The hearing request must specifically state the reasons for seeking review of the order. The person to whom the order is directed and the commissioner or county board are the parties to the expedited hearing. The commissioner or county board must notify the person to whom the order is directed of the time and place of the hearing at least 20 days before the hearing. The expedited hearing must be held within 30 days after a request for hearing has been filed with the commissioner or county board unless the parties agree to a later date.

(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by this subdivision. The office of administrative hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this section.

(c) The administrative law judge shall issue a report making recommendations about the commissioner's or county board's action to the commissioner or county board within 30 days following the close of the record. The administrative law judge may not recommend a change in the amount of the proposed penalty unless the administrative law judge determines that, based on the factors in subdivision 2, the amount of the penalty is unreasonable.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner or county board may add to the amount of the penalty the costs charged to the agency by the office of administrative hearings for the hearing.

(e) If a hearing has been held, the commissioner or county board may not issue a final order until at least five days after receipt of the report of the administrative law judge. The person to whom an order is issued may, within those five days, comment to the commissioner or county board on the recommendations and the commissioner or county board will consider the comments. The final order may be appealed in the manner provided in sections 14.63 to 14.69.

(f) If a hearing has been held and a final order issued by the commissioner or county board, the penalty shall be paid by 30 days after the date the final order is received unless review of the final order is requested under sections 14.63 to 14.69. If review is not requested or the order is reviewed and upheld, the amount due is the penalty, together with interest accruing from 31 days after the original order was received at the rate established in section 549.09.

Subd. 7. [DISTRICT COURT HEARING.] (a) Within 30 days after the receipt of an order from the commissioner or a county board or within 20 days of receipt of notice that the commissioner or a county board has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may file a petition in district court for review of the order in lieu of requesting an administrative hearing under subdivision 6. The petition shall be filed with the court administrator with proof of service on the commissioner or county board. The petition shall be captioned in the name of the person making the petition as petitioner and the ~~director~~ commissioner or county board as respondent. The petition shall state with specificity the grounds upon which the petitioner seeks rescission of the order, including the facts upon which each claim is based.

(b) At trial, the commissioner or county board must establish by a preponderance of the evidence that a violation subject to this section occurred, the petitioner is responsible for the violation, a penalty immediately assessed as provided for under subdivision 5, paragraph (b) or (c), is justified by the violation, and the factors listed in subdivision 2 were considered when the penalty amount was determined and the penalty amount is justified by those factors.

Subd. 8. [MEDIATION.] In addition to review under subdivision 6 or 7, the commissioner or county board is authorized to enter into mediation concerning an order issued under this section if the commissioner or county board and the person to whom the order is issued both agree to mediation.

Subd. 9. [ENFORCEMENT.] (a) The attorney general ~~may proceed~~ on behalf of the state, or the county attorney on behalf of the county, may proceed to enforce penalties that are due and payable under this section in any manner provided by law for the collection of debts.

(b) The attorney general or county attorney may petition the district court to file the administrative order as an order of the court. At any court hearing, the only issues parties may contest are procedural and notice issues. Once entered, the administrative order may be enforced in the same manner as a final judgment of the district court.

(c) If a person fails to pay the penalty, the attorney general or county attorney may bring a civil action in district court seeking payment of the penalties, injunctive, or other appropriate relief including monetary damages, attorney fees, costs, and interest.

Subd. 10. [REVOCATION AND SUSPENSION OF PERMIT.] If a person fails to pay a penalty owed under this section, the agency or county board has grounds to revoke or refuse to reissue or renew a permit or license issued by the agency or county board.

Subd. 11. [CUMULATIVE REMEDY.] The authority of the agency or county board to issue a corrective order assessing penalties is in addition to other remedies available under statutory or common law, except that the state or county board may not seek civil penalties under any other provision of law for the violations covered by the administrative penalty order. The payment of a penalty does not preclude the use of other enforcement provisions, under which penalties are not assessed, in connection with the violation for which the penalty was assessed.

Subd. 12. [REPORT; ADMINISTRATIVE PENALTY ORDER.] (a) All counties that have adopted ordinances allowing them to issue administrative penalty orders shall report to the legislative auditor by September 1, 1998, on administrative penalty activity through August 1, 1998. The reports must include at least the following information: the nature and number of orders and penalties issued or forgiven, the nature and outcome of appeals taken, how much revenue was collected from penalties and how it was spent, and any other information a county board finds relevant.

(b) The legislative audit commission is requested to direct the legislative auditor to evaluate the data and report to the legislative commission on waste management by January 1, 1999, on at least the following matters: the degree to which penalties were suitable to the gravity of the violation, compliance with the implementation plan, and any other information the auditor finds relevant. In preparing the report, the auditor shall solicit information from counties and the regulated community and shall make recommendations as to whether the administrative penalty authority should be continued, discontinued, or continued with modifications and make any other recommendations the auditor wishes to propose as a result of its study.

Sec. 32. Minnesota Statutes 1994, section 116.66, subdivision 2, is amended to read:

Subd. 2. [FACILITY EVALUATIONS; ENVIRONMENTAL ASSESSMENT.] (a) The commissioner of the pollution control agency shall conduct facility evaluations to evaluate ongoing waste management practices and shall provide technical assistance for corrective action at motor vehicle salvage facilities.

(b) The commissioner shall may conduct environmental assessments at a representative group of motor vehicle salvage facilities to determine the extent and magnitude of any contamination and environmental impacts, develop criteria, and determine appropriate cleanup methods, and set priorities for cleanup actions at motor vehicle salvage facility sites, under the criteria in Minnesota Rules, chapter 7044.

Sec. 33. Minnesota Statutes 1994, section 116.66, subdivision 4, is amended to read:

Subd. 4. [REPEALER.] This section is repealed on the day that the repeal of section 115A.908 is effective June 30, 1999.

Sec. 34. Minnesota Statutes 1994, section 116.92, subdivision 4, is amended to read:

Subd. 4. [REMOVAL FROM SERVICE; PRODUCTS CONTAINING MERCURY.] (a) When an item listed in subdivision 3 is removed from service the mercury in the item must be reused, recycled, or otherwise managed to ensure compliance with section 115A.932.

(b) A person who is in the business of replacing or repairing an item listed in subdivision 3 in households shall ensure, or deliver the item to a facility that will ensure, that the mercury contained in an item that is replaced or repaired is reused or recycled or otherwise managed in compliance with section 115A.932.

(c) A person may not crush a motor vehicle unless the person has first made a good faith effort to remove all of the mercury switches in the motor vehicle. A person who removes a mercury switch from a motor vehicle shall turn it over to the commissioner without cost.

Sec. 35. [116.67] [COST-SHARING PROGRAM; CLEANUP OF CERTAIN MOTOR VEHICLE SALVAGE FACILITIES.]

The pollution control agency may enter into cost-sharing agreements with owners and operators of motor vehicle salvage facilities for the cleanup of motor vehicle salvage facility sites, based on the findings of the environmental assessment of motor vehicle salvage facilities conducted under Minnesota Statutes 1994, section 116.66, subdivision 2. An agreement under this section must provide that the agency will be responsible for paying 90 percent of the costs of removal and remedial actions at the site, and the owner or operator of the motor vehicle salvage facility must pay the remaining ten percent of the costs. For the purposes of this section, the terms "removal" and "remedial actions" have the meanings given in section 115B.02, subdivisions 16 and 17.

Sec. 36. Minnesota Statutes 1994, section 400.16, is amended to read:

400.16 [SOLID WASTE AND SEWAGE SLUDGE DISPOSAL MANAGEMENT REGULATIONS.]

The county may by ordinance establish and revise rules, regulations, and standards for solid waste and sewage sludge management and land pollution, relating to (a) the location, sanitary operation, and maintenance of solid waste facilities and sewage sludge disposal facilities by the county and any municipality or other public agency and by private operators; (b) the collection, processing, and disposal of solid waste and sewage sludge; (c) the amount and type of equipment required in relation to the amount and type of material received at any solid waste facility or sewage sludge disposal facility; (d) the control of salvage operations, water or air or land pollution, and rodents at such facilities; (e) the termination or abandonment of the facilities or activities; and (f) other matters relating to the facilities as may be determined necessary for the public health, welfare, and safety. The county may issue permits or licenses for solid waste facilities and may require that the facilities be registered with an appropriate county office. The county shall adopt the ordinances for mixed municipal solid waste management. The county shall make provision for issuing permits or licenses for mixed municipal solid waste facilities and shall require that the facilities be registered with an appropriate county office. No permit or license shall be issued for a mixed municipal solid waste facility unless the applicant has demonstrated to the satisfaction of the county board the availability of revenues necessary to operate the facility in accordance with applicable state and local laws, ordinances, and rules. No permit shall be issued for a solid waste facility used primarily for resource recovery or a transfer station serving such a facility, if the facility or station is owned or operated by a public agency or if the acquisition or betterment of the facility or station is secured by public funds or obligations issued by a public agency, unless the county finds and determines that adequate markets exist for the products recovered and that any displacement of existing resource recovery facilities and transfer stations serving such facilities that may result from the establishment of the new facility is required in order to achieve the waste management objectives of the county. The county ordinance shall require appropriate procedures for termination or abandonment of any mixed municipal solid waste facilities or services, which shall include provision for long term monitoring for possible land pollution, and for the payment by the owners or operators thereof, or both, of any costs incurred by the county in completing the procedures. The county may require the procedures and payments with respect to any facilities or services regulated pursuant to this section. In the event the operators or owners fail to complete the procedures in accordance with the ordinance, the county may recover the costs of completion in a civil action in any court of competent jurisdiction or, in the discretion of the board, the costs may be certified to the county auditor as a special tax against the land to be collected as other taxes are collected. The ordinance may be enforced by injunction, action to compel performance, or other appropriate action in the district court, or administrative penalty order authorized under section 116.072. Any ordinance enacted under this section shall embody minimum standards and requirements established by rule of the agency.

Sec. 37. Minnesota Statutes 1994, section 400.161, is amended to read:

400.161 [HAZARDOUS WASTE REGULATIONS.]

(a) The county may by ordinance establish and revise rules, regulations, and standards relating to (1) identification of hazardous waste, (2) the labeling and classification of hazardous waste, (3) the collection, transportation, processing, disposal, and storage of hazardous waste, and (4) other matters as may be determined necessary for the public health, welfare and safety. The county may issue permits or licenses for hazardous waste generation and may require the generators be registered with a county office. The ordinance may require appropriate procedures for the payment

by the generator of any costs incurred by the county in completing such procedures. If the generator fails to complete such procedures, the county may recover the costs of completion in a civil action in any court of competent jurisdiction or, in the discretion of the board, the costs may be certified to the county auditor as a special tax against the land as other taxes are collected. The ordinance may be enforced by injunction, action to compel performance, or other action in district court, or administrative penalty order authorized under section 116.072. County hazardous waste ordinances shall embody and be consistent with agency hazardous waste rules. Counties shall submit adopted ordinances to the agency for review. In the event that agency rules are modified, each county shall modify its ordinances accordingly and shall submit the modification to the agency for review within 120 days. Issuing, denying, modifying, imposing conditions upon, or revoking permits or licenses and county hazardous waste regulations and ordinances shall be subject to review, denial, suspension, modification, and reversal by the pollution control agency. The pollution control agency shall after written notification have 15 days in the case of hazardous waste permits and licenses and 30 days in the case of hazardous waste ordinances to review, deny, suspend, modify, or reverse the action of the county. After this period, the action of the county board shall be final subject to appeal to the district court as provided in section 115.05.

(b) A county may not impose a fee under this section on material that is reused at the facility where the material is generated in a manner that the facility owner or operator can demonstrate does not increase the toxicity of, or the level of hazardous substances or pollutants or contaminants in, products that leave the facility.

Sec. 38. Minnesota Statutes 1994, section 473.149, subdivision 1, is amended to read:

Subdivision 1. [POLICY PLAN; GENERAL REQUIREMENTS.] ~~The metropolitan council shall prepare and by resolution adopt as part of its development guide a director of the office of environmental assistance may revise the metropolitan long range policy plan for solid waste management in the metropolitan area. When adopted, and revised by the metropolitan council prior to the transfer of powers and duties in Laws 1994, chapter 639, article 5, section 2. The plan shall be followed in the metropolitan area. Until the director revises it, the plan adopted and revised by the council on September 26, 1991, remains in effect. The plan shall address the state policies and purposes expressed in section 115A.02. In revising the plan the director shall substantially conform to all policy statements, purposes, goals, standards, maps and plans in development guide sections and plans adopted by the council, provided that no land shall be thereby excluded from consideration as a solid waste facility site except land determined by the agency to be intrinsically unsuitable for such use follow the procedures in subdivision 3. The plan shall include goals and policies for solid waste management, including recycling consistent with section 115A.551, and household hazardous waste management consistent with section 115A.96, subdivision 6, in the metropolitan area and, to the extent appropriate, statements and information similar to that required under section 473.146, subdivision 1.~~

The plan shall include criteria and standards for solid waste facilities and solid waste facility sites respecting the following matters: general location; capacity; operation; processing techniques; environmental impact; effect on existing, planned, or proposed collection services and waste facilities; and economic viability. The plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plan shall include additional criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. In developing revising the plan, the council director shall consider the orderly and economic development, public and private, of the metropolitan area; the preservation and best and most economical use of land and water resources in the metropolitan area; the protection and enhancement of environmental quality; the conservation and reuse of resources and energy; the preservation and promotion of conditions conducive to efficient, competitive, and adaptable systems of waste management; and the orderly resolution of questions concerning changes in systems of waste management. Criteria and standards for solid waste facilities shall be consistent with rules adopted by the pollution control agency pursuant to chapter 116 and shall be at least as stringent as the guidelines, regulations, and standards of the federal Environmental Protection Agency.

Sec. 39. Minnesota Statutes 1994, section 473.149, subdivision 2d, is amended to read:

Subd. 2d. [LAND DISPOSAL ABATEMENT PLAN.] (a) ~~After considering any county land disposal abatement proposals and waste stream analysis that have been submitted under section 473.803, subdivision 1b, The council director shall amend its~~ include in the policy plan to include specific and quantifiable metropolitan objectives for abating to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste and of specific components of the solid waste stream, including residuals and ash, either by type of waste or class of generator.

(b) The objectives must be stated in ~~annual increments through the year 1990 and thereafter in five year~~ six-year increments for a period of at least 20 years from the date of adoption of policy plan revisions. The plan must include a reduced estimate of the capacity, based on the council's abatement objectives, needed for the disposal of various types of waste in each five year six-year increment ~~and the general area of the region where the capacity should be developed.~~

(c) The plan must include objectives for waste reduction and measurable objectives for local abatement of solid waste through resource recovery, recycling, and source separation programs for each metropolitan county stated in ~~annual increments through the year 1990 and in five year~~ six-year increments for a period of at least 20 years from the date of adoption of policy plan revisions.

(d) The standards must be based upon and implement the council's metropolitan abatement objectives. The council's plan must include standards and procedures to be used by the council director in determining whether a metropolitan county has implemented the council's metropolitan land disposal abatement plan and has achieved the objectives for local abatement.

Sec. 40. Minnesota Statutes 1994, section 473.149, subdivision 2e, is amended to read:

Subd. 2e. [SOLID WASTE DISPOSAL FACILITIES DEVELOPMENT SCHEDULE CAPACITY NEEDS.] (a) ~~After requesting and considering recommendations from the counties, cities, and towns, the council director as part of its the~~ policy plan shall determine ~~the number of sites and the capacity of sites needed within to serve the metropolitan area for disposal of solid waste disposal facilities.~~

(b) ~~The council shall adopt a schedule of disposal capacity to be developed within the metropolitan area, including residuals and ash, in five year~~ six-year increments for a period of at least 20 years from adoption of ~~development schedule~~ policy plan revisions. In making the schedule may not allow capacity in excess of determination, the director must take into account the council's reduced estimate of the disposal capacity needed because of the council's land disposal abatement plan.

(c) ~~The council shall make the implementation of elements of the schedule contingent on actions of each county in adopting and implementing abatement plans pursuant to section 473.803, subdivision 1b. The council may review the development schedule every year and revise the development schedule based on the progress made in the implementation of the council's abatement plans and achievement of metropolitan and local abatement objectives. The council shall review and revise, by resolution following public hearing, the development schedule based on significant changes in the landfill capacity of the metropolitan area. The schedule must include procedures and criteria for making revisions.~~

(d) ~~The schedule~~ director's determination must include standards and procedures for council certification of need pursuant to section 473.823. ~~The schedule must also include a closure schedule and plans for postclosure management and disposition of facilities, including facilities in existence before the adoption of the development schedule.~~

Sec. 41. Minnesota Statutes 1994, section 473.149, subdivision 3, is amended to read:

Subd. 3. [PREPARATION AND; ADOPTION; AND REVISION.] (a) The solid waste policy plan shall be prepared, adopted, and ~~amended~~ revised as necessary in accordance with paragraphs (c) to (e), after consultation with the metropolitan counties and the pollution control agency. ~~Any comprehensive plan adopted by the council shall remain in force and effect while new or amended plans are being prepared and adopted by the council. No~~

(b) Revisions to the policy plan are exempt from the rulemaking provisions of chapter 14.

(c) Before beginning preparation of revisions to the policy plan, the director shall publish a predrafting notice in the State Register that includes a statement of the subjects expected to be covered by the revisions, including a summary of the important problems and issues. The notice must solicit comments from the public and state that the comments must be received by the director within 45 days of publication of the notice. The director shall consider the comments in preparing the revisions.

(d) After publication of the predrafting notice and before adopting revisions to the policy plan, the director shall publish a notice in the State Register that:

(1) contains a summary of the proposed revisions;

(2) invites public comment;

(3) lists locations where the proposed revised policy plan can be reviewed and states that copies of the proposed revised policy plan can also be obtained from the office;

(4) states a location for a public meeting on the revisions at a time no earlier than 30 days from the date of publication; and

(5) advises the public that they have 30 days from the date of the public meeting in clause (4) to submit comments on the revisions to the director.

(e) At the meeting described in paragraph (d), clause (4), the public shall be given an opportunity to present their views on the policy plan revisions. The director shall incorporate any amendments to the proposed revisions that, in the director's view, will help to carry out the requirements of subdivisions 1, 2d, and 2e. At or before the time that policy plan revisions are finally adopted, the director shall issue a report that addresses issues raised in the public comments. The report shall be made available to the public and mailed to interested persons who have submitted their names and addresses to the director.

(f) The criteria and standards adopted in the policy plan for review of solid waste facility permits pursuant to section 473.823, subdivision 3; for issuance of certificates of need pursuant to section 473.823, subdivision 6; and for review of solid waste contracts pursuant to section 473.813 may be appealed to the court of appeals within 30 days after final adoption of the policy plan. The court may declare the challenged portion of the policy plan invalid if it violates constitutional provisions, is in excess of statutory authority of the director, or was adopted without compliance with the procedures in this subdivision. The review shall be on the record created during the adoption of the policy plan, except that additional evidence may be included in the record if the court finds that the additional evidence is material and there were good reasons for failure to present it in the proceedings described in paragraphs (c) to (e).

(g) The metropolitan council or a metropolitan county, local government unit, commission, or person shall not acquire, construct, improve or operate any solid waste facility in the metropolitan area except in accordance with the council's plan and section 473.823, provided that no solid waste facility in use when a plan is adopted shall be discontinued solely because it is not located in an area designated in the plan as acceptable for the location of such facilities.

Sec. 42. Minnesota Statutes 1994, section 473.149, subdivision 6, is amended to read:

Subd. 6. [REPORT TO LEGISLATURE.] The council director shall report on abatement to the legislative commission on waste management by July 1 of each odd-numbered year. The report must include an assessment of whether the objectives of the metropolitan abatement plan have been met and whether each county and each class of city within each county have achieved the objectives set for it in the council's plan. The report must recommend any legislation that may be required to implement the plan. The report shall include the reports be included in the report required by sections 115A.551, subdivision 4; 473.846; and 473.848, subdivision 4 section 115A.411. If in any year the council director reports that the objectives of the council's abatement plan have not been met, the council director shall evaluate and report on the need to reassign governmental responsibilities among cities, counties, and metropolitan agencies to assure implementation and achievement of the metropolitan and local abatement plans and objectives.

The report ~~in each even-numbered year~~ must include a report on the operating, capital, and debt service costs of solid waste facilities in the metropolitan area; changes in the costs; the methods used to pay the costs; and the resultant allocation of costs among users of the facilities and the general public. The facility costs report must present the cost and financing analysis in the aggregate and broken down by county and by major facility.

Sec. 43. Minnesota Statutes 1994, section 473.803, subdivision 1c, is amended to read:

Subd. 1c. [COUNTY ABATEMENT PLAN.] Each county shall revise its master plan to include a land disposal abatement element to implement the ~~council's~~ metropolitan land disposal abatement plan adopted under section 473.149, subdivision 2d, and shall submit the revised master plan to the ~~council~~ director for review under subdivision 2 within nine months after the adoption of the ~~council's~~ metropolitan abatement plan. The county plan must implement the local abatement objectives for the county and cities within the county as stated in the ~~council's~~ metropolitan abatement plan. The county abatement plan must include specific and quantifiable county objectives, based on the ~~council's~~ objectives in the metropolitan abatement plan, for abating to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste and of specific components of the solid waste stream generated in the county, stated in ~~annual increments through the date specified in section 473.848 and in two five-year~~ six-year increments thereafter for a period of at least 20 years from the date of metropolitan policy plan revisions. The plan must include measurable performance standards for local abatement of solid waste through resource recovery and waste reduction and separation programs and activities for the county as a whole and for statutory or home rule charter cities of the first, second, and third class, respectively, in the county, stated in ~~annual increments through the date specified in section 473.848 and in two five-year~~ six-year increments thereafter for a period of at least 20 years from the date of metropolitan policy plan revisions. The performance standards must implement the metropolitan and county abatement objectives. The plan must include standards and procedures to be used by the county in determining annually under subdivision 3 whether a city within the county has implemented the plan and has satisfied the performance standards for local abatement. The master plan revision required by this subdivision must be prepared in consultation with the advisory committee established pursuant to subdivision 4.

Sec. 44. Minnesota Statutes 1994, section 473.803, subdivision 2, is amended to read:

Subd. 2. [COUNCIL DIRECTOR REVIEW.] The ~~council~~ director shall review each master plan or revision thereof to determine whether it is consistent with the ~~council's~~ metropolitan policy plan. If it is not consistent, the ~~council~~ director shall disapprove and return the plan with its comments to the county for revision and resubmittal. The county shall have 90 days to revise and resubmit the plan for ~~council~~ the director's approval. Any county solid waste plan or report approved by the council prior to ~~April 9, 1976~~ July 1, 1994, shall remain in effect until a new master plan is submitted to and approved by the ~~council~~ director in accordance with this section.

The ~~council~~ director shall review the household hazardous waste management portion of each county's plan in cooperation with the agency.

Sec. 45. Minnesota Statutes 1994, section 473.803, subdivision 4, is amended to read:

Subd. 4. [ADVISORY COMMITTEE.] ~~By July 1, 1984,~~ Each county shall establish a solid waste management advisory committee to aid in the preparation of the county master plan, any revisions thereof, and such additional matters as the county deems appropriate. The committee must consist of citizen representatives, representatives from towns and cities within the county, and representatives from private waste management firms. The committee must include residents of towns or cities within the county containing solid waste disposal facilities. Members of the ~~council's~~ solid waste advisory committee established under section 473.149, subdivision 4, who reside in the county are ex officio members of the county advisory committee. ~~A representative of the metropolitan council~~ The director or the director's appointee is an ex officio member of the committee.

Sec. 46. Minnesota Statutes 1994, section 473.811, subdivision 5c, is amended to read:

Subd. 5c. [COUNTY ENFORCEMENT.] Each metropolitan county shall be responsible for

insuring that waste facilities, solid waste collection operations licensed or regulated by the county and hazardous waste generation and collection operations are brought into conformance with, or terminated and abandoned in accordance with, applicable county ordinances; rules and requirements of the state; and the policy plan of the council. Counties may provide by ordinance that operators or owners or both of such facilities or operations shall be responsible to the county for satisfactorily performing the procedures required. If operators or owners or both fail to perform, the county may recover the costs incurred by the county in completing the procedures in a civil action in any court of competent jurisdiction or, in the discretion of the board, the costs may be certified to the county auditor as a special tax against the land. The ordinances may be enforced by action in district court or administrative penalty order authorized under section 116.072. The county may prescribe a criminal penalty for the violation of any ordinance enacted under this section not exceeding the maximum which may be specified for a misdemeanor.

Sec. 47. Minnesota Statutes 1994, section 473.843, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT OF FEE; APPLICATION.] The operator of a mixed municipal solid waste disposal facility in the metropolitan area shall pay a fee on solid waste accepted and disposed at the facility as follows:

(a) A facility that weighs the waste that it accepts must pay a fee of \$6.66 per ton of waste accepted at the entrance of the facility.

(b) A facility that does not weigh the waste but that measures the volume of the waste that it accepts must pay a fee of \$2 per cubic yard of waste accepted at the entrance of the facility. This fee and the tipping fee must be calculated on the same basis.

(c) Waste residue, from recycling facilities at which recyclable materials are separated or processed for the purposes of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse, is exempt from the fee imposed by this subdivision if there is at least an 85 percent ~~volume~~ weight reduction in the solid waste processed. To qualify for exemption under this clause, waste residue must be brought to a disposal facility separately. The commissioner of revenue, with the advice and assistance of the ~~council~~ director and the agency, shall prescribe procedures for determining the amount of waste residue qualifying for exemption.

Sec. 48. Minnesota Statutes 1994, section 473.846, is amended to read:

473.846 [REPORT TO LEGISLATURE.]

The agency and ~~metropolitan council~~ the director shall submit to the senate finance committee, the house ways and means committee, and the legislative commission on waste management separate reports describing the activities for which money from the landfill abatement account and contingency action trust fund has been spent. The agency shall report by November 1 of each year on expenditures during its previous fiscal year. The ~~council~~ director shall report on expenditures during the previous calendar year and must incorporate its report in the report required by section 473.149 115A.411, due July 1 of each odd-numbered year. The ~~council~~ director shall make recommendations to the legislative commission on waste management on the future management and use of the metropolitan landfill abatement account.

Sec. 49. [480.0515] [PAPERS TO BE SUBMITTED ON RECYCLED PAPER.]

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

(b) "Attorney" means an attorney at law admitted to practice law in this state.

(c) "Document" means a document that is required or permitted to be filed with a court concerning an action that is to be commenced or is pending before the court.

Subd. 2. [REQUIREMENT.] (a) Except as provided in subdivision 3, a document submitted by an attorney to a court of this state, and all papers appended to the document, must be submitted on paper containing not less than ten percent postconsumer material, as defined in section 115A.03, subdivision 24b.

(b) A court may not refuse a document solely because the document was not submitted on recycled paper.

Subd. 3. [EXCEPTIONS.] (a) Subdivision 1 does not apply to:

(1) a photograph;

(2) an original document that was prepared or printed before January 1, 1996;

(3) a document that was not created at the direction or under the control of the submitting attorney;

(4) a facsimile copy otherwise permitted to be filed with the court in lieu of the original document, provided that if the original is also required to be filed, it must be submitted in compliance with this section; or

(5) nonrecycled paper and preprinted forms acquired or printed before January 1, 1996.

(b) This section does not apply if recycled paper is not readily available.

Sec. 50. Laws 1994, chapter 628, article 3, section 209, is amended to read:

Sec. 209. [REPEALER.]

(a) Minnesota Statutes 1992, sections 115A.03, subdivision 20; ~~115A.33~~; 174.22, subdivision 4; 473.121, subdivisions 15 and 21; 473.122; 473.146, subdivisions 2, 2a, 2b, and 2c; 473.153; 473.161; 473.163; 473.181, subdivision 3; 473.325, subdivision 5; 473.384, subdivision 9; 473.388, subdivision 6; 473.404, as amended by Laws 1993, chapter 119, section 1; 473.405, subdivisions 2, 6, 7, 8, 11, 13, and 14; 473.417; 473.435; 473.436, subdivision 7; 473.445, subdivisions 1 and 3; 473.501, subdivision 2; 473.503; 473.504, subdivisions 1, 2, 3, 7, and 8; 473.511, subdivision 5; 473.517, subdivision 8; 473.543, subdivision 5; and 473.553, subdivision 4a, are repealed.

(b) Minnesota Statutes 1992, sections 473.121, subdivision 14a; 473.141, as amended by Laws 1993, chapter 314, sections 3 and 4; 473.373, as amended by Laws 1993, chapter 314, section 5; 473.375, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 10, 16, 17, and 18; 473.377; 473.38; Minnesota Statutes 1993 Supplement, section 473.3996, are repealed.

Sec. 51. [REENACTMENT.]

Notwithstanding Minnesota Statutes, section 645.36, Minnesota Statutes 1992, section 115A.33, as repealed by Laws 1994, chapter 628, article 3, section 209, is reenacted.

Sec. 52. [APPLICATION.]

Sections 38 to 48 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 53. [INSTRUCTION TO REVISOR.]

The revisor shall recodify Minnesota Statutes, sections 115A.47, subdivision 2, paragraphs (b), (d), and (g), and 115A.931, paragraph (b), as definitions in Minnesota Statutes, section 115A.03, recasting the language as necessary to conform to the other definitions in that section.

Sec. 54. [REPEALER.]

(a) Minnesota Statutes 1994, sections 116.94; 473.149, subdivisions 2, 2a, 2c, and 2f; and 473.803, subdivision 1b, are repealed.

(b) Minnesota Statutes 1994, section 473.803, subdivision 1e, is repealed.

Sec. 55. [EFFECTIVE DATE.]

Sections 3, 6, 38, 39, 40, 41, 43, 44, 45, 53, and 54, paragraph (a), are effective on the day following final enactment.

Sections 9 and 10 are effective on June 15, 1995.

Sections 26 and 49 are effective January 1, 1996.

ARTICLE 2
TECHNICAL

Section 1. Minnesota Statutes 1994, section 115A.055, is amended to read:

115A.055 [OFFICE OF ENVIRONMENTAL ASSISTANCE.]

Subdivision 1. [ORGANIZATION OF OFFICE.] The office of environmental assistance is an agency in the executive branch headed by a director appointed by the commissioner of the pollution control agency, with the advice and consent of the senate, to serve in the unclassified service. The director may appoint two assistant directors in the unclassified service and may appoint other employees, as needed, in the classified service. The office is a department of the state only for purposes of section 16B.37, subdivision 2.

Subd. 2. [TRANSFER OF ADDITIONAL POWERS AND DUTIES.] After July 1, 1994, the solid and hazardous waste management powers and duties of the office and director transferred to them from the metropolitan council by Laws 1994, chapter 639, article 5, section 2, are governed by sections 473.149, 473.151, and 473.801 to 473.849.

Sec. 2. Minnesota Statutes 1994, section 115A.07, subdivision 3, is amended to read:

Subd. 3. [UNIFORM WASTE STATISTICS; RULES.] The director, after consulting with the commissioner, ~~the metropolitan council~~, local government units, and other interested persons, may adopt rules to establish uniform methods for collecting and reporting waste reduction, generation, collection, transportation, storage, recycling, processing, and disposal statistics necessary for proper waste management and for reporting required by law. Prior to publishing proposed rules, the director shall submit draft rules to the legislative commission on waste management for review and comment. Rules adopted under this subdivision apply to all persons and units of government in the state for the purpose of collecting and reporting waste-related statistics requested under or required by law.

Sec. 3. Minnesota Statutes 1994, section 115A.072, subdivision 1, is amended to read:

Subdivision 1. [WASTE EDUCATION COALITION.] (a) The director shall provide for the development and implementation of a program of general public education on waste management in cooperation and coordination with the pollution control agency, ~~metropolitan council~~, department of education, department of agriculture, environmental quality board, environmental education board, educational institutions, other public agencies with responsibility for waste management or public education, and three other persons who represent private industry and who have knowledge of or expertise in recycling and solid waste management issues. The objectives of the program are to: develop increased public awareness of and interest in environmentally sound waste management methods; encourage better informed decisions on waste management issues by business, industry, local governments, and the public; and disseminate practical information about ways in which households and other institutions and organizations can improve the management of waste.

(b) The director shall appoint an advisory task force, to be called the waste education coalition, of up to 18 members to advise the director in carrying out the director's responsibilities under this section and whose membership represents the agencies and entities listed in this subdivision. The task force expires on June 30, 1997.

Sec. 4. Minnesota Statutes 1994, section 115A.12, is amended to read:

115A.12 [ADVISORY COUNCILS.]

(a) The director shall establish a solid waste management advisory council, a hazardous waste management planning council, and a market development coordinating council, that are broadly representative of the geographic areas and interests of the state.

(b) The solid waste council shall have not less than nine nor more than 21 members. The membership of the solid waste council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives from private solid waste management firms. The solid waste council shall contain at least three members experienced in the private recycling industry and at least one member experienced in each of the following areas: state and municipal finance; solid waste collection, processing, and disposal; and solid waste reduction and resource recovery.

(c) The hazardous waste council shall have not less than nine nor more than 18 members. The membership of the hazardous waste advisory council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives of hazardous waste generators and private hazardous waste management firms.

(d) The market development coordinating council shall have not less than nine nor more than 18 members and shall consist of one representative from the department of trade and economic development, the department of administration, the pollution control agency, Minnesota Technology, Inc., ~~the metropolitan council~~, and the legislative commission on waste management. The other members shall represent local government units, private recycling markets, and private recycling collectors. The market development coordinating council expires June 30, 1997.

(e) The chairs of the advisory councils shall be appointed by the director. The director shall provide administrative and staff services for the advisory councils. The advisory councils shall have such duties as are assigned by law or the director. The solid waste advisory council shall make recommendations to the office on its solid waste management activities. The hazardous waste advisory council shall make recommendations to the office on its activities under sections 115A.08, 115A.09, 115A.10, 115A.11, 115A.20, 115A.21, and 115A.24. Members of the advisory councils shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the director. The solid waste management advisory council and the hazardous waste management planning council expire June 30, 1997.

Sec. 5. Minnesota Statutes 1994, section 115A.14, subdivision 4, is amended to read:

Subd. 4. [POWERS AND DUTIES.] (a) The commission shall oversee the activities of the office, and agency, ~~and metropolitan council~~ relating to solid and hazardous waste management, and direct such changes or additions in the work plan of the office, and agency, ~~and council~~ relating to solid and hazardous waste management as the commission deems fit.

(b) The commission shall make recommendations to the standing legislative committees on finance and appropriations for appropriations from the environmental response, compensation, and compliance account in the environmental fund under section 115B.20, subdivision 5.

(c) The commission may conduct public hearings and otherwise secure data and expressions of opinion. The commission shall make such recommendations as it deems proper to assist the legislature in formulating legislation. Any data or information compiled by the commission shall be made available to any standing or interim committee of the legislature upon request of the chair of the respective committee.

Sec. 6. Minnesota Statutes 1994, section 115A.15, subdivision 9, is amended to read:

Subd. 9. [RECYCLING GOAL.] By December 31, 1993, the commissioner shall recycle at least 40 percent by weight of the solid waste generated by state offices and other state operations located in the metropolitan area. By March 1 of each year the commissioner shall report to the office ~~and the metropolitan council~~ the estimated recycling rates by county for state offices and other state operations in the metropolitan area for the previous calendar year. The office shall incorporate these figures into the reports submitted by the counties under section 115A.557, subdivision 3, to determine each county's progress toward the goal in section 115A.551, subdivision 2.

Each state agency in the metropolitan area shall work to meet the recycling goal individually. If the goal is not met by an agency, the commissioner shall notify that agency that the goal has not been met and the reasons the goal has not been met and shall provide information to the employees in the agency regarding recycling opportunities and expectations.

Sec. 7. Minnesota Statutes 1994, section 115A.191, subdivision 1, is amended to read:

Subdivision 1. [OFFICE TO SEEK CONTRACTS.] The office of ~~waste management~~ and any eligible county board may enter a contract as provided in this section expressing their voluntary and mutually satisfactory agreement concerning the location and development of a stabilization and containment facility. The director shall negotiate contracts with eligible counties and shall present drafts of the negotiated contracts to the office for its approval. The director shall actively solicit, encourage, and assist counties, together with developers, landowners, the local business community, and other interested parties, in developing resolutions of interest. The county shall provide affected political subdivisions and other interested persons with an opportunity to suggest contract terms.

Sec. 8. Minnesota Statutes 1994, section 115A.191, subdivision 2, is amended to read:

Subd. 2. [RESOLUTION OF INTEREST IN NEGOTIATING; ELIGIBILITY.] A county is eligible to negotiate a contract under this section if the county board files with the office of ~~waste management~~ and the office accepts a resolution adopted by the county board that expresses the county board's interest in negotiations and its willingness to accept the preliminary evaluation of one or more study areas in the county for consideration as a location of a stabilization and containment facility. The county board resolution expressing interest in negotiations must provide for county cooperation with the office, as necessary to facilitate the evaluation of study areas in the county, and for the appointment of a member of the county board or an officer or employee of the county as official liaison with the office with respect to the matters provided in the resolution and future negotiations with the office. A county board by resolution may withdraw a resolution of interest, and the office of ~~waste management~~ may withdraw its acceptance of such a resolution, at any time before the parties execute a contract under this section. A county that is eligible to negotiate a contract shall receive the benefits as provided in section 477A.012.

Sec. 9. Minnesota Statutes 1994, section 115A.32, is amended to read:

115A.32 [RULES.]

The board shall promulgate rules pursuant to chapter 14 to govern its activities under sections 115A.32 to 115A.39. For the purposes of sections 115A.32 to 115A.39, "board" means the environmental quality board established in section 116C.03. In all of its activities and deliberations under sections 115A.32 to 115A.39, the board shall consult with the director of the office of ~~waste management~~.

Sec. 10. Minnesota Statutes 1994, section 115A.42, is amended to read:

115A.42 [ESTABLISHMENT AND ADMINISTRATION.]

There is established a program to encourage and improve regional and local solid waste management planning activities and efforts and to further the state policies and purposes expressed in section 115A.02. The program under sections 115A.42 to 115A.46 is administered by the ~~office~~ director pursuant to rules promulgated under chapter 14, except in the metropolitan area where the program is administered by the ~~metropolitan council pursuant to chapter 473~~ director pursuant to section 473.149. The ~~office and the metropolitan council~~ director shall ensure conformance with federal requirements and programs established pursuant to the Resource Conservation and Recovery Act of 1976 and amendments thereto.

Sec. 11. Minnesota Statutes 1994, section 115A.45, is amended to read:

115A.45 [TECHNICAL ASSISTANCE.]

The director and ~~metropolitan council~~ shall provide for technical assistance to encourage and improve solid waste management and to assist political subdivisions in preparing the plans described in section 115A.46. The director and ~~metropolitan council~~ shall provide model plans for regional and local solid waste management. The director and ~~metropolitan council~~ may contract for the delivery of technical assistance by a regional development commission, any state or federal agency, private consultants, or other persons. The director shall prepare and publish an inventory of sources of technical assistance for solid waste planning, including studies, publications, agencies, and persons available.

Sec. 12. Minnesota Statutes 1994, section 115A.46, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] (a) Plans shall address the state policies and purposes expressed in section 115A.02 and may not be inconsistent with state law.

(b) Plans for the location, establishment, operation, maintenance, and postclosure use of facilities and facility sites, for ordinances, and for licensing, permit, and enforcement activities shall be consistent with the rules adopted by the agency pursuant to chapter 116.

(c) Plans shall address:

(1) the resolution of conflicting, duplicative, or overlapping local management efforts;

(2) the establishment of joint powers management programs or waste management districts where appropriate; and

(3) other matters as the rules of the office may require consistent with the purposes of sections 115A.42 to 115A.46.

(d) Political subdivisions preparing plans under sections 115A.42 to 115A.46 shall consult with persons presently providing solid waste collection, processing, and disposal services.

(e) Plans must be submitted to the director, ~~or the metropolitan council pursuant to section 473.803,~~ for approval. When a county board is ready to have a final plan approved, the county board shall submit a resolution requesting review and approval by the director ~~or the metropolitan council.~~ After receiving the resolution, the director ~~or the metropolitan council~~ shall notify the county within 45 days whether the plan as submitted is complete and, if not complete, the specific items that need to be submitted to make the plan complete. Within 90 days after a complete plan has been submitted, the director ~~or the metropolitan council~~ shall approve or disapprove the plan. If the plan is disapproved, reasons for the disapproval must be provided.

(f) After initial approval, each plan must be updated and submitted for approval every five years. The plan must be revised as necessary so that it is not inconsistent with state law.

Sec. 13. Minnesota Statutes 1994, section 115A.5501, subdivision 2, is amended to read:

Subd. 2. [MEASUREMENT; PROCEDURES.] To measure the overall percentage of packaging in the statewide solid waste stream, the director ~~and the chair of the metropolitan council,~~ in consultation with the commissioner, shall ~~each~~ conduct an annual solid waste composition ~~study~~ studies in the nonmetropolitan and metropolitan areas ~~respectively~~ or shall develop an alternative method that is as statistically reliable as a waste composition study to measure the percentage of packaging in the waste stream.

~~The chair of the council shall submit the results from the metropolitan area to the director by May 1 of each year.~~ The director shall average the nonmetropolitan and metropolitan results and submit the statewide percentage, along with a statistically reliable margin of error, to the legislative commission on waste management by July 1 of each year. The 1994 report must include a discussion of the reliability of data gathered under this subdivision and the methodology used to determine a statistically reliable margin of error.

Sec. 14. Minnesota Statutes 1994, section 115A.5501, subdivision 3, is amended to read:

Subd. 3. [FACILITY COOPERATION AND REPORTS.] The owner or operator of a facility shall allow access upon reasonable notice to authorized office, ~~or agency, or metropolitan council~~ staff for the purpose of conducting waste composition studies or otherwise assessing the amount of total packaging in the waste delivered to the facility under this section.

Beginning in 1993, by February 1 of each year the owner or operator of a facility governed by this subdivision shall submit a report to the commissioner, on a form prescribed by the commissioner, specifying the total amount of solid waste received by the facility between January 1 and December 31 of the previous year. The commissioner shall calculate the total amount of solid waste delivered to solid waste facilities from the reports received from the facility owners or operators and shall report the aggregate amount to the director by April 1 of each year. The

commissioner shall assess a nonforgivable administrative penalty under section 116.072 of \$500 plus any forgivable amount necessary to enforce this subdivision on any owner or operator who fails to submit a report required by this subdivision.

Sec. 15. Minnesota Statutes 1994, section 115A.551, subdivision 5, is amended to read:

Subd. 5. [FAILURE TO MEET GOAL.] (a) A county failing to meet the interim goals in subdivision 3 shall, as a minimum:

(1) notify county residents of the failure to achieve the goal and why the goal was not achieved; and

(2) provide county residents with information on recycling programs offered by the county.

(b) If, based on the recycling monitoring described in subdivision 4, the director ~~or the metropolitan council~~ finds that a county will be unable to meet the recycling goals established in subdivisions 2 and 2a, the director ~~or council~~ shall, after consideration of the reasons for the county's inability to meet the goals, recommend legislation for consideration by the legislative commission on waste management to establish mandatory recycling standards and to authorize the director ~~or council~~ to mandate appropriate solid waste management techniques designed to meet the standards in those counties that are unable to meet the goals.

Sec. 16. Minnesota Statutes 1994, section 115A.558, is amended to read:

115A.558 [SAFETY GUIDE.]

The pollution control agency, in cooperation with the office ~~of waste management and the metropolitan council~~, shall prepare and distribute to all interested persons a guide for operation of a recycling or yard waste composting facility to protect the environment and public health.

Sec. 17. Minnesota Statutes 1994, section 115A.63, subdivision 3, is amended to read:

Subd. 3. [RESTRICTIONS.] No waste district shall be established within the boundaries of the Western Lake Superior Sanitary District established under chapter 458D. No waste district shall be established wholly within one county. The director shall not establish a waste district within or extending into the metropolitan area, nor define or alter the powers or boundaries of a district, ~~without the approval of the metropolitan council. The council shall not approve a district unless~~ the articles of incorporation of the district require that the district will have the same procedural and substantive responsibilities, duties, and relationship to the metropolitan agencies as a metropolitan county. The director shall require the completion of a comprehensive solid waste management plan conforming to the requirements of section 115A.46, by petitioners seeking to establish a district.

Sec. 18. Minnesota Statutes 1994, section 115A.84, subdivision 3, is amended to read:

Subd. 3. [PLAN APPROVAL.] (a) A district or county planning a designation ~~for waste generated wholly within the metropolitan area defined in section 473.121 shall submit its designation plan to the metropolitan council for review and approval or disapproval. Other districts or counties shall submit the designation plan to the director for review and approval or disapproval.~~

(b) ~~The reviewing authority~~ director shall complete ~~its~~ the review and make ~~its~~ a decision within 120 days following submission of the plan for review. ~~The reviewing authority~~ director shall approve the designation plan if the plan satisfies the requirements of subdivision 2 and, in the case of designation to disposal facilities, if the ~~reviewing authority~~ director finds that the plan has demonstrated that the designation is necessary and is consistent with section 115A.02. ~~The reviewing authority~~ director may attach conditions to ~~its~~ the approval that relate to matters required in a designation ordinance under section 115A.86, subdivision 1, paragraph (a), clauses (1) to (4), and paragraph (b). Amendments to plans must be submitted for review in accordance with this subdivision.

Sec. 19. Minnesota Statutes 1994, section 115A.86, subdivision 2, is amended to read:

Subd. 2. [APPROVAL.] A district or county ~~whose designation applies wholly within the metropolitan area defined in section 473.121 shall submit the designation ordinance, together with any negotiated contracts assuring the delivery of solid waste, to the metropolitan council for review and approval or disapproval. Other districts or counties shall submit the designation ordinance, together with any negotiated contracts assuring the delivery of solid waste, to the director for review and approval or disapproval. The director shall complete the review and make a decision within 90 days following submission of the designation for review. The director shall approve the designation if the director determines that the designation procedure specified in section 115A.85 was followed and that the designation is based on a plan approved under section 115A.84. The director may attach conditions to the approval.~~

Sec. 20. Minnesota Statutes 1994, section 115A.951, subdivision 4, is amended to read:

Subd. 4. [COLLECTION OF USED DIRECTORIES.] Each publisher or distributor of telephone directories shall:

- (1) provide for the collection and delivery to a recycler of waste telephone directories;
- (2) inform recipients of directories of the collection system; and
- (3) submit a report to the office of waste management by August 1 of each year that specifies the percentage of distributed directories collected as waste directories by distribution area and the locations where the waste directories were delivered for recycling and that verifies that the directories have been recycled.

Sec. 21. Minnesota Statutes 1994, section 115A.97, subdivision 5, is amended to read:

Subd. 5. [PLANS; REPORT.] A county solid waste plan, or revision of a plan, that includes incineration of mixed municipal solid waste must clearly state how the county plans to meet the goals in subdivision 1 of reducing the toxicity and quantity of incinerator ash and of reducing the quantity of processing residuals that require disposal. The director, in cooperation with the agency, and the counties, ~~and the metropolitan council,~~ may develop guidelines for counties to use to identify ways to meet the goals in subdivision 1.

~~The director, in cooperation with the agency, the counties, and the metropolitan council, shall develop and propose statewide goals and timetables for the reduction of the noncombustible fraction of mixed municipal solid waste prior to incineration or processing into refuse-derived fuel and for the reduction of the toxicity of the incinerator ash. By January 1, 1990, the director shall report to the legislative commission on waste management on the proposal goals and timetables with recommendations for their implementation.~~

Sec. 22. Minnesota Statutes 1994, section 115A.97, subdivision 6, is amended to read:

Subd. 6. [PERMITS; AGENCY REPORT.] An application for a permit to build or operate a mixed municipal solid waste incinerator, including an application for permit renewal, must clearly state how the applicant will achieve the goals in subdivision 1 of reducing the toxicity and quantity of incinerator ash and of reducing the quantity of processing residuals that require disposal. The agency, in cooperation with the director, ~~and the counties, and the metropolitan council,~~ may develop guidelines for applicants to use to identify ways to meet the goals in subdivision 1.

If, by January 1, 1990, the rules required by subdivision 3 are not in at least final draft form, the agency shall report to the legislative commission on waste management on the status of current incinerator ash management programs with recommendations for specific legislation to meet the goals of subdivision 1.

Sec. 23. Minnesota Statutes 1994, section 115A.981, subdivision 3, is amended to read:

Subd. 3. [REPORT.] (a) The commissioner shall report to the legislative commission on waste management by July 1 of each odd-numbered year on the economic status and outlook of the state's solid waste management sector including an estimate of the extent to which prices for solid waste management paid by consumers reflect costs related to environmental and public health protection, including a discussion of how prices are publicly and privately subsidized and how identified costs of waste management are not reflected in the prices.

(b) In preparing the report, the commissioner shall:

(1) consult with the director; ~~the metropolitan council~~; local government units; solid waste collectors, transporters, and processors; owners and operators of solid waste facilities; and other interested persons;

(2) consider and analyze information received under subdivision 2 and information available under section 115A.929; and

(3) analyze information gathered and comments received relating to the most recent solid waste management policy report prepared under section 115A.411.

The commissioner shall also recommend any legislation necessary to ensure adequate and reliable information needed for preparation of the report.

(c) The report must also include:

(1) statewide and facility by facility estimates of the total potential costs and liabilities associated with solid waste disposal facilities for closure and postclosure care, response costs under chapter 115B, and any other potential costs, liabilities, or financial responsibilities;

(2) statewide and facility by facility requirements for proof of financial responsibility under section 116.07, subdivision 4h, and how each facility is meeting those requirements.

Sec. 24. Minnesota Statutes 1994, section 473.149, subdivision 4, is amended to read:

Subd. 4. [ADVISORY COMMITTEE.] The ~~council~~ director shall establish an advisory committee to aid in the preparation of the policy plan, the performance of the ~~council's~~ director's responsibilities under subdivisions ~~2 to 2d~~ and 2e, the review of county master plans and reports and applications for permits for waste facilities, under sections 473.151; and 473.801 to 473.823, ~~and 473.831~~, and other duties determined by the ~~council~~ director. The committee shall consist of one-third citizen representatives, one-third representatives from metropolitan counties and municipalities, and one-third representatives from private waste management firms. A representative from the pollution control agency, ~~one from the office of waste management established under section 115A.055~~, and one from the Minnesota health department shall serve as ex officio members of the committee.

Sec. 25. Minnesota Statutes 1994, section 473.151, is amended to read:

473.151 [DISCLOSURE.]

For the purpose of the rules, plans, and reports required or authorized by sections 473.149, 473.516, 473.801 to 473.823 and this section, each generator of hazardous waste and each owner or operator of a collection service or waste facility annually shall make the following information available to the agency, council, office of environmental assistance, and metropolitan counties: a schedule of rates and charges in effect or proposed for a collection service or the processing of waste delivered to a waste facility and a description, in aggregate amounts indicating the general character of the solid and hazardous waste collection and processing system, of the types and the quantity, by types, of waste generated, collected, or processed. The county, council, office, and agency shall act in accordance with the provisions of section 116.075, subdivision 2, with respect to information for which confidentiality is claimed.

Sec. 26. Minnesota Statutes 1994, section 473.516, subdivision 2, is amended to read:

Subd. 2. [GENERAL REQUIREMENTS.] With respect to its activities under this section, the council shall be subject to and comply with the applicable provisions of this chapter. Property acquired by the council under this section shall be subject to the provisions of section 473.545. Any site or facility owned or operated for or by the council shall conform to the policy plan adopted ~~by the council~~ under section 473.149. The council shall contract with private persons for the construction, maintenance, and operation of waste facilities, subject to the bidding requirements of section 473.523, where the facilities are adequate and available for use and competitive with other means of providing the same service.

Sec. 27. Minnesota Statutes 1994, section 473.801, subdivision 1, is amended to read:

Subdivision 1. [TERMS.] For the purposes of sections 473.801 to ~~473.845 and Laws 1985, chapter 274, section 45~~ 473.849, the terms defined in this section have the meanings given them.

Sec. 28. Minnesota Statutes 1994, section 473.801, is amended by adding a subdivision to read:

Subd. 5. [DIRECTOR.] "Director" means the director of the office of environmental assistance.

Sec. 29. Minnesota Statutes 1994, section 473.801, is amended by adding a subdivision to read:

Subd. 6. [OFFICE.] "Office" means the office of environmental assistance.

Sec. 30. Minnesota Statutes 1994, section 473.8011, is amended to read:

473.8011 [METROPOLITAN AGENCY RECYCLING GOAL.]

By December 31, 1993, the metropolitan council, each metropolitan agency as defined in section 473.121, and the metropolitan mosquito control district established in section 473.702 shall recycle at least 40 percent by weight of the solid waste generated by their offices or other operations. The ~~council~~ director shall provide information and technical assistance to the council, agencies, and the district to implement effective recycling programs.

By August 1 of each year, the council, each agency, and the district shall submit to the office of ~~waste management~~ a report for the previous fiscal year describing recycling rates, specified by the county in which the council, agency, or operation is located, and progress toward meeting the recycling goal. The office shall incorporate the recycling rates reported in the respective county's recycling rates for the previous fiscal year.

If the goal is not met, the council, agency, or district must include in its 1994 report reasons for not meeting the goal and a plan for meeting it in the future.

Sec. 31. Minnesota Statutes 1994, section 473.803, subdivision 1, is amended to read:

Subdivision 1. [COUNTY MASTER PLANS; GENERAL REQUIREMENTS.] Each metropolitan county, following adoption or revision of the ~~council's solid waste~~ metropolitan policy plan and in accordance with the dates specified therein, and after consultation with all affected local government units, shall prepare and submit to ~~the council for its~~ the director for approval, a county solid waste master plan to implement the policy plan. The master plan shall be revised and resubmitted at such times as the ~~council's~~ metropolitan policy plan may require. The master plan shall describe county solid waste activities, functions, and facilities; the existing system of solid waste generation, collection, and processing, and disposal within the county; proposed mechanisms for complying with the recycling requirements of section 115A.551, and the household hazardous waste management requirements of section 115A.96, subdivision 6; existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste facilities and solid waste generation, collection, and processing, and disposal; existing or proposed municipal, county, or private solid waste facilities and collection services within the county together with schedules of existing rates and charges to users and statements as to the extent to which such facilities and services will or may be used to implement the policy plan; and any solid waste facility which the county owns or plans to acquire, construct, or improve together with statements as to the planned method, estimated cost and time of acquisition, proposed procedures for operation and maintenance of each facility; an estimate of the annual cost of operation and maintenance of each facility; an estimate of the annual gross revenues which will be received from the operation of each facility; and a proposal for the use of each facility after it is no longer needed or usable as a waste facility. The master plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the master plan shall contain criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan.

Sec. 32. Minnesota Statutes 1994, section 473.803, subdivision 2a, is amended to read:

Subd. 2a. [WASTE ABATEMENT.] The ~~council~~ director may require any county that fails to meet the waste abatement objectives contained in the ~~council's~~ metropolitan policy plan to amend its master plan to address methods to achieve the objectives. The master plan amendment is subject to ~~council~~ review and approval as provided in subdivision 2 and must consider at least:

- (1) minimum recycling service levels for solid waste generators;
- (2) mandatory generator participation in recycling programs including separation of recyclable material from mixed municipal solid waste;
- (3) use of organized solid waste collection under section 115A.94; and
- (4) waste abatement participation incentives including provision of storage bins, weekly collection of recyclable material, expansion of the types of recyclable material for collection, collection of recyclable material on the same day as collection of solid waste, and financial incentives such as basing charges to generators for waste collection services on the volume of waste generated and discounting collection charges for generators who separate recyclable material for collection separate from their solid waste.

Sec. 33. Minnesota Statutes 1994, section 473.803, subdivision 3, is amended to read:

Subd. 3. [ANNUAL REPORT.] By April 1 of each year, each metropolitan county shall prepare and submit to the ~~council~~ director for its approval a report containing information, as ~~the council may prescribe~~ prescribed in its the metropolitan policy plan, concerning solid waste generation and management within the county. The report shall include a statement of progress in achieving the land disposal abatement objectives for the county and classes of cities in the county as stated in the ~~council's~~ metropolitan policy plan and county master plan. The report must list cities that have not satisfied the county performance standards for local abatement required by subdivision 1c. The report must include a schedule of rates and charges in effect or proposed for the use of any solid waste facility owned or operated by or on its behalf, together with a statement of the basis for such charges.

The report shall contain the recycling development grant report required by section 473.8441 and the annual certification report required by section 473.848.

Sec. 34. Minnesota Statutes 1994, section 473.803, subdivision 5, is amended to read:

Subd. 5. [ROLE OF PRIVATE SECTOR; COUNTY OVERSIGHT.] A county may include in its solid waste management master plan and in its plan for county land disposal abatement a determination that the private sector will achieve, either in part or in whole, the goals and requirements of sections 473.149 and 473.803, as long as the county:

- (1) retains active oversight over the efforts of the private sector and monitors performance to ensure compliance with the law and the goals and standards ~~of in the council and the county as expressed in the metropolitan solid waste management policy plan~~ and the county master plan;
- (2) continues to meet its responsibilities under the law for ensuring proper waste management, including, at a minimum, enforcing waste management law, providing waste education, promoting waste reduction, and providing its residents the opportunity to recycle waste materials; and
- (3) continues to provide all required reports on the county's progress in meeting the waste management goals and standards of this chapter and chapter 115A.

Sec. 35. Minnesota Statutes 1994, section 473.804, is amended to read:

473.804 [HOUSEHOLD HAZARDOUS WASTE MANAGEMENT.]

By June 30, 1992, each metropolitan county shall develop and implement a permanent program to manage household hazardous waste. Each program must include at least quarterly collection of wastes. Each program must be consistent with the ~~council's~~ metropolitan policy plan and must be described as part of each county's solid waste master plan revision as required under section 473.803, subdivision 1.

Sec. 36. Minnesota Statutes 1994, section 473.811, subdivision 1, is amended to read:

Subdivision 1. [COUNTY ACQUISITION OF FACILITIES.] To accomplish the purpose specified in section 473.803, each metropolitan county may acquire by purchase, lease, gift or condemnation as provided by law, upon such terms and conditions as it shall determine, including contracts for deed and conditional sales contracts, solid waste facilities or properties or easements for solid waste facilities which are in accordance with rules adopted by the agency, the policy plan ~~adopted by the council~~ and the approved county master plan as approved by the council, and may improve or construct improvements on any property or facility so acquired. No metropolitan city, county or town shall own or operate a hazardous waste facility, except a facility to manage household hazardous waste. Each metropolitan county is authorized to levy a tax in anticipation of need for expenditure for the acquisition and betterment of solid waste facilities. If a tax is levied in anticipation of need, the purpose must be specified in a resolution of the county directing that the levy and the proceeds of the tax may be used only for that purpose. Until so used, the proceeds shall be retained in a separate fund or invested in the same manner as surplus in a sinking fund may be invested under section 475.66. The right of condemnation shall be exercised in accordance with chapter 117.

For the purposes of this section "solid waste facility" includes a facility to manage household hazardous waste.

Sec. 37. Minnesota Statutes 1994, section 473.811, subdivision 4a, is amended to read:

Subd. 4a. [ORDINANCES; GENERAL CONDITIONS; RESTRICTIONS; APPLICATION.] Ordinances of counties and local government units related to or affecting waste management shall embody plans, policies, rules, standards and requirements adopted by any state agency authorized to manage or plan for or regulate the management of waste and the waste management plans ~~adopted by the council~~ under section 473.149 and shall be consistent with approved county master plans approved by the council. Except as provided in this subdivision, a county may establish and operate or contract for the establishment or operation of a solid waste disposal facility without complying with local ordinances if the ~~council~~ director certifies need under section 473.823, subdivision 6. With the approval of the ~~council~~ director, local government units may impose and enforce reasonable conditions respecting the construction, operation, inspection, monitoring, and maintenance of the disposal facilities. No local government unit shall prevent the establishment or operation of any solid waste facility in accordance with the ~~council's~~ director's decision under section 473.823, subdivision 5, except that, with the approval of the ~~council~~ director, the local government unit may impose reasonable conditions respecting the construction, inspection, monitoring, and maintenance of a facility.

Sec. 38. Minnesota Statutes 1994, section 473.811, subdivision 5, is amended to read:

Subd. 5. [ORDINANCES; SOLID WASTE COLLECTION AND TRANSPORTATION.] (a) Each metropolitan county may adopt ordinances governing the collection of solid waste. A county may adopt, but may not be required to adopt, an ordinance that requires the separation from mixed municipal waste, by generators before collection, of materials that can readily be separated for use or reuse as substitutes for raw materials or for transformation into a usable soil amendment.

(b) Each local unit of government within the metropolitan area shall adopt an ordinance governing the collection of solid waste within its boundaries. If the county within which it is located has adopted a collection ordinance, the local unit shall adopt either the county ordinance by reference or a more strict ordinance. If the county within which it is located has adopted a separation ordinance, the ordinance applies in all local units within the county that have failed to meet the local abatement performance standards, as stated in the most recent annual county report.

(c) Ordinances of counties and local government units may establish reasonable conditions respecting but shall not prevent the transportation of solid waste by a licensed collector through and between counties and local units, except as required for the enforcement of any designation of a facility by a county under chapter 115A or for enforcement of the prohibition on disposal of unprocessed mixed municipal solid waste under sections 473.848 and 473.849.

(d) A licensed collector or a metropolitan county or local government unit may request review by the ~~council~~ director of an ordinance adopted under this subdivision. The ~~council~~ director shall

approve or disapprove the ordinance within 60 days of the submission of a request for review. The ordinance shall remain in effect unless it is disapproved.

(e) Ordinances of counties and local units of government:

(1) shall provide for the enforcement of any designation of facilities by the counties under chapter 115A;

(2) may require waste collectors and transporters to deliver unprocessed mixed municipal waste generated in the county to processing facilities; and

(3) may prohibit waste collectors and transporters from delivering unprocessed mixed municipal solid waste generated in the county to disposal facilities for final disposal.

(f) Nothing in this subdivision limits the authority of the local government unit to regulate and license collectors of solid waste or to require review or approval by the ~~council~~ director for ordinances regulating collection.

Sec. 39. Minnesota Statutes 1994, section 473.811, subdivision 7, is amended to read:

Subd. 7. [JOINT ACTION.] Any local governmental unit or metropolitan agency may act together with any county, city, or town within or without the metropolitan area, or with the pollution control agency or the office of ~~waste management~~ under the provisions of section 471.59 or any other appropriate law providing for joint or cooperative action between government units, to accomplish any purpose specified in sections 473.149, 473.151, 473.801 to 473.823, 473.834, 116.05 and 115A.06.

Any agreement regarding data processing services relating to the generation, management, identification, labeling, classification, storage, collection, treatment, transportation, processing or disposal of waste and entered into pursuant to section 471.59, or other law authorizing joint or cooperative action may provide that any party to the agreement may agree to defend, indemnify and hold harmless any other party to the agreement providing the services, including its employees, officers or volunteers, against any judgments, expenses, reasonable attorney's fees and amounts paid in settlement actually and reasonably incurred in connection with any third party claim or demand arising out of an alleged act or omission by a party to the agreement, its employees, officers or volunteers occurring in connection with any exchange, retention, storage or processing of data, information or records required by the agreement. Any liability incurred by a party to an agreement under this subdivision shall be subject to the limitations set forth in section 3.736 or 466.04.

Sec. 40. Minnesota Statutes 1994, section 473.811, subdivision 8, is amended to read:

Subd. 8. [COUNTY SALE OR LEASE.] Each metropolitan county may sell or lease any facilities or property or property rights previously used or acquired to accomplish the purposes specified by sections 473.149, 473.151, 473.801 to 473.823, and 473.834. Such property may be sold in the manner provided by section 469.065, or may be sold in the manner and on the terms and conditions determined by the county board. Each metropolitan county may convey to or permit the use of any such property by a local government unit, with or without compensation, without submitting the matter to the voters of the county. No real property or property rights acquired pursuant to this section, may be disposed of in any manner unless and until the county shall have submitted to the agency and the ~~metropolitan council~~ director for review and comment the terms on and the use for which the property will be disposed of. The agency and the ~~council~~ director shall review and comment on the proposed disposition within 60 days after each has received the data relating thereto from the county.

Sec. 41. Minnesota Statutes 1994, section 473.813, subdivision 2, is amended to read:

Subd. 2. Before a city, county, or town enters into any contract pursuant to subdivision 1 for a period of more than five years, the city, county, or town shall submit the proposed contract and a description of the proposed activities under the contract to the ~~council~~ director for review and approval. The ~~council~~ director shall approve the proposed contract if ~~it~~ the director determines that the contract is consistent with the ~~council's~~ metropolitan policy plan, permits issued under section 473.823, and county reports or approved master plans approved by the council. The ~~council~~

director may consolidate ~~its~~ the review of contracts submitted under this section with ~~its~~ the review of related permit applications submitted under section 473.823 and for this purpose may delay the review required by this section.

Sec. 42. Minnesota Statutes 1994, section 473.823, subdivision 3, is amended to read:

Subd. 3. [SOLID WASTE FACILITIES; REVIEW PROCEDURES.] (a) The agency shall request applicants for solid waste facility permits to submit all information deemed relevant by the ~~council to its~~ director for review, including without limitation information relating to the geographic areas and population served, the need, the effect on existing facilities and services, the effectiveness of proposed buffer areas to ensure, at a minimum, protection of surrounding land uses from adverse or incompatible impacts due to landfill operation and related activities, the anticipated public cost and benefit, the anticipated rates and charges, the manner of financing, the effect on metropolitan plans and development programs, the supply of waste, anticipated markets for any product, and alternative means of disposal or energy production.

(b) A permit may not be issued for the operation of a solid waste facility in the metropolitan area which is not in accordance with the metropolitan ~~council's solid waste~~ policy plan. The ~~metropolitan council~~ director shall determine whether a permit is in accordance with the policy plan. In making ~~its~~ this determination, the ~~council~~ director shall consider the areawide need and benefit of the applicant facility and the effectiveness of proposed buffer areas to adequately protect surrounding land uses in accordance with ~~its~~ the policy plan, and may consider, without limitation, the effect of the applicant facility on existing and planned solid waste facilities.

(c) If the ~~council~~ director determines that a permit is in accordance with ~~its~~ the policy plan, the ~~council~~ director shall approve the permit. If the ~~council~~ director determines that a permit is not in accordance with ~~its~~ the policy plan, ~~it~~ the director shall disapprove the permit. ~~The council's~~ Approval of permits may be subject to conditions the director determines are necessary to satisfy criteria and standards in its the policy plan, including conditions respecting the type, character, and quantities of waste to be processed at a solid waste facility used primarily for resource recovery and the geographic territory from which a resource recovery facility or transfer station serving such a facility may draw its waste.

(d) For the purpose of this review and approval ~~by the council~~, the agency shall send a copy of each permit application and any supporting information furnished by the applicant to the ~~metropolitan council~~ director within 15 days after receipt of the application and all other information requested from the applicant. Within 60 days after the application and supporting information are received by the ~~council~~ director, unless a time extension is authorized by the agency, the ~~council~~ director shall issue to the agency in writing ~~its~~ a determination whether the permit is disapproved, approved, or approved with conditions. If the ~~council~~ director does not issue ~~its~~ a determination to the agency within the 60-day period, unless a time extension is authorized by the agency, the permit shall be deemed to be in accordance with the ~~council's~~ policy plan.

(e) A permit may not be issued in the metropolitan area for a solid waste facility used primarily for resource recovery or a transfer station serving the facility, if the facility or station is owned or operated by a public agency or if the acquisition or betterment of the facility or station is secured by public funds or obligations issued by a public agency, unless the ~~council~~ director finds and determines that adequate markets exist for the products recovered and that establishment of the facility is consistent with the criteria and standards in the metropolitan and county plans respecting the protection of existing resource recovery facilities and transfer stations serving such facilities.

Sec. 43. Minnesota Statutes 1994, section 473.823, subdivision 5, is amended to read:

Subd. 5. [REVIEW OF WASTE PROCESSING FACILITIES.] (a) A metropolitan county may establish a waste processing facility within the county without complying with local ordinances, if the action is approved by the ~~council~~ director in accordance with the review process established by this subdivision. A county requesting review ~~by the council~~ shall show that:

- (1) the required permits for the proposed facility have been or will be issued by the agency;
- (2) the facility is consistent with the ~~council's~~ metropolitan policy plan and the approved county master plan; and

(3) a local government unit has refused to approve the establishment or operation of the facility, has failed to deny or approve establishment or operation of the facility within the time period required in section 115A.31, or has approved the application or request with conditions that are unreasonable or impossible for the county to meet.

(b) The ~~council~~ director shall ~~meet to~~ commence the review within 90 days of the submission of a request determined by the ~~council~~ director to satisfy the requirements for review under this subdivision. ~~At the meeting~~ Upon commencing the review the ~~chair~~ director shall ~~recommend and the council~~ establish a scope and procedure, including criteria, for ~~its~~ the review and final decision on the proposed facility. The procedure shall require the ~~council~~ director to make a final decision on the proposed facility within 120 days following the commencement of review. For facilities other than waste incineration and mixed municipal solid waste composting facilities, the ~~council~~ director shall ~~meet to~~ commence the review within 45 days of submission of the request and shall make a final decision within 75 days following commencement of review.

(c) The ~~council~~ director shall conduct at least one public hearing in the city or town within which the proposed facility would be located. Notice of the hearing shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of the hearing. The notice shall describe the proposed facility, its location, the proposed permits, and the ~~council's~~ scope, procedure, and criteria for review. The notice shall identify a location or locations within the local government unit and county where the permit applications and the ~~council's~~ scope, procedure, and criteria for review are available for review and where copies may be obtained.

(d) In ~~its~~ the review and final decision on the proposed facility, the ~~council~~ director shall consider at least the following matters:

(1) the risk and effect of the proposed facility on local residents, units of government, and the local public health, safety, and welfare, and the degree to which the risk or effect may be alleviated;

(2) the consistency of the proposed facility with, and its effect on, existing and planned local land use and development; local laws, ordinances, and permits; and local public facilities and services;

(3) the adverse effects of the facility on agriculture and natural resources and opportunities to mitigate or eliminate such adverse effects by additional stipulations, conditions, and requirements respecting the design and operation of the proposed facility at the proposed site;

(4) the need for the proposed facility and the availability of alternative sites;

(5) the consistency of the proposed facility with the county master plan adopted pursuant to section 473.803 and the ~~council's~~ policy plan adopted pursuant to section 473.149; and

(6) transportation facilities and distance to points of waste generation.

(e) ~~In its final decision in the review,~~ The ~~council~~ director may either approve or disapprove the proposed facility at the proposed site. The ~~council's~~ approval shall embody all terms, conditions, and requirements of the permitting state agencies, provided that the ~~council~~ director may require more stringent permit terms, conditions, and requirements respecting the design, construction, operation, inspection, monitoring, and maintenance of the proposed facility at the proposed site.

Sec. 44. Minnesota Statutes 1994, section 473.823, subdivision 6, is amended to read:

Subd. 6. ~~[COUNCIL; CERTIFICATION OF NEED.]~~ No new mixed municipal solid waste disposal facility or capacity shall be permitted in the metropolitan area without a certificate of need issued by the ~~council~~ director indicating ~~the council's~~ a determination that the additional disposal capacity planned for the facility is needed in the metropolitan area. The ~~council~~ director shall amend ~~its~~ the policy plan, adopted pursuant to section 473.149, to include standards and procedures for certifying need that conform to the certification standards stated in this subdivision. The standards and procedures shall be based on the ~~council's~~ metropolitan disposal abatement plan adopted pursuant to section 473.149, subdivision 2d, the ~~council's~~ solid waste disposal facilities development schedule adopted under section 473.149, subdivision 2c, and the provisions

of any master plans of counties that have been approved ~~by the council~~ under section 473.803, subdivision 2, and that are consistent with the ~~council's~~ abatement plan and development schedule. The ~~council~~ director shall certify need only to the extent that there are no feasible and prudent alternatives to the disposal facility, including waste reduction, source separation and resource recovery which would minimize adverse impact upon natural resources. Alternatives that are speculative or conjectural shall not be deemed to be feasible and prudent. Economic considerations alone shall not justify the certification of need or the rejection of alternatives.

Sec. 45. Minnesota Statutes 1994, section 473.844, subdivision 1a, is amended to read:

Subd. 1a. [USE OF FUNDS.] (a) The money in the account may be spent only for the following purposes:

(1) assistance to any person for resource recovery projects funded under subdivision 4 or projects to develop and coordinate markets for reusable or recyclable waste materials, including related public education, planning, and technical assistance;

(2) grants to counties under section 473.8441;

(3) program administration ~~by the metropolitan council~~;

(4) public education on solid waste reduction and recycling;

(5) solid waste research; and

(6) grants to multicounty groups for regionwide planning for solid waste management system operations and use of management capacity.

(b) The ~~council~~ director shall allocate at least 50 percent of the annual revenue received by the account for grants to counties under section 473.8441.

Sec. 46. Minnesota Statutes 1994, section 473.844, subdivision 4, is amended to read:

Subd. 4. [RESOURCE RECOVERY GRANTS AND LOANS.] The grant and loan program under this subdivision is administered by the ~~metropolitan council~~ director. Grants and loans may be made to any person for resource recovery projects. The grants and loans may include the cost of planning, acquisition of land and equipment, and capital improvements. Grants and loans for planning may not exceed 50 percent of the planning costs. Grants and loans for acquisition of land and equipment and for capital improvements may not exceed 50 percent of the cost of the project. Grants and loans may be made for public education on the need for the resource recovery projects. A grant or loan for land, equipment, or capital improvements may not be made until the ~~metropolitan council~~ director has determined the total estimated capital cost of the project and ascertained that full financing of the project is assured. Grants and loans made to cities, counties, or solid waste management districts must be for projects that are in conformance with approved master plans. A grant or loan to a city or town must be reviewed and approved by the county for conformance with the county master plan. The ~~council~~ director shall require, where practical, cooperative purchase between cities, counties, and districts of capital equipment.

Sec. 47. Minnesota Statutes 1994, section 473.8441, subdivision 2, is amended to read:

Subd. 2. [PROGRAM.] The ~~council~~ director shall encourage the development of permanent local recycling programs throughout the metropolitan area. ~~By January 1, 1988, the council shall develop performance indicators for local recycling that will measure the availability and use of recycling throughout the metropolitan area.~~ The ~~council~~ director shall make grants to qualifying metropolitan counties as provided in this section.

Sec. 48. Minnesota Statutes 1994, section 473.8441, subdivision 4, is amended to read:

Subd. 4. [GRANT CONDITIONS.] The ~~council~~ director shall administer grants so that the following conditions are met:

(a) A county must apply for a grant in the manner determined by the ~~council~~ director. The application must describe the activities for which the grant will be used.

(b) The activities funded must be consistent with the ~~council's~~ metropolitan policy plan and the county master plan.

(c) A grant must be matched by equal county expenditures for the activities for which the grant is made.

(d) All grant funds must be used for new activities or to enhance or increase the effectiveness of existing activities in the county.

(e) Counties shall provide support to maintain effective municipal recycling where it is already established.

Sec. 49. Minnesota Statutes 1994, section 473.8441, subdivision 5, is amended to read:

Subd. 5. [GRANT ALLOCATION PROCEDURE.] (a) The ~~council~~ director shall distribute the funds annually so that each qualifying county receives an equal share of 50 percent of the ~~council's~~ allocation to the program described in this section, plus a proportionate share of the remaining funds available for the program. A county's proportionate share is an amount that has the same proportion to the total remaining funds as the number of households in the county has to the total number of households in all metropolitan counties.

(b) To qualify for distribution of funds, a county, by April 1 of each year, must submit ~~for council~~ to the director for approval a report on expenditures and activities under the program during the preceding fiscal year and any proposed changes in its recycling implementation strategy or performance funding system. The report shall be included in the county report required by section 473.803, subdivision 3.

Sec. 50. Minnesota Statutes 1994, section 473.845, subdivision 4, is amended to read:

Subd. 4. [EXPENDITURE NOTIFICATION.] The commissioner shall notify the ~~chair~~ director of the office and the director of the legislative commission on waste management before making expenditures from the fund.

Sec. 51. Minnesota Statutes 1994, section 473.848, subdivision 2, is amended to read:

Subd. 2. [COUNTY CERTIFICATION; ~~COUNCIL~~ OFFICE APPROVAL.] (a) By April 1 of each year, each county shall submit an annual certification report to the ~~council~~ office detailing:

(1) the quantity of waste generated in the county that was not processed prior to transfer to a disposal facility during the year preceding the report;

(2) the reasons the waste was not processed;

(3) a strategy for development of techniques to ensure processing of waste including a specific timeline for implementation of those techniques; and

(4) any progress made by the county in reducing the amount of unprocessed waste.

The report shall be included in the county report required by section 473.803, subdivision 3.

(b) The ~~council~~ office shall approve a county's certification report if it determines that the county is reducing and will continue to reduce the amount of unprocessed waste, based on the report and the county's progress in development and implementation of techniques to reduce the amount of unprocessed waste transferred to disposal facilities. If the ~~council~~ office does not approve a county's report, it shall negotiate with the county to develop and implement specific techniques to reduce unprocessed waste. If the ~~council~~ office does not approve two or more consecutive reports from any one county, the ~~council~~ office shall develop specific reduction techniques that are designed for the particular needs of the county. The county shall implement those techniques by specific dates to be determined by the ~~council~~ office.

Sec. 52. Minnesota Statutes 1994, section 473.848, subdivision 4, is amended to read:

Subd. 4. [~~COUNCIL~~ OFFICE REPORT.] The ~~council~~ office shall include, as part of its report to the legislative commission on waste management required under section 473.149, an accounting

of the quantity of unprocessed waste transferred to disposal facilities, the reasons the waste was not processed, a strategy for reducing the amount of unprocessed waste, and progress made by counties to reduce the amount of unprocessed waste. The council office may adopt standards for determining when waste is unprocessable and procedures for expediting certification and reporting of unprocessed waste.

Sec. 53. [APPLICATION.]

Sections 29 to 52 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 54. [INSTRUCTION TO REVISOR.]

The revisor shall substitute the term "office of environmental assistance" for the term "office of waste management" in Minnesota Statutes, sections 15A.081, 41A.066, 43A.08, 115B.20, 116.07, 116.101, 116.99, and 477A.012.

Sec. 55. [REPEALER.]

Minnesota Statutes 1994, sections 115A.81, subdivision 3; 115A.90, subdivision 3; 383D.71, subdivision 2; 473.149, subdivision 5; and 473.181, subdivision 4, are repealed.

Sec. 56. [EFFECTIVE DATE.]

Sections 1 to 53 and 55 are effective on the day following final enactment."

Amend the title as follows:

Page 1, line 8, after "sections" insert "16B.122, subdivision 3;"

Page 1, line 13, delete everything before "115A.55"

Page 1, line 21, after "4;" insert "115A.96, subdivision 2;" and after "1;" insert "115A.9651, subdivision 3;"

Page 1, line 23, after "116.072;" insert "116.66, subdivisions 2 and 4; 116.92, subdivision 4;"

Page 1, line 31, after "473.848" insert ", subdivisions 2 and 4"

Page 1, line 34, delete "chapter" and insert "chapters 16B; 115A; 116; and"

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

Mr. Johnson, D.J. from the Committee on Taxes and Tax Laws, to which was referred

S.F. No. 1570: A bill for an act relating to taxes; freezing property tax values, levies, and rates for taxes payable in 1996; limiting increases in property tax values, levies, and rates for taxes payable in 1997; appropriating money; repealing Minnesota Statutes 1994, sections 124.01; 124.05; 124.06; 124.07; 124.76; 124.82; 124.829; 124.83; 124.84; 124.85; 124.86; 124.90; 124.91; 124.912; 124.914; 124.916; 124.918; 124.95; 124.961; 124.962; 124.97; 124A.02, subdivisions 16, 23, and 24; 124A.03, subdivisions 1b, 1c, 1d, 1e, 1f, 1g, 1h, and 1i; 124A.0311; 124A.032; 124A.04; 124A.22, subdivisions 1, 2, 3, 4, 4a, 4b, 6, 6a, 8, and 9; 124A.23; 124A.24; 124A.26, subdivisions 1, 2, and 3; 124A.27; 124A.28; 124A.29, subdivision 2; 273.13; 273.1398; 473F.001; 473F.01; 473F.02; 473F.03; 473F.05; 473F.06; 473F.07; 473F.08; 473F.09; 473F.10; 473F.11; 473F.13; 477A.011; 477A.012; 477A.0121; 477A.0122; 477A.013; 477A.0132; 477A.014; 477A.015; 477A.016; 477A.017; 477A.03; 477A.11; 477A.12; 477A.13; 477A.14; and 477A.15; Laws 1991, chapter 265, article 7, section 35.

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

Page 2, line 31, delete "61" and insert "62"

Page 3, after line 4, insert:

"Sec. 2. [TRANSITIONAL LEVIES.]

Notwithstanding Minnesota Statutes, sections 122.247, subdivision 3, and 122.533, a school district's levy under those sections for taxes payable in 1996 shall be no greater than it was for the prior year."

Page 3, lines 9 and 33, delete "3 to 11" and insert "4 to 12"

Page 3, delete section 3

Page 3, line 24, delete "the 1996-1997 school year" and insert "taxes payable in 1996" and after "computed" insert "for taxes payable"

Page 4, after line 17, insert:

"Sec. 10. [CONTRACTED SERVICES LEVY.]

Notwithstanding Minnesota Statutes, section 124.226, subdivision 7, a school district's levy for taxes payable in 1996 under that subdivision shall be no greater than it was in the prior year. If the resulting levy is less than the school district would have been authorized to levy under that subdivision, the district will receive additional aid equal to the difference."

Page 5, line 3, delete "27" and insert "30"

Page 5, line 4, after the first "to" insert "(1)" and delete "issued" and insert "sold"

Page 5, line 5, delete "issued" and insert "sold" and delete "27" and insert "30" and after "1995" insert ", or (2) bonds for which the amount of the levy first becoming due in 1996 would not exceed the amount by which the school district's total levy for debt service on bonds for taxes payable in 1996 prior to issuance of those bonds is less than the municipality's total levy for debt service for bonds for taxes payable in 1995"

Page 5, line 30, delete "6a" and insert "6, 6a, or 6b"

Page 5, line 31, delete "off the community education formula"

Pages 5 and 6, delete section 18

Page 8, lines 15 and 22, delete "27" and insert "30"

Page 8, line 19, after "1996" insert "unless the district's capital expenditure levy for taxes payable in 1996, including the levy for the new obligation, would not exceed its levy for that purpose for taxes payable in 1995"

Page 8, line 21, before "Notwithstanding" insert "(a) Except as provided in paragraph (b),"

Page 8, line 24, after "1996" insert "unless the district's total levy for installment contracts and lease purchase agreements for taxes payable in 1996, including the levy for the new obligation, would not exceed its levy for that purpose for taxes payable in 1995"

Page 8, after line 24, insert:

"(b) The limitation in paragraph (a) does not apply to an installment contract entered into before July 1, 1995, if it:

(1) relates to a high school construction project that was approved by the commissioner of education under Minnesota Statutes, section 121.15, before July 1, 1994; and

(2) relates at least in part to bids awarded between September 8, 1994, and February 21, 1995. Payments due on installment contracts described in this paragraph during calendar year 1996 will be paid by the state. The amount of those payments will be repaid by the school district to the state in three equal annual installments beginning in 1997. No interest will be due on those payments if timely paid by June 15 of the year due."

Page 9, line 12, after "25," insert "and section 268.08"

Page 9, line 14, delete "this purpose" and insert "these purposes"

Page 10, line 24, delete "in a subsequent year" and insert "over a four-year period"

Page 11, line 3, after "1," insert "or Laws 1993, chapter 224, article 8, section 18,"

Page 11, line 4, delete "that subdivision" and insert "those provisions of law"

Page 12, line 11, after "1996" insert ", unless the referendum provides for continuation of a referendum levy that terminates beginning with taxes payable in 1996. If the terminated levy had been based on net tax capacity, the referendum relating to taxes payable in 1996 must be based on net tax capacity and the ballot shall state the estimated referendum tax rate based on net tax capacity for taxes levied in 1996, notwithstanding Minnesota Statutes, section 124A.03, subdivisions 2 and 2a. To the extent the referendum relates to taxes payable in 1997 and subsequent years, the levies for those years are subject to Minnesota Statutes, sections 124A.03, subdivision 2a, and 124A.0311, subdivision 3, and the ballot shall also state the estimated referendum tax rate as a percentage of market value for taxes levied in 1997"

Page 13, after line 17, insert:

"Sec. 58. [SCHOOL RESTRUCTURING LEVIES.]

Notwithstanding Minnesota Statutes, section 126.019, a school district's levy under that section for taxes payable in 1996 shall be no greater than it was in the prior year. To the extent the resulting levy is less than the district would have otherwise been authorized to levy under that section, the district shall receive additional aid equal to the difference."

Page 14, lines 13 and 14, delete "27" and insert "30"

Page 14, after line 15, insert:

"Sec. 63. [BENEFIT RATIO FOR RURAL SERVICE DISTRICTS.]

Notwithstanding Minnesota Statutes, section 272.67, subdivision 6, the benefit ratio used for apportioning levies to a rural service district for taxes payable in 1996 shall not be greater than that in effect for taxes payable in 1995."

Page 14, line 17, before "After" insert "Subdivision 1. [GENERALLY.] (a)" and delete "27" and insert "30"

Page 14, line 20, delete "issue" and insert "sell"

Page 14, line 29, after "to" insert "(1)" and delete "issued" and insert "sold"

Page 14, line 30, delete "issued" and insert "sold" and delete "27" and insert "30" and after "1995" insert "or (2) obligations for which the amount of the levy first becoming due in 1996 would not exceed the amount by which the municipality's total debt service levy for taxes payable in 1996 prior to issuance of those obligations is less than the municipality's total debt service levy for taxes payable in 1995. As used in clause (2), "obligations" includes certificates of indebtedness, capital notes, or other debt instruments or installment purchase contracts or lease purchase agreements"

Page 14, after line 30, insert:

"(b) For purposes of this section, bonds will be deemed to have been sold before March 30, 1995, if an agreement has been entered into between the municipality and a purchaser for the sale of the bonds by that date. Debt service payments due on bonds described in this paragraph during calendar year 1996 will be paid by the state. The amount of those payments must be repaid by the municipality to the state in three equal annual installments beginning in 1997. No interest will be due on those payments if timely paid by June 15 of the year due."

Subd. 2. [EXCEPTION.] Notwithstanding subdivision 1, certificates of indebtedness, capital

notes, installment purchase contracts, lease purchase agreements or any other debt instruments and the debt service levies for the obligations shall, for purposes of this act, be treated as if sold prior to March 30, 1995, if:

(a) The municipality or other governmental authority has satisfied any one of the following conditions prior to March 30, 1995:

(1) it has adopted a resolution or ordinance authorizing the issuance of the obligations;

(2) it has declared official intent to issue the obligations under federal tax laws and regulations;

or

(3) it has entered into a binding agreement to design or construct a project or acquire property to be financed with the obligations; and

(b) The municipality makes a finding at the time of the sale of the bonds that no levy will be required for taxes payable in 1996 to pay the debt service on the obligations because sufficient funds are available from nonproperty tax sources to pay the debt service."

Page 15, line 6, after the period, insert "It is further provided that previously tax exempt property that loses its tax exempt status pursuant to Minnesota Statutes, section 272.02, subdivision 4, shall not have its assessment limited in any way under this subdivision."

Page 15, line 24, delete "and 4" and insert ", 4, and 5"

Page 15, line 34, delete "61" and insert "62"

Page 16, lines 2 and 3, delete "27" and insert "30"

Page 16, after line 7, insert:

"Subd. 5. [ANNEXATION EXCEPTION.] The tax and levy relating thereto on property annexed under Minnesota Statutes, chapter 414, may be increased pursuant to the provisions of that chapter notwithstanding subdivision 1. Furthermore, any tax rate increase on the affected property pursuant to the provisions of Minnesota Statutes, chapter 414, shall not be subject to the provisions of section 69."

Page 18, lines 28 and 29, delete "27" and insert "30"

Page 19, after line 36, insert:

"Sec. 70. [PENSION LIABILITIES.]

Notwithstanding any other law or charter provision to the contrary, no levy for taxes payable in 1996 for a local police and fire relief association for the purpose of amortizing an unfunded pension liability may exceed the levy for that purpose for taxes payable in 1995."

Page 20, line 7, delete "64" and insert "66"

Page 21, line 17, delete "71" and insert "74"

Page 22, lines 8, 9, and 13, delete "71" and insert "74"

Page 22, line 10, after "year" insert ", provided that"

Renumber the sections in sequence

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

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

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.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Environment and Natural Resources. Report adopted.

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

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; 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.

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

Page 6, line 29, delete "following programs" and insert "Head Start program, including Project Cornerstone, under sections 268.912 to 268.916,"

Page 6, line 30, after "15.039" insert "on July 1, 1997" and delete "The"

Page 6, delete lines 31 to 36

Page 7, delete lines 1 to 21

Page 12, line 9, delete "two-part" and insert "three-part"

Page 12, line 11, delete "and"

Page 12, line 12, before the period, insert "; and

(3) collaboration with local nonprofit organizations, including churches and ecumenical organizations"

Page 13, line 21, delete "economic security,"

Page 13, line 30, after "1." insert "[LEGISLATIVE FINDINGS.] The legislature finds that the reorganization of state agencies, including the abolishment of agencies or their functions and the merger of agency functions to the extent possible, makes the best use of affected agency employees and improves the direct service capabilities of state employees to provide public services to citizens of the state and to customers of the agency. To assure that quality services are delivered to citizens of Minnesota, appointing authorities shall comply with this section."

Subd. 2."

Page 13, line 34, delete "2" and insert "3"

Page 14, line 30, delete "3" and insert "4"

Page 15, line 6, after the period, insert "Employees who are involved in the delivery of services to clients of an agency and whose duties are not principally administrative or managerial cannot be laid off because of a restructuring mandated by this act. The complement of employees transferred to the department of children, families, and learning whose principal duties are managerial or administrative must be reduced by 25 percent by January 1, 1997."

Page 15, line 7, delete "4" and insert "5"

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

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

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

S.F. No. 347: A bill for an act relating to court records; permitting tenant screening services to report court record information concerning unlawful detainer filings; amending Minnesota Statutes 1994, section 504.30, subdivision 4.

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 504.30, is amended by adding a subdivision to read:

Subd. 1a. [TENANT NOTIFICATION.] A landlord shall notify an individual applying to rent a residential unit from the landlord if the landlord will use a tenant screening service in determining whether to rent to the individual. The notice must provide the name and address of the service used.

Sec. 2. Minnesota Statutes 1994, section 504.30, subdivision 4, is amended to read:

Subd. 4. [COURT FILE INFORMATION.] (a) If a tenant screening service includes information from a court file on an individual in a tenant report, the outcome of the court proceeding must be accurately recorded in the tenant report when the outcome becomes available. If the tenant screening service reports a pending unlawful detainer action, the fact that the action is pending must be included in the tenant screening report. Whenever the court supplies information from a court file on an individual, in whatever form, the court shall include information on the outcome of the court proceeding when it becomes available. The court shall maintain and make available to persons requesting it, a summary list of completed unlawful detainer actions indicating how each was disposed. The summary list shall be updated at least monthly. Dispositions of proceedings must be added to the tenant screening service's report on an individual as soon as practicable after a summary listing of dispositions is made available by the court or the court has made information on the dispositions available by another means, whichever is available sooner. The tenant screening service is not liable under section 504.31 if the tenant screening service reports complete and accurate information as provided by the court.

(b) A tenant screening service shall may not provide make a tenant reports screening report containing information on an unlawful detainer actions in the second and fourth judicial districts, unless the tenant report accurately records the outcome of the proceeding or other disposition of the unlawful detainer action such as settlement, entry of a judgment, default, or dismissal of the action which antedates the report by more than four years."

Delete the title and insert:

"A bill for an act relating to landlords and tenants; regulating certain tenant screening practices; amending Minnesota Statutes 1994, section 504.30, subdivision 4, and by adding a subdivision."

And when so amended the bill be re-referred to the Committee on Judiciary without recommendation. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 1151, 435, 1052, 621, 342, 936, 1236, 1136, 1164, 1343, 1374 and 1520 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 536, 568, 612, 751, 1363, 1060, 564 and 567 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Solon moved that the name of Mr. Oliver be added as a co-author to S.F. No. 1404. The motion prevailed.

Ms. Anderson moved that the name of Mr. Limmer be added as a co-author to S.F. No. 1479. The motion prevailed.

Mr. Kelly moved that the name of Ms. Reichgott Junge be added as a co-author to S.F. No. 1601. The motion prevailed.

Mr. Neuville moved that the name of Mr. Kelly be added as a co-author to S.F. No. 1613. The motion prevailed.

Mr. Finn moved that the name of Mr. Moe, R.D. be added as a co-author to S.F. No. 1614. The motion prevailed.

Mr. Bertram introduced--

Senate Resolution No. 51: A Senate resolution commending Jim Connolly, Department Commander of the Veterans of Foreign Wars, on his service to his state and country.

Referred to the Committee on Rules and Administration.

Mr. Bertram introduced--

Senate Resolution No. 52: A Senate resolution honoring Ray Dezurik of St. Cloud, Minnesota, for service to state and country.

Referred to the Committee on Rules and Administration.

Mr. Johnson, D.E. introduced--

Senate Resolution No. 53: A Senate resolution congratulating the New London-Spicer athletes that were presented 1995 First Bank All-Tournament awards.

Referred to the Committee on Rules and Administration.

Mr. Moe, R.D., for the Committee on Rules and Administration, introduced--

Senate Resolution No. 54: A Senate resolution adopting permanent rules of the Senate.

BE IT RESOLVED, by the Senate of the State of Minnesota:

The Permanent Rules of the Senate for the 79th Legislature shall read as follows:

PERMANENT RULES OF THE SENATE

PARLIAMENTARY REFERENCE

1. The rules of parliamentary practice comprised in Mason's Manual of Legislative Procedure shall govern the Senate in all cases in which they are applicable, and in which they are not inconsistent with these rules and orders of the Senate and the joint rules and orders of the Senate and House of Representatives.

HOUR OF CONVENING

2. The Senate shall convene on days of meeting at 8:30 a.m. unless the Senate directs otherwise.

PRESIDENT

3. The President shall take the chair at the hour to which the Senate adjourned. The President shall immediately call the members to order and, on the appearance of a quorum, shall proceed with the regular order of business. The President shall preserve order and decorum, may speak on points of order in preference to members, and shall also decide all questions of order, subject to an appeal to the Senate by a member. An appeal is decided by a majority vote of those present and voting. Upon an appeal from the decision of the President, the question is, "Shall the decision of the President be the judgment of the Senate?"

SUBSTITUTES FOR THE PRESIDENT

4. The President may call a member to preside. In the absence of the President the Chair of the Committee on Rules and Administration, or the Chair's designee, shall preside over the Senate. In the absence of the President and the Chair, a member may be selected by the Senate to perform the duties of the President. Substitutions do not extend beyond adjournment.

ABSENCE OF MEMBERS

5. No member or officer of the Senate shall be absent from a session of the Senate unless excused by the Senate.

DECORUM DURING BUSINESS

6. When the President puts a question, or addresses the Senate, no one shall walk out of or cross the Chamber. When a member is speaking, no one shall pass between the member speaking and the President. No member, or other person, shall proceed to or remain by the Secretary's desk while the yeas and nays are being called or counted. No member may speak without using a microphone.

ORDER OF BUSINESS

7. The order of business is as follows:

1. Petitions, letters, remonstrances.
2. Executive and official communications.
3. Messages from the House of Representatives.
4. First reading of House bills.
5. Reports of committees.
 - (a) From standing committees.
 - (b) From select committees.
6. Second reading of Senate bills.
7. Second reading of House bills.
8. Motions and Resolutions.
9. Calendar.
10. Consent Calendar.
11. General Orders.
12. Introduction and first reading of Senate bills.
13. Announcements of Senate interest.

Under the order of business of Motions and Resolutions the Senate may by a majority vote of the whole Senate temporarily revert or proceed to any other order of business.

CALENDAR

8. The Secretary shall make a Calendar of all bills, resolutions and other matters coming before the Senate for final action. The Secretary shall place them on the Calendar in the order in which they have been acted upon in Committee of the Whole. The Calendar shall be printed and placed upon the members' desks at least one calendar day before the matters on it are considered.

CONSENT CALENDAR

9. If a committee determines that a bill it recommends to pass is of a routine nature or otherwise of a nature which likely will not be opposed, it may in its report recommend that the bill be placed on the Consent Calendar. If the report is adopted, the bill shall be printed and placed on the Consent Calendar after its second reading. On the question of adoption of the report the question of accepting the recommendation that the bill be placed on the Consent Calendar may be divided from the question of adopting the report in other respects.

A majority of the whole Senate, or the Chair of the Committee on Rules and Administration, may order a bill on General Orders to be placed on the Consent Calendar.

The Consent Calendar consists of bills placed on it. Senate bills shall be positioned ahead of House bills. The Consent Calendar shall be printed and placed on the members' desks at least one calendar day before the matters on it are considered.

If a member objects to consideration of a bill on the Consent Calendar at any time during its consideration in the Senate before the question on final passage is put, and that objection is supported by at least two other members, the bill shall be referred to the Committee of the Whole, and shall be placed at the bottom of General Orders subject to Rule 11, except that it need not lie over one calendar day before consideration in the Committee of the Whole.

SPECIAL ORDER

10. The Chair of the Committee on Rules and Administration may designate a special order for a bill that has been given its second reading.

A special order shall provide that the bill be considered immediately, at a time certain, or after specific other business is completed.

During consideration of a special order, Rule 20 is suspended. As nearly as applicable, debate on the bill and all proceedings including amendments and substitutions shall be that of the Committee of the Whole.

On any question a member may call for the yeas and nays which shall be entered in the Journal.

Unless it is otherwise disposed of, after consideration a bill on Special Orders of the Senate shall immediately proceed to its third reading and final passage.

A bill may not be made a special order if the chief author has declined on three previous occasions to take the bill up after it was designated a special order.

GENERAL ORDERS

11. The Secretary shall make a list of all bills, resolutions, reports of committees, and other proceedings of the Senate, which are referred to the Committee of the Whole, and which are not made the order of the day, for a particular day, and number them. The lists are called the "General Orders". They shall be taken up in the order in which they are numbered unless otherwise ordered by a majority of the committee.

General Orders, together with all bills included on it required to be printed under the rules or

orders of the Senate, shall be printed and placed upon the members' desks at least one calendar day before being considered in Committee of the Whole.

MOTIONS

12. When a motion is made it shall be stated by the President. If it is in writing it shall be handed to the Secretary and read to the members.

13. A motion or amendment shall be written if the President or a member requests. In that case it must identify the member or committee offering it.

14. After a motion is stated by the President, or read by the Secretary, it is in possession of the Senate, but may be withdrawn by the author at any time before decision or amendment.

PRECEDENCE OF MOTIONS

15. When a question is under debate no motion shall be received, except:

1. To adjourn.
2. To recess.
3. To reconsider.
4. To lay on the table.
5. For the previous question.

(Motions numbered 1, 2, 4 and 5 above shall be decided without debate.)

6. To refer.
7. To postpone to a day certain.
8. To amend.
9. To postpone indefinitely.

These several motions have precedence in the foregoing order; but when a motion for the previous question has been seconded, or the main question ordered, a motion to lay on the table is not in order.

A motion to postpone to a day certain, to refer, to postpone indefinitely, or to amend, having been decided, shall not again be put on the same day, nor at the same stage of the bill or proposition.

MOTION TO ADJOURN

16. A motion to adjourn is always in order, and also a motion to adjourn to a time certain. The latter motion is debatable solely as to the time. When either motion is rejected it shall not be renewed until further business has been transacted.

AMENDMENTS TO RULES AND SUSPENSION OF RULES

17. Every proposition to amend a rule of the Senate shall be referred to the Committee on Rules and Administration. The proposition shall not be acted upon until the report of the committee is received by the Senate. A rule shall not be suspended except by at least two-thirds vote of the whole Senate. A motion to suspend the rules for the purpose of advancing a bill shall be made only under the order of business, "Motions and Resolutions".

ORDER IN DEBATE

18. When a member is about to speak in debate, or deliver a matter to the Senate, the member shall rise and respectfully address "Mr. (or Madam) President". The member shall not proceed to speak further until recognized by the President. The member shall speak only to the question under debate and avoid personality. In discussing a resolution, each member is limited to ten minutes.

19. When a member is called to order, the member shall be silent until it is determined whether or not the member is in order. If a member is called to order for words spoken in debate, the words excepted to shall be taken down in writing by the Secretary immediately.

20. No member shall speak more than twice on the same question on the same day without leave of the Senate.

COMMITTEES NOT TO BE ABSENT

21. Committees shall not be absent from the Senate without permission of the Senate. The names of the members excused shall be printed in the Journal.

MEMBERS TO VOTE UNLESS EXCUSED

22. Every member who is in the Senate Chamber during a roll call shall vote upon the request of another member unless, for special reasons, excused by the Senate.

A motion by a member to be excused from voting shall be made before the question is put. A member wishing to be excused from voting may make a brief statement of the reason for making the request and the question on the motion shall be taken without further debate.

When members have had an opportunity to vote and fail to do so, a majority of all the members of the Senate may, by motion, direct the President to close the roll. The vote on a motion to close the roll shall be taken without debate and no member is required to vote on the motion.

CALL OF THE SENATE

23. A member may impose a call of the Senate requiring the attendance of all members before any further proceedings occur except a motion to adjourn. Upon the imposition of a call, a record of those present shall be obtained upon the request of any member, and the Sergeant at Arms instructed to bring in the absent members. When the Senate has been placed under call, a member may demand that the doors be closed and no member permitted to leave the Chamber until the matter or question, if any, under consideration at the time of the call is disposed of, or until the call is lifted by a majority vote of all the members of the Senate, or until the Senate adjourns. A majority vote of all the members of the Senate may excuse from attendance members not answering the call.

A call cannot be made after voting has commenced.

QUESTIONS--HOW STATED AND DECIDED

24. Questions shall be distinctly put. The President shall declare all votes but if a member rises to question a vote, the President shall order a division.

ONLY MEMBERS PRESENT TO VOTE

25. Upon a division and count of the Senate on a question, only members present in the Senate Chamber shall be counted. No member may vote on a question except at the member's own seat in the Chamber.

ANY MEMBER MAY DEMAND YEAS AND NAYS

26. At any time prior to the start of voting on a question, a member may call for the yeas and nays which shall be entered in the Journal. A call for the yeas and nays cannot be interrupted except as provided in Rule 22.

AUTHORIZED ELECTRICAL VOTING DEVICE

27. Unless otherwise ordered, a vote, except upon elections, may be taken by means of the electrical voting system which is under the control of the President.

CERTIFICATE FOR MONEY

28. No certificate authorizing the payment of money appropriated by the Legislature shall be issued by the Secretary by virtue of a motion or resolution, unless the motion or resolution is voted for by a majority of all members of the Senate upon a call of the yeas and nays.

THE PREVIOUS QUESTION

29. Unless the motion for the previous question is made specifically applicable to a subsidiary motion, the previous question shall be in this form:

"Shall the main question now be put?" It shall only be admitted when demanded by a majority of the members present, and its effect is to put an end to all debate, and bring the Senate to a direct vote upon amendments reported by a committee, if any, then upon all pending amendments in their order and then upon the main question.

On a motion for the previous question a call of the Senate is in order before the President submits the question to the Senate.

On a previous question there is no debate. All incidental questions of order, arising after a motion is made for the previous question, and pending the motion, shall be decided, whether on appeal or otherwise, without debate.

DIVISION OF QUESTION

30. A member may call for a division of the question when the question will admit of it. A motion to strike out and insert is indivisible. A motion to strike out being lost does not preclude an amendment nor a motion to strike out and insert.

RECONSIDERATION

31. When a motion or question has been once put and carried in the affirmative or negative, it is in order for a member who voted with the prevailing side to move for reconsideration on the same day on which the vote was taken or within the next two calendar days or, if later, the first day the Senate meets after the vote was taken. The motion takes precedence over all other questions except a motion to adjourn or recess. When a motion to adjourn is adopted prior to the disposition of the motion for reconsideration, a motion for reconsideration shall lie over until the next succeeding day the Senate meets except as provided in this rule. When notice of intention to move reconsideration of the final action of the Senate on a question is given by a member, the Secretary shall retain the subject of the notice until after the expiration of the time during which the motion can be made.

During the six calendar days before the first Tuesday following the third Saturday in May of

any year a notice of intention to move for reconsideration is not in order, but a motion to reconsider may be made and have priority over all other business except a motion to adjourn. A motion for reconsideration having been once voted on shall not be put again nor reconsidered.

INTRODUCTION OF BILLS

32. Bills, memorials, concurrent or joint resolutions may be introduced by a member or by order of the Senate on a report of a committee. An original and three copies are required for introduction. The number of authors shall not exceed five. A member or a committee desiring to introduce a bill, memorial or concurrent or joint resolution shall place it in the hands of the Secretary, and the Secretary shall promptly deliver all the bills, memorials or concurrent or joint resolutions to the President who shall present them to the Senate.

The name of the author or authors shall be prefixed to each bill, memorial or resolution and the name of a committee introducing a bill, memorial or resolution shall be endorsed on it.

A bill prepared by a department or agency of state government shall be introduced and given its first reading three weeks before the first committee deadline in odd numbered years and two weeks before the first committee deadline in even numbered years.

RECESS BILL INTRODUCTIONS

33. During the period between the last day of the session in any odd-numbered year and the first day of the session in the following year, a bill filed with the Secretary for introduction shall be given a file number and may be unofficially referred by the President, with the approval of the Chair of the Committee on Rules and Administration, to an appropriate standing committee of the Senate. All bills filed for introduction during this period shall be presented to the Senate when it reconvenes and shall be referred to the standing committees previously indicated by the President, subject to objection under Rule 35.

REPORTING OF BILLS

34. Every bill, memorial, order, resolution or vote requiring the approval of the Governor shall be reported to the Senate on three different days previous to its passage. The first report, called the first reading, is made when it has been received for introduction; the second report, called the second reading, is made when it has been considered by all the necessary standing committees and is ready for debate; the third report, called the third reading, is made when it is ready for final passage.

REFERRING OF BILLS

35. All bills shall be referred by the President without motion to the proper standing committee unless otherwise referred by the Senate. A bill introduced by a committee need not be referred to a standing committee unless a question arises but rather shall lie over one day before being given its second reading. When a question arises concerning the proper reference of a bill during the order of business of first reading on the day of introduction or at the time of report on it by a standing committee to which the bill was previously referred, the bill shall be referred without debate to the Committee on Rules and Administration to report the proper reference, and upon adoption of the report of the Committee on Rules and Administration, it shall be referred accordingly.

All bills appropriating money, or obligating the state to pay or expend money, or establishing a policy which to be effective will require expenditure of money, when referred to and reported by any other than the Committee on Finance, shall, before passage, be referred to the Committee on Finance.

All bills delegating ~~emergency~~ rulemaking to a department or agency of state government and all bills exempting a department or agency of state government from rulemaking, when referred to

and reported by any other than the Committee on Governmental Operations and Veterans, shall, before passage, be referred to the Committee on Governmental Operations and Veterans.

All bills creating a new commission, council, task force, board, or other body to which a member of the legislature will be appointed shall, before passage, be referred both to the Committee on Governmental Operations and Veterans and to the Committee on Rules and Administration.

All bills authorizing or increasing a sentence of imprisonment to a state correctional institution shall be referred before passage to the Committee on Crime Prevention.

Upon request of the chair of a finance division of a policy committee, the chair of the policy committee shall refer a bill in that committee to the division.

36. No bill or resolution shall be referred to committee or amended until it has been given its first reading. No bill or resolution shall be objected to on its introduction.

AMENDMENTS TO BE GERMANE

37. An amendment proposed to the Senate or to the Committee of the Whole that is not germane is out of order. A non-germane amendment includes one that relates to a substantially different subject, or is intended to accomplish a substantially different purpose than that of the original bill to which it is proposed. An amendment to insert a constitutional amendment is not germane to a bill that does not already include a constitutional amendment. Whether an amendment is germane is a question to be decided by the President, who may put the question to the body if the President chooses.

A motion to remove an amendment placed on a House bill under Rule 49 is out of order if removal of the amendment would make a portion of the House bill not germane to the Senate companion for which it was substituted.

AMENDMENTS TO BILLS

38. In drawing an amendment to a bill or resolution reference shall be made therein, first to the number of the bill, then to the page, and then to the line or lines from which matter is to be stricken or in which new matter is to be inserted.

AMENDMENTS TO TITLE

39. The title to a bill may be amended at any time during its pendency in the Senate.

RECALL FROM COMMITTEE

40. With the concurrence of the first author of the bill, before the deadline for committee action on the bill a majority of the Senate and after the deadline for committee action on the bill 60 percent of the Senate may recall a bill from any committee and re-refer it to any other committee or place it on General Orders. With the concurrence of the first author of the bill, a majority of the Senate may at any time take a bill from the table and place it on General Orders.

By a report of the Committee on Rules and Administration adopted by the Senate, the Committee on Rules and Administration, on request of the first author, may remove a bill from committee and re-refer it to any other committee or place it on General Orders.

DISTRIBUTION AND PRINTING OF BILLS

41. To the extent practical the Secretary shall provide a copy of any bill to the public and may charge a reasonable fee.

Unless otherwise ordered by the Senate, all Senate bills which have been reported upon favorably or without recommendation by a committee shall be printed prior to consideration by the Senate or the Committee of the Whole. A House bill amended by the Senate must be unofficially engrossed and printed when placed on General Orders. A bill may be printed by order of the Secretary when amended after second reading. A bill shall be printed when ordered by a majority vote of the Senate. Action by the Senate on a bill which has not been printed is a waiver of the printing requirement.

COMMITTEE OF THE WHOLE

42. All bills, memorials, orders, resolutions and votes requiring the approval of the Governor shall, after a second reading, be considered in Committee of the Whole before they are finally acted upon by the Senate, except as provided for in Rules 9 and 10.

43. The President may call a member to the Chair when the Senate resolves itself into the Committee of the Whole. The rules observed in the Senate govern, as far as practicable, the proceedings of the Committee of the Whole, and the Chair of the Committee of the Whole has the powers of the President, as appropriate. However, a member may speak more than twice on the same subject and a call for the previous question cannot be made. The yeas and nays shall be taken only upon the request of three members, and when taken shall be recorded in the Journal along with the amendment; provided, however, that a member may, with the approval of the Chair of the Committee on Rules and Administration, submit a description of the amendment for printing. In those cases the Secretary shall retain in the minutes of the Committee of the Whole the full text of the amendment.

44. The recommendations of the Committee of the Whole shall be reported to the Senate. If a recommendation contains a proposed amendment of a bill, that amendment shall be noted on a separate piece of paper but when reported need not be read by the President unless required by one or more of the members. The question is on the adoption or rejection of the report, and no other question shall be admitted. The question may be divided to permit separate Senate action on the report as to any bill. On adoption of the report of the Committee of the Whole all bills recommended to pass shall be placed upon the Calendar.

AMENDMENT ON THIRD READING

45. No amendment is in order on third reading without the unanimous consent of the Senate unless it fills a blank, amends the title as provided by Rule 39, is proposed to the chief author of the bill by the Revisor of Statutes to correct technical defects found by the Revisor while engrossing earlier amendments to the bill, or is proposed to a bill on the Consent Calendar before the bill is given its third reading.

In filling blanks, the largest sum, the longest time and the greatest distance shall be first taken.

MOTION TO REFER

46. A bill or resolution may be referred to committee at any time prior to its passage, and if an amendment is reported on the referral to any other than the Committee of the Whole, it shall again be read the second time, considered in Committee of the Whole, read the third time and placed on final passage. If the referral is to the Committee of the Whole it shall be placed at the head of General Orders, except when the referral is under Rule 9.

FINAL PASSAGE

47. The final question upon a bill or other matter requiring action by both Houses after its first and second reading, and after the consideration in Committee of the Whole, is upon its final passage.

TRANSMITTING OF BILLS TO THE HOUSE

48. Except as provided in Rule 31, immediately after the passage of a bill or other matter in which the concurrence of the House of Representatives is requested, the Secretary shall transmit it to the House. On the concurrence of a bill or other matter of the House by the Senate, or on the concurrence or disagreement in a vote of the House, the Secretary shall notify the House.

COMPARISON AND SUBSTITUTION OF BILLS

49. Unless there is a motion by the Chair of the Committee on Rules and Administration or objection under Rule 35, a House bill, after its first reading, shall be referred as follows:

(a) If there is no Senate companion bill, the House bill shall be referred to the appropriate standing committee;

(b) If there is a Senate companion bill, the House bill shall be referred to the standing committee possessing the Senate companion;

(c) If the Senate companion bill has been reported to the Senate, the House bill shall be referred to the Committee on Rules and Administration, which shall report whether the House bill is identical to the Senate companion bill. If the bills are identical, the report shall recommend that the House bill be given its second reading and substituted for the Senate companion bill and the Senate companion bill be indefinitely postponed. If the House bill is not identical to the Senate companion bill, the report of the committee shall so state and recommend an amendment to the House bill that when adopted will render the House bill identical to the Senate bill. Upon adoption of a committee report containing the proposed amendment, the House bill as amended shall be given its second reading and substituted for the Senate companion bill and the Senate companion bill shall be indefinitely postponed.

Reports of the Committee on Rules and Administration pursuant to this rule shall be prepared and submitted on behalf of the committee by the Secretary.

A House bill placed on the Calendar by substitution shall not be given its third reading on the same day as the substitution.

ENGROSSING AND ENROLLING OF BILLS

50. All engrossing and enrolling of bills shall be done at the direction and under authority of the Senate.

Every bill, memorial, order or resolution originating in the Senate shall be carefully engrossed before being transmitted to the House of Representatives for concurrence.

All bills shall be carefully enrolled under the supervision of the Committee on Rules and Administration, which may report to the Senate at any time on the enrollment of bills.

DISPOSITION OF BILLS ON ADJOURNMENT

51. Adjournment of the regular session in an odd-numbered year to a date certain in the following year shall be equivalent to daily adjournment, except that a bill on the Calendar, Consent Calendar, or General Orders shall be returned to the standing committee other than the Committee on Rules and Administration from which it was last reported to the Senate, unless otherwise provided for by motion prior to adjournment. Bills returned to committee pursuant to this rule shall, upon request of the author, be given priority for consideration by the committee ahead of all other bills in the order in which they appeared on the Calendar, Consent Calendar, or General Orders.

PETITIONS AND OTHER COMMUNICATIONS

52. In presenting a petition, memorial, remonstrance or other communication addressed to the Senate, a member shall only state the general purpose of it.

Every petition, memorial, remonstrance, resolution, bill and report of committee, shall have an appropriate title, and the name of the member presenting it written on it.

RESOLUTIONS

53. Memorial resolutions addressed to the President or the Congress of the United States, or a house or member of Congress, or a department or officer of the United States, or a state or foreign government, joint resolutions, and resolutions requiring the signature of the Governor shall follow the same procedure as bills before being adopted. A resolution may not be changed to a bill, and a bill may not be changed to a resolution.

Upon a member giving notice of intention to debate a resolution not required to follow the same procedure as bills and not offered by the Committee on Rules and Administration, the resolution shall lie over one calendar day without debate or other action. Upon the request of a member, the resolution shall be referred to the proper committee. Whenever a question arises concerning the proper reference the procedure provided by Rule 35 applies.

CONFIRMATIONS

54. Every gubernatorial appointment requiring the advice and consent of the Senate shall be referred by the President to the appropriate committee. If a question arises as to the proper committee, the appointment shall be referred without debate to the Committee on Rules and Administration for a report making the proper reference.

The final question on the appointment is, "Will the Senate, having given its advice, now consent to this appointment?" The question shall not be put the same day the appointment is received or on the day it is reported by committee unless by unanimous consent.

SIGNING OF ACTS, RESOLUTIONS

55. In addition to the duties under Rule 3, the President shall sign all acts, memorials, addresses and resolutions. All writs, warrants and subpoenas issued by the Senate shall be signed by the President and attested by the Secretary. Upon a finding by the Committee on Rules and Administration that the President refuses or is unable to sign any of the documents described in this rule, the Chair of the Committee on Rules and Administration, or some other member selected by the committee shall assume the duties of the President under this rule until the President is able to sign the documents described or until the Senate elects a new President, whichever occurs first.

APPOINTMENT OF COMMITTEES

56. A member may not serve as the chair of a standing committee or a division of a standing committee, or a committee or division with substantially the same jurisdiction, for more than two consecutive Senate terms. This limit does not apply to the Committee on Rules and Administration. This limit applies to time served as a chair in the eightieth legislature and thereafter.

The majority and minority shall each be represented on all standing committees of the Senate substantially in proportion to their numbers in the Senate. The majority group shall assign the number of positions the minority group will hold on each committee. The minority group shall be given adequate notice about its positions prior to the commencement of the session. Both the

majority and minority groups shall appoint their own members to fill the number of positions each group will hold on each committee. The minority group shall transmit notice of its assignments to the majority group within ten calendar days after receipt of the notice of positions available. The minority group may designate a ranking member for each committee. Nothing prohibits a member of the minority group from serving as chair or vice chair of a committee, subcommittee, division, or commission. If the minority group for any reason fails to make its appointments pursuant to this rule, the majority group may make all the committee assignments.

The majority and minority committee assignments are subject to the uniform criteria governing committee assignments applicable to both the majority and minority. The uniform criteria shall be promulgated by the majority group and transmitted to the minority group together with notification of committee positions available to the minority.

Committee assignments as made by the majority and minority groups shall be followed by the Senate in the resolution establishing representation on all Senate standing committees.

After the organization of the Senate and after consultation and advice from the minority leader, the Chair of the Committee on Rules and Administration may add members to or delete members from the standing committees. All conference committees of the Senate and members of commissions to be appointed by the Senate authorized by rule, statute, resolution or otherwise, shall be appointed by the Subcommittee on Committees of the Committee on Rules and Administration, unless otherwise provided, subject to confirmation by the Senate. In the appointment of members of conference committees between the two houses, the Subcommittee on Committees of the Committee on Rules and Administration of the Senate shall appoint those who are in accord with the position of the Senate, and whenever practical, give preference to authors of bills in dispute and to members of standing committees in which the bills were considered.

STANDING COMMITTEES

57. The standing committees of the Senate are as follows:

Agriculture and Rural Development

Commerce and Consumer Protection

Crime Prevention

Education

Environment and Natural Resources

Ethics and Campaign Reform

Family Services

Finance

Gaming Regulation

Governmental Operations and Veterans

Health Care

Jobs, Energy and Community Development

Judiciary

Metropolitan and Local Government

Rules and Administration

Taxes and Tax Laws

Transportation and Public Transit

The Committee on Rules and Administration may constitute a standing Subcommittee on Committees, the report of which within its jurisdiction has the effect of a report of the main Committee on Rules and Administration. The subcommittee shall consist of five members, one of whom shall be a member of the minority group.

Each standing committee of the Senate, including a subcommittee of the committee, is authorized at any time to sit and act, to investigate and take testimony on any matter within its jurisdiction, to report hearings held by it, and to make expenditures as authorized from time to time by the standing Committee on Rules and Administration. A standing committee, but not a subcommittee, may require by subpoena or otherwise the attendance and testimony of witnesses and the production of correspondence, books, papers, and documents, in the manner provided by Minnesota Statutes, Section 3.153.

COMMITTEE MEETINGS

58. All meetings of the Senate, its committees, committee divisions, and subcommittees are open to the public. A meeting of a caucus of the members of any of those bodies from the same political party need not be open to the public. A caucus of the Hennepin county, Ramsey county, or St. Louis county delegation is open to the public. For purposes of this rule, a meeting occurs when a quorum is present and action is taken regarding a matter within the jurisdiction of the body.

To the extent practical, meetings of all committees shall be announced to the public at least three calendar days prior to convening. The notice shall state the name of the committee, the bill or bills to be considered, the place and time of meeting. The notice shall be posted on all Senate bulletin boards in the Capitol and the State Office Building. A notice shall be sent to the House of Representatives for posting as it deems necessary. If the three-day notice requirement cannot be met, known proponents and opponents of the bill shall be given simultaneous notice of the meeting as soon as practicable.

A Senate committee, subcommittee or division shall adjourn no later than 11:00 p.m. each day, unless two-thirds of the members present vote to suspend this requirement.

QUORUM IN COMMITTEE

59. A majority of its members constitutes a quorum of a committee.

REPORT OF VOTE IN COMMITTEE

60. Upon the request of a member of a committee or subcommittee to which a bill has been referred, or upon the request of the author of the bill, a record shall be made of the vote on the bill in the committee or subcommittee, including the vote on any amendment or proposed amendment to it, in the committee or subcommittee to which the bill was referred.

Upon request of three members of the committee before the vote is taken, the record of a roll call vote in a standing committee shall accompany the committee report and be printed in the Journal.

COMMITTEE ACTION

61. No report of any committee shall be made to the Senate unless it reports action taken at a regular or special meeting of the committee. A report in violation of this rule is out of order.

EMPLOYEES AUTHORIZED IN THE SENATE

62. The Committee on Rules and Administration shall establish positions, set compensation, appoint employees, and authorize expense reimbursement for employees as it deems proper to carry out the work of the Senate. At the request of any committee member, an action of the committee shall be submitted as a Senate resolution for adoption by the Senate. A roster of all employees of the Senate, including positions and compensation, shall be kept by the Secretary and shall be open for inspection by the public. The Secretary shall post, in a public place in the Capitol, a notice of every vacant position on the permanent staff of the Senate. The notice must remain posted for at least two weeks, and no vacancy may be filled until the period of posting has elapsed.

BUDGET AND EXPENDITURES

63. The Committee on Rules and Administration shall adopt an operating budget for the Senate and refer it to the Committee on Finance.

All propositions for the appointment and payment of employees of the Senate or for expenditures on account of the Legislature, other than those provided by law, shall be referred to the Committee on Rules and Administration without debate.

AUTHORITY OVER EMPLOYEES

64. Except as otherwise provided in these rules, the Committee on Rules and Administration has full and exclusive authority over, and charge of all employees, officers and clerks of the Senate both elective and appointive. The committee has the sole and exclusive power and authority to assign them to duties other than for which they were elected or appointed as the committee may from time to time provide. The committee has power to appoint employees, officers or clerks as it deems proper to exercise the power granted to it by this rule. The committee may make rules and regulations for the government of the employees, officers and clerks as they see fit. In case of violation of an order of the committee by an employee, officer or clerk, or in case of a violation of a rule or regulation made by the committee, or in case of misconduct or omission by an employee, officer or clerk, the Committee on Rules and Administration may hear complaints and discharge the employee, officer or clerk or impose other punishment by way of fine or otherwise upon the employee, officer or clerk as the committee deems just and proper.

DUTIES OF SECRETARY

65. The Secretary shall keep a correct Journal of the proceedings of the Senate and shall perform other duties assigned to the Secretary. The Secretary shall not permit Journal records, accounts or papers to be taken from the table or out of the Secretary's custody, other than in the regular mode of business. If a paper in the Secretary's charge is missing, the Secretary shall report the fact to the President, so that inquiry may be made. The Secretary shall superintend the recording of proceedings in the Journal, the engrossing, transcribing and copying of the bills and resolutions, supervise the assistants, clerks and stenographers under the direction of the Committee on Rules and Administration, and generally perform the duties of Secretary, under direction of the President. The Secretary shall keep a record of all Senate and House bills showing the state, condition, and progress of each bill pending, until its final passage.

The Secretary shall cause to be recorded on magnetic tape the proceedings of the Senate, the Committee of the Whole, and each standing committee ~~and standing~~, subcommittee, and division. Each tape shall be clearly labeled to show the name of the body whose proceedings are recorded and the dates the proceedings occurred. Each tape of the proceedings of the Senate and the Committee of the Whole shall be accompanied by a log showing the number of each bill considered and the places on the tape where consideration of the bill occurred. Within two working days after each day the Senate is in session the Secretary shall make a copy of the tape

and corresponding log of proceedings of the Senate and the Committee of the Whole and deliver the copies to the Legislative Reference Library. Within one week after each meeting of a standing committee ~~or standing~~, subcommittee, or division, the Secretary shall ~~make a copy of the tape and corresponding log of the meeting and deliver the copies~~ a tape recording of the meeting to the Legislative Reference Library, together with an agenda showing bills considered and any action taken on them. Upon completion and approval of the minutes of the meeting, a copy of the minutes shall be promptly delivered to the Legislative Reference Library. The Secretary shall keep a record of each session of the Senate and the Committee of the Whole, each meeting of a Senate standing committee ~~or standing~~, subcommittee, or division and the date on which a tape recording of the session or meeting was transmitted to the Legislative Reference Library. The Library shall keep a similar record of all tapes received. The Library shall provide committee staff with reasonable access to Senate tapes and shall provide the public with convenient facilities to listen to the tapes. Copies of Senate tapes shall be available to the public from the Secretary, for a fee determined by the Secretary to be adequate to cover the cost of preparing the copies. A copy shall be provided free to a member of the Senate upon request for use in legislative business. The original tape and log of each session of the Senate and the Committee of the Whole shall be kept by the Secretary until the end of the period for which the members of the existing House of Representatives have been elected, at which time the tape may be preserved or disposed of as the Secretary sees fit. Tapes, logs, and minutes forwarded to the Legislative Reference Library shall be kept by the Library until two years after the end of the period for which the members of the existing Senate have been elected, at which time they may be preserved or disposed of as the Library sees fit. It is the intention that testimony and discussion preserved under this rule not be admissible in any court or administrative proceeding on an issue of legislative intent.

JOURNAL--HOW APPROVED

66. The Journal of each day's proceedings is open for correction at any time during the session of the next day the Senate meets. Unless corrected on that day, the Journal stands approved.

SECRETARY MAY CORRECT ERRORS

67. The Secretary of the Senate and Engrossing Secretary, in all proper cases, shall correct all mistakes in numbering the sections and reference to them, whether the errors occur in the original bill or are caused by amendments to it.

PURCHASING SUPPLIES AND SERVICES

68. The Secretary is the agent of the Senate for the purchase of supplies and services. The Secretary's records on purchase of supplies and services are open for inspection during normal business hours. The Secretary shall adopt administrative controls to ensure that each member is accountable for the member's own long distance telephone calls and that Senate telephones are used only for Senate business.

By the 15th day of April, July, October, and January of each year, the Secretary of the Senate shall submit a detailed report of Senate expenditures during the previous quarter to the Committee on Rules and Administration.

DUTIES OF THE SERGEANT AT ARMS

69. The Sergeant at Arms shall execute all orders of the President and perform all assigned duties connected with the police and good order of the Senate Chamber; exercise supervision over the entry and exit of all persons to and from the Chamber; see that messages are promptly delivered; see that the hall is properly ventilated and the temperature properly regulated, and that it is open for the use of members of the Senate at the time fixed; and perform all other services pertaining to the office of Sergeant.

PERSONS PRIVILEGED TO THE FLOOR OF THE SENATE

70. No person shall be admitted within the Senate Chamber, but a member, an officer, the constitutional officers, ex-Governors of the State of Minnesota, members of the House, judges of the trial and appellate courts and members of Congress. Those who have been members of Congress or of the state Legislature who are not interested in any claim or directly in a bill pending before the Legislature may be personally admitted by a member of the Senate. An employee of either house may be admitted at the request of a member or an officer of the Senate. The head of a department of state government may be admitted by the President. When a member-elect is sworn in, the member-elect may request that one guest be admitted. When the Senate is not meeting, a person not a member may be admitted to the floor at the request of a member or officer. No public hearings shall be held in the Senate Chamber. The retiring room of the Senate is reserved for the exclusive use of the members of the Senate at all times. The Sergeant at Arms shall strictly enforce this rule.

PRIVILEGE OF REPORTERS

71. Provision shall be made for news reporters on the Senate floor in limited numbers, and in the Senate gallery. Because of limited space on the floor, permanent space is limited to those news agencies which have regularly covered the legislature, namely: The Associated Press, St. Paul Pioneer Press Dispatch, Star Tribune, Duluth News-Tribune and Herald, Fargo Forum, Rochester Post-Bulletin, St. Cloud Daily Times, WCCO radio, KSTP radio, and Minnesota Public Radio. An additional two spaces shall be provided to other reporters if space is available.

One person from each named agency and one person from the Senate Publications Office may be present at the press table on the Senate floor at any one time.

Other news media personnel may occupy seats provided in the Senate gallery.

The Committee on Rules and Administration may, through committee action or by delegating authority to the Secretary, allow television filming on the Senate floor on certain occasions.

The Secretary of the Senate shall compile and distribute to the public a directory of reporters accredited to report from the Senate floor. The directory must include each reporter's picture and news organization and a brief biography. The Secretary must issue each accredited reporter an identification badge showing the reporter's name and news organization.

DISORDERLY CONDUCT

72. In case of a disturbance or disorderly conduct in the lobbies or galleries, the President may order them cleared. Picture taking by persons other than accredited news reporters, picture taking with floodlights or flash units, hand clapping, demonstrations, and food and beverages, are prohibited in the Senate Chamber and in the galleries.

INTRODUCTION OF VISITORS

73. No introduction of a visitor or visitors in the galleries shall be made from the floor or rostrum of the Senate.

SMOKING

74. No person is permitted to smoke in the Senate Chamber, Retiring Room, hearing rooms, or other spaces under the control of the Senate. There shall be no smoking in the visitors section of the galleries.

ETHICAL CONDUCT

75. The Subcommittee on Committees shall appoint a ~~special committee~~ Subcommittee on Ethical Conduct of the Committee on Rules and Administration consisting of four members, two from the majority and two from the minority.

The ~~committee~~ subcommittee shall serve in an advisory capacity to a member or employee upon written request and shall issue recommendations to the member or employee.

~~A lobbyist shall not appear before a Senate committee pursuant to the lobbyist's employment unless the lobbyist is in compliance with the law requiring lobbyist registration, Minnesota Statutes, Sections 10A.03 to 10A.06. A lobbyist when appearing before a committee shall disclose to the committee those in whose interest the lobbyist speaks and the purpose of the lobbyist's appearance. A lobbyist shall not knowingly furnish false or misleading information or make a false or misleading statement that is relevant and material to a matter before the Senate or any of its committees when the lobbyist knows or should know it will influence the judgment or action of the Senate or any of its committees thereon. A lobbyist shall not exert undue influence or expend improper sums of money in connection with any legislation.~~

The ~~committee~~ subcommittee shall investigate a complaint by a member of the Senate in writing under oath received during a legislative session regarding improper conduct by a member or employee of the Senate ~~or a lobbyist~~. Improper conduct includes conduct that violated a rule or administrative policy of the Senate, that violated accepted norms of Senate behavior, that betrayed the public trust, or that tended to bring the Senate into dishonor or disrepute.

Within 30 days after receiving a complaint, the subcommittee must meet and either make a finding of no probable cause, vote to defer action until a certain time, or proceed with its investigation. If criminal proceedings relating to the same conduct have begun, the subcommittee may defer its own proceedings until the criminal proceedings have been completed.

The ~~committee~~ subcommittee has the powers of a standing committee to issue subpoenas pursuant to Minnesota Statutes, Section 3.153. In order to determine whether there is probable cause to believe that improper conduct has occurred, the ~~committee~~ subcommittee may, by a vote of three of its members, conduct a preliminary inquiry in executive session to which the requirements of Rule 58 do not apply. The executive session may be ordered by a vote of three of its members whenever the subcommittee determines that matters relating to probable cause are likely to be discussed. The executive session must be limited to matters relating to probable cause. Upon a finding of probable cause, further proceedings on the complaint are open to the public. To minimize disruption of its public proceedings, the subcommittee may require that television coverage be pooled or be provided by Senate media services.

If, after investigation, the ~~committee~~ subcommittee finds the complaint substantiated by the evidence, it shall recommend to the Senate Committee on Rules and Administration appropriate disciplinary action.

~~Any person may submit to the Chair of the Committee on Rules and Administration a complaint that members have violated the open meeting requirements of Minnesota Statutes, section 3.055. A member of the Senate may submit the complaint either orally or in writing; others must submit the complaint in writing. Whether the complaint was written or oral, the Chair of the Committee on Rules and Administration shall immediately forward it in writing to the Special Committee on Ethical Conduct without disclosing the identity of the complainant. The complaint must not be further disclosed, except to the members against whom the complaint was made, unless the complaint was made by a member of the Senate in writing under oath, in which case the investigatory procedures of this rule apply.~~

Members shall adhere to the highest standard of ethical conduct as embodied in the Minnesota Constitution, state law, and these rules.

A member shall not publish or distribute written material if the member knows or has reason to know that the material includes any statement that is false or clearly misleading, concerning a public policy issue or concerning the member's or another member's voting record or position on a public policy issue.

LOBBYISTS

76. A lobbyist shall not appear before a Senate committee pursuant to the lobbyist's employment unless the lobbyist is in compliance with the law requiring lobbyist registration, Minnesota Statutes, sections 10A.03 to 10A.06. A lobbyist, when appearing before a committee, shall disclose to the committee those in whose interest the lobbyist speaks and the purpose of the lobbyist's appearance. A lobbyist shall not knowingly furnish false or misleading information or make a false or misleading statement that is relevant and material to a matter before the Senate or any of its committees when the lobbyist knows or should know it will influence the judgment or action of the Senate or any of its committees thereon.

The Subcommittee on Ethical Conduct shall investigate a complaint by a member of the Senate in writing under oath received during a legislative session regarding a violation of this rule by a lobbyist. The investigatory procedures of Rule 75 apply.

OPEN MEETING COMPLAINTS

77. Any person may submit to the Chair of the Committee on Rules and Administration a complaint that members have violated the open meeting requirements of Minnesota Statutes, section 3.055. A member of the Senate may submit the complaint either orally or in writing; others must submit the complaint in writing. Whether the complaint was written or oral, the Chair of the Committee on Rules and Administration shall immediately forward it in writing to the Subcommittee on Ethical Conduct without disclosing the identity of the complainant. The complaint must not be further disclosed without the consent of the complainant, except to the members against whom the complaint was made, unless the complaint was made by a member of the Senate in writing under oath, in which case the investigatory procedures of rule 75 apply.

Mr. Moe, R.D. moved that Senate Resolution No. 54 be laid on the table and printed in the Journal. The motion prevailed.

Ms. Reichgott Junge moved that S.F. No. 650 be withdrawn from the Committee on Family Services and re-referred to the Committee on Crime Prevention. The motion prevailed.

Ms. Wiener moved that S.F. No. 1034 be withdrawn from the Committee on Education and re-referred to the Committee on Governmental Operations and Veterans. The motion prevailed.

Mr. Metzen moved that S.F. No. 11, on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Janezich introduced--

S.F. No. 1615: A bill for an act relating to the community corrections act; providing that five percent of the community corrections act appropriation shall be allocated to counties according to a mileage distribution allowance; amending Minnesota Statutes 1994, section 401.10; Laws 1994, chapter 643, section 79, subdivision 4.

Referred to the Committee on Crime Prevention.

Mr. Beckman introduced--

S.F. No. 1616: A bill for an act relating to education; establishing a planning process for a state-of-the-art vocational high school; appropriating money.

Referred to the Committee on Education.

Mr. Marty introduced--

S.F. No. 1617: A bill for an act relating to the city of Roseville; authorizing the creation of special service districts in the city; exempting a certain hazardous substance subdistrict within a tax increment district from the LGA/HACA offset.

Referred to the Committee on Metropolitan and Local Government.

Mr. Finn introduced--

S.F. No. 1618: A bill for an act relating to crime prevention; authorizing the commissioner of corrections to establish a correctional facility at Ah Gwah Ching; proposing coding for new law in Minnesota Statutes, chapter 243.

Referred to the Committee on Crime Prevention.

Ms. Reichgott Junge introduced--

S.F. No. 1619: A bill for an act relating to state parks; requiring a plan for handicapped access trails in state parks; amending Minnesota Statutes 1994, section 85.052, by adding a subdivision.

Referred to the Committee on Environment and Natural Resources.

Ms. Krentz, Mr. Stumpf, Mses. Robertson, Pappas and Mr. Janezich introduced--

S.F. No. 1620: A bill for an act relating to education; providing for a grant for restructuring schools through systemic site decision making; appropriating money.

Referred to the Committee on Education.

Messrs. Samuelson; Frederickson; Johnson, D.E.; Moe, R.D. and Johnson, D.J. introduced--

S.F. No. 1621: A bill for an act relating to the legislature; requiring a study of the timing, length, schedule, and calendar of legislative sessions; creating a legislative commission.

Referred to the Committee on Rules and Administration.

Mr. Knutson, Ms. Johnston, Messrs. Oliver, Chandler and Hottinger introduced--

S.F. No. 1622: A bill for an act relating to insurance; fire; regulating failure to provide timely proof of loss; amending Minnesota Statutes 1994, section 65A.01, subdivision 3, and by adding a subdivision.

Referred to the Committee on Commerce and Consumer Protection.

Ms. Hanson, Messrs. Morse, Langseth, Sams and Stevens introduced--

S.F. No. 1623: A bill for an act relating to agriculture; restricting certain trade practices by wholesale dairy product suppliers; proposing coding for new law in Minnesota Statutes, chapter 32.

Referred to the Committee on Agriculture and Rural Development.

Messrs. Marty, Merriam and Finn introduced--

S.F. No. 1624: A bill for an act relating to data practices; making data arising out of complaints or charges involving certain public officials accessible to the public; amending Minnesota Statutes 1994, section 13.43, subdivision 2.

Referred to the Committee on Judiciary.

Messrs. Sams, Langseth, Stumpf, Pogemiller and Ms. Robertson introduced--

S.F. No. 1625: A bill for an act relating to education; providing for a fund transfer for independent school district No. 22, Detroit Lakes.

Referred to the Committee on Education.

Mr. Johnson, D.J. introduced--

S.F. No. 1626: A bill for an act relating to corrections; appropriating money to fund productive day initiative programs in local correctional facilities in Hennepin, Ramsey, and St. Louis counties.

Referred to the Committee on Crime Prevention.

Messrs. Sams, Morse, Bertram, Dille and Stevens introduced--

S.F. No. 1627: A resolution memorializing the Congress of the United States to design and implement a 1995 farm bill that is equitable to Minnesota family farmers.

Referred to the Committee on Agriculture and Rural Development.

Messrs. Solon and Johnson, D.J. introduced--

S.F. No. 1628: A bill for an act relating to taxation; extending the exemption from property tax for certain businesses that lease property at certain airports; amending Minnesota Statutes 1994, section 272.01, subdivision 2.

Referred to the Committee on Taxes and Tax Laws.

Mr. Chmielewski introduced--

S.F. No. 1629: A bill for an act relating to civil actions; regulating amusement park and carnival safety; imposing duties on riders; limiting the liability of operators; proposing coding for new law as Minnesota Statutes, chapter 184C.

Referred to the Committee on Judiciary.

Mr. Chmielewski introduced--

S.F. No. 1630: A bill for an act relating to the city of Hermantown; permitting imposition of a local sales tax.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Johnson, D.J.; Janezich and Stevens introduced--

S.F. No. 1631: A bill for an act relating to game and fish; authorizing a new deer license; amending Minnesota Statutes 1994, section 97A.475, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 97B.

Referred to the Committee on Environment and Natural Resources.

Mses. Olson, Robertson, Mrs. Pariseau, Messrs. Knutson and Belanger introduced--

S.F. No. 1632: A bill for an act relating to occupations; residential contractors; changing the expiration date of provisions relating to St. Paul and Minneapolis contractors; amending Minnesota Statutes 1994, section 326.991, subdivision 1.

Referred to the Committee on Commerce and Consumer Protection.

Mr. Larson, Ms. Johnston, Messrs. Chmielewski, Berg and Day introduced--

S.F. No. 1633: A bill for an act relating to elections; providing for the election of members of the state legislature without party designation; amending Minnesota Statutes 1994, sections 10A.27, subdivision 4; 10A.275, subdivision 3; 10A.31, subdivisions 5 and 12; 10A.315; 204D.08, subdivisions 4 and 6; 204D.13, subdivision 1; and 204D.14, by adding a subdivision.

Referred to the Committee on Ethics and Campaign Reform.

Mr. Novak, Ms. Berglin, Messrs. Kroening and Mondale introduced--

S.F. No. 1634: A bill for an act relating to the environment; repealing the sunset of the motor vehicle transfer fee and dedicating receipts from the fee to the lead fund; amending Minnesota Statutes 1994, section 115A.908, subdivision 2; repealing Minnesota Statutes 1994, section 115A.908, subdivision 3.

Referred to the Committee on Environment and Natural Resources.

Mses. Johnson, J.B.; Anderson; Messrs. Morse and Price introduced--

S.F. No. 1635: A bill for an act relating to the environment; requiring a study of environmental justice; appropriating money.

Referred to the Committee on Environment and Natural Resources.

Messrs. Kroening, Kelly and Larson introduced--

S.F. No. 1636: A bill for an act relating to municipal zoning; limiting the authority of the commissioner of human services to license juvenile sex offender residential programs; providing for a community's right to know with respect to the siting of facilities; amending Minnesota Statutes 1994, sections 245A.02, subdivision 14; 245A.04, subdivision 7; and 462.357, subdivision 7, and by adding a subdivision.

Referred to the Committee on Crime Prevention.

Mr. Solon introduced--

S.F. No. 1637: A bill for an act relating to commerce; providing physician groups with an exception from laws prohibiting the restraint of trade; amending Minnesota Statutes 1994, sections 325D.50, by adding subdivisions; and 325D.55, by adding a subdivision.

Referred to the Committee on Commerce and Consumer Protection.

Mses. Krentz, Hanson, Ranum and Pappas introduced--

S.F. No. 1638: A bill for an act relating to education; modifying special education aid and procedures; amending Minnesota Statutes 1994, sections 120.17, subdivisions 3a and 3b; 124.273, subdivision 1b; 124.32, subdivision 1b; 124.574, subdivision 2b.

Referred to the Committee on Education.

Mr. Merriam introduced--

S.F. No. 1639: A bill for an act relating to natural resources; removing the limit on fees for permits to harvest aquatic plants; amending Minnesota Statutes 1994, section 103G.615, subdivision 2.

Referred to the Committee on Environment and Natural Resources.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 3:45 p.m. The motion prevailed. The hour of 3:45 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

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

Without objection, the Senate reverted to the Orders of Business of Messages From the House, First Reading of House Bills, Reports of Committees, Second Reading of Senate Bills, Second Reading of House Bills and Motions and Resolutions.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 68 and 504.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 5, 1995

FIRST READING OF HOUSE BILLS

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

H.F. No. 68: A bill for an act relating to insurance; requiring insurers to offer alternative methods for the payment of group life policy proceeds; amending Minnesota Statutes 1994, section 61A.09, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 68.

H.F. No. 504: A bill for an act relating to natural resources; authorizing grants to units of government and school districts for parks, recreation areas, and natural and scenic areas; authorizing rules for administration; proposing coding for new law in Minnesota Statutes, chapter 85; repealing Minnesota Statutes 1994, section 85.019.

Referred to the Committee on Environment and Natural Resources.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 1442, 1362 and 1221. The motion prevailed.

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

S.F. No. 1442: A bill for an act relating to energy; allowing a St. Paul district heating cogeneration facility that utilizes metropolitan waste wood as a fuel source to count toward satisfying a biomass mandate.

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

Page 1, line 10, delete "shall" and insert "may"

Page 1, line 16, delete "must" and insert "may"

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

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

S.F. No. 777: A resolution memorializing the President and Congress to abandon the proposed sale of the Western Area Power Administration.

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

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

S.F. No. 467: A bill for an act relating to metropolitan government; providing for coordination and consolidation of public safety radio communications systems; providing governance and finance of the state and regional elements of a regionwide public safety radio communication system; extending the public safety channel moratorium; authorizing the use of 911 emergency telephone service fees for costs of the regionwide public safety radio communication system; authorizing the issuance of bonds by the metropolitan council; abolishing the metropolitan radio board on a certain date and transferring its duties and responsibilities; proposing coding for new law in Minnesota Statutes, chapter 473.

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

Page 1, line 19, delete "473.906" and insert "473.905"

Page 2, line 23, after the period, insert "Until funds to administer the board become available under section 473.894, subdivision 19,"

Page 2, line 24, delete "a reasonable" and insert "no"

Page 8, line 12, after the period, insert "Until funds to administer the board become available under section 473.894, subdivision 19, the metropolitan council shall provide to the board an executive director who will be a staff member of the metropolitan council."

Page 9, line 3, after "fees" insert "on entities using the first phase system"

Page 11, line 7, after "each" insert "fiscal" and before "biennium" insert "state"

Page 13, line 19, delete "and provision of alternative"

Page 13, line 20, delete "routing for 911 services"

Page 13, line 23, after "benefit" insert "and support mutual aid and emergency medical services communication"

Page 13, line 24, after the semicolon, insert "and"

Page 13, line 25, delete "; and" and insert a period

Page 13, delete lines 26 to 28

Page 13, line 32, delete "473.906" and insert "473.905"

Page 14, line 8, delete "\$....." and insert "\$10,000,000"

Page 16, delete lines 22 to 25

Page 16, line 28, delete "August" and insert "July"

Page 17, delete lines 4 to 6

Page 17, line 7, delete "network;"

Page 17, line 8, delete "(5)" and insert "(4)" and after "equipment" insert "for those elements of the first phase that support mutual aid and emergency medical communications services"

Page 17, line 13, after the period, insert "In no event shall the amount appropriated from the 911 emergency telephone service fee account for the first phase radio system exceed an amount equal to four cents a month for each customer access line or other basic access service, including trunk equivalents as designated by the public utilities commission for access charge purposes and including cellular and other nonwire access services."

Page 17, delete lines 29 to 33

Page 19, line 9, delete "\$....." and insert "\$3,000,000"

Page 20, line 5, delete "No later than" and insert "A"

Page 20, delete line 6

Page 20, line 7, after "county" insert "that chooses to join the regional public safety radio system"

Page 21, line 17, after the period, insert "A local government or other eligible user who chooses not to join the system shall not be charged a fee."

Page 21, line 31, delete "Until funds to administer"

Page 21, delete lines 32 to 35 and insert "For fiscal year 1996, the appropriation from the 911 emergency telephone service fee account shall be \$563,000."

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

S.F. No. 903: A bill for an act relating to economic development; abolishing the economic recovery grant program; repealing Minnesota Statutes 1994, section 116J.873.

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 116J.873, subdivision 3, is amended to read:

Subd. 3. [GRANT EVALUATION.] The commissioner shall accept, review, and evaluate applications for grants to local units of government made in accordance with rules adopted for economic development grants in the small cities development program. Projects must be evaluated based on the existence of the following conditions:

(1) whether assistance is necessary to provide equity to business owners who do not have the capacity to invest in a project;

(2) whether there is an inability to secure sufficient financing from other public or private sources at market interest rates or on favorable market terms;

(3) whether assistance is necessary to attract out-of-state businesses or to retain existing business within the state; and

(4) whether there are excessive public infrastructure or improvement costs beyond the means of the affected community and private participants in the project.

A grant or loan cannot be made based solely on a finding that the condition in clause (3) exists. A finding must be made that a condition in clause (1), (2), or (4) also exists.

Applications recommended for funding shall be submitted to the commissioner.

Sec. 2. Minnesota Statutes 1994, section 116J.873, is amended by adding a subdivision to read:

Subd. 5. [SPORTS FACILITY.] An economic recovery grant or loan cannot be used for a project related to a sports facility. For the purpose of this subdivision, "sports facility" means a building that has a professional sports team as a principal tenant.

Sec. 3. [LEGISLATIVE AUDITOR; ECONOMIC RECOVERY GRANT PROGRAM.]

The legislative audit commission is requested to direct the legislative auditor to conduct an evaluation of the economic recovery grant program under Minnesota Statutes, section 116J.873. The evaluation must include an audit of loans and grants made under the program and the criteria used in selecting projects for grants and loans. The legislative auditor shall report the results of the evaluation to the legislature by January 15, 1996."

Delete the title and insert:

"A bill for an act relating to economic development; modifying and requesting a legislative audit of the economic recovery grant program; amending Minnesota Statutes 1994, section 116J.873, subdivision 3, and by adding a subdivision."

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

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

S.F. No. 1140: A bill for an act relating to employment; modifying provisions relating to rehabilitation programs and services; amending Minnesota Statutes 1994, sections 268A.01, subdivisions 4, 5, 6, 9, and 10; 268A.03; 268A.06, subdivision 1; 268A.07; 268A.08, subdivisions 1 and 2; and 268A.13; proposing coding for new law in Minnesota Statutes, chapter 268A; repealing Minnesota Statutes 1994, sections 268A.01, subdivisions 7, 11, and 12; and 268A.09.

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

Page 5, lines 5 and 6, delete the new language

Page 9, line 12, after "and" insert "the methods, criteria, and units of distribution for"

Page 9, line 15, delete "the functioning level of workers,"

Page 9, line 16, delete the comma

Page 10, line 23, delete "may" and insert "shall"

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. 1469: A bill for an act relating to financial institutions; regulating savings banks; modifying and clarifying statutory provisions relating to the structure and functions of savings banks; making technical changes; amending Minnesota Statutes 1994, sections 9.031, subdivision 8; 46.047, subdivision 2; 47.01, subdivisions 2 and 3; 47.015, subdivision 1; 47.02; 47.10, subdivision 1; 47.12; 47.20, subdivisions 1 and 9; 47.201, subdivision 1; 47.205, subdivision 1; 47.209, subdivision 1; 47.27, subdivision 2; 47.29, subdivision 1; 47.30, subdivisions 1, 2, 3, 4, and 6; 47.51; 47.62, subdivision 4; 47.64, subdivision 1; 47.65, subdivisions 1 and 2; 48.01, subdivision 2; 49.42; 50.01; 50.03; 50.04; 50.05; 50.06; 50.11; 50.13; 50.14, subdivisions 1, 5, 7, and 8; 50.145; 50.146; 50.1465; 50.148; 50.155; 50.17; 50.175, subdivision 1; 50.19; 50.21; 50.22; 50.23; 50.245; 50.25; 51A.02, subdivisions 26 and 40; 51A.21, by adding a subdivision; 51A.385,

subdivisions 2 and 3; 61A.09, subdivision 3; 62B.02, by adding a subdivision; 62B.04, subdivisions 1 and 2; and 300.20; proposing coding for new law in Minnesota Statutes, chapters 46; 47; and 50; repealing Minnesota Statutes 1994, sections 47.095; 47.67; 48.153, subdivisions 3a, 4, and 5; 48.26; 50.02; 50.07; 50.08; 50.09; 50.10; 50.12; 50.15; and 50.16.

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 9.031, subdivision 8, is amended to read:

Subd. 8. [ACTIVE AND INACTIVE DEPOSITORIES.] Depositories shall be divided into two classes to be known as active and inactive. A depository may be designated as a depository of both classes.

All state funds deposited in active depositories are subject to withdrawal by the state treasurer upon demand and no interest shall be charged on these deposits.

Surplus funds not required to meet the state's current disbursements shall be deposited for a definite period in inactive depositories and interest shall be paid on these deposits at a rate of not less than one percent per annum nor more than the maximum rate authorized to be paid by Minnesota state banks other than mutual savings banks. This rate shall be fixed by the executive council in accordance with the current rate upon similar deposits.

Sec. 2. Minnesota Statutes 1994, section 46.047, subdivision 2, is amended to read:

Subd. 2. [BANKING INSTITUTION.] The term "banking institution" means a bank, trust company, bank and trust company, mutual savings bank, or thrift institution, that is organized under the laws of this state, or a holding company which owns or otherwise controls the banking institution.

Sec. 3. [46.35] [INTERPRETATIONS.]

The commissioner of commerce may upon request from an interested party give an interpretive opinion in connection with the administration of chapters 45 to 56. No penalty provision in these chapters or of any other chapter to which chapters 45 to 56 may refer applies to any act done or not done in conformity with a written interpretive opinion of the commissioner, notwithstanding that the written interpretive opinion may, after the act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

Sec. 4. Minnesota Statutes 1994, section 47.01, subdivision 2, is amended to read:

Subd. 2. [BANK.] A bank is a corporation under public control, having a place of business where credits are opened by the deposit or collection of money and currency, subject to be paid or remitted upon draft, check, or order, and where money is advanced, loaned on stocks, bonds, bullion, bills of exchange, and promissory notes, and where the same are received for discount or sale; and all persons and copartnerships, respectively, so operating, are bankers. The term does not include a savings bank.

Sec. 5. Minnesota Statutes 1994, section 47.01, subdivision 3, is amended to read:

Subd. 3. [SAVINGS BANK.] A savings bank is ~~an institution under like control, managed by disinterested trustees solely, authorized to receive and safely invest the savings of small depositors~~ a corporation authorized to do business under chapter 50.

Sec. 6. Minnesota Statutes 1994, section 47.015, subdivision 1, is amended to read:

Subdivision 1. [FINANCIAL INSTITUTIONS.] As used in this section the term "financial institution" shall include banks, trust companies, banks and trust companies, mutual savings banks, industrial loan and thrift companies having outstanding certificates of indebtedness for investment, savings and loan associations, national banking associations, federal reserve banks and, federal savings and loan associations, and federal savings banks doing business in this state, and includes any branch or detached facility of any of them.

Sec. 7. Minnesota Statutes 1994, section 47.02, is amended to read:

47.02 ["BANK" AND "SAVINGS BANK."]

A "bank" is a corporation having a place of business in this state, where credits are opened by the deposit of money or currency, or the collection of the same, subject to be paid or remitted on draft, check, or order; and where money is loaned or advanced on stocks, bonds, bullion, bills of exchange, or promissory notes, and where the same are received for discount or sale. A "savings bank" is a corporation ~~managed by disinterested trustees, solely authorized to receive and safely invest the savings of small depositors~~ authorized to do business under chapter 50. Every "bank" or "savings bank" in this state shall at all times be under the supervision and subject to the control of the commissioner of commerce, and when so conducted the business shall be known as "banking."

Sec. 8. Minnesota Statutes 1994, section 47.10, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY, APPROVAL, LIMITATIONS.] (a) Except as otherwise specially provided, the net book value of land and buildings for the transaction of the business of the corporation, including parking lots and premises leased to others, shall not be more than as follows:

(1) for a bank, trust company, savings bank, or stock savings association, if investment is for acquisition and improvements to establish a new bank, or is for improvements to existing property or acquisition and improvements to adjacent property, approval by the commissioner of commerce is not required if the total investment does not exceed 50 percent of its existing capital stock and paid-in surplus. Upon written prior approval of the commissioner of commerce, a bank, trust company, savings bank, or stock savings association may invest in the property and improvements in clause (1) or for acquisition of nonadjacent property for expansion or future use, if the aggregate of all such investments does not exceed 75 percent of its existing capital stock and paid-in surplus;

(2) ~~for a savings bank, 50 percent of its net surplus;~~

(3) ~~for a mutual building and loan savings association, five percent of its net assets.~~

(b) For purposes of this subdivision, an intervening highway, street, road, alley, other public thoroughfare, or easement of any kind does not cause two parcels of real property to be nonadjacent.

Sec. 9. Minnesota Statutes 1994, section 47.12, is amended to read:

47.12 [FINANCIAL CORPORATIONS.]

Corporations may be formed for any one of the following purposes:

(1) Carrying on the business of banking, by receiving deposits, buying, selling, and discounting notes, bills, and other evidences of debt legal for investment, domestic or foreign, dealing in gold and silver bullion and foreign coins, issuing circulating notes, and loaning money upon real estate or personal security or upon the creditworthiness of the borrower;

(2) Establishing and conducting clearing houses, for effecting, in one place, the speedy and systematic daily exchange and adjustment of balances between banks and bankers in any municipality, town, or county, establishing and enforcing uniform methods of conducting the banking business in such locality, and adjusting disputes or misunderstandings between members of such clearing house engaged in the banking business;

(3) Creating and conducting savings banks for the reception, on deposit, of money offered for that purpose, the investment thereof, and the declaring, crediting, and paying of dividends or interest thereon, as authorized and provided by law;

(4) Transacting business as a trust company in conformity with the laws relating thereto; and

(5) Carrying on, in accordance with law, the business of ~~building, loan, and~~ savings associations.

Sec. 10. Minnesota Statutes 1994, section 47.20, subdivision 1, is amended to read:

Subdivision 1. Pursuant to rules the commissioner of commerce finds to be necessary and proper, if any, banks, savings banks, ~~mutual savings banks, building and loan associations,~~ and savings ~~and loan~~ associations organized under the laws of this state or the United States, trust companies, trust companies acting as fiduciaries, and other banking institutions subject to the supervision of the commissioner of commerce, and mortgagees or lenders approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association, are authorized:

(1) To make loans and advances of credit and purchases of obligations representing loans and advances of credit which are insured or guaranteed by the secretary of housing and urban development pursuant to the national housing act, as amended, or the administrator of veterans affairs pursuant to the servicemen's readjustment act of 1944, as amended, or the administrator of the farmers home administration pursuant to the consolidated farm and rural development act, Public Law Number 87-128, as amended, and to obtain the insurance or guarantees;

(2) To make loans secured by mortgages on real property and loans secured by a share or shares of stock or a membership certificate or certificates issued to a stockholder or member by a cooperative apartment corporation which the secretary of housing and urban development, the administrator of veterans affairs, or the administrator of the farmers home administration has insured or guaranteed or made a commitment to insure or guarantee, and to obtain the insurance or guarantees;

(3) To make, purchase, or participate in such loans and advances of credit as would be eligible for purchase, in whole or in part, by the federal national mortgage association or the federal home loan mortgage corporation, but without regard to any limitation placed upon the maximum principal amount of an eligible loan;

(4) To make, purchase or participate in such loans and advances of credit secured by mortgages on real property which are authorized or allowed by the ~~federal home loan bank board~~ office of thrift supervision or the office of the comptroller of the currency, or any successor to these federal agencies.

Sec. 11. Minnesota Statutes 1994, section 47.20, subdivision 9, is amended to read:

Subd. 9. (1) For purposes of this subdivision the term "mortgagee" shall mean all state banks and trust companies, national banking associations, state and federally chartered savings ~~and loan~~ associations, mortgage banks, ~~mutual~~ savings banks, insurance companies, credit unions or assignees of the above. Each mortgagee requiring funds of a mortgagor to be paid into an escrow, agency or similar account for the payment of taxes or insurance premiums with respect to a mortgaged one-to-four family, owner occupied residence located in this state, unless the account is required by federal law or regulation or maintained in connection with a conventional loan in an original principal amount in excess of 80 percent of the lender's appraised value of the residential unit at the time the loan is made or maintained in connection with loans insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration, shall calculate interest on such funds at a rate of not less than five percent per annum. Such interest shall be computed on the average monthly balance in such account on the first of each month for the immediately preceding 12 months of the calendar year or such other fiscal year as may be uniformly adopted by the mortgagee for such purposes and shall be annually credited to the remaining principal balance on the mortgage, or at the election of the mortgagee, paid to the mortgagor or credited to the mortgagor's account. If the interest exceeds the remaining balance, the excess shall be paid to the mortgagor or vendee. The requirement to pay interest shall apply to such accounts created prior to June 1, 1976, as well as to accounts created after June 1, 1976.

(2) A mortgagee offering the following option (c) to a mortgagor but not requiring maintenance of escrow accounts as described in clause (1), whether or not the accounts were required by the mortgagee or were optional with the mortgagor, shall offer to each of such mortgagors the following options:

(a) the mortgagor may personally manage the payment of insurance and taxes;

(b) the mortgagor may open with the mortgagee a passbook savings account carrying the current rate of interest being paid on such accounts by the mortgagee in which the mortgagor can deposit the funds previously paid into the escrow account; or

(c) the mortgagor may elect to maintain a noninterest bearing escrow account as described in clause (1) to be serviced by the mortgagee at no charge to the mortgagor.

A mortgagee that is not a depository institution offering passbook savings accounts shall instead of offering option (b) above notify its mortgagors (1) that they may open such accounts at a depository institution and (2) of the current maximum legal interest rate on such accounts.

A mortgagee offering option (c) above to a mortgagor but not requiring the maintenance of escrow accounts shall notify its mortgagor of the options under (a), (b) and (c). The notice shall state the option and state that an escrow account is not required by the mortgagee, that the mortgagor is legally responsible for the payment of taxes and insurance, and that the notice is being given pursuant to this subdivision.

Notice shall be given within 30 days after the effective date of the provisions of Laws 1977, chapter 350 amending the subdivision, as to mortgagees offering option (c) above to mortgagors but not requiring escrow accounts as of the effective date, or within 30 days after a mortgagee's decision to discontinue requiring escrow accounts if the mortgagee continues to offer option (c) above to mortgagors. If no reply is received within 30 days, option (c) shall be selected for the mortgagor but the mortgagor may, at any time, select another option.

A mortgagee making a new mortgage and offering option (c) above to a prospective mortgagor shall, at the time of loan application, notify the prospective mortgagor of options (a), (b) and (c) above which must be extended to the prospective mortgagor. The mortgagor shall select one of the options at the time the loan is made.

Any notice required by this clause shall be on forms approved by the commissioner of commerce and shall provide that at any time a mortgagor may select a different option. The form shall contain a blank where the current passbook rate of interest shall be entered by the mortgagee. Any option selected by the mortgagor shall be binding on the mortgagee.

This clause does not apply to escrow accounts which are excepted from the interest paying requirements of clause (1).

(3) A mortgagee shall be prohibited from charging a direct fee for the administration of the escrow account.

Sec. 12. Minnesota Statutes 1994, section 47.201, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the terms defined in this subdivision shall have the meanings given them:

(1) "Financial institution" means a state bank or trust company, a national banking association, a state or federally chartered savings and loan association, a mortgage bank or mutual savings bank.

(2) "Graduated payment home loan" means a conventional or cooperative apartment loan made pursuant to section 47.20 and subject to the provisions therein, whereunder initial periodic repayments are lower than those under the standard conventional or cooperative apartment loan having equal periodic repayments, and gradually rise to a predetermined point after which they remain constant.

Sec. 13. Minnesota Statutes 1994, section 47.205, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Lender" means all state banks and trust companies, national banking associations, state and

federally chartered savings and loan associations, mortgage banks, ~~mutual~~ savings banks, insurance companies, credit unions making a loan, or any person making a conventional loan as defined under section 47.20, subdivision 2, clause (3) or cooperative apartment loan as defined under section 47.20, subdivision 2, clause (4). A "selling lender" is a lender who sells, assigns, or transfers the servicing of a loan, to a "purchasing lender or a servicing agent."

(b) "Loan" means all loans and advances of credit authorized under section 47.20, subdivision 1, clauses (1) to (4) and conventional loans as defined under section 47.20, subdivision 2, clause (3) or cooperative apartment loan as defined under section 47.20, subdivision 2, clause (4).

(c) "Escrow account" means escrow, agency, or similar account for the payment of taxes or insurance premiums with respect to a mortgaged one-to-four family, owner occupied residence located in this state.

(d) "Person" means an individual, corporation, business trust, partnership or association, or any other legal entity.

Sec. 14. Minnesota Statutes 1994, section 47.209, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY.] This section applies to any agreement entered into after December 31, 1992, for the financing or refinancing of a purchase of a manufactured home. As used in this section and section 277.17, "lender" includes a state bank and trust company, national banking association, state or federally chartered savings and loan association, mortgage bank, ~~mutual~~ savings bank, insurance company, credit union, or a dealer as defined in section 327B.01, subdivision 7, that enters into an agreement for financing or refinancing a purchase of a manufactured home.

Sec. 15. Minnesota Statutes 1994, section 47.27, subdivision 2, is amended to read:

Subd. 2. "Savings bank" shall have the meaning set forth in sections 47.01 and 47.02 ~~and shall also mean a mutual savings bank.~~

Sec. 16. Minnesota Statutes 1994, section 47.28, is amended to read:

47.28 [SAVINGS BANKS MAY CONVERT INTO SAVINGS, BUILDING AND LOAN ASSOCIATIONS.]

Subdivision 1. Any savings bank organized and existing under and by virtue of the law of this state may amend its articles of incorporation so as to convert itself into a savings, ~~building and loan~~ association, by complying with the following requirements and procedure:

The savings bank by a two-thirds vote of the entire board of ~~trustees~~ directors, at any regular or special meeting of said board duly called for that purpose, shall (a) pass a resolution declaring their intention to convert the savings bank into a savings, ~~building and loan~~ association, and (b) cause an application in writing to be executed, by such persons as the ~~trustees~~ directors may direct, in the form prescribed by the department of commerce, requesting a certificate of authorization (charter) as a savings, building and loan association to transact business at the place and in the name stated in the application. The amendments proposed to the articles of incorporation and bylaws shall be included as part of the application.

The application shall be submitted to, considered and acted upon by the department of commerce in the same manner and by the same standards as applications are submitted, considered and acted upon under section 51.08.

Subd. 2. If the certificate of authorization (charter) be issued, the articles of incorporation may then be amended so as to convert the savings bank into a savings, ~~building and loan~~ association by following the procedure prescribed for amending articles of incorporation of savings banks; ~~provided, that before any such conversion shall take place the secretary of the savings bank shall cause 30 days written notice of such intended conversion (which notice, before mailing, shall be submitted to and approved by the commissioner of commerce) to be mailed prepaid to each depositor, at the depositor's last known address according to the records of the bank, and after such notice each depositor may, prior to the time the conversion becomes final and complete, on demand and without prior notice, withdraw the full amount of deposit or such part thereof as the~~

~~depositor may request, and upon such withdrawal the depositor shall receive interest to the date of withdrawal at the same rate last paid or credited by the bank, notwithstanding the provisions of any law, bylaw, or rule to the contrary.~~

Subd. 3. ~~At any time after the expiration of the 30 day period specified in subdivision 2, (which fact shall be evidenced by the secretary of the savings bank filing an affidavit to that effect with the commissioner of commerce and the secretary of state.)~~ Upon receipt of the fees required for filing and recording amended articles of incorporation of savings banks, the secretary of state shall record the amended articles of incorporation and certify that fact thereon, whereupon the conversion of such savings bank into a savings, building and loan association shall become final and complete and thereafter said corporation shall have the powers and be subject to the duties and obligations prescribed by the laws of this state applicable to savings, building and loan associations.

Subd. 4. ~~When the conversion of any savings bank into a savings, building and loan association becomes final and complete, the surplus fund of the bank shall become the contingent or reserve fund of the association and every person who was a depositor of the savings bank at the time of the conversion shall cease to be a depositor and shall thereafter be a shareholder of the savings, building and loan association and be credited with payments on that person's share account equal to the full amount on deposit with the savings bank at the time of conversion, plus interest to the date of conversion at the same rate last paid or credited by the bank, notwithstanding the provisions of any law, bylaw, or rule to the contrary.~~

Subd. 5. The resulting association shall as soon as practicable and within such time not extending beyond three years from the date the conversion becomes final and complete and by such methods as the department of commerce shall direct, cause its organization, its securities and investments, the character of its business, and the methods of transacting the same to conform to the laws applicable to savings, building and loan associations.

Sec. 17. Minnesota Statutes 1994, section 47.29, subdivision 1, is amended to read:

Subdivision 1. Any savings bank organized and existing under and by virtue of the laws of this state, is hereby authorized and empowered, by a two-thirds vote of the entire board of ~~trustees~~ directors, at any regular or special meeting of said board duly called for that purpose to convert itself into a federal association whenever said conversion is authorized by any act of the Congress of the United States: ~~Provided, that before any such conversion shall become final and complete, (a) the secretary of the savings bank shall cause 30 days' written notice of such intended conversion (which notice, before mailing, shall be submitted to and approved by the commissioner of commerce) to be mailed prepaid to each depositor, at their last known address, according to the records of the bank, and after such notice each depositor may, prior to the time the conversion becomes final and complete, on demand and without prior notice, withdraw the full amount of the deposit or such part thereof as the depositor may request, and upon such withdrawal the depositor shall receive interest to the date of withdrawal at the same rate last paid or credited by the bank, notwithstanding the provisions of any law, bylaws, or rule to the contrary, and (b) that such conversion be approved in writing by the commissioner of commerce.~~

Sec. 18. Minnesota Statutes 1994, section 47.29, subdivision 2, is amended to read:

Subd. 2. ~~At any time after the expiration of the 30 day period specified in subdivision 1, clause (a), (which fact shall be evidenced by the secretary of the savings bank filing an affidavit to that effect with the commissioner of commerce and the secretary of state of this state),~~ Upon filing a copy of the federal charter, certified by the issuing federal agency with the secretary of state of this state, the secretary of state shall record said charter and certify that fact thereon, whereupon the conversion shall be final and complete and the savings bank shall at that time cease to be a savings bank supervised by this state, and shall thereafter be a federal association.

Sec. 19. Minnesota Statutes 1994, section 47.30, subdivision 1, is amended to read:

Subdivision 1. Any capital stock savings, ~~building and loan~~ association organized and existing under and by virtue of the laws of this state may amend its articles of incorporation so as to convert itself into a savings bank, by complying with the following requirements and procedure:

A meeting of the shareholders shall be held upon not less than 15 days written notice to each shareholder, served either personally or by mail prepaid, directed to the shareholder's last known post office address according to the records of the association, stating the time, place and purpose of such meeting.

At such meeting, the shareholders may by two-thirds vote (according to the book value of said shares) of those present in person or by proxy pass a resolution declaring their intention to convert such association into a savings bank and setting forth the names of the proposed first board of trustees directors. A copy of the minutes of such meeting verified by the affidavit of the chair and the secretary of the meeting, shall be filed in the office of the department of commerce ~~and with the secretary of state~~ within ten days after the meeting. Such copy, when so filed, shall be evidence of the holding of such meeting and of the action taken.

Sec. 20. Minnesota Statutes 1994, section 47.30, subdivision 2, is amended to read:

Subd. 2. An application for a certificate authorizing a savings bank to transact business, in the form required by sections 46.041 and 46.046, shall be submitted to, considered and acted upon by the department of commerce in the same manner and by the same standards as applications are submitted, considered and acted upon under sections 46.041, 46.044, 46.046, and 50.01 ~~and 50.02~~. The fees required by section 46.041 shall be paid and the amendments proposed to the articles of incorporation and bylaws shall be included as part of the application.

Sec. 21. Minnesota Statutes 1994, section 47.30, subdivision 3, is amended to read:

Subd. 3. If the department of commerce grants the application, the certificate of authorization (charter) shall be issued as provided by section 46.041, and the articles of incorporation may then be amended so as to convert the savings, ~~building and loan~~ association into a savings bank by following the procedure prescribed for amending articles of incorporation of savings, ~~building and loan~~ associations: Provided, that the proposed amended articles shall contain the names of, and be signed by, the proposed first board of trustees directors.

Sec. 22. Minnesota Statutes 1994, section 47.30, subdivision 5, is amended to read:

Subd. 5. ~~At any time after the expiration of the 30 day period specified in subdivision 4, (which fact shall be evidenced by the secretary of the association filing an affidavit to that effect with the commissioner of commerce and the secretary of state),~~ Upon receipt of the fees required for filing and recording amended articles of incorporation of savings, building and loan associations, the secretary of state shall record the amended articles of incorporation and certify that fact thereon, whereupon the conversion of such savings, building and loan association into a savings bank shall become final and complete and thereafter the signers of said amended articles and their successors shall be a corporation, and have the powers and be subject to the duties and obligations prescribed by the laws of this state applicable to savings banks.

Sec. 23. Minnesota Statutes 1994, section 47.32, is amended to read:

47.32 [CONVERTING INSTITUTION DEEMED CONTINUANCE; TRANSFER OF PROPERTY AND RIGHTS.]

Upon the conversion of any savings bank into a savings, ~~building and loan~~ association or into a federal association, ~~and of a savings, building and loan association or federal association into a savings bank, the corporate existence of the converting savings bank or association shall not terminate, and the resulting association or savings bank shall be a continuance of the converting savings bank or association; and all the property of the converting savings bank or association (including its rights) shall by operation of law vest in the resulting association or savings bank as of the time when the conversion becomes final and complete, and all of the obligations of the converting savings bank or association become those of the resulting association or savings bank. Actions and other judicial proceedings to which the converting savings bank or association is a party may be prosecuted and defended as if the conversion had not been made the detached facilities of the savings bank shall become branches of the savings association or federal association. Upon conversion of any savings association or federal association into a savings bank, the branches of the savings association or federal association shall become detached facilities of the savings bank, notwithstanding the limitations on the number of facilities, distance limitations,~~

geographic limitation, notice requirements, and consent requirements contained in sections 47.51 to 47.57.

Sec. 24. [47.325] [APPEAL AND JUDICIAL REVIEW.]

A savings bank aggrieved by any action or inaction of the commissioner under sections 47.27 to 47.32 may appeal under sections 14.63 to 14.69. The scope of judicial review in the proceedings is as provided in those sections.

Sec. 25. Minnesota Statutes 1994, section 47.62, subdivision 4, is amended to read:

Subd. 4. When more than one electronic financial terminal is established and maintained at a single place of business by the same person, or if a person wishes to make an application that encompasses more than one place of business or location, a single application and fee shall be sufficient. For each application, a \$100 fee shall be paid to the commissioner, and for each application for a change in pricing structure, a \$10 fee shall be paid to the commissioner. If the \$100 fee or the \$10 fee is less than the costs incurred by the commissioner in approving or disapproving the application, the fee shall be equal to those costs.

Sec. 26. Minnesota Statutes 1994, section 47.64, subdivision 1, is amended to read:

Subdivision 1. (a) Any person establishing and maintaining an electronic financial terminal located separate and apart from a financial institution's principal office, branch, or detached facility for use by one type of financial institution shall, upon written request, make its services available to any requesting financial institution of similar type on a fair, equitable, and nondiscriminatory basis ~~approved by the commissioner~~. A financial institution requesting use of an electronic financial terminal shall be permitted its use only if the financial institution conforms to reasonable technical operation standards which have been established by the electronic financial terminal provider ~~as approved by the commissioner~~. For purposes of this subdivision, the types of financial institutions are: (1) commercial banks and mutual savings banks; (2) credit unions, industrial loan and thrift companies, and regulated lenders under chapter 56; and (3) savings and loan associations. The services of an electronic financial terminal may be made available to any type of financial institution. After March 1, 1979, or earlier if determined by the commissioner to be technically feasible, an electronic financial terminal which is used by or made available to one type of financial institution shall be made available, upon request, to other types of financial institutions on a fair, equitable and nondiscriminatory basis ~~as approved by the commissioner~~. The charges required to be paid to any person establishing and maintaining an electronic financial terminal shall be related to an equitable proportion of the direct costs of establishing, operating, and maintaining the terminal plus a reasonable return on those costs to the owner of the terminal. The charges may provide for amortization of development costs and capital expenditures over a reasonable period of time.

(b) Any person establishing and maintaining an electronic financial terminal located on and as a part of a financial institution's principal office, branch, or detached facility, or lending office where deposits are not taken may, at the financial institution's option, (1) maintain the electronic financial terminal for the exclusive use of the financial institution's customers; or (2) maintain the electronic financial terminal for the use of the financial institution's customers and make some or all of the electronic financial terminal's services available to any other requesting financial institution on a fair, equitable, and nondiscriminatory basis ~~approved by the commissioner~~.

Sec. 27. Minnesota Statutes 1994, section 47.65, subdivision 1, is amended to read:

Subdivision 1. Any person may establish a transmission facility in this state upon approval by the commissioner pursuant to the provisions of this section, except that a financial institution may establish a transmission facility in this state after giving the commissioner written notice of its intent to do so, provided that the commissioner does not issue an order disallowing such establishment within 15 days after receiving a completed notice. Any such notice must be made using a form prescribed by the commissioner. A transmission facility which is used by, or made available to, any financial institution must be made available to all other financial institutions upon request of such financial institution and agreement by the financial institution to pay fees on a fair, equitable, and nondiscriminatory basis ~~approved by the commissioner~~. A person requesting use of a transmission facility shall be permitted its use only if the person conforms to reasonable

technical operating standards which have been established by the transmission facility provider as ~~approved by the commissioner~~. The charges required to be paid to any person establishing a transmission facility shall be related to an equitable proportion of the direct costs of establishing, operating and maintaining such facility plus a reasonable return on those costs to the owner of the facility. The charges may provide for amortization of development costs and capital expenditures over a reasonable period of time.

Sec. 28. Minnesota Statutes 1994, section 47.65, subdivision 2, is amended to read:

Subd. 2. Before installation and operation, a transmission facility application by a person who is required to submit an application under subdivision 1 shall be submitted to the commissioner on a form provided by the commissioner which states:

- (a) The location where the transmission facility will be operated;
- (b) The ownership of the transmission facility;
- (c) If applicable, the bonding or insurance company which has provided the bond for the transmission facility; and
- (d) Such other information as the commissioner requires.

If the commissioner finds that (a) the facility will be properly and safely managed, (b) the applicant is financially sound, (c) there is a reasonable probability of success for the facility, (d) the proposed charges for making the services of the facility available to financial institutions are fair, equitable and nondiscriminatory, and (e) all information has been furnished by the applicant, the commissioner shall approve the application within 90 days. If the commissioner has not denied the application within 90 days of the submission of the application, the authorization shall be deemed granted. For each application, a \$500 fee shall be paid to the commissioner. For each application for change in pricing structure, a \$50 fee shall be paid to the commissioner. If the \$500 fee or the \$50 fee is less than the costs incurred by the commissioner in approving or disapproving the application, the application fee shall be equal to those costs.

Sec. 29. Minnesota Statutes 1994, section 48.01, subdivision 2, is amended to read:

Subd. 2. [BANKING INSTITUTION.] The term "banking institution" means any bank, trust company, bank and trust company, or ~~mutual~~ savings bank which is now or may hereafter be organized under the laws of this state. For purposes of sections 48.38, 48.84, and 501B.10, subdivision 6, and to the extent permitted by federal law, "banking institution" includes any national banking association or affiliate exercising trust powers in this state.

Sec. 30. Minnesota Statutes 1994, section 48.15, is amended by adding a subdivision to read:

Subd. 2a. [AUTHORIZED ACTIVITIES.] The commissioner may authorize a bank to undertake any activities, exercise any powers, or make any investments that are authorized activities, powers, or investments as of the date of final enactment of this subdivision for any state savings bank doing business in this state or become authorized activities, powers, or investments for state savings banks after the date of final enactment of this subdivision.

Sec. 31. Minnesota Statutes 1994, section 49.01, is amended by adding a subdivision to read:

Subd. 7. [STATE BANK.] "State bank" for the purposes of sections 49.02 to 49.41, shall mean any bank, savings bank, trust company, or bank and trust company which is now or may hereafter be organized under the laws of this state.

Sec. 32. Minnesota Statutes 1994, section 49.42, is amended to read:

49.42 [STATE BANK.]

As used in sections 49.42 to 49.46 "state bank" means any bank (~~other than a mutual savings bank~~), savings bank, trust company, or bank and trust company which is now or may hereafter be organized under the laws of this state.

Sec. 33. [50.001] [APPLICATION FOR CERTIFICATE OF AUTHORITY; PROCEDURE.]

The procedures for the application and issuance of a certificate of authority to a savings bank organized pursuant to section 300.025 shall be those applicable to a state bank in sections 46.041 to 46.045.

Sec. 34. Minnesota Statutes 1994, section 50.01, is amended to read:

50.01 [EXPEDIENCY ASCERTAINED.]

To enable the commissioner of commerce to determine the expediency of the organization of a savings bank, as in this chapter prescribed, the commissioner shall investigate and ascertain:

(1) Whether greater convenience of access to a savings bank will be afforded to any considerable number of depositors by opening the proposed bank;

(2) Whether the population in the vicinity of the location of the bank affords reasonable promise of adequate support therefor; and

(3) Whether the responsibility, character, and general fitness of the persons named as trustees directors in the certificate are such as to command the confidence of the community in the proposed bank.

Sec. 35. Minnesota Statutes 1994, section 50.04, is amended to read:

50.04 [BONDS OF TRUSTEES OR DIRECTORS.]

Every trustee director, before entering upon any duties, shall give bond to the state in a penal sum of not less than \$5,000, with sureties approved by a judge of the district court commissioner of commerce, conditioned for the faithful discharge of those duties, and file the same for record with the county recorder of the county, who, after record, shall transmit it to the commissioner of commerce. An action may be maintained on this bond by any person aggrieved by breach of any of its conditions, upon leave granted by any such judge of the district court, for such damages as the plaintiff may be entitled to, not exceeding its amount; and like successive actions may be maintained until such amount is exhausted.

Sec. 36. Minnesota Statutes 1994, section 50.05, is amended to read:

50.05 [~~BOND OF TREASURER~~ BONDS OF OFFICERS AND EMPLOYEES.]

~~Before entering upon any duties, the treasurer shall give bond to the bank in such sum, not less than \$10,000, as the board of trustees shall prescribe, for the faithful discharge of those duties, and at any time thereafter may be required by the board to furnish additional security. The board may also require, at any time, from any other officer, employee, or agent, such security as it deems necessary. A savings bank shall be protected against loss by reason of the unlawful act of its officers or employees by a surety bond in an amount approved by the board of directors and issued by a solvent corporate surety in good standing authorized to do business in this state, or by a fidelity insurance policy written by a solvent insurance corporation in good standing authorized to do business in this state. The commissioner of commerce or the board of directors of the savings bank may require an increase of the amount of the bond whenever either deems it necessary. This section shall not require the bonding or insuring of officers or directors of a savings bank not having active management or control of the savings bank or of employees of a savings bank not holding positions of trust. Any bond given or contract of insurance secured shall be in favor of the savings bank.~~

Sec. 37. Minnesota Statutes 1994, section 50.06, is amended to read:

50.06 [TRUSTEES DIRECTORS; FIRST BOARD.]

The business of every such stock savings bank shall be managed by a board of not less than seven trustees directors. The persons named in the certificate of authorization shall constitute the first board. Each vacancy shall be filled by the board as soon as practicable, at a regular meeting thereof, except when a resolution reducing the number of trustees directors named in its charter to a number not less than seven shall have been incorporated into its bylaws, and a copy thereof filed with the commissioner of commerce, in which case vacancies shall not be filled until the number

has been reduced to that specified in this resolution. The number may be increased to any number specified in a like resolution, consented to, in writing, by the commissioner of commerce.

Sec. 38. [50.085] [POWERS.]

Subdivision 1. [GENERALLY.] Every savings bank incorporated pursuant to or operating under this chapter shall be a body corporate; shall have all the powers enumerated, authorized, and permitted by this chapter and other applicable law; shall have other rights, privileges, and powers as may be incidental to or reasonably necessary or appropriate for the accomplishment of the objects and purposes of the savings bank; and shall have those powers possessed by corporations organized under chapter 300.

Subd. 2. [BORROWING.] A savings bank may borrow money and issue its obligations for the borrowed money, including but not limited to obligations, bonds, notes, or other debt securities, except as otherwise provided by this chapter or by rules of the commissioner of commerce. An obligation, bond, note, or other debt security may include a written provision subordinating the debt to claims of other creditors or of depositors. Borrowings may be secured by property of the savings association.

Subd. 3. [FACILITATING ORGANIZATIONS.] A savings bank may become a member of, purchase stock or securities in, deposit money with, deal with, make reasonable payments or contributions to, or comply with any other conditions of membership or credit from any corporation or agency of the United States or of this state, or of any other organization to the extent the corporation, agency, or organization assists in furthering or facilitating the saving bank's purposes, powers, or community responsibilities.

Subd. 4. [LOANS, CONTRACTS, AND LEASES.] A savings bank may make, sell, purchase, invest in, and participate or otherwise deal in loans and installment sale contracts and other forms of indebtedness, and take any manner of security for the loans and contracts. A savings bank may also acquire and lease or participate in the acquisition and leasing of personal property.

Subd. 5. [SAVINGS, LOANS, INVESTMENT.] A savings bank may acquire deposits in the form of demand accounts, checking accounts, negotiable order of withdrawal accounts, savings accounts, time deposits, money market deposit accounts, treasury tax and loan accounts, and other types of deposits, and pay interest or dividends on those accounts, except that interest or dividends must not be paid on demand deposit accounts. A savings bank may also accept memberships in the case of mutual savings banks and reject applications for these memberships and cancel memberships. No capital stock savings bank shall accept deposits in a sum exceeding 30 times the amount of its capital stock and its actual surplus.

Subd. 6. [INSURANCE OF ACCOUNTS.] A savings bank may obtain and maintain insurance of its deposit accounts by the federal deposit insurance corporation or any other federal agency established for the purpose of insuring deposit accounts in savings banks.

Subd. 7. [SAFE DEPOSIT BOXES.] A savings bank may maintain and let safes, boxes, or other receptacles for the safekeeping of personal property upon agreed upon terms and conditions. This subdivision does not supersede any inconsistent provision of statute.

Subd. 8. [DRAFTS.] A savings bank may issue drafts and similar instruments drawn on the savings bank to aid in effecting withdrawals and for other purposes of the savings bank; accept for payment at a future date drafts drawn upon it by its customers; and issue, advise, or confirm letters of credit authorizing holders to draw drafts upon it or its correspondents.

Subd. 9. [FISCAL AGENT.] A savings bank may act as fiscal agent of the United States, and, when so designated by the Secretary of Treasury, perform, under regulations the secretary prescribes, all reasonable duties as fiscal agent of the United States as the secretary may require; and act as agent for any instrumentality of the United States and as agent of this state and any instrumentality of it.

Subd. 10. [SERVICING.] A savings bank may service loans and investments for others.

Subd. 11. [INSURANCE AGENCY AND INSURANCE UNDERWRITING.] A savings bank may engage in an insurance agency business, directly or through a subsidiary.

Subd. 12. [LIMITED TRUSTEESHIP.] A savings bank may act as trustee or custodian of a self-employed retirement plan under the Federal Self-Employed Individual Tax Retirement Act of 1962, as amended, and of an individual retirement account under the Federal Employee Retirement Income Security Act of 1974, as amended, to the same extent permitted for state banks under section 48.15. All funds held in a fiduciary capacity by the savings bank under the authority of this subdivision may be commingled and consolidated for appropriate purposes of investment if records reflecting each separate beneficial interest are maintained by the fiduciary unless the responsibility is lawfully assumed by another appropriate party.

Subd. 13. [ESCROW.] A savings bank may engage in an escrow business.

Subd. 14. [TRUST POWERS.] Upon application to and approval by the commissioner of commerce, a savings bank may act as trustee, executor, administrator, personal representative, conservator, custodian, guardian, or in any other fiduciary capacity in which state banks, trust companies, or other corporations are permitted to act, and receive reasonable compensation for it. A savings bank that has complied with sections 48.36 to 48.43 and 48.475, and holds a certificate as provided in section 48.37, may exercise the powers and privileges set forth in sections 48.38, 48.475, 48.84, 48.841, 48.846, and 48.86. A savings bank that has qualified and obtained a certificate, as provided in sections 48.36 to 48.43, may use in its corporate name or title, in addition to the words "savings bank" or other words permitted by law, the words "trust" or "trust company," and may display and make use of signs, symbols, tokens, letterheads, cards, circulars, and advertising stating or indicating that it is authorized to transact the business authorized by those sections, and a savings bank using the words "trust" or "trust company" is not required to use the word "state" in its corporate name. A savings bank may not invest, pursuant to section 50.1465, in a corporation that engages in activities described in this subdivision, without first obtaining the approval of the commissioner of commerce.

Subd. 15. [SECURING DEPOSITS.] In addition to the authority conferred in subdivision 2, a savings bank may pledge, hypothecate, assign or transfer, or create a lien upon or charge against its assets to secure: (1) public funds, including money or deposits of the United States or any instrumentality of it and of this state or any instrumentality of it; (2) money or deposits of a trustee in bankruptcy; (3) money borrowed in good faith from other banks, trust companies, financial institutions, or any financial agency created by act of Congress; (4) the acquisition of real estate to be carried as an asset as provided in section 47.10; (5) a liability that arises from a transfer of a direct obligation of, or obligations that are fully guaranteed as to principal and interest by, the United States government or an agency of it that the savings bank is obligated to repurchase; (6) money and deposits held in escrow; (7) money and deposits if acting as a corporate fiduciary; and (8) treasury tax and loan accounts as provided in section 50.171.

Subd. 16. [DATA PROCESSING SERVICES.] A savings bank may provide data processing services to others and act as a custodian of records for others on a for-profit basis; and utilize data processing services and place records of the savings bank for storage and safekeeping with another person for a fee.

Subd. 17. [ELECTRONIC FINANCIAL TERMINALS.] A savings bank may directly or indirectly acquire, place and operate, or participate in the acquisition placement, and operation of electronic financial terminals and transmission facilities, in accordance with the requirements of sections 47.61 to 47.74.

Subd. 18. [ADDITIONAL POWERS AUTHORIZED FOR STATE BANKS.] A savings bank may exercise the powers that are specifically enumerated by law for banks authorized to do business under chapter 48.

Subd. 19. [PARITY PROVISION.] (a) In addition to other investments authorized by law and the powers conferred by this chapter, and subject to the regulation of the commissioner of commerce, a savings bank may, directly or through a subsidiary, undertake any activities, exercise any powers, or make any investments that any state bank or national bank located or doing business in this state may undertake, exercise, or make as of the date of enactment of this subdivision.

(b) The commissioner may authorize a savings bank to undertake any activities, exercise any powers, or make any investments that become authorized activities, powers, or investments after

the date of final enactment of this subdivision for any state bank or national bank located or doing business in this state.

(c) Subject to a rule of the commissioner, and subject to the investment limits in section 50.1465, a subsidiary of a savings bank may undertake any activities, exercise any powers, or make any investments not authorized for any state bank or national bank but authorized as of the date of final enactment of this subdivision for any state bank or national bank subsidiary located and doing business in this state.

(d) The commissioner may authorize a subsidiary of a savings bank to undertake any activities, exercise any powers, or make any investments that become authorized activities, powers, or investments after the date of final enactment of this subdivision for any state bank or national bank subsidiary located and doing business in this state.

(e) The commissioner at any time may limit any activity, power, or investment for any savings bank or savings bank subsidiary under this subdivision or section 50.1465, subdivision 1, clauses (2) and (3), for supervisory, legal, or safety and soundness reasons. A savings bank aggrieved by an action of the commissioner under this subdivision may appeal the action and the proceedings shall be conducted pursuant to sections 14.63 to 14.69.

Sec. 39. Minnesota Statutes 1994, section 50.11, is amended to read:

50.11 [SECURITIES HELD FOR SAFEKEEPING; SAFE DEPOSIT BOXES; LIMITATION OF LIABILITY.]

A ~~mutual~~ savings bank may receive for safekeeping for its depositors obligations of the United States or its possessions or of a state or territory of the United States, or of any political subdivision of any such state or territory, and it may provide for, and hire to, its depositors safe deposit boxes in which to keep securities and valuable papers, but the liability of a savings bank to any person or association of persons on account of hiring such safe deposit box or boxes shall in no event exceed \$20,000.

Sec. 40. Minnesota Statutes 1994, section 50.13, is amended to read:

50.13 [REAL ESTATE.]

~~Any such~~ A savings bank may purchase, hold, or convey land sold upon foreclosure of mortgages owned by it, or upon judgments or decrees in its favor, or in settlement of debts, or received in exchange as part of the consideration of real estate sold by it. Real estate so received in exchange shall not be carried on the books of the bank at a price exceeding the cost of that exchanged, less the cash payment, and all real estate so acquired shall be sold within ten years after its acquirement, unless the time is extended by the commissioner of commerce on application of the board of ~~trustees~~ directors.

Sec. 41. Minnesota Statutes 1994, section 50.14, subdivision 1, is amended to read:

Subdivision 1. Except as it relates to the investment of trust funds by corporate trustees or by individual trustees, the term "authorized securities" whenever used in the statutes and laws of this state shall be understood as referring to the following described securities in which the ~~trustees~~ directors of any savings bank shall invest the money deposited therein and which at the time of the purchase thereof are included in one or more of the following classes.

Sec. 42. Minnesota Statutes 1994, section 50.14, subdivision 5, is amended to read:

Subd. 5. (1) Class four shall be:

(a) Notes or bonds secured by mortgages or trust deeds on unencumbered real estate, whether in fee or in a leasehold of a duration not less than ten years beyond the maturity of the loan, in any state of the United States, worth at least ~~twice~~ the amount loaned thereon;

(b) Notes or bonds secured by mortgages or trust deeds on unencumbered real estate in clause (1)(a) where the notes or bonds do not exceed 80 percent of the appraised value of the security for the same, provided that the notes or bonds are payable in installments aggregating not less than

five percent of the original principal a year in addition to the interest; or, are payable on a regular amortization basis in equal installments, including principal and interest, these installments to be payable monthly in amounts that the debt will be fully paid in not to exceed 30 years if the security is nonagricultural real estate, and these installments to be payable annually or semiannually in amounts that the debt will be fully paid in not to exceed 25 years if the security is agricultural real estate. A construction loan is deemed amortized as required by this clause if the first installment thereon is payable not later than 18 months after the date of the first advance in the case of residential construction or not later than 36 months after the date of the first advance in the case of nonresidential construction; and

(c) Notes or bonds secured by mortgages or trust deeds on unencumbered real estate in clause (1)(a) which are in an original principal amount of \$100,000 or more and which do not exceed 95 percent of the appraised value of the security for the same which may be payable in the manner as the ~~trustees~~ directors of the savings bank prescribe, provided that construction loans made by a savings bank pursuant to this clause (1)(c) do not exceed in the aggregate five percent of the assets of the savings bank.

(2) Class four investments shall be made only on report of a committee directed to investigate the same and report its value, according to the judgment of its members, and its report shall be preserved among the bank's records.

(3) Notwithstanding anything to the contrary in clause (1)(b), a ~~mutual~~ savings bank organized under the laws of this state may invest in notes or bonds secured by mortgages or trust deed where the notes or bonds do not exceed 95 percent of the appraised value of the security for the same. Except as modified herein, the other provisions of clause (1)(b) apply.

(4) For purposes of this subdivision, real estate is deemed unencumbered if the only existing mortgage or lien against the real estate is a first mortgage lien in favor of the savings bank making a second mortgage loan or if the total unpaid aggregate of all outstanding liens against the same real estate does not exceed 80 percent of its appraised value.

(5) Renegotiable rate notes or bonds secured by mortgages or trust deeds where the notes or bonds do not exceed 95 percent of the appraised value of the security for the same.

For the purposes of this clause, a renegotiable rate mortgage loan is a loan issued for a term of three years to five years, secured by a mortgage maturing in not to exceed 30 years, and automatically renewable at equal intervals after the original loan term which may be up to six months shorter or longer than subsequent terms. The loan must be repayable in equal monthly installments of principal and interest during the loan term, in an amount at least sufficient to amortize a loan with the same principal and at the same interest rate over the remaining life of the mortgage.

In the mortgage documents, the savings bank must grant to the borrower an option to renew the loan for a new term, but not beyond the maturity date of the mortgage, at a new interest rate which shall be the savings bank's current market rate of interest on similar loans determined 60 days before the due date of the loan: provided, that the maximum interest rate increase shall be equal to one-half of one percent per year multiplied by the number of years in the loan term with a maximum net increase of five percent over the life of the mortgage. Interest rate increases are optional with the savings bank; net decreases from the previous loan term are mandatory.

The borrower may not be charged costs connected with the renewal of the loan.

Sixty days before the due date of the loan, the savings bank shall send a written notification to the borrower containing the following information: (i) The date on which the entire balance of borrower's loan is due and payable; (ii) a statement that the loan will be renewed automatically by the savings bank at the rate specified in the notice unless the borrower pays the loan by the due date; (iii) the amount of the monthly payment, calculated according to the new rate determined at the time of notice; (iv) a statement that the borrower may prepay the loan without penalty at any time after the original loan becomes due and payable; and (v) the name and phone number of a savings bank employee who will answer the borrowers' questions concerning the information in the notice.

An applicant for a renegotiable rate mortgage loan must be given, at the time an application is requested, written disclosure materials prepared in reasonably simple terms that contain at least the following information: (i) An explanation of how a renegotiable rate mortgage differs from a standard fixed rate mortgage; (ii) an example of a renegotiable rate mortgage indicating the maximum possible interest rate increase and monthly payment calculated on that rate at the time of the first renewal; and (iii) an explanation of how the savings bank determines what the rate will be at the end of each loan term.

(6) An investment in notes or bonds secured by mortgages or trust deeds on real estate in fee or in a leasehold may exceed the 80 percent requirement in paragraph (1), clause (b), and the 95 percent requirement in paragraph (2), if the amount of the loan in excess of those limits is insured or guaranteed by a private mortgage insurer that the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association have determined to be a qualified private insurer.

Sec. 43. Minnesota Statutes 1994, section 50.14, subdivision 7, is amended to read:

Subd. 7. Class six shall be the "eligible obligations" of "qualifying railroad corporations," both as hereinafter defined.

(A) A "qualifying railroad corporation" shall be one which at the time of investment

(1) Shall have been incorporated under the laws of the United States or of any state thereof or of the District of Columbia, and

(2) Shall own or operate within the United States not less than 500 miles of standard gauge railroad lines exclusive of sidings, or shall have had, for its five preceding fiscal years, average gross railway operating revenues of at least \$10,000,000 annually, or shall own or operate railroad terminal property located in a city within the United States having at least 200,000 population, and

(3) Shall not have been in default in the payment of any part of the principal or interest owing by it upon any part of its funded indebtedness, at any times during its current fiscal year and its five consecutive fiscal years immediately prior thereto, except that if the corporation shall have been reorganized in receivership or bankruptcy within such period such corporation shall not have been in such default since the effective date of reorganization, and

(4) Shall not have fixed interest obligations in excess of 60 percent of the total sum of (a) its fixed interest obligations, (b) obligations, if any, bearing interest on a contingent basis, (c) preferred stock, if any, at par or stated value, (d) common stock at par or stated value and (e) earned surplus, and

(5) Shall have had net earnings (a) in its five fiscal years immediately preceding time of purchase, of an average annual amount not less than 1-1/2 times the fixed charges of the year immediately preceding time of purchase, and (b) in four of its five fiscal years immediately preceding time of purchase and in its fiscal year immediately preceding time of purchase, not less than the fixed charges of those respective years, except that if the corporation shall have been reorganized in receivership or bankruptcy within such period, its net earnings for each year shall have been not less than the fixed charges of the reorganized company. As used herein "net earnings" shall be defined as gross operating and nonoperating income of a railroad corporation or its predecessor corporation, minus traffic and transportation expenses, maintenance, depreciation, rent of equipment and joint facilities, and other operating expenses, and taxes excluding income and profits taxes. As used herein "fixed charges" shall be defined as interest on debt on which there is an unqualified obligation to pay interests, leased line rentals and amortization of debt discount and expense, except that if a corporation has been reorganized in receivership or bankruptcy within five years prior to time of purchase "fixed charges" shall be the fixed charges of the reorganized company.

(B) "Eligible obligations" shall be bonds, notes or other obligations which

(1) Shall have been issued by a qualifying railroad corporation, or shall have been assumed or guaranteed as to principal and interest by a qualifying railroad corporation, and

(2) Shall bear interest at a fixed rate, and

(3) Shall have a definite maturity date, and

(4) Shall be secured by either (a) a lien upon railroad lines which shall be a first lien upon at least two-thirds of the total mileage covered by such lien and upon at least 100 miles of main lines or (b) a first mortgage or lien on railroad terminal property and assumed or guaranteed as to principal and interest by two or more qualifying railroad corporations.

(C) No ~~such~~ savings bank shall invest in securities of Class Six to an amount exceeding in the aggregate 15 percent of its deposits; nor in securities of Class Six secured by lien upon railroad lines, issued, guaranteed, or assumed by any one railroad corporation to an amount exceeding two percent of its deposits; nor in securities of Class Six secured by lien upon any one railroad terminal property to an amount exceeding one percent of its deposits.

The requirements set forth herein governing investments in securities under this subdivision shall affect only those securities acquired after the effective date of Laws 1945, chapter 140.

Sec. 44. Minnesota Statutes 1994, section 50.14, subdivision 8, is amended to read:

Subd. 8. Class seven shall be farm loan bonds issued by any federal land bank, or by a joint stock land bank in the Federal Reserve district in which Minnesota is situated, in accordance with the provisions of an act of Congress of the United States of July 17, 1916, known and designated as "The Federal Farm Loan Act," and acts amendatory thereto; ~~stocks, bonds, and obligations of~~ the Federal Home Loan Banks established by act of Congress known as the Federal Home Loan Bank Act approved July 22, 1932, and acts amendatory thereto; and bonds issued by the federal land banks, federal intermediate credit banks, and the banks for cooperatives in accordance with the provisions of an act of Congress of the United States known as the Farm Credit Act of 1971, and acts amendatory thereto.

Sec. 45. Minnesota Statutes 1994, section 50.145, is amended to read:

50.145 [AUTHORIZED INVESTMENTS.]

Any ~~mutual~~ savings bank subject to the supervision of the commissioner of commerce of the state of Minnesota shall in addition to other investments authorized by law have the power to purchase and hold as investments such bonds and securities as are legal investments for state banks and trust companies in Minnesota, but subject however to any limitation in such power that may be imposed by the commissioner of commerce, and the total amount of the investments made by any bank pursuant to this section and held at any one time shall not exceed 20 percent of the deposit liability of such bank, and not to exceed three-fourths of one percent of the deposit liability of such bank may be invested pursuant hereto in the securities or obligations of any one obligor.

Sec. 46. Minnesota Statutes 1994, section 50.146, is amended to read:

50.146 [AUTHORIZED INVESTMENTS; CORPORATIONS.]

Subdivision 1. In addition to other investments authorized by law, a ~~mutual~~ savings bank may invest in the following:

(a) The preferred stocks of any corporation organized under the laws of the United States or of any state, except banks, bank holding companies and trust companies, provided the net earnings of such corporation available for its fixed charges for five fiscal years next preceding the date of investment shall have averaged per year not less than 1-1/2 times the sum of its annual fixed interest charges, if any, its annual maximum contingent interest, if any, and its annual preferred dividend requirements; and during either of the last two years of such period, such net earnings shall have been not less than 1-1/2 times the sum of its fixed interest charges, if any, contingent interest, if any, and preferred dividend requirements for such year.

(b) The common stocks of any corporation organized under the laws of the United States or of any state, except banks, bank holding companies and trust companies, provided such stocks are registered on a national securities exchange, and such corporation shall have earned and paid cash dividends on its common stocks in each year for a period of ten fiscal years next preceding the date of investment.

(c) The stocks and bonds, notes, debentures or any other obligation of any corporation organized under the laws of the United States or of any state, except the stock of banks, bank holding companies and trust companies located in the Ninth Federal Reserve District, provided such investment shall be made with such prudence, discretion, and intelligence as will protect the safety of the principal of such investment as well as the income to be derived therefrom.

Subd. 2. No investment shall be made by a ~~mutual~~ savings bank pursuant to subdivision 1 in any corporation if the total amounts so invested by it exceeds an amount equal to 15 percent of its assets, or if the total investment in any one corporation exceeds (1) in amount, one-half of one percent of the assets of the savings bank, or (2) in number of shares, one percent of the total issued and outstanding shares of stock of such corporation, or if the total investment pursuant to the provisions of paragraph (c) of subdivision 1 exceeds an amount equal to three percent of the assets of the savings bank, nor shall any investment be made in any corporation with assets of less than ten million dollars.

Subd. 3. Investments made pursuant to subdivision 1 shall be limited to ~~mutual~~ savings banks organized under the laws of this state.

Sec. 47. Minnesota Statutes 1994, section 50.1465, is amended to read:

50.1465 [AUTHORIZED INVESTMENTS; SERVICE CORPORATIONS.]

Subdivision 1. [GENERALLY.] In addition to other investments authorized by law, a ~~mutual~~ savings bank may invest in the ~~following~~:

~~The capital stock, obligations, or other securities of any corporation organized under the laws of this state if all or a majority of the capital stock of the corporation is owned by the mutual savings bank, and if substantially all of the activity of the corporation consists of originating, making, purchasing, selling and servicing loans, and participation in loans, secured by real estate including brokerage and warehousing of the real estate loans;~~

(1) activities in which the savings bank could engage directly;

(2) activities in which a state bank or national bank, or a subsidiary of a state bank or national bank, is authorized to engage as of the date of final enactment of this section; and

(3) activities in which any state bank or national bank becomes authorized to engage after the date of final enactment of this section, which are authorized by the commissioner.

Subd. 2. [RESTRICTION.] No ~~mutual~~ savings bank may make any investment under subdivision 1 in a subsidiary that engages primarily in activities in which the savings bank could not engage directly if its aggregate outstanding investment under this section in all subsidiaries that engage in activities in which the savings bank could not engage directly exceeds three 25 percent of the assets capital stock and surplus of the mutual savings bank.

Sec. 48. Minnesota Statutes 1994, section 50.148, is amended to read:

50.148 [AUTHORIZED INVESTMENTS; MANUFACTURED HOME LOANS.]

In addition to other investments authorized by law, a savings bank organized and operated pursuant to this chapter, may make loans upon the security of manufactured homes, and any equipment installed or to be installed therein, in an amount not exceeding ~~\$25,000~~ \$30,000 repayable in installments, ~~and may make a charge for such loan computed at a rate not exceeding 12 percent per annum upon the unpaid principal balance of the amount financed;~~ and the installment payments shall not exceed ~~12~~ 15 years and 32 days from the date of the loan, notwithstanding that such loan is required to be repaid in installments or that the loan is secured by mortgage, pledge, or other collateral. ~~The provisions of sections 48.154 to 48.157~~ Section 50.1485, subdivision 2, shall apply applies to all manufactured home loans made pursuant to the authority granted by this section. The authority granted by this section shall not extend to loans which finance the acquisition of inventory by a manufactured home dealer. A savings bank may purchase or invest in notes, bonds and retail installment sales contracts secured by or constituting first liens upon manufactured homes.

Sec. 49. [50.1485] [LENDING AUTHORITY.]

Subdivision 1. [GENERALLY.] In addition to other investments authorized by law, a savings bank may make, purchase, or invest in:

(a) loans secured by the pledge of policies of life insurance, the assignment of which is properly acknowledged by the insurer;

(b) consumer loans, which may be unsecured or secured by personal or real property. Consumer loans include, but are not limited to, closed-end installment loans, single payment loans, nonamortizing loans, open-end revolving line of credit loans, credit card loans and extensions of credit, and overdraft protection loans. For the purpose of this paragraph, "consumer loan" means a loan made by the savings bank in which: (1) the debtor is a person other than an organization; (2) the debt is incurred primarily for personal, family, or household purpose; and (3) the debt is payable in installments or a finance charge is made;

(c) secured and unsecured loans to organizations and natural persons for business or commercial purposes. For the purpose of this paragraph, "organizations" means a corporation, government or governmental subdivision, or agency, trust, estate, partnership, limited liability partnership, limited liability company, joint venture, cooperative, or association. "Business or commercial purpose" means a purpose other than personal, family, household, or agricultural purpose;

(d) secured and unsecured loans for agricultural purposes. For the purpose of this paragraph, "agricultural purpose" means a purpose relating to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, and forest products, and products raised or produced on farms, including processed or manufactured products;

(e) credit sale contracts, which means a sale of goods, services, or an interest in land in which credit is granted by a seller who regularly engages as a seller in credit transactions of the same kind, and the debt is payable in installments or a finance charge is made;

(f) loans on the security of deposit accounts;

(g) real estate loans, subject to the conditions applicable to savings associations under sections 51A.38 and 51A.385. "Real estate loans" include a loan or other obligation secured by a first lien on real estate in fee or in a leasehold extending or renewable automatically for a period of at least ten years beyond the date scheduled for the final principal payment of the loan or obligation, or a transaction out of which a first lien or claim is created against the real estate, including the purchase of the real estate in fee by a savings bank and the concurrent or immediate sale of it on installment contract;

(h) secured or unsecured loans for the purpose of repair, improvement, rehabilitation, or furnishing of real estate;

(i) loans for the purpose of financing or refinancing an ownership interest in certificates of stock, certificates of beneficial interest, or other evidence of an ownership interest in, or a proprietary lease from a corporation, limited liability company, trust, limited liability partnership, or partnership formed for the purpose of the cooperative ownership of real estate, secured by the assignment or transfer of certificates or other evidence of ownership of the borrower;

(j) loans guaranteed or insured, in whole or in part, by the United States or any of its instrumentalities;

(k) issuance of letters of credit or other similar arrangements; and

(l) any other type of loan authorized by rule of the commissioner.

Subd. 2. [LOANS AND EXTENSIONS OF CREDIT.] (a) A savings bank may extend credit and make loans under section 47.59 on the same terms and subject to the same conditions as apply to other lenders under that chapter. A person may enter into a credit sale or service contract for

sale to a savings bank, and a savings bank may purchase and enforce the contract, under the terms and conditions set forth in section 47.59, subdivisions 1 and 4 to 14.

(b) A savings bank may make or purchase extensions of credit authorized by sections 47.20, subdivision 1, 3, or 4a; 47.204; 47.21; 47.60; 48.153 to 48.155; 48.185; 48.195; 59A.15; 168.66 to 168.77; 334.01; 334.011; 334.012, and any other applicable law. The extensions of credit or purchases of extensions of credit may, but need not, be made under those sections in lieu of the authority set forth in subdivision 2, and if so, are subject to those sections, and not subdivision 2. A savings bank may also charge an organization any rate of interest and any charges agreed to by the organization and may calculate and collect finance and other charges in any manner agreed to by that organization. Except for extensions of credit the savings bank elects to make under section 334.01, subdivision 2, 334.011, or 334.012, the provisions of chapter 334 do not apply to extensions of credit made pursuant to this section or the sections mentioned in this subdivision.

Subd. 3. [LIMIT ON TOTAL LIABILITIES.] The total liabilities to a savings bank, as principal, guarantor, or endorser of an individual, including the liabilities of a corporation which the individual owns or controls a majority interest, a partnership, limited liability partnership, limited liability company, or unincorporated association, and in case of a corporation of all subsidiaries of it in which the corporation owns or controls a majority interest, shall never exceed the limit provided for state banks under section 48.24.

Subd. 4. [REAL ESTATE LOANS.] In the case of any investment made by a savings bank in a loan secured by a mortgage on real property, including a real estate loan, in the event the ownership of the real estate security or any part of it becomes vested in a person other than the party or parties originally executing the security instruments, and provided there is not an agreement in writing to the contrary, a savings bank may, without notice to the other party or parties, deal with the successor or successors in interest with reference to the mortgage and the debt secured in the same manner as with the party or parties, and may forbear to sue or may extend time for payment of or otherwise modify the terms of the debt secured, without discharging or in any way affecting the original liability of the party or parties or upon the debt secured.

Subd. 5. [LEASES OF PERSONAL PROPERTY.] A savings bank may acquire and lease or participate in the acquisition and leasing of personal property to customers, and may incur additional obligations incidental to becoming an owner and lessor of the property to the same extent, and subject to the same conditions, as state banks under section 48.152.

Sec. 50. Minnesota Statutes 1994, section 50.155, is amended to read:

50.155 [PURCHASE OF CERTAIN MORTGAGE LOANS.]

~~Savings banks and mutual savings banks~~ that are subject to the supervision of the commissioner of commerce are authorized to make or purchase loans secured by real estate mortgage the payment of which is guaranteed in whole or in part by the United States or any instrumentality thereof under the Servicemen's Readjustment Act of 1944 and amendments thereof provided that the unguaranteed portion of such loan does not exceed 70 percent of the appraised value of the security.

Sec. 51. Minnesota Statutes 1994, section 50.17, is amended to read:

50.17 [DEPOSITS, DIVIDENDS, INTEREST, BONUS, BENEFITS.]

~~Subdivision 1. [DEPOSIT ACCOUNTS.] Every deposit and all dividends credited thereto shall be repaid, after demand, in such manner, at such times, and after such previous notice as the board of trustees shall prescribe, but the savings bank shall not be required to pay a greater dividend than four percent per annum. Depositors shall receive, as nearly as may be, all the profits after deducting necessary expenses, and setting aside annually such sum as the board deems expedient, for a surplus fund for the security of its depositors, and to meet contingencies, until this fund shall amount to 15 percent of its deposits. No interest shall be allowed on any money for a longer time than the same is actually on deposit; except that deposits made not later than the tenth business day of the month commencing any semiannual or quarterly interest period, or the tenth business day of any other month, or withdrawn within the last three business days of the month ending a quarterly or semiannual interest period, may be treated as on deposit for the entire period or month in which~~

~~it was so deposited or withdrawn. No dividend shall be declared, credited, or paid unless authorized by ye and nay vote of the board duly entered upon its minutes, and when any dividend in excess of that earned and on hand shall be declared or credited, the trustees voting therefor shall be jointly and severally liable to the bank for the excess. The board of every such bank whose surplus amounts to 15 percent of its deposits shall, at least once in three years, divide proportionately the excess among its depositors as an extra dividend, and for that purpose may classify them according to character, amount and duration of dealings, and so regulate the dividend that each of the same class shall receive the same ratable proportion. A deposit account with a savings bank is subject to a lien for the payment of charges that may accrue on the account under this chapter. A deposit account is subject to a debt offset for the debts of the deposit account holder to the savings bank. Deposit accounts may not be assessed for any debts or losses of the savings bank.~~

~~Subd. 2. [DIVIDENDS INTEREST.] Every such savings bank may also enter into agreements with depositors designed to promote systematic thrift by providing for regular deposits over agreed periods of time and in connection with any such plan to provide thrift incentive may classify depositors generally according to character, amount, regularity or duration of deposits or type of agreement, and may agree to pay and provide for different rates of interest, bonuses and benefits based on any such classification. All depositors of the same class shall be entitled to receive interest, bonuses and benefits of substantially the same value. When it shall appear to the commissioner from an examination, or otherwise, that the classification of depositors as to character, amount, regularity or duration of deposits or type of agreement and the different rates of interest, bonuses and benefits based on any such classification are not in the best interests of the bank and its depositors, the commissioner may by written order direct that changes be made and thereafter such changes shall be incorporated in any agreements entered into by the bank. The savings bank shall determine the rate and amount of interest, if any, to be paid on or credited to deposit accounts. The savings bank may establish reasonable classifications of accounts based on the types of accounts, the length of time accounts are continued in effect, the size of initial deposits into accounts, the minimum balances of accounts required for payment of interest, the frequency and extent of the activity on accounts, or location of the account, or on other classifications the savings bank considers appropriate.~~

~~Subd. 3. [DEPOSIT ACCOUNTS.] Deposit accounts must be represented only by the account of each deposit account holder on the books of the savings bank, and the accounts or any interest is transferable only on the books of the savings bank and upon proper written application by the transferee. The savings bank may treat the holder of record of a deposit account as the owner of it for all purposes without being affected by any notice to the contrary unless the savings bank has acknowledged in writing notice of a pledge of the deposit account. A savings bank may also offer negotiable time deposits.~~

~~Subd. 4. [DEPOSIT ACCOUNTS FOR MINORS.] A savings bank may issue deposit accounts to or in the name of a minor, which shall be held for the exclusive right and benefit of the minor, free from the control or lien of all other persons, except creditors, and, together with interest or dividends, shall be paid to the minor. The minor's receipt, draft, negotiable order of withdrawal, or acquittance in any form, is sufficient release and discharge of the savings bank for withdrawal, until a guardian appointed in this state for the minor has delivered a certificate of appointment to the savings bank.~~

~~Subd. 5. [SCHOOL OR INSTITUTION THRIFT SAVINGS PLAN.] A savings bank may contract with the proper authorities of any public or nonpublic elementary or secondary school or institution of higher learning, or any public or charitable institution caring for minors, for the participation and implementation by the savings bank in any school or institution thrift or savings plan, and it may accept savings accounts at the school or institution, either by its own collector or by any representative of the school or institution which becomes the agent of the association for this purpose.~~

~~Subd. 6. [P.O.D. DEPOSITS.] When a deposit is made in the names of two or more persons jointly, or by a person payable on death (P.O.D.) to another, or by a person in trust for another, the rights of the parties and the savings bank are determined by chapter 528.~~

~~Subd. 7. [DEPOSIT ACCOUNTS IN JOINT TENANCY.] The pledge or hypothecation to a~~

savings bank of all or part of a deposit account in joint tenancy signed by a tenant or tenants whether minor or adult, upon whose signature or signatures withdrawals may be made from the account must, unless the terms of the deposit account provide specifically to the contrary, be a valid pledge and transfer to the savings bank of that part of the account pledged or hypothecated, and must not operate to sever or terminate the joint and survivorship ownership of all or any part of the account.

Subd. 8. [FIDUCIARY DEPOSITS.] A savings bank may accept deposits in the name of any administrator, executor, custodian, conservator, guardian, trustee, or other fiduciary for a named beneficiary or beneficiaries. The fiduciary may open and make additions to, and withdraw the account in whole or in part. The withdrawal value of the account and interest or other rights relating to it may be paid or delivered, in whole or in part, to the fiduciary without regard to any notice to the contrary as long as the fiduciary is living. The payment or delivery to the fiduciary or a receipt or acquittance signed by the fiduciary to whom the payment or any delivery of rights is made is a valid and sufficient release and discharge of a savings bank for the payment or delivery so made. Whenever a person holding an account in a fiduciary capacity dies and no written notice of the revocation or termination of the fiduciary relationship has been given to a savings bank and the savings bank has no written notice of any other disposition of the beneficial estate, the withdrawal value of the account, and interest or dividends, or other rights relating to it may, at the option of a savings bank, be paid or delivered, in whole or in part, to the beneficiary or beneficiaries. The payment or delivery to the beneficiary, beneficiaries, or designated person, or a receipt or acquittance signed by the beneficiary, beneficiaries, or designated person, for the payment or delivery is a valid and sufficient release and discharge of a savings bank for the payment or delivery. This section does not apply to P.O.D. accounts under chapter 528.

Subd. 9. [PAYMENTS TO GUARDIAN.] When a deposit account is held in a savings bank by a person who becomes incompetent and an adjudication of incompetency has been made by a court of competent jurisdiction, the savings bank may pay or deliver the withdrawal value of the deposit account and any earnings that may have accrued on it to the guardian for the person upon proof of appointment and qualification. If the savings bank has received no written notice and is not on actual notice that the deposit account holder has been adjudicated incompetent, it may pay or deliver the funds to the holder in accordance with the provisions of the deposit account contract, and the receipt or acquittance of the holder is a valid and sufficient release and discharge of the savings bank for the payment or delivery so made.

Subd. 10. [INVESTMENT BY CERTAIN ENTITIES.] Administrators, executors, custodians, conservators, guardians, trustees, and other fiduciaries of every kind and nature, insurance companies, business and manufacturing companies, banks, trust companies, credit unions, and other types of similar financial organizations, charitable, educational, eleemosynary, and public corporations authorized by law, funds, and organizations, are specifically authorized and empowered to invest funds held by them, without any order of any court, in deposit accounts of a savings bank, and the investments are considered legal investments for the funds.

Subd. 11. [SERVICE CHARGES.] A savings bank may contract with depositors for service charges in connection with the opening and maintaining of deposit accounts and for providing services ancillary to the opening and maintaining of deposit accounts. The service charges are a matter of contract between the savings bank and the depositor, and the contract will be fully enforceable in accordance with its stated terms.

Sec. 52. Minnesota Statutes 1994, section 50.175, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION.] Any savings bank organized and operating pursuant to this chapter, may establish negotiable order of withdrawal accounts on which it may or may not pay interest or dividends. Withdrawals from the accounts are subject to the right of the savings bank to require the depositor or account holder to give notice of an intended withdrawal not less than 30 14 days before the withdrawal is made, even though in practice the notice is not regularly required and the depositor or account holder is allowed to make withdrawals by negotiable or transferable instruments for the purpose of making payments to third persons or otherwise.

Sec. 53. Minnesota Statutes 1994, section 50.19, is amended to read:

50.19 ~~[ANNUAL REPORT; ASSETS REPORTS TO THE COMMISSIONER.]~~

~~On or before February first, each year, the trustees of any savings bank shall cause to be made a thorough examination of all its books, vouchers, and other papers and of its assets, liabilities, and affairs generally by an experienced and competent accountant, and make a written report upon the form prescribed by the commissioner of commerce, showing accurately its condition at the close of the preceding calendar year and specifying, as to that year, the amounts and particulars following:~~

~~(1) The amount loaned upon notes secured by mortgages, with the names of the states or localities in which the mortgaged premises are located and the amounts paid on the principal of mortgage notes, and the amount of mortgages, if any, which have been foreclosed;~~

~~(2) The cost, par value, and estimated market value of all bond investments, stated separately, and the amount of principal on bonds received by payment, redemption, sale, or otherwise;~~

~~(3) The amount of all loans upon pledge of securities, with a statement of the nature and amount of these securities and the amount paid upon the principal of the loans;~~

~~(4) The amount of the notes and of the bonds upon which interest was in default at the close of the preceding calendar year;~~

~~(5) The amount invested in real estate, giving the description and the cost of each tract;~~

~~(6) The amount of cash on hand and on deposit in banks or trust companies, giving the name of each, and the amount of each depositor; and~~

~~(7) Such other information as the commissioner of commerce may require. Each savings bank shall submit the reports required of state banks pursuant to section 48.48 and such other information as the commissioner of commerce may require.~~

Sec. 54. Minnesota Statutes 1994, section 50.21, is amended to read:

50.21 [VERIFICATION OF REPORT.]

The report shall be verified by the oath of the two principal officers of the institution and the statement of assets shall be verified by the oath of at least two of the ~~trustees~~ directors and of the person who made the examination; and any willful false swearing in regard to these reports shall be deemed perjury and be punishable accordingly.

Sec. 55. [50.212] [SAVINGS BANK REGULATION.]

Subdivision 1. [COMMERCE DEPARTMENT TO CONTROL.] The commissioner of commerce shall have charge of the execution of all laws relating to the savings banks chartered under the laws of Minnesota and relating to the business of those savings banks.

Subd. 2. [COMMISSIONER SUPERVISION.] (a) The commissioner shall supervise the books, records, and affairs of all savings banks doing business with the state as provided in section 46.04.

(b) The commissioner may pass further rules deemed necessary to enable savings banks to properly carry on the activities authorized under sections 50.001 to 50.28, which are not inconsistent with the provisions of sections 50.001 to 50.28.

Subd. 3. [OFFICIAL COMMUNICATIONS REFERRED TO DIRECTORS.] Each official communication from the commissioner to a savings bank relating to any examination conducted by the commissioner or containing suggestions and recommendations as to the conduct of business of the savings bank, shall be submitted by the officer receiving it to the board of directors at the next meeting of the board and noted in the meeting minutes.

Sec. 56. Minnesota Statutes 1994, section 50.22, is amended to read:

50.22 [PROCEEDINGS UPON VIOLATION.]

When it shall appear, from an examination made by the commissioner of commerce or otherwise, that any such corporation has violated the law, or is conducting its business in an unsafe

or unauthorized manner, the commissioner shall, by written order, direct such methods to be discontinued and that its business be conducted in conformity with law. If any such corporation refuses or neglects to comply with this order, or to make any report required by law or by the commissioner of commerce, or if it shall appear to the commissioner of commerce that it is unsafe or inexpedient for any such corporation to continue to transact business, the commissioner shall report the facts to the attorney general, who shall take such action thereon as the case requires. This action may be for the removal of one or more of the ~~trustees~~ directors of the corporation, the transfer of its corporate powers to other persons, its merger and consolidation with another like corporation willing to accept the trust, or such other appropriate action as the facts may require; and the court may grant any such relief in the interests of justice and, to protect the rights of the parties, may, from time to time, revoke or modify its orders made in the matter.

Sec. 57. Minnesota Statutes 1994, section 50.23, is amended to read:

50.23 [CHANGE OF NAME.]

When a resolution shall be adopted by the ~~trustees~~ directors of the bank expressing their purpose to change its name, they shall cause notice of this purpose, containing the present and proposed names, to be published in the manner provided for publication of notice of intention to organize. On completion of this publication, the ~~trustees~~ directors shall make application to the commissioner of commerce to change the name of the bank, as specified in the resolution and publication, accompanied by proof of the adoption of the resolution and publication of notice. If this change be approved by the commissioner of commerce, the commissioner shall authorize and direct the same by a signed order under seal, and designate a day, not more than 30 days from its date, when the change shall take effect. The commissioner shall execute the order in triplicate, one to be filed with the county recorder of the county where the bank is situated, one delivered to the bank, and the other filed in the commissioner's office. From the date named in this order, the bank shall be known and designated by its new name, and under this name shall have the same rights and powers and be subject to the same liabilities as before the change.

Sec. 58. Minnesota Statutes 1994, section 50.245, is amended to read:

50.245 ~~[DETACHED FACILITIES; MUTUAL SAVINGS BANKS; AUTHORIZATION BRANCHES; ACQUISITIONS.]~~

Subdivision 1. [AUTHORITY FOR BRANCH OFFICES.] A ~~mutual~~ savings bank may establish five detached facilities pursuant to sections 47.51 to 47.57 in the territories of Hennepin and Anoka counties. The savings bank shall not change the location of a detached facility without prior written approval of the commissioner of commerce. A saving bank may establish a loan production office, without restriction as to geographical location, upon written notice to the commissioner of commerce.

Subd. 2. [AUTHORITY FOR BRANCH OFFICES IN ~~RECIPROCATING STATE OTHER STATES.~~] The authorization contained in subdivision 1 is in addition to the authority granted ~~mutual~~ savings banks in section 47.52. A savings bank chartered in this state, whether or not the subsidiary of a savings bank holding company, may, by acquisition, merger, purchase, and assumption of some or all assets and liabilities, consolidation, or de novo formation, establish or operate detached facilities in another state on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by national banks located in Minnesota, except that approval of the comptroller of currency shall not be required for such detached facilities.

Subd. 3. [RECIPROCATING STATE ACQUISITIONS.] ~~This section shall not apply to any bank with a stock form of ownership.~~ A savings bank chartered in this state and a savings bank holding company with its principal offices in this state may acquire control of a financial institution chartered in a reciprocating state or, subject to applicable federal law, any other state or a financial institution holding company with principal offices in a reciprocating state or, subject to applicable federal law, any other state. A savings bank chartered in a reciprocating state or, subject to applicable federal law, any other state and a savings bank holding company with principal offices in a reciprocating state or, subject to applicable federal law, any other state may acquire control of a savings bank chartered in this state or a savings bank holding company with principal offices in this state.

Subd. 4. [RULEMAKING.] The commissioner shall adopt rules to provide that procedural requirements equivalent to those contained in sections 48.90 to 48.991 apply to reciprocal interstate branching and acquisitions by savings banks and savings bank holding companies.

Subd. 5. [DEFINITIONS.] For the purpose of this section, the terms defined in this subdivision have the meanings given them.

(a) "Financial institution" means a bank, savings bank, savings and loan association, trust company, or credit union, whether chartered under the laws of this state, another state or territory, or the laws of the United States.

(b) "Loan production office" means a place of business at which a savings bank provides lending if the loans are approved at the main office or detached facility of the savings bank, but at which a savings bank may not accept deposits except through a remote service unit.

(c) "Reciprocating state" means a state that authorizes the acquisition of control of financial institutions chartered in that state and financial institution holding companies with principal offices in that state by a savings bank chartered in this state or savings bank holding company with principal offices in this state under conditions substantially similar to those imposed by the laws of Minnesota, as determined by the commissioner of commerce.

(d) "Remote service unit" means an electronic financial terminal as defined in section 47.61.

Subd. 6. [COMMISSIONER'S AUTHORITY.] The authority of the commissioner of commerce to approve a transaction under this section is in addition to that provided for in section 49.48.

Sec. 59. Minnesota Statutes 1994, section 50.25, is amended to read:

50.25 [BANKS ORGANIZED UNDER THE LAWS OF MINNESOTA; CAPITAL STOCK; AMENDMENT OF ARTICLES.]

~~A corporation which was incorporated and organized under the laws of Minnesota for the purpose of doing a savings bank business, may have capital stock of \$100 per share, par value; provided, the minimum required capital shall not be less than \$500,000, and may amend its articles or certificate of incorporation so as to provide for this capital stock conversion by adopting a resolution specifying the proposed amendment at a regular meeting or a special meeting called for that expressly stated purpose. The conversion must be approved by at least a two-thirds affirmative vote of its entire board of directors, trustees, or other managers. The resolution approving the conversion shall be embraced in a certificate duly executed by its president and secretary, or other presiding and recording officers, under its corporate seal, and approved, filed, recorded, and published in the manner now prescribed for the execution, approval, filing, recording, and publishing of a like original certificate.~~

~~The resolution specifying the proposed amendment of articles or certificate of incorporation shall set forth a plan of conversion from a mutual savings bank to a capital stock savings bank. The plan of conversion shall provide that all capital stock shall have voting powers, including the power to elect the board of directors, trustees, or other managers who shall have the power to sell, convey, mortgage, or otherwise dispose of any part of the corporation's real or personal property. The plan and issuance of capital stock shall be subject to the commissioner of commerce's approval provided the plan is fair and equitable to all parties concerned and is in the public interest. The capital funds of a proposed savings bank shall be in such greater amount which the commissioner considers necessary, having in mind the deposit potential for such a proposed bank and current industry standards of capital adequacy.~~

Sec. 60. [50.28] [DECLARATORY JUDGMENTS.]

At any time after a controversy has arisen between the commissioner of commerce and a savings bank with respect to a question of law or rule or with respect to a question involving immeasurable or irreparable damage to the savings bank, and before an administrative or judicial hearing, the savings bank or the commissioner may apply to a court of competent jurisdiction in the county in which the home office of the savings bank is located for a declaratory judgment as to the question.

Sec. 61. Minnesota Statutes 1994, section 51A.02, subdivision 6, is amended to read:

Subd. 6. [ANNUAL PERCENTAGE RATE.] "Annual percentage rate" has the meaning given the term in the Code of Federal Regulations, title 12, part 226, but using the definition of "finance charge" used in this section.

Sec. 62. Minnesota Statutes 1994, section 51A.02, subdivision 26, is amended to read:

Subd. 26. [FINANCE CHARGE.] "Finance charge" has the meaning given the term in the Code of Federal Regulations, title 12, part 226, except that the following will not in any event be considered a finance charge:

(1) a charge as a result of default or delinquency under section 51A.385 if made for actual unanticipated late payment, delinquency, default, or other similar occurrence, unless the parties agree that these charges are finance charges;

(2) any additional charge under section 51A.385, subdivision 5; or

(3) a discount, if an association purchases a contract evidencing a ~~contract~~ credit sale at less than the face amount of the obligation or purchases or satisfies obligations of a cardholder pursuant to a credit card and the purchase or satisfaction is made at less than the face amount of the obligation.

Sec. 63. Minnesota Statutes 1994, section 51A.02, subdivision 40, is amended to read:

Subd. 40. [OFFICIAL FEES.] "Official fees" means:

(1) fees and charges which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, terminating, or satisfying a security interest or mortgage related to a loan or credit sale, and any separate fees or charges that actually are or will be paid to public officials for recording a notice described in section 580.032, subdivision 1; and

(2) premiums payable for insurance in lieu of perfecting a security interest or mortgage otherwise required by an association in connection with a loan or credit sale, if the premium does not exceed the fees and charges described in clause (1) which would otherwise be payable.

Sec. 64. Minnesota Statutes 1994, section 51A.21, is amended by adding a subdivision to read:

Subd. 28. [SERVICE CHARGES.] To contract with depositors for service charges in connection with the opening and maintaining of deposit accounts and for providing services ancillary to the opening and maintaining of deposit accounts. Service charges are a matter of contract between the association and the depositor, and any such contract is fully enforceable according to its stated terms.

Sec. 65. Minnesota Statutes 1994, section 61A.09, subdivision 3, is amended to read:

Subd. 3. Group life insurance policies may be issued to cover groups of not less than ten debtors of a creditor written under a master policy issued to a creditor to insure its debtors in connection with real estate mortgage loans, in an amount not to exceed the actual amount of their indebtedness plus an amount equal to two monthly payments or scheduled amount of their indebtedness, plus an amount equal to two monthly payments, whichever is greater. If the mortgage loan provides for a variable rate of finance charge or interest, the initial rate or the scheduled rates based on the initial index must be used in determining the scheduled amount of indebtedness. Each application for group mortgage insurance offered prior to or at the time of loan closing shall contain a clear and conspicuous notice that the insurance is optional and is not a condition for obtaining the loan. Each person insured under a group insurance policy issued under this subdivision shall be furnished a certificate of insurance which conforms to the requirements of section 62B.06, subdivision 2, and which includes a conversion privilege permitting an insured debtor to convert, without evidence of insurability, to an individual policy of decreasing term insurance within 30 days of the date the insured debtor's group coverage is terminated for any reason other than the nonpayment of premiums. The initial amount of coverage under the individual policy shall be an amount equal to the amount of coverage terminated under the group policy and shall decrease over a term that corresponds with the scheduled term of the insured

debtor's mortgage loan. The premium for the individual policy shall be the same premium the insured debtor was paying under the group policy.

Sec. 66. Minnesota Statutes 1994, section 62B.04, subdivision 1, is amended to read:

Subdivision 1. [CREDIT LIFE INSURANCE.] (1) The initial amount of credit life insurance shall not exceed the amount of principal repayable under the contract of indebtedness. Thereafter, if the indebtedness is repayable in substantially equal installments according to a predetermined schedule, the amount of insurance shall not exceed the scheduled or actual amount of indebtedness, whichever is greater. If the contract of indebtedness provides for a variable rate of finance charge or interest, the initial rate or the scheduled rates based on the initial index must be used in determining the scheduled amount of indebtedness and subsequent changes to the rate must be disregarded in determining whether the contract is repayable in substantially equal installments according to a predetermined schedule.

(2) Notwithstanding clause (1), the amount of credit life insurance written in connection with credit transactions repayable over a specified term exceeding 63 months shall not exceed the greater of: (i) the actual amount of unpaid indebtedness as it exists from time to time; or (ii) where an indebtedness is repayable in substantially equal installments according to a predetermined schedule, the scheduled amount of unpaid indebtedness, less any unearned interest or finance charges, plus an amount equal to two monthly payments. If the credit transaction provides for a variable rate of finance charge or interest, the initial rate or the scheduled rates based on the initial index must be used in determining the scheduled amount of unpaid indebtedness and subsequent changes in the rate must be disregarded in determining whether the contract is repayable in substantially equal installments according to a predetermined schedule.

(3) Notwithstanding clauses (1) and (2), insurance on educational, agricultural, and horticultural credit transaction commitments may be written on a nondecreasing or level term plan for the amount of the loan commitment.

Sec. 67. Minnesota Statutes 1994, section 62B.04, subdivision 2, is amended to read:

Subd. 2. [CREDIT ACCIDENT AND HEALTH INSURANCE.] The total amount of periodic indemnity payable by credit accident and health insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness; and the amount of each periodic indemnity payment shall not exceed the original indebtedness divided by the number of periodic installments. If the credit transaction provides for a variable rate of finance charge or interest, the initial rate or the scheduled rates based on the initial index must be used in determining the aggregate of the periodic scheduled unpaid installments of the indebtedness.

Sec. 68. Minnesota Statutes 1994, section 300.20, is amended to read:

300.20 [BOARD OF DIRECTORS.]

Subdivision 1. [ELECTION.] The business of savings banks must be managed by a board of at least seven ~~trustees, directors, all~~ residents of this state, each of whom, before being authorized to act, must file a written acceptance of the ~~trust~~ position. The business of other corporations must be managed by a board of at least three directors, unless a greater number is otherwise required by law, elected by ballot by the stockholders or members. A board of directors of a financial institution referred to in section 47.12 which has less than five members may be increased to not more than five members by order of the commissioner of commerce.

Subd. 2. [VACANCIES.] If the certificate of incorporation or the bylaws so provides, a vacancy in the board of directors may be filled by the remaining directors. Not more than one-third of the members of the board may be so filled in any one year except any number may be appointed to provide for at least three directors until any subsequent meeting of the stockholders.

Subd. 3. [QUORUM TO DO BUSINESS.] A majority of the directors ~~or trustees~~ constitutes a quorum for the transaction of business.

Subd. 4. [ACTION WITHOUT MEETING.] Any action which might be taken at a meeting of the board of directors, trustees, or managers may be taken without a meeting if done in writing signed by all of the directors, trustees, or managers.

Sec. 69. [REPEALER.]

Minnesota Statutes 1994, sections 47.095; 47.30, subdivisions 4 and 6; 47.67; 48.67; 50.01; 50.02; 50.07; 50.08; 50.09; 50.10; 50.12; 50.15; 50.16; 50.21; and 50.22, are repealed."

Delete the title and insert:

"A bill for an act relating to financial institutions; regulating savings banks; modifying and clarifying statutory provisions relating to the structure and functions of savings banks; making technical changes; amending Minnesota Statutes 1994, sections 9.031, subdivision 8; 46.047, subdivision 2; 47.01, subdivisions 2 and 3; 47.015, subdivision 1; 47.02; 47.10, subdivision 1; 47.12; 47.20, subdivisions 1 and 9; 47.201, subdivision 1; 47.205, subdivision 1; 47.209, subdivision 1; 47.27, subdivision 2; 47.28; 47.29, subdivisions 1 and 2; 47.30, subdivisions 1, 2, 3, and 5; 47.32; 47.62, subdivision 4; 47.64, subdivision 1; 47.65, subdivisions 1 and 2; 48.01, subdivision 2; 48.15, by adding a subdivision; 49.01, by adding a subdivision; 49.42; 50.01; 50.04; 50.05; 50.06; 50.11; 50.13; 50.14, subdivisions 1, 5, 7, and 8; 50.145; 50.146; 50.1465; 50.148; 50.155; 50.17; 50.175, subdivision 1; 50.19; 50.21; 50.22; 50.23; 50.245; 50.25; 51A.02, subdivisions 6, 26, and 40; 51A.21, by adding a subdivision; 61A.09, subdivision 3; 62B.04, subdivisions 1 and 2; and 300.20; proposing coding for new law in Minnesota Statutes, chapters 46; 47; and 50; repealing Minnesota Statutes 1994, sections 47.095; 47.30, subdivisions 4 and 6; 47.67; 48.67; 50.01; 50.02; 50.07; 50.08; 50.09; 50.10; 50.12; 50.15; 50.16; 50.21; and 50.22."

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

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

S.F. No. 1268: A bill for an act relating to the governor; providing that the governor may declare an inability to discharge duties of the office or may be declared unable to do so; amending Minnesota Statutes 1994, section 4.06.

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

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

S.F. No. 1362: A bill for an act relating to natural resources; providing for coordination of efforts of public and private sectors in the sustainable management, use, development, and protection of Minnesota's forest resources; establishing a forest resources council and regional forest resource committees; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 89A.

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

Page 3, line 8, delete "with"

Page 3, line 9, delete everything before the period

Page 3, line 17, delete "primary industrial"

Page 3, delete line 18 and insert "forest"

Page 3, line 19, after "products" insert "industry"

Page 3, line 20, delete everything after "contractor"

Page 3, line 21, delete everything before "forest" and insert "active in a"

Page 3, delete lines 25 and 26 and insert:

"(7) a faculty or researcher of a Minnesota research or higher educational institution;"

Page 4, line 33, delete the comma

Page 4, delete lines 34 and 35

Page 4, line 36, delete everything before the period

Page 5, line 1, delete "Beginning on January 1, 1997,"

Page 5, after line 35, insert:

"Subd. 2. [ECONOMIC CONSIDERATIONS.] Before the implementation of timber harvesting and forest management guidelines, new site-level practices and landscape-level programs, the council shall analyze the costs of new site-level practices and landscape-level programs. When the analysis concludes that new landscape-level programs and site-level practices will result in adverse economic effects, including decreased timber supply and negative effects on tourism, opportunities to offset those effects must be explored. The council shall also:

(1) identify and quantify forest and timberland acreages that will no longer be available for harvest; and

(2) encourage public resource agencies to provide sustainable, predictable supplies of high-quality forest resource benefits, including timber supplies that are consistent with their multiple mandates and diverse management objectives. These benefits should be provided by public resource agencies in proportion to their forest land's capability to do so."

Page 5, line 36, delete "2" and insert "3"

Page 8, delete lines 18 to 22 and insert:

"Subd. 5. [CITIZEN CONCERNS.] The council shall facilitate the establishment of a process to accept comments from the public on negligent timber harvesting or forest management practices. Comments must also be directed to the organization administering the certification program."

Page 10, after line 11, insert:

"Sec. 9. [DATES FOR INITIAL APPOINTMENTS AND REPORT.]

The governor shall make the initial appointments to the council established by section 3 by October 1, 1995. The initial report required by section 3, subdivision 6, is due January 1, 1997."

Amend the title as follows:

Page 1, line 7, delete "appropriating money;"

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

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

S.F. No. 573: A bill for an act relating to transportation; apportioning five percent of the highway user tax distribution fund; apportioning funds for town road bridge and town road accounts; removing trunk highway designation requirement; removing limitation on miles in county state-aid highway system; changing composition of screening board; changing the gasoline excise tax rate; indexing the rate of taxation on gasoline; directing commissioner of transportation to amend Minnesota Rules, parts 8820.0100, subpart 19, and 8820.0600; appropriating money; amending Minnesota Statutes 1994, sections 161.081, subdivision 1; 161.082, subdivisions 1 and 2a; 162.02, by adding a subdivision; 162.07, subdivisions 1, 5, and 6; and 296.02, subdivision 1b, and by adding a subdivision.

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

Page 1, line 24, after the stricken "28" insert "25" and reinstate the stricken "percent to the trunk highway fund;"

Page 1, line 25, reinstate the stricken "(2)" and delete "92" and insert "66"

Page 1, line 29, reinstate the stricken "(3)" and delete "(2)" and strike "8" and insert "9"

Page 2, line 16, reinstate the stricken language and delete the new language

Page 3, line 12, delete "33.04" and insert "45"

Page 3, delete section 4 and insert:

"Sec. 4. Minnesota Statutes 1994, section 161.082, is amended by adding a subdivision to read:

Subd. 3. [COUNTY JURISDICTIONAL TRANSFER ACCOUNT.] An amount equal to 15 percent of the county turnback account must be set aside as a county jurisdictional transfer account in the county state-aid highway fund, which is hereby created in the state treasury. Money in the county jurisdictional transfer account is appropriated to the commissioner of transportation and must be expended for the repair, restoration, reconstruction, or improvement of former trunk highways, or portions thereof, that have reverted to county jurisdiction. Pursuant to agreement with the road authority having jurisdiction, the commissioner may expend money from the account for maintenance or reconditioning, for a specified period of time, of former trunk highways, or portions thereof, that have reverted to county jurisdiction.

Sec. 5. Minnesota Statutes 1994, section 161.083, is amended to read:

161.083 [MUNICIPAL TURNBACK ACCOUNT, EXPENDITURE.]

Subdivision 1. [TURNBACK.] Except as hereinafter provided, all money accruing to the municipal turnback account shall be expended in accordance with rules of the commissioner of transportation in paying a municipality having a population of 5,000 or more for the reconstruction and improvement of former trunk highways, or portions thereof, that have reverted to such municipality in accordance with law, and have become a part of the municipal state-aid street system.

Subd. 2. [MUNICIPAL JURISDICTIONAL TRANSFER ACCOUNT.] An amount equal to 50 percent of the municipal turnback account must be set aside as a municipal jurisdictional transfer account, which is hereby created in the state treasury. Money in the municipal jurisdictional transfer account is appropriated to the commissioner of transportation and must be expended for the repair, restoration, reconstruction, or improvement of former trunk highways, or portions thereof, that have reverted to municipal jurisdiction. Pursuant to agreement with the road authority having jurisdiction, the commissioner may expend money from the account for maintenance or reconditioning, for a specified period of time, of former trunk highways, or portions thereof, that have reverted to municipal jurisdiction.

Sec. 6. Minnesota Statutes 1994, section 161.084, is amended to read:

161.084 [SURPLUS IN TURNBACK FUNDS.]

Subdivision 1. [TRANSFER OF SURPLUS TURNBACK FUNDS.] On determining at any time that there are surplus funds in either the county or municipal turnback account that are not needed for the purposes specified herein, the commissioner shall notify the commissioner of finance in writing of such determination, and such surplus funds, in the amount specified by the commissioner, shall be transferred to the county state-aid highway fund, or the municipal state-aid street fund, as the case may be, and apportioned as provided by law.

Subd. 2. [TRANSFER OF SURPLUS JURISDICTIONAL ACCOUNT FUNDS.] Any amount in excess of \$10,000,000 in the county jurisdictional transfer account and any amount in excess of \$5,000,000 in the municipal jurisdictional transfer account must be transferred to the highway user tax distribution fund and apportioned as provided by law.

Sec. 7. [161.54] [STATE TRUNK HIGHWAY SAFETY PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of transportation shall establish the state trunk highway safety program for the purpose of improving safety on the trunk highway

system. The commissioner shall identify, on an annual basis, the locations and nature of the most serious safety problems on the trunk highway system.

Subd. 2. [FUNDING; ALLOCATION OF FUNDS.] For the purpose of resolving identified safety problems, the commissioner shall utilize an amount from the trunk highway fund equal to ten percent of surface transportation program funds received by the state from the federal government. State trunk highway safety program funds must be allocated between locations within the metropolitan area, as defined in section 473.121, and locations outside the metropolitan area, according to the proportion of highway fatalities that occurred in the previous calendar year within and outside the metropolitan area."

Page 5, after line 23, insert:

"Sec. 11. Minnesota Statutes 1994, section 174.03, is amended by adding a subdivision to read:

Subd. 6a. [PAVEMENT QUALITY.] The commissioner shall, when allocating trunk highway funds to the state highway construction districts, consider the average condition of the pavement surface within each district."

Page 6, line 12, delete "(a)"

Page 6, delete lines 17 to 19

Page 6, line 28, delete "7 and 10" and insert "3, 8 to 10, and 14"

Page 6, line 29, after the period, insert "Section 7 is effective only when the gasoline excise tax, under Minnesota Statutes, section 296.02, subdivision 1b, is imposed at a rate in excess of 20 cents per gallon." and delete "8" and insert "12"

Page 6, line 31, delete "11" and insert "15"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, delete everything after the semicolon

Page 1, line 7, delete "state aid highway system" and insert "establishing state trunk highway safety program"

Page 1, line 8, after the semicolon, insert "requiring commissioner to consider average pavement condition in allocating trunk highway funds; creating county and municipal jurisdictional transfer accounts; requiring transfer of surplus funds to highway user tax distribution fund;"

Page 1, line 11, delete "parts" and insert "part" and delete ", and"

Page 1, line 12, delete "8820.0600"

Page 1, delete line 14 and insert "161.082, subdivisions 1, 2a, and by adding a subdivision; 161.083; 161.084;"

Page 1, line 15, delete "subdivision;" and after "6;" insert "174.03, by adding a subdivision;"

Page 1, line 16, before the period, insert "; proposing coding for new law in Minnesota Statutes, chapter 161"

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

S.F. No. 995: A bill for an act relating to motor carriers; deregulating and conforming state

motor carrier laws to federal regulations and conditions; increasing registration fees for motor carrier vehicles; making technical changes; appropriating money; amending Minnesota Statutes 1994, sections 168.013, subdivision 1e; 168.126, subdivisions 1 and 2; 174A.02, subdivision 4; 174A.06; 221.011, subdivisions 1, 7, 8, 9, 14, 15, 16, 26, 29, 37, and by adding subdivisions; 221.021; 221.022; 221.025; 221.031, subdivisions 1 and 5; 221.033, subdivisions 2 and 2a; 221.035, subdivision 2; 221.036, subdivisions 1 and 3; 221.041; 221.051, subdivision 1; 221.061; 221.071; 221.081; 221.091; 221.121, subdivisions 1, 4, and 6a; 221.122, subdivision 1; 221.131, subdivisions 2 and 3; 221.141, subdivisions 1 and 5; 221.151, subdivisions 1 and 2; 221.161, subdivisions 1 and 4; 221.171, subdivision 2; 221.172, subdivisions 3, 9, and 10; 221.221, subdivision 2; 221.281; 221.291, subdivisions 4 and 5; 221.60, subdivision 3a; 221.605, subdivision 1; 221.81, subdivision 3e; 221.84, subdivision 4; 221.85, subdivision 3; and 609.671, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 221; repealing Minnesota Statutes 1994, sections 221.011, subdivisions 10, 12, 18, 24, 25, 27, 28, 35, 36, 38, 39, 40, 41, 43, 44, 45, and 46; 221.031, subdivisions 2, 2a, 2b, 3, 3a, 3b, 3c, 6, 7, 8, and 9; 221.0313; 221.0314; 221.037; 221.072; 221.101; 221.111; 221.121, subdivisions 3, 6c, 6d, 6e, 6f, and 6g; 221.131, subdivisions 6 and 7; 221.141, subdivision 6; 221.151, subdivision 3; 221.152; 221.153; 221.172, subdivisions 1, 2, 4, 5, 6, 7, and 8; 221.185; and 221.296.

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

Page 11, line 35, after "(9)" insert "whether the registrant is a farmer who elects to register farm trucks on a quarterly basis under section 168.018;

(10)"

Page 12, line 2, delete "(10)" and insert "(11)"

Page 36, after line 25, insert:

"Sec. 51. Minnesota Statutes 1994, section 221.036, is amended by adding a subdivision to read:

Subd. 1a. [EXCEPTIONS.] Notwithstanding subdivision 1, the commissioner shall not issue an administrative penalty order to a regular route carrier of passengers, a charter carrier, or a household goods mover for violations of the safety regulations incorporated in this chapter."

Page 44, line 24, reinstate the stricken language

Pages 54 and 55, delete section 72

Pages 57 and 58, delete section 76

Page 58, lines 12 and 13, delete ", 221.131, or 221.0251" and insert "or 221.131"

Page 60, after line 19, insert:

"Subd. 9. [CERTIFICATE AND PERMIT CARRIERS; HEARING PROVIDED.] Notwithstanding the other provisions of this section, if a regular route carrier of passengers, charter carrier, or household goods mover requests a hearing within 45 days after the date of a suspension, the board shall review the suspension and:

(1) determine that the carrier has complied with the law and rescind the suspension;

(2) for just cause, grant an extension which must not exceed 20 days; or

(3) schedule a hearing to ascertain whether the carrier has failed to comply with the law. If it is determined after the hearing that the carrier has failed to comply with the law, the board shall cancel the carrier's suspended permit or certificate.

Subd. 10. [CERTIFICATE AND PERMIT CARRIERS; REINSTATEMENT AFTER CANCELLATION.] A regular route carrier of passengers, charter carrier, or household goods mover whose certificate or permit is canceled for failure to comply with section 221.141 relating to bonds and insurance may ask the board to review the cancellation. Upon review, the board shall rescind the cancellation if:

(1) the carrier presents evidence showing that before the effective date of the notice of cancellation issued under subdivision 8, the carrier had obtained and paid for the insurance required by section 221.141 and the rules of the commissioner; and

(2) the commissioner informs the board that the carrier has complied with the requirements of section 221.141 and the rules of the commissioner.

Subd. 11. [FARM TRUCK OPERATORS; CANCELLATION DEFERRED.] Notwithstanding the other provisions of this section, the commissioner shall not cancel the certificate of registration of a registrant if:

(1) the registrant's certificate of registration has been suspended for failure to comply with the insurance or bond requirements in section 221.141 or rules adopted under that section;

(2) the registrant elects to register its farm trucks under section 168.018 and indicates this method of vehicle registration on its registration statement;

(3) the registrant conducts no motor carrier operations during the time that its certificate of registration is suspended; and

(4) the registrant complies with the insurance or bond requirements in section 221.141, or rules adopted under that section, within five years from the effective date of a suspension issued under this section."

Page 62, line 22, strike "or for alcohol,"

Pages 63 and 64, delete section 86 and insert:

"Sec. 85. [STUDY; APPROPRIATION.]

\$100,000 is appropriated from the trunk highway fund to the commissioner of transportation for the purpose of conducting a study, in cooperation with the board, of household goods movers and passenger carriers, including regular route common carriers of passengers, charter carriers, special transportation service providers, personal transportation service providers, private carriers of passengers, and limousines. In performing the study, the commissioner: (1) shall examine the current level and quality of passenger and household goods movers service provided throughout the state; (2) shall, in cooperation with the board, solicit input from household goods movers, passenger carriers, and other transportation organizations concerning the elimination, change, or transfer of the powers, duties, and functions of the board; and (3) shall examine the impact of eliminating, changing, or transferring regulation of passenger carriers or household goods movers on existing carriers, providers of passenger transportation under contract to the department of transportation or the metropolitan council, and the public. The commissioner shall report the results of the study to the legislature no later than February 1, 1996."

Page 64, lines 24 and 25, delete "on the effective date of this section,"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 13, delete "and 3" and insert ", 3, and by adding a subdivision"

Page 1, line 18, delete everything after the first semicolon

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

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

S.F. No. 870: A bill for an act relating to elevator safety; changing responsibility for certain administrative and enforcement activities; changing certain exemptions; imposing penalties; amending Minnesota Statutes 1994, sections 16B.61, subdivision 1; 16B.72; 16B.73; 183.351, subdivisions 2 and 5; 183.353; 183.354; 183.355, subdivisions 1, 3, and by adding a subdivision;

183.357, subdivisions 1 and 3; 183.358; and 326.244, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 183.

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

Page 1, line 15, delete "16B.749" and insert "16B.75"

Page 2, line 5, delete "16B.749" and insert "16B.75"

Page 2, after line 7, insert:

"Sec. 2. Minnesota Statutes 1994, section 16B.61, subdivision 1a, is amended to read:

Subd. 1a. [ADMINISTRATION BY COMMISSIONER.] The commissioner shall administer and enforce the state building code as a municipality with respect to public buildings and state licensed facilities in the state. The commissioner shall establish appropriate permit, plan review, and inspection fees for public buildings and state licensed facilities. Fees and surcharges for public buildings and state licensed facilities must be remitted to the commissioner, who shall deposit them in the state treasury for credit to the special revenue fund.

Municipalities other than the state having a contractual agreement with the commissioner for code administration and enforcement service for public buildings and state licensed facilities shall charge their customary fees, including surcharge, to be paid directly to the contractual jurisdiction by the applicant seeking authorization to construct a public building or a state licensed facility. The commissioner shall contract with a municipality other than the state for plan review, code administration, and code enforcement service for public buildings and state licensed facilities in the contractual jurisdiction if the building officials of the municipality meet the requirements of section 16B.65 and wish to provide those services and if the commissioner determines that the municipality has enough adequately trained and qualified building inspectors to provide those services for the construction project.

The commissioner shall administer and enforce the provisions of the code relating to elevators statewide, except as provided for under section 183.357, subdivision 3."

Page 4, line 9, strike "city" and insert "municipality"

Page 6, line 19, strike "construction mechanic" and insert "industry education program"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, delete "subdivision 1" and insert "subdivisions 1 and 1a"

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

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

S.F. No. 1420: A bill for an act relating to health; establishing provisions for mobile health care providers; proposing coding for new law in Minnesota Statutes, chapter 144.

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

Delete everything after the enacting clause and insert:

"Section 1. [144.077] [MOBILE HEALTH CARE PROVIDERS.]

Subdivision 1. [DEFINITION.] "Mobile health evaluation and screening provider" means any provider who is transported in a vehicle mounted unit, either motorized or trailered, and readily movable without disassembling, and who regularly provides evaluation and screening services in more than one geographic location. "Mobile health evaluation and screening provider" does not include any ambulance medical transportation type services or any mobile health service provider affiliated, owned and operated, or under contract with a licensed health care facility or provider, managed care entity licensed under chapter 62D or 62N or Minnesota licensed physician or

dentist, nor does it include fixed location providers who transfer or move during the calendar year. All mobile health evaluation and screening providers must be directly supervised by a physician licensed under chapter 147.

Subd. 2. [LICENSURE REQUIREMENTS.] A mobile health evaluation and screening provider shall be required to comply with all licensing reporting and certification, sanitation, and other requirements and regulations that apply to a health care provider supplying similar services as a fixed location provider. A mobile health evaluation and screening provider shall be subject to regulation and order of the department of health.

Subd. 3. [REGISTRATION REQUIREMENTS.] A mobile health evaluation and screening provider shall register with the commissioner and file the anticipated locations of practice, schedules, and routes annually no later than January 15. The mobile health evaluation and screening provider shall also include the name and address of the supervising physician. A mobile health evaluation and screening provider shall provide at least 30 days' written notice to the populations they intend to serve."

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

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

H.F. No. 813: A bill for an act relating to human services; establishing a temporary payment rate for a recently purchased intermediate care facility for persons with mental retardation or related conditions; amending Minnesota Statutes 1994, section 256B.501, by adding a subdivision.

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

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

H.F. No. 226: A bill for an act relating to occupations and professions; requiring reporting of certain insurance settlements to board of medical practice; amending Minnesota Statutes 1994, sections 147.111, subdivision 5; and 147.161, subdivision 1.

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

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

H.F. No. 843: A bill for an act relating to insurance; health; requiring coverage for hospitalization and anesthesia coverage for dental procedures; requiring coverage for general anesthesia and treatment for covered medical conditions rendered by a dentist; proposing coding for new law in Minnesota Statutes, chapter 62A.

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

Page 1, line 19, delete everything after "treatment"

Page 1, line 20, delete everything before the period

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

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

H.F. No. 1211: A bill for an act relating to public contractors' performance bonds; exempting certain manufacturers from requirements for posting bonds; amending Minnesota Statutes 1994, section 574.26, by adding a subdivision.

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

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

S.F. No. 1221: A bill for an act relating to veterans; appropriating money for assistance in making certain claims.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

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

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.

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

Page 1, line 20, after "transportation" insert "or the commissioner of health"

Page 4, line 2, delete everything after the period

Page 4, delete line 3

Page 4, line 33, delete "Fees and"

Page 6, line 4, delete "repeated" and insert "third"

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

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

S.F. No. 1020: A bill for an act relating to workers' compensation; modifying provisions relating to insurance, procedures and benefits; providing penalties; appropriating money; amending Minnesota Statutes 1994, sections 79.01, subdivision 1; 79.074, by adding subdivisions; 79.252, subdivisions 2, 5, and by adding subdivisions; 79.50; 79.59, subdivision 4; 79A.01, subdivision 4; 79A.02, subdivisions 1 and 2; 79A.04, subdivisions 2 and 9; 79A.15; 175.007, subdivisions 1 and 3; 176.011, subdivisions 15 and 18; 176.021, subdivisions 3 and 3a; 176.061, subdivision 10; 176.101, subdivisions 1, 2, 5, 6, and by adding a subdivision; 176.102, subdivisions 1, 2, 4, 11, and by adding a subdivision; 176.105, subdivisions 2 and 4; 176.106, subdivision 7; 176.135, subdivision 2; 176.178; 176.179; 176.221, subdivision 6a; 176.225, by adding subdivisions; 176.238, subdivision 6; 176.645, subdivision 1; 176.66, subdivision 11; 176.83, subdivisions 1, 2, and 5; and 268.08, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 79; and 79A; repealing Minnesota Statutes 1994, sections 176.011, subdivisions 25 and 26; and 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u; Minnesota Rules, parts 5220.0100 to 5220.1900; 5220.2500 to 5220.2940; 5221.0100 to 5221.0700; 5221.6010 to 5221.8900; and 5223.0300 to 5223.0650.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

MUTUAL GROUP SELF-INSURANCE

Section 1. [79B.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. [ACCOUNTANT.] "Accountant" means a certified public accountant who is not an employee of any member of the mutual self-insurance group and is not affiliated with any individual or organization providing services other than accounting services to the group.

Subd. 3. [ACTUARY.] "Actuary" means an individual who has attained the status of associate or fellow of the casualty actuarial society who is not an employee of any member of the mutual self-insurance group and is not affiliated with any individual or organization providing services other than actuarial services to the group.

Subd. 4. [CERTIFICATE OF DEFAULT.] "Certificate of default" means a notice issued by the commissioner of commerce based upon information received from the commissioner of labor and industry, that a mutual self-insurance group has failed to pay compensation as required by chapter 176.

Subd. 5. [COMMISSIONER.] "Commissioner" means the commissioner of commerce except where specifically stated otherwise.

Subd. 6. [COMMON CLAIMS FUND.] "Common claims fund" means the cash, cash equivalents, or investment accounts maintained by the mutual self-insurance group to pay its workers' compensation liabilities.

Subd. 7. [DEFICIT.] "Deficit" as regards the mutual group self-insurance fund means the excess of the amount necessary to fulfill all obligations under chapter 176, for all fund years that the group has been in operation over all assets of the group. For purposes of this definition, provision must be made for the estimated liability for future special compensation fund assessments on claims incurred prior to the determination of the deficit. No discounting of any liabilities of the mutual self-insurance group shall be permitted in the determination of the deficit of the group.

Subd. 8. [DIRECTORS.] "Directors" means the board of directors of a mutual self-insurance group.

Subd. 9. [FISCAL AGENT.] "Fiscal agent" means an individual or organization appointed and under the direction of the board of directors to maintain and administer the mutual self-insurance groups' common claims fund.

Subd. 10. [FUND YEAR.] "Fund year" for mutual self-insurance groups means that period of time for purposes of determining any deficit or surplus. A separate fund year shall be designated for each calendar year in which the mutual self-insurance group operates. Premiums earned during the fund year and any claim arising within the accident year upon which the fund year is based shall be included in that fund year.

Subd. 11. [INCURRED LIABILITIES FOR THE PAYMENT OF COMPENSATION.] "Incurred liabilities for the payment of compensation" means the sum of both of the following:

- (1) an estimate of future workers' compensation benefits, including medical and indemnity; and
- (2) an amount determined by the commissioner to be reasonably adequate to assure the administration of claims, including legal costs, but not to exceed ten percent of future workers' compensation benefits.

Subd. 12. [INSOLVENT MUTUAL SELF-INSURER.] "Insolvent mutual self-insurer" means a mutual self-insurance group that: (1) failed to pay compensation as a result of a declaration of bankruptcy or insolvency by a court of competent jurisdiction and whose security deposit has been called by the commissioner under chapter 176; or (2) failed to pay compensation and has been issued a certificate of default by the commissioner and whose security deposit has been called by the commissioner pursuant to chapter 176.

Subd. 13. [MEMBER.] "Member" means an employer that participates in a mutual self-insurance group.

Subd. 14. [MUTUAL SELF-INSURANCE GROUP.] "Mutual self-insurance group" means a group of employers that are self-insured for workers' compensation under chapter 176 and elects to operate under this chapter rather than chapter 79A.

Subd. 15. [MUTUAL SELF-INSURANCE GROUP SECURITY FUND.] "Mutual self-insurance group security fund" means the mutual self-insurance group security fund established pursuant to this chapter.

Subd. 16. [SERVICE COMPANY.] "Service company" means a vendor of risk management services or a licensed third-party administrator pursuant to section 60A.23, subdivision 8.

Subd. 17. [SPECIAL COMPENSATION FUND ASSESSMENT.] "Special compensation fund assessment" are those sums payable as set forth in section 176.129, subdivisions 3 and 4a.

Subd. 18. [SURPLUS.] "Surplus" as regards the mutual self-insurance group fund means the excess of all group assets over the amount necessary to fulfill all obligations under chapter 176, for all fund years that the group has been in operation. Provision must be made for the estimated liability for future special compensation fund assessments on claims incurred prior to the determination of surplus. No discounting of any liabilities of the mutual self-insurance group shall be permitted in the determination of the surplus of the group.

Subd. 19. [TRUSTEES.] "Trustees" means the board of trustees of the mutual self-insurance group security fund.

Subd. 20. [WORKERS' COMPENSATION REINSURANCE ASSOCIATION; WCRA.] "Workers' compensation reinsurance association" or "WCRA" means that association governed by sections 79.34 to 79.40.

Sec. 2. [79B.02] [ELIGIBILITY REQUIREMENTS FOR MUTUAL SELF-INSURANCE GROUPS.]

Subdivision 1. [GROUP ELIGIBILITY.] A mutual self-insurance group shall consist of employers in the same industry, trade, civic, cooperative, or professional group or employers having any other reasonable basis to self-insure.

Subd. 2. [MEMBERSHIP ELIGIBILITY.] A mutual self-insurance group may only admit employers who meet the eligibility requirements established by the group including financial criteria, underwriting guidelines, risk profile, and any other requirements stated in the mutual self-insurance group's bylaws or plan of operation.

Sec. 3. [79B.03] [MUTUAL SELF-INSURANCE GROUP APPLICATION.]

Subdivision 1. [PROCEDURE.] (a) Groups proposing to become licensed as mutual self-insurance groups must complete and submit an application on a form or forms prescribed by the commissioner and pay a \$2,500 nonrefundable application fee.

(b) The commissioner shall grant or deny the group's application to self-insure within 60 days after a complete application has been filed, provided that the time may be extended for an additional 30 days upon 15 days' prior notice to the applicant.

Subd. 2. [REQUIRED DOCUMENTS.] All applications must be accompanied by the following:

(a) A detailed business plan including the risk profile of the proposed membership, underwriting guidelines, marketing plan, minimum financial criteria for each member, and financial projections for the first year of operation. The marketing plan shall include an analysis outlining how the mutual self-insurance group will attain an annual premium volume of at least \$1,000,000 within the first three years of operation. Financial projections shall include balance sheet, income statement, statement of cash flows, and any other such items as the commissioner may require.

(b) A rating plan indicating the method in which premiums are to be charged to members including manual rates to be used for each relevant payroll classification code. The rating plan shall be reviewed by an actuary and shall include an analysis of the actuarial soundness of the plan and the effect of the plan on fund solvency and liquidity. Premium volume discounts and a schedule rating plan will be permitted if they can be shown to be actuarially sound and a description of how they will be used is included with the application. In developing its rating plan,

the mutual self-insurance group shall base its plan on the Minnesota workers' compensation insurers association's manual of rules, rates, and classifications approved for use in Minnesota by the commissioner.

(c) A schedule indicating actual or anticipated operational expenses of the mutual self-insurance group. No authority to self-insure will be granted unless at least 65 percent of total revenues from all sources for any year of the mutual self-insurance group's operation are available for the payment of its claim and assessment obligations. For purposes of this calculation, claim and assessment obligations include the cost of allocated loss expenses as well as special compensation fund and mutual self-insurance group security fund assessments but exclude the cost of unallocated loss expenses.

(d) An indemnity agreement from each member who will participate in the mutual self-insurance group, signed by an officer of each member, providing for joint and several liability for all claims and expenses of all of the members of the mutual self-insurance group arising in any fund year in which the member was a participant on a form as specified in section 79B.11.

(e) A copy of the mutual self-insurance group bylaws as specified in section 79B.04, subdivision 2.

(f) A confirmation from the accountant of the mutual self-insurance group indicating that the combined net worth of all of the initial members is an amount at least equal to ten times the group's retention level with the workers' compensation reinsurance association.

Subd. 3. [APPROVAL.] The commissioner shall approve an application for self-insurance upon a determination that all of the following conditions are met:

(1) a completed application and all required documents have been submitted to the commissioner;

(2) the financial ability of mutual self-insurance group is sufficient to fulfill all obligations that may arise under this chapter or chapter 176;

(3) the annual premium of the mutual self-insurance group to be charged to initial members is at least \$500,000 and the group's annual premium should grow to at least \$1,000,000 within three years;

(4) no individual member's premium comprises more than 20 percent of the entire mutual self-insurance group's annual premium;

(5) the mutual self-insurance group has contracted with a service company to administer its program; and

(6) the required securities or surety bond shall be on deposit prior to the effective date of coverage for the mutual self-insurance group.

Sec. 4. [79B.04] [MUTUAL SELF-INSURANCE GROUP OPERATING REQUIREMENTS.]

Subdivision 1. [BOARD OF DIRECTORS.] (a) A mutual self-insurance group shall elect a board of directors who shall have complete authority over and control of the assets of the group. The board of directors will also be responsible for all of the operations of the group.

(b) Members of the board of directors shall be owners, officers, directors, partners, or employees of members of the mutual self-insurance group.

(c) The directors must approve applications for membership in the group.

Subd. 2. [BYLAWS.] (a) The directors of each group shall adopt a set of bylaws to govern the operation of the group. Bylaws must specifically state the group's intention to operate under this statute rather than chapter 79A. All bylaws or amendments to the bylaws must be approved by the commissioner.

(b) Bylaws must contain the following subjects:

- (1) qualifications for group membership, including underwriting considerations;
- (2) the method for selecting the board of directors including the directors' terms of office and the positions of chairperson, secretary, and treasurer;
- (3) the procedure for amending the bylaws;
- (4) investment of all assets of the fund;
- (5) frequency and extent of loss control or safety engineering services provided to members;
- (6) a schedule for payment and collection of premiums;
- (7) expulsion procedures, including expulsion for nonpayment of premiums and expulsion for excessive losses;
- (8) delineation of authority granted to the fiscal agent;
- (9) delineation of authority granted to the service company;
- (10) basis for determining premium contributions by members, including any experience rating program, schedule rating plan, or premium discount plan;
- (11) procedures for resolving disputes between members of the group, which shall not include submitting them to the commissioner; and
- (12) basis for determining distribution of any surplus to the members or assessing the membership to make up any deficit.

(c) All groups shall file copies of its current bylaws with the commissioner. Any changes in the bylaws shall be filed with the commissioner at least 30 days prior to their taking effect. The commissioner may order the mutual self-insurance group to rescind, revoke, or amend any bylaw.

Subd. 3. [ANNUAL REVIEW.] The directors shall review at least annually the following items for the purpose of determining whether they are being adequately provided for:

- (1) service company performance;
- (2) loss control and safety engineering;
- (3) investment policies;
- (4) collection of delinquent debts;
- (5) expulsion procedures;
- (6) initial member review;
- (7) fiscal agent performance; and
- (8) claims handling and reporting.

Subd. 4. [FINANCIAL STANDARDS.] Groups shall have and maintain:

- (1) combined net worth of all members in an amount at least equal to ten times the group's selected retention level of the workers' compensation reinsurance association; and
- (2) sufficient assets, net worth, and liquidity in the group's common claims fund to promptly and completely meet all obligations of its members under this chapter or chapter 176.

Subd. 5. [RATES.] (a) The group may not vary its rating practices from the rating plan most recently approved for use by the commissioner. The group may replace its rating plan with another upon approval by the commissioner. The group may change its rating plan no more than once per year.

- (b) A rating plan must indicate the method by which premiums are to be charged to members

including manual rates to be used for each relevant payroll classification code. The rating plan must be reviewed by an actuary and include an analysis of the actuarial soundness of the plan and the effect of the plan on fund solvency and liquidity. Premium volume discounts and a schedule rating plan are permitted if they can be shown to be actuarially sound and a description of how they will be used is included with the application.

(c) In developing its rating plan, the mutual self-insurance group shall base its plan on the Minnesota workers' compensation insurers association's manual of rules, rates, and classifications approved for use in Minnesota by the commissioner.

Subd. 6. [NEW MEMBERSHIP.] (a) The mutual self-insurance group shall file with the commissioner the name of any new employer that has been accepted in the group prior to the initiation date of membership along with the member's signed indemnity agreement and evidence the member has deposited sufficient premiums with the group as required by the group's bylaws or plan of operation. The security deposit of the group must be increased to an amount equal to 50 percent of the new member's premium.

(b) An employer must belong to the group for at least one year. If a member voluntarily terminates its membership in a group during the second or third year of membership, the group shall assess the member at least the following penalties: 25 percent of the premium due from that member for that year if termination occurs within the second year of membership, and 15 percent of the premium due from that member for that year if termination occurs within the third year. No penalty is required if an employer's withdrawal is due to merger, dissolution, sale of the company, or change in the type of business. Following the completion of three consecutive years of membership in the group, withdrawal from the group is allowed without penalty, provided that 30 days' advance written notice is given to the board of directors of the group, and the group's plan of operation or bylaws allow withdrawal without a penalty. Any penalty assessed pursuant to this subdivision shall be paid to the common claims fund.

Subd. 7. [WITHDRAWAL OR EXPULSION.] Upon receipt of any notice of a member to withdraw or a decision by the board of directors to expel a member, the group must give immediate notice to the commissioner. If the combined net worth or financial condition of the group members, excluding the terminating or expelled member, fails to meet the requirements specified in subdivision 4, the group must notify the commissioner within 15 days.

Subd. 8. [MUTUAL SELF-INSURANCE GROUP COMMON CLAIMS FUND.] (a) Each group shall establish a common claims fund.

(b) Each group shall, not less than ten days prior to the proposed effective date of the group, collect cash premiums from each member equal to not less than 20 percent of the member's annual workers' compensation premium to be paid into a common claims fund, maintained by the group in a designated depository. The remaining balance of the member's premium shall be paid to the group in a reasonable manner over the remainder of the year. Payments in subsequent years shall be made according to the schedule in the business plan, classifications, and rates approved for use by the commissioner.

(c) Each group shall initiate proceedings against a member when that member becomes more than 15 days delinquent in any payment of premium to the fund.

(d) Commingling of any assets of the common claims fund with the assets of any individual member or with any other account of the service company or fiscal agent unrelated to the payment of workers' compensation liabilities incurred by the group is prohibited.

Subd. 9. [FISCAL AGENT.] (a) The group shall designate a fiscal agent to administer the financial affairs of the fund. The fiscal agent shall furnish a fidelity bond issued by a licensed and admitted insurer, with the group as obligee, in an amount sufficient to protect the fund against the misappropriation or misuse of any money or securities. The fiscal agent shall not be an owner, officer, or employee of either the service company or an affiliate of the service company.

(b) All funds shall remain in the control of the group or its fiscal agent. One or more revolving funds for payment of compensation benefits due may be established for the use by the service company. The service company shall furnish a fidelity bond issued by a licensed and admitted

insurer, covering its employees, with the group as obligee, in an amount sufficient to protect all money placed in the revolving fund. If the fidelity bond of the fiscal agent also covers the money in the revolving fund, the service company is not required to furnish a fidelity bond.

(c) No director, fiscal agent, or service company of the group shall utilize any of the money collected as premiums for any purpose unrelated to the operation of the group. No director, fiscal agent, or service company of the group shall borrow any money from the group's fund.

Subd. 10. [JOINT AND SEVERAL LIABILITY.] Each member of a group shall be jointly and severally liable for the obligations incurred by any member of the same group under chapter 176 for any fund year in which the member was a participant of the mutual self-insurance group.

Subd. 11. [ANNUAL AUDIT.] The accounts and records of the common claims fund must be audited annually. Audits must be made by an accountant, based on generally accepted accounting principles and generally accepted auditing standards, and supported by actuarial review and opinion of future contingent liabilities. The accountant must determine the amount of deficit or surplus of the common claims fund. All audits required by this section must be filed with the commissioner 120 days after the close of the fiscal year of the group. The commissioner may require a special audit to be made at other times if the financial stability of the fund or the adequacy of its reserves is in question.

Subd. 12. [INVESTMENTS.] (a) Any securities purchased by the common claims fund shall be in denominations and with dates of maturity to ensure securities may be redeemable at sufficient time and in sufficient amounts to meet the fund's current and long-term liabilities.

(b) Cash assets of the common claims fund may be invested in the following securities:

(1) direct obligations of the United States government, except mortgage-backed securities of the Government National Mortgage Association;

(2) bonds, notes, debentures, and other instruments which are obligations of agencies and instrumentalities of the United States including, but not limited to, the federal National Mortgage Association, the federal Home Loan Mortgage Corporation, the federal Home Loan Bank, the Student Loan Marketing Association, and the Farm Credit System, and their successors, but not including collateralized mortgage obligations or mortgage pass-through instruments;

(3) bonds or securities that are issued by the state of Minnesota and that are secured by the full faith and credit of the state;

(4) certificates of deposit which are insured by the federal Deposit Insurance Corporation and are issued by a Minnesota depository institution;

(5) obligations of, or instruments unconditionally guaranteed by, Minnesota depository institutions whose long-term debt rating is at least AA-, or Aa3, or their equivalent by at least two nationally recognized rating agencies.

Subd. 13. [ADMINISTRATION.] (a) The mutual self-insurance group must secure administrative services from a service company. Services provided by the service company must include claim handling, safety and loss control, and preparation of all required regulatory reports.

(b) The service company management must demonstrate it has experience with self-insured group administration and employs or has under contract claim adjustors with Minnesota specific workers' compensation claim handling experience.

(c) The service company retained by a group to administer workers' compensation claims shall estimate the total accrued liability of the group for the payment of compensation for the group's annual report to the commissioner and shall make the estimate both in good faith and with the exercise of a reasonable degree of care.

Subd. 14. [MARKETING AND COMMUNICATIONS.] A group's applications, coverage documents, quotations, and all marketing materials must prominently display information indicating that the group is a self-insured program, that members are jointly and severally liable for the obligations of the group, and that members will be assessed for any deficits created by the group.

Subd. 15. [REINSURANCE.] (a) A group must purchase specific excess coverage with the workers' compensation reinsurance association at the lower retention level for its first three years of operation. After that time it may select the higher retention level with prior notice given to and approval of the commissioner.

(b) The commissioner may require a group to purchase aggregate excess coverage. Any reinsurance or excess coverage purchased other than that of the workers' compensation reinsurance association must be secured with an insurance company or reinsurer licensed to underwrite that coverage in Minnesota and maintains at least an "A" rating with the A.M. Best rating organization.

Subd. 16. [DISBURSEMENT OF FUND SURPLUS.] (a) One hundred percent of any surplus money for a fund year in excess of 125 percent of the amount necessary to fulfill all obligations under the workers' compensation act, chapter 176, for that fund year may be declared refundable to a member at any time. The date shall be no earlier than 18 months following the end of that fund year. The first disbursement of fund surplus may not be made prior to the completion of an operational audit by the commissioner. There can be no more than one refund made in any 12-month period. When all the claims of any one fund year have been fully paid, as certified by an actuary, all surplus money from that fund year may be declared refundable.

(b) The group shall give notice to the commissioner of any refund. Notice shall be accompanied by a statement from the group's certified public accountant certifying that the proposed refund is in compliance with paragraph (a).

Subd. 17. [SATISFACTION OF FUND DEFICIT.] In the event of a deficit in any fund year, the deficit shall be paid up immediately, either from surplus from a fund year other than the current fund year, or by assessment of the membership. The commissioner shall be notified within ten days of any transfer of surplus funds. The commissioner, upon finding that a deficit in a fund year has not been satisfied by a transfer of surplus from another fund year, shall order an assessment to be levied on a proportionate basis against the members of the group during that fund year sufficient to make up any deficit.

Sec. 5. [79B.05] [MUTUAL SELF-INSURANCE GROUP REPORTING REQUIREMENTS.]

Subdivision 1. [REQUIRED REPORTS.] Each mutual self-insurance group shall submit to the commissioner:

(a) An annual report showing the incurred losses, paid and unpaid, specifying indemnity and medical losses by classification, payroll by classification, and current estimated undiscounted outstanding liability for workers' compensation on a calendar year basis, in a manner and on forms available from the commissioner. In addition each group will submit a quarterly interim loss report showing incurred losses for all its membership.

(b) Each group must submit on a quarterly basis a schedule showing all the members who participate in the group, their date of inception, and date of withdrawal, if applicable.

(c) Each group must submit, in a manner and on forms available from the commissioner, a report specifying the audited premium of the most recent fiscal year. The report must be accompanied by an expense schedule showing the group's operational costs for the same fiscal year including service company charges, accounting and actuarial fees, fund administration charges, reinsurance premiums, royalties, commissions, and any other costs associated with the administration of the group program.

(d) An officer of the group shall, under oath, attest to the accuracy of each report submitted under paragraphs (a), (b), and (c). Upon sufficient cause, the commissioner shall require the group to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the commissioner, based on generally accepted accounting principles and generally accepted auditing standards, and supported by an actuarial review and opinion of the future contingent liabilities. The basis for sufficient cause includes the following factors:

(1) where the losses reported appear significantly different from similar types of groups;

(2) where major changes in the reports exist from year to year, which are not solely attributable to economic factors; or

(3) where the commissioner has reason to believe that the losses and payroll in the report do not accurately reflect the losses and payroll of the group.

If any discrepancy is found, the commissioner must require changes in the group's business plan or service company record keeping practices.

(e) Each group must submit a copy of the group's annual federal and state income tax returns or provide proof that it has received an exemption from such filings.

(f) With the annual loss report each group must report to the commissioner any worker's compensation claim from the previous year where the full, undiscounted value is estimated to exceed \$50,000, in a manner and on forms prescribed by the commissioner.

(g) Each member of the group must, within four months after the end of each calendar year, submit to the group its most recent annual financial statement, compiled by an independent public accountant, together with other financial information the group may require.

(h) The group must submit an annual certified financial audit report of the group fund.

Subd. 2. [OPERATIONAL AUDIT.] (a) The commissioner, prior to authorizing surplus distribution of a group's first fund year or no later than after the third anniversary of the group's authority to self-insure, shall conduct an operational audit of the group's claim handling and reserve practices as well as its underwriting procedures to determine if they adhere to the group's business plan. The commissioner may select outside consultants to assist in conducting the audit. After completion of the audit, the commissioner shall either renew or revoke the group's authority to self-insure. The commissioner may also order any changes deemed necessary in the claims handling, reserving practices, or underwriting procedures of the group.

(b) The cost of the operational audit shall be borne by the mutual self-insurance group.

Subd. 3. [UNIT STATISTICAL REPORT.] Each group must annually file a unit statistical report to the Minnesota workers' compensation insurers association.

Sec. 6. [79B.06] [MUTUAL SELF-INSURANCE GROUP SECURITY DEPOSIT.]

Subdivision 1. [ANNUAL SECURING OF LIABILITY.] Each year every mutual self-insurance group must secure future incurred liabilities for the payment of compensation and the performance of the obligations of its membership imposed under chapter 176. A new deposit must be posted within 30 days of the filing of the group's annual actuarial report with the commissioner.

Subd. 2. [MINIMUM DEPOSIT.] The minimum deposit is 110 percent of the group's future incurred liabilities for the payment of compensation as determined by an actuary. Each actuarial study shall include a projection of future losses during a one-year period until the next scheduled actuarial study, less payments anticipated to be made during that time. Deduction must be made for the total amount which is estimated to be returned to the group from any specific excess insurance coverage, aggregate excess insurance coverage, and any supplementary benefits which are estimated to be reimbursed by the special compensation fund. Supplementary benefits may not be reimbursed by the special compensation fund unless the special compensation fund assessment pursuant to section 176.129 is paid and the required reports are filed with the special compensation fund. In the case of surety bonds, bonds shall secure administrative and legal costs in addition to the liability for payment of compensation reflected on the face of the bond. In no event shall the security be less than the group's selected retention limit of the workers' compensation reinsurance association. The posting or depositing of security under this section releases all previously posted or deposited security from any obligations under the posting or depositing and any surety bond released shall be returned to the surety. Any other security shall be returned to the depositor or the person posting the bond.

Subd. 3. [TYPE OF ACCEPTABLE SECURITY.] The commissioner may only accept as security, and the group shall deposit as security, cash, approved government securities as set forth in section 176.181, subdivision 2, surety bonds or irrevocable letters of credit in any combination. Interest or dividend income or other income generated by the security shall be paid to the group or, at the group's direction, applied to the group's security requirement. The current deposit shall

include within its coverage all amounts covered by terminated surety bonds. As used in this section, an irrevocable letter of credit shall be accepted only if it is clean, irrevocable, and contains an evergreen clause.

(a) "Clean" means a letter of credit that is not conditioned on the delivery of any other documents or materials.

(b) "Irrevocable" means a letter of credit that cannot be modified or revoked without the consent of the beneficiary, once the beneficiary is established.

(c) "Evergreen clause" means one which specifically states that expiration of a letter of credit will not take place without a 60-day notice by the issuer and one which allows the issuer to conduct an annual review of the account party's financial condition. If prior notice of expiration is not given by the issuer, the letter of credit is automatically extended for one year.

A clean irrevocable letter of credit shall be accepted only if it is in the form prescribed by statute and is issued by a financial institution that is authorized to engage in banking in any of the 50 states or under the laws of the United States and whose business is substantially confined to banking and supervised by the state commissioner of commerce or banking of similar official, and which has a long-term debt rating by a recognized national rating agency of investment grade or better. If no long-term debt rating is available, the financial institution must have the equivalent investment grade financial characteristics.

Subd. 4. [CUSTODIAL ACCOUNTS.] (a) All surety bonds, irrevocable letters of credit, and documents showing issuance of any irrevocable letter of credit must be deposited with, and, except where specified by statute, in a form approved by the commissioner. All securities shall be deposited with the state treasurer or in a custodial account with a depository institution acceptable to the commissioner. The commissioner and the state treasurer may sell or collect the deposits, in the case of default of the group, the amounts that yield sufficient funds to pay workers' compensation due under chapter 176.

(b) All securities in physical form on deposit with the state treasurer and surety bonds on deposit shall remain in the custody of the state treasurer or the commissioner for a period of time dictated by the applicable statute of limitations provided in chapter 176. All original instruments and contracts creating and governing custodial accounts shall remain with the state treasurer or the commissioner for the time dictated by the applicable statute of limitations in chapter 176.

(c) Securities in physical form deposited with the state treasurer must bear the following assignment, which must be signed by an officer of the group, "assigned to the state of Minnesota for the benefit of injured employees of the self-insured employer under the Minnesota workers' compensation act." Any securities held in a custodial account, whether in physical form, book entry, or other form, need not bear the assignment language. The instrument or contract creating and governing any custodial account must contain the following assignment language. "This account is assigned to the state treasurer by the mutual self-insurance group to pay compensation and perform the obligations of employers imposed under Minnesota Statutes, chapter 176. A depositor or other party has no right, title, or interest in the security deposited in the account until released by the state."

(d) Upon the commissioner sending a request to renew, request to post, or request to increase a security deposit, a perfected security interest is created in the group's assets in favor of the commissioner to the extent of any then unsecured portion of the group's incurred liabilities. The perfected security interest is transferred to any cash or securities thereafter posted by the group with the state treasurer and is released only upon either of the following:

(1) the acceptance by the commissioner of a surety bond or irrevocable letter of credit for the full amount of the incurred liabilities for the payment of compensation; or

(2) the return of cash or securities by the commissioner. The group loses all right, title, and interest in and any right to control assets or obligations posted or left on deposit as security. In the event of a declaration of bankruptcy or insolvency by a court of competent jurisdiction, or in the event of the issuance of a certificate of default by the commissioner, the commissioner shall liquidate the deposit as provided in this chapter, and transfer to the mutual self-insurance group security fund for application to the group's incurred liability.

(e) No securities in physical form on deposit with the state treasurer or the commissioner or custodial accounts assigned to the state shall be released or exchanged without an order from the commissioner. No security can be exchanged more than once every 90 days.

(f) Any securities deposited with the state treasurer or with a custodial account assigned to the state treasurer or letters of credit or surety bonds held by the commissioner may be exchanged or replaced by the depositor with any other acceptable securities or letters of credit or surety bond of like amount so long as the market value of the securities or amount of the surety bonds or letter of credit equals or exceeds the amount of the deposit required. If securities are replaced by surety bond, the mutual self-insurance group must maintain securities on deposit in an amount sufficient to meet all outstanding workers' compensation liability arising during the period covered by the deposit of the replaced securities.

(g) The commissioner shall return on an annual basis to the group all amounts of security determined by the commissioner to be in excess of the statutory requirements for the group to self-insure, including that necessary for administrative costs, legal fees, and the payment of any future workers' compensation claims.

Sec. 7. [79B.07] [DEFAULT OF A MUTUAL SELF-INSURANCE GROUP.]

Subdivision 1. [NOTICE OF INSOLVENCY, BANKRUPTCY, OR DEFAULT.] The commissioner of labor and industry shall notify the commissioner and the mutual self-insurance group security fund if the commissioner of labor and industry has knowledge that any mutual self-insurance group has failed to pay workers' compensation benefits as required by chapter 176. If the commissioner determines that a court of competent jurisdiction has declared the group to be bankrupt or insolvent and the group has failed to pay workers' compensation as required by chapter 176 or if the commissioner issues a certificate of default against a group for failure to pay workers' compensation as required by chapter 176, then the security deposit posted by the group must be utilized to administer and pay the group's workers' compensation obligation.

Subd. 2. [REVOCATION OF CERTIFICATE TO SELF-INSURE.] (a) The commissioner shall revoke the group's certificate to self-insure once notified of the group's bankruptcy, insolvency, or upon issuance of a certificate of default. The revocation shall be completed as soon as practicable, but no later than 30 days after the group's security has been called.

(b) The commissioner shall also revoke a group's authority to self-insure on the following grounds:

- (1) failure to comply with any lawful order of the commissioner;
- (2) failure to comply with any provision of chapter 176;
- (3) a deterioration of the group's financial condition affecting its ability to pay obligations in chapter 176;
- (4) committing an unfair or deceptive act or practice as defined in section 72A.20; or
- (5) failure to abide by the plan of operation of the workers' compensation reinsurance association.

Subd. 3. [NOTICE BY THE COMMISSIONER.] In the event of bankruptcy, insolvency, or certificate of default, the commissioner shall immediately notify by certified mail the state treasurer, the surety, the issuer of an irrevocable letter of credit, and any custodian of the security. At the time of notification, the commissioner shall also call the security and transfer and assign it to the mutual self-insurance group security fund. The commissioner shall also notify by certified mail the mutual self-insurance group's security fund and order the security fund to assume the insolvent group's obligations for which it is liable under chapter 176.

Sec. 8. [79B.08] [MUTUAL SELF-INSURANCE GROUP SECURITY FUND.]

Subdivision 1. [CREATION.] The mutual self-insurance group security fund is established as a nonprofit corporation pursuant to the Minnesota nonprofit corporation act, sections 317A.001 to 317A.909. If any provision of the Minnesota nonprofit corporation act conflicts with any provision

of this chapter, the provisions of this chapter apply. Each self-insurance group that elects to be subject to the terms of this statute rather than chapter 79A shall participate in the mutual self-insurance group security fund. This participation shall be a condition of maintaining its certificate to self-insure.

Subd. 2. [BOARD OF TRUSTEES.] The security fund shall be governed by a board consisting of a minimum of three and maximum of five trustees. The trustees shall be representatives of mutual self-insurance groups elected by the participants of the security fund, each group having one vote. The trustees initially elected by the participants shall serve staggered terms of either two or three years. Thereafter, trustees shall be elected to three-year terms and shall serve until their successors are elected and assume office pursuant to the bylaws of the security fund. Two additional trustees shall be appointed by the commissioner. These trustees shall serve four-year terms. One of these trustees shall serve a two-year term. Thereafter, the trustees shall be appointed to four-year terms, and shall serve until their successors are appointed and assume office according to the bylaws of the security fund. In addition to the trustees elected by the participants or appointed by the commissioner, the commissioner of labor and industry or the commissioner's designee is an ex officio, nonvoting member of the board of trustees. A member of the board of trustees may designate another person to act in the member's place as though the member were acting and the designee's actions shall be deemed those of the member.

Subd. 3. [BYLAWS.] The security fund must establish bylaws and a plan of operation, subject to the prior approval of the commissioner, necessary to the purposes of this chapter and to carry out the responsibilities of the security fund. The security fund may carry out its responsibilities directly or by contract, and may purchase services and insurance and borrow funds necessary for the protection of the mutual self-insurance group participants and their employees.

Subd. 4. [CONFIDENTIAL INFORMATION.] The security fund may receive private data concerning the financial condition of mutual self-insurance groups whose liabilities to pay compensation have become its responsibility and shall adopt bylaws to prevent dissemination of that information.

Subd. 5. [EMPLOYEES.] Security fund employees are not state employees and are not subject to any state civil service regulations.

Subd. 6. [ASSUMPTION OF OBLIGATIONS.] Upon order of the commissioner under section 79B.07, subdivision 3, the security fund shall assume the workers' compensation obligations of an insolvent group. The commissioner must order the mutual self-insurance group security fund to commence payment of these obligations within 14 days of the receipt of the order.

Subd. 7. [ACT OR OMISSIONS; PENALTIES.] Notwithstanding subdivision 6, the security fund shall not be liable for the payment of any penalties assessed for any act or omission on the part of any person other than the security fund or its appointed administrator, including, but not limited to, the penalties provided in chapter 176 unless the security fund or its appointed administrator would be subject to penalties under chapter 176 as the result of the actions of the security fund or its administrator.

Subd. 8. [PARTY IN INTEREST.] The security fund shall be a party in interest in all proceedings involving compensation claims against an insolvent mutual self-insurance group whose compensation obligations have been paid or assumed by the security fund. The security fund shall have the same rights and defenses as the insolvent mutual self-insurance group, including, but not limited to, all of the following:

- (1) to appear, defend, and appeal claims;
- (2) to receive notice of, investigate, adjust, compromise, settle, and pay claims; and
- (3) to investigate, handle, and deny claims.

Subd. 9. [PAYMENTS TO SECURITY FUND.] Notwithstanding anything in this chapter or chapter 176 to the contrary, if the mutual self-insurance group security fund assumes the obligations of any bankrupt or insolvent mutual self-insurance group pursuant to this section, then the proceeds of any surety bond, workers' compensation reinsurance association, specific excess

insurance or aggregate excess insurance policy, and any special compensation fund payment or supplementary benefit reimbursements shall be paid to the mutual self-insurance group security fund instead of the bankrupt or insolvent group or its successor in interest. No special compensation fund reimbursements shall be made to the security fund unless the special compensation fund assessments under section 176.129 are paid and the required reports are made to the special compensation fund.

Subd. 10. [INSOLVENT MUTUAL SELF-INSURANCE GROUP.] The security fund must obtain reimbursement from an insolvent mutual self-insurance group up to the amount of the group's workers' compensation obligations paid and assumed by the security fund, including reasonable administrative and legal costs. This right includes, but is not limited to, a right to claim for wages and other necessities of life advanced to claimants as subrogee of the claimants in any action to collect against the mutual self-insurance group as debtor.

Subd. 11. [SECURITY DEPOSITS.] The security fund must obtain from the security deposit of an insolvent group the amount of the group's compensation obligations, including reasonable administrative and legal costs, paid or assumed by the security fund. Reimbursement of administrative costs, including legal costs, is subject to approval by a majority of the security fund's voting trustees. The security fund shall be a party in interest in any action to obtain the security deposit for the payment of compensation obligations of an insolvent group.

Subd. 12. [LEGAL ACTIONS.] The security fund may bring an action against any person or entity to recover compensation paid and liability assumed by the security fund, including, but not limited to, any excess insurance carrier of the insolvent group and any person or entity whose negligence or breach of an obligation contributed to any underestimation of the group's accrued liability as reported to the commissioner.

Subd. 13. [PARTY IN INTEREST.] The security fund may be a party in interest in any action brought by any other person seeking damages resulting from the failure of an insolvent mutual self-insurance group to pay workers' compensation required under this subdivision.

Subd. 14. [ASSETS MAINTAINED.] The security fund shall maintain cash, readily marketable securities, or other assets, or a line of credit, approved by the commissioner, sufficient to immediately continue the payment of the compensation obligations of an insolvent group pending receipt of the security deposit, surety bond proceeds, irrevocable letter of credit, or, if necessary, assessment of the participants. The commissioner may establish the minimum amount to be maintained by, or immediately available to, the security fund for this purpose.

Subd. 15. [ASSESSMENT.] The security fund may assess each of its participants a pro rata share of the funding necessary to carry out its obligation and the purposes of this chapter. Total annual assessments in any calendar year shall be a percentage of the workers' compensation benefits paid under sections 176.101 and 176.111 during the previous calendar year. The annual assessment calculation shall not include supplementary benefits paid which will be reimbursed by the special compensation fund. Funds obtained by assessments under this subdivision may only be used for the purposes of this chapter. The trustees shall certify to the commissioner the collection and receipt of all money from assessments, noting any delinquencies. The trustees shall take any action deemed appropriate to collect any delinquent assessments.

Subd. 16. [AUDIT OF FUND.] The trustees shall annually contract for an independent certified audit of the financial activities of the fund. An annual report on the financial status of the mutual self-insurance group security fund must be submitted to the commissioner and to each group member.

Sec. 9. [79B.09] [LETTER OF CREDIT FORM.]

The form for the letter of credit under this chapter shall be:

Effective Date

State of Minnesota (Beneficiary)

(Address)

Dear Sirs:

By order of (Self-Insurer) we are instructed to open a clean irrevocable Letter of Credit in your favor for United States \$.....(Amount).

We undertake that drawings under this Letter of Credit will be honored upon presentation of your draft drawn on (issuing bank), at (address) prior to expiration date.

The Letter of Credit expires on but will automatically extend for an additional one year if you have not received by registered mail notification of intention not to renew 60 days prior to the original expiration date and each subsequent expiration date.

Except as expressly stated herein, this undertaking is not subject to any condition or qualification. The obligation of (issuing bank) under this Letter of Credit shall be the individual obligation of (issuing bank), in no way contingent upon reimbursement with respect thereto.

Very truly yours,

.....(signature)

Sec. 10. [79B.10] [SURETY BOND FORM.]

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

STATE OF MINNESOTA

COMMISSIONER

SURETY BOND OF SELF-INSURER OF WORKERS' COMPENSATION

IN THE MATTER OF THE CERTIFICATE OF)

) SURETY BOND

) NO.....

) PREMIUM

)

Employer, Certificate No:.....

KNOW ALL PERSONS BY THESE PRESENTS:

That

(Mutual Self-Insurance Group.)

Whose address is

as Principal, and

(Surety)

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

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

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

FURTHERMORE, it is understood and agreed that:

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

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

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

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

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

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

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

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

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

8. If the surety exercises its option to administer claims, it shall pay benefits due to the principal's injured workers within 14 days of the receipt of the notification by the commissioner of commerce, state of Minnesota, pursuant to paragraph 7, without a formal award of a compensation judge, the commissioner of labor and industry, any intermediate appellate court, or the Minnesota supreme court and such payment will be a charge against the penal sum of the bond. Administrative and legal costs incurred by the surety in discharging its obligations and payment of the principal's obligations for administration and legal expenses under Minnesota Statutes, chapters 79B and 176 shall also be a charge against the penal sum of the bond; however, the total

amount of this surety bond set aside for the payment of said administrative and legal expenses shall be limited to a maximum ten percent of the total penal sum of the bond unless otherwise authorized by the security fund.

9. If any part or provision of this bond shall be declared unenforceable or held to be invalid by a court of proper jurisdiction, such determination shall not affect the validity or enforceability of the other provisions or parts of this bond.

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

11. Disputes concerning the posting, renewal, termination, exoneration, or return of all or any portion of the principal's security deposit or any liability arising out of the posting or failure to post security, or the adequacy of the security or the reasonableness of administrative costs, including legal costs, arising between or among a surety, the issuer of an agreement of assumption and guarantee of workers' compensation liabilities, the issuer of a Letter of Credit, any custodian of the security deposit, the principal, or the self-insurer's security fund shall be resolved by the commissioner of commerce under Minnesota Statutes, chapters 79B and 176.

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

.....

Name of Surety

.....

To the attention of Person or Position

.....

Address

.....

City, State, Zip

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

.....

Name of Principal

.....

To the attention of Person or Position

.....

Address

.....

City, State, Zip

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

.....

Name of Surety

.....

Address

.....

City, State, Zip

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

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

Date:.....

.....

Signature of Attorney-In-Fact

.....

Printed or Typed Name of

Attorney-In-Fact

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

Sec. 11. [79B.11] [INDEMNITY AGREEMENT FORM.]

INDEMNITY AGREEMENT

1. Whereas, (name of company) has agreed to be and has been accepted as a member of (name of mutual self-insurance group).

2. Whereas, (name of company) has agreed to be bound by all of the provisions of the Minnesota workers' compensation act and all rules promulgated thereunder.

3. Whereas, that (name of company) has agreed to be bound by bylaws or plan of operation and all amendments thereto of (name of mutual self-insurance group).

4. Whereas, that (name of company) has agreed to be jointly and severally liable for all claims and expenses of all the members of (name of mutual self-insurance group) arising in any fund year in which (name of company) is a member of the group. Provided that if (name of company) is not a member for the full year, it shall be only liable for a pro rata share of that liability.

IN WITNESS WHEREOF, the (name of company) and (name of mutual self-insurance group) have caused this indemnity agreement to be executed by its authorized agreement to be executed by its authorized officers:

Mutual Self-Insurance Group Name

Company Name

By:

By:

date:

date:

Sec. 12. [79B.12] [OPEN MEETING; ADMINISTRATIVE PROCEDURE ACT.]

The mutual self-insurance group security fund and its board of trustees shall not be subject to:

(1) the open meeting law;

(2) the open appointments law;

(3) the data privacy law; and

(4) except where specifically set forth, the administrative procedure act.

Sec. 13. [79B.13] [RULES.]

The commissioner may adopt, amend, and repeal rules reasonably necessary to carry out the purposes of this chapter. This authorization includes, but is not limited to, the adoption of rules to do all of the following:

(1) except as otherwise specifically provided by statute, specifying what constitutes ability to self-insure under this chapter and to pay any compensation which may become due under chapter 176;

(2) specifying what constitutes a failure or inability to fulfill an insolvent mutual self-insurance group's obligations under this chapter;

(3) interpreting and defining the terms used in this chapter;

(4) establishing procedures and standards for hearing and determinations and providing for those determinations to be appealed;

(5) except where otherwise specifically provided by statute, specifying the standards, forms, and content of agreements, forms, and reports between parties who have obligations pursuant to this chapter;

(6) providing for the combinations and relative liabilities of security deposits, assumptions, and guarantees used under this chapter; and

(7) disclosing otherwise private data concerning mutual self-insurers to courts or mutual self-insurance group security fund and specifying appropriate safeguards for that information.

Sec. 14. [79B.14] [GOVERNING LAW.]

If there is any inconsistency among chapter 79B and any rule or statute and law, chapter 79B shall govern.

Sec. 15. [EFFECTIVE DATE.]

This article is effective July 1, 1995.

ARTICLE 2

ASSIGNED RISK PLAN

Section 1. [LEGISLATIVE AUDITOR; ASSIGNED RISK EVALUATION.]

The legislative audit commission is requested to direct the legislative auditor to conduct an evaluation of the assigned risk plan created by Minnesota Statutes, sections 79.251 to 79.252. The evaluation shall include:

(1) whether the assigned risk plan should be organized and operated in a different manner;

(2) the development of strategies that permits small safe employers to receive the benefit of their safe workplace through reduced premiums;

(3) safety practices of unsafe employers placed in the assigned risk plan due to their own poor safety record or the poor safety record of their industry;

(4) an analysis of the claims adjusting and reserving practices of the plan; and

(5) a plan for the state fund mutual insurance company to be the sole service company or insurer servicing policies or contract of coverage under the assigned risk plan.

The evaluation shall specifically focus on developing alternative insurance techniques for small employers in the assigned risk plan such as grouping or self-insurance that can be utilized to reduce insurance premiums.

The legislative auditor shall report findings of the evaluation to the legislature by January 15, 1996.

Sec. 2. [STATE FUND MUTUAL; ASSIGNED RISK PLAN.]

Upon the expiration of current contracts to service policies and contracts of coverage of the assigned risk plan, the commissioner of commerce shall contract with the state fund mutual insurance company to service that business.

Sec. 3. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 3

SAFETY

Section 1. [79.082] [SAFETY PREMIUM CREDIT.]

An insurer must provide a ten percent credit against the premium otherwise payable by an employer if the employer has been insured against workers' compensation liability under chapter 176 for the immediately preceding three calendar years and has had no accidents for which benefits were paid under Minnesota Statutes, section 176.101, in the immediately preceding three calendar years. This section applies only to an employer that is a "small business" as defined in Minnesota Statutes, section 645.445, subdivision 2. For the purpose of this section, insurer includes the assigned risk plan.

Sec. 2. Minnesota Statutes 1994, section 79.085, is amended to read:

79.085 [SAFETY AND RETURN TO WORK PROGRAMS.]

All insurers writing workers' compensation insurance in this state shall provide return to work and safety and occupational health loss control consultation services at no fee to each of their policyholders requesting the services in writing. Insurers must annually notify their policyholder of their right under this section to return to work and free safety and occupational health loss consultation services. The services must include the conduct of workplace surveys to identify health and safety problems, review of employer injury records with appropriate personnel, and development of plans to improve employer occupational health and safety loss records. Insurers shall notify each policyholder of the availability of those services and the telephone number and address where such services can be requested. The notification may be delivered with the policy of workers' compensation insurance.

Sec. 3. Minnesota Statutes 1994, section 176.232, is amended to read:

176.232 [SAFETY COMMITTEES.]

Every public or private employer of more than 25 employees shall establish and administer a joint labor-management safety committee.

Every public or private employer of 25 or fewer employees shall establish and administer a safety committee if:

(1) the employer has a lost workday cases incidence rate in the top ten percent of all rates for employers in the same industry; or

(2) the workers' compensation premium classification assigned to the greatest portion of the payroll for the employer has a pure premium rate as reported by the workers' compensation rating association in the top 25 percent of premium rates for all classes.

Employee safety committee members must be selected by employees. An employer that fails to establish or administer a safety committee as required by this section may be cited by the commissioner. A citation is punishable as a serious violation under Minnesota Statutes, section 182.666.

The commissioner may adopt rules regarding the training of safety committee members and the operation of safety committees.

Sec. 4. [176.233] [EMPLOYER SAFETY PROGRAMS.]

Subdivision 1. [PROGRAM REQUIREMENT.] Each public or private employer must establish and administer a safety program.

An employer who employs temporary workers shall include those workers in the employer's safety program. A temporary services contractor shall provide a safety program for employees not employed by other employers.

Subd. 2. [PROGRAM COMPONENTS.] Each safety program must include, but not be limited to:

- (1) new employee general safety orientation;
- (2) job- or task-specific safety training;
- (3) continuous refresher safety training, including periodic safety meetings;
- (4) periodic hazard assessment, with corrective actions identified; and
- (5) appropriate documentation of performance of the activities.

Subd. 3. [LARGER EMPLOYERS.] An employer of more than five employees must have:

- (1) procedures of reporting and investigating all work-related incidents, accidents, injuries, and illnesses; and
- (2) policies and procedures that assign specific safety responsibilities and safety performance accountability.

Subd. 4. [INSURANCE CONTRACT.] Each insurance contract or agreement must require each insured employer to implement a safety program as part of the contract or agreement to provide workers' compensation coverage.

Sec. 5. [SMALL BUSINESS WORKERS' COMPENSATION SAFETY PILOT PROJECT.]

The commissioner of commerce shall by July 1, 1995, contract with the division of environmental and occupational health of the school of public health of the University of Minnesota for a pilot injury prevention project. The contract shall require the department of environmental and occupational health to consult and provide assistance about ergonomic problems to small employers insured by the state assigned risk plan. The consultative and assistance services shall focus on employers having employees that can most benefit from the consultation and assistance. The contract shall be for the period July 1, 1995 to June 30, 1997. For the purpose of this section, small employer means an employer with less than 500 employees.

Sec. 6. [SMALL BUSINESS INJURY AND ILLNESS PREVENTION SURVEY.]

The division of environmental and occupational health of the school of public health of the University of Minnesota shall evaluate injury and illness prevention activities of small business by surveying small businesses to assess the following:

- (1) current use of occupational safety and health services by small businesses;
- (2) specific areas in which small business needs assistance;
- (3) in what form is desired assistance most helpful;
- (4) what services are sponsored by public and public sector programs;
- (5) what measures exist to assess the effectiveness of these programs; and
- (6) how can these programs be best adapted by Minnesota.

The division shall provide technical assistance and advice to small businesses as part of the survey process.

For the purpose of this section, small employer means an employer with less than 500 employees.

The survey shall be completed by January 1, 1997. The division shall report the survey results and any recommendations to the legislature and the commissioner of labor and industry by February 1, 1997.

Sec. 7. [APPROPRIATION; PILOT PROJECT.]

\$...... is appropriated from the assigned risk safety account in the special compensation fund to the commissioner of commerce for the biennium ending June 30, 1997, for the purpose of section 4.

Sec. 8. [APPROPRIATION; SURVEY.]

\$...... is appropriated for the biennium ending June 30, 1997, from the assigned risk safety account in the special compensation fund to the board of regents of the University of Minnesota for the purpose of section 5.

Sec. 9. [EFFECTIVE DATE.]

Sections 1, 2, and 4, subdivision 4, are effective for policies of insurance insured or renewed after August 1, 1995.

ARTICLE 4

INDEPENDENT CONTRACTORS

Section 1. Minnesota Statutes 1994, section 176.041, subdivision 1, is amended to read:

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

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

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

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

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

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

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

(g) an executive officer of a closely held corporation having less than 22,880 hours of payroll in the preceding calendar year, if that executive officer owns at least 25 percent of the stock of the corporation;

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

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

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

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

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

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

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

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

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

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

(r) a manager of a limited liability company having ten or fewer members and having less than 22,880 hours of payroll in the preceding calendar year, if that manager owns at least a 25 percent membership interest in the limited liability company;

(s) a spouse, parent, or child, regardless of age, of a manager of a limited liability company described in paragraph (r);

(t) persons employed by a limited liability company having ten or fewer members and having less than 22,880 hours of payroll in the preceding calendar year who are related by blood or marriage, within the third degree of kindred according to the rules of civil law, to a manager of a limited liability company described in paragraph (r), if the company files a written election with the commissioner to exclude these persons. A written election is not required for a person who is otherwise excluded from this chapter by this section; or

(u) members of limited liability companies who satisfy the requirements of paragraph (l).

Sec. 2. [176.042] [INDEPENDENT CONTRACTORS; BUILDING CONSTRUCTION OR IMPROVEMENTS.]

Subdivision 1. [GENERAL RULE; ARE EMPLOYEES.] Except as provided in subdivision 2, an independent contractor is an employee for the purposes of this chapter if:

(1) the independent contractor performs construction trade or craft services at a commercial or residential building construction or improvement project in the private or public sector; and

(2) those services are performed in the course of the trade or business of the person or business entity with whom the independent contractor has contracted.

Subd. 2. [EXCEPTION.] An independent contractor is not an employee pursuant to subdivision 1 if the independent contractor meets all of the following conditions:

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

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

(3) operates under contracts to perform specific services or work for specific amounts of money

and under which the independent contractor controls the means of performing the services or work;

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

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

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

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

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

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

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective October 1, 1995.

ARTICLE 5

FRAUD

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) 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 and the department of labor and industry for purposes of workers' compensation administration and enforcement.

(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.

Sec. 2. Minnesota Statutes 1994, section 175.16, is amended to read:

175.16 [DIVISIONS.]

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

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

The director of the fraud investigation unit shall be appointed by and is subject to the control and direction of the commissioner. The director shall have full investigative powers, including the

power to issue subpoenas to compel the production of witnesses, books and records, and other documents. Subpoenas shall be served and enforced in the same manner as district court subpoenas. The director may administer oaths and take and record testimony of witnesses. Investigative data obtained by the fraud investigation unit shall be treated as other law enforcement and investigative data under chapter 13. The fraud unit director shall refer determinations of illegal activity to the attorney general or other appropriate prosecuting authority. The attorney general and other appropriate prosecuting authorities must give high priority to reviewing and prosecuting cases referred to them under this section.

The attorney general shall train personnel of the department of labor and industry in effective investigative practices and in the requisites for successful prosecution of illegal activity. Investigators with peace officer standards and training certification shall have the general powers of a peace officer.

Sec. 3. Minnesota Statutes 1994, section 176.181, subdivision 8, is amended to read:

Subd. 8. [DATA SHARING.] (a) The departments of labor and industry, economic security, human services, agriculture, transportation, and revenue are authorized to share information regarding the employment status of individuals, including but not limited to payroll and withholding and income tax information, and may use that information for purposes consistent with this section and regarding the employment or employer status of individuals, partnerships, limited liability companies, corporations, or employers, including, but not limited to, general contractors, intermediate contractors, and subcontractors. The commissioner shall request data in writing and the responding department shall respond to the request by producing the requested data within 30 days.

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

Sec. 4. [176.861] [DISCLOSURE OF INFORMATION.]

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

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

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

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

Sec. 5. Minnesota Statutes 1994, section 299C.46, subdivision 2, is amended to read:

Subd. 2. [CRIMINAL JUSTICE AGENCY DEFINED.] For the purposes of sections 299C.46 to 299C.49, "criminal justice agency" shall mean an agency of the state, including the fraud investigation unit of the department of labor and industry, or an agency of a political subdivision charged with detection, enforcement, prosecution, adjudication or incarceration in respect to the criminal or traffic laws of this state.

Sec. 6. Minnesota Statutes 1994, section 626.05, subdivision 2, is amended to read:

Subd. 2. [PEACE OFFICER.] The term "peace officer," as used in sections 626.04 to 626.17,

means a person who is licensed as a peace officer in accordance with section 626.84, subdivision 1, and who serves as a sheriff, deputy sheriff, police officer, constable, conservation officer, agent of the bureau of criminal apprehension, agent of the division of gambling enforcement, University of Minnesota peace officer, investigator of the fraud investigation unit of the department of labor or industry with peace officer standards and training certification, or state patrol trooper as authorized by section 299D.03.

Sec. 7. Minnesota Statutes 1994, section 626.11, is amended to read:

626.11 [ISSUANCE OF WARRANT.]

If the judge is satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence, the judge must issue a signed search warrant, naming the judge's judicial office, to a peace officer in the judge's county or, to an agent of the bureau of criminal apprehension, or to an investigator of the fraud investigation unit of the department of labor and industry with peace officer standards and training certification. The warrant shall direct the officer or agent to search the person or place named for the property or things specified, and to retain the property or things in the officer's or agent's custody subject to order of the court issuing the warrant.

Sec. 8. Minnesota Statutes 1994, section 626.13, is amended to read:

626.13 [SERVICE; PERSONS MAKING.]

A search warrant may in all cases be served by any of the officers mentioned in its directions, but by no other person, except in aid of the officer on the officer's requiring it, the officer being present and acting in its execution. If the warrant is to be served by an agent of the bureau of criminal apprehension, an agent of the division of gambling enforcement, an investigator of the fraud investigation unit of the department of labor and industry with peace officer standards and training certification, a state patrol trooper, or a conservation officer, the agent, investigator, state patrol trooper, or conservation officer shall notify the chief of police of an organized full-time police department of the municipality or, if there is no such local chief of police, the sheriff or a deputy sheriff of the county in which service is to be made prior to execution.

Sec. 9. Minnesota Statutes 1994, section 626.84, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of sections 626.84 to 626.863, the following terms have the meanings given them:

(a) "Board" means the board of peace officer standards and training.

(b) "Director" means the executive director of the board.

(c) "Peace officer" means an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota state patrol, agents of the division of gambling enforcement, investigators of the fraud investigation unit of the department of labor and industry with peace officer standards and certification training, and state conservation officers.

(d) "Constable" has the meaning assigned to it in section 367.40.

(e) "Deputy constable" has the meaning assigned to it in section 367.40.

(f) "Part-time peace officer" means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency. The limitation on the average number of hours in which the services of a part-time peace officer may be utilized shall not apply to a part-time peace officer who has formally notified the board pursuant to rules adopted by the board of the part-time peace officer's intention to pursue the

specialized training for part-time peace officers who desire to become peace officers pursuant to sections 626.843, subdivision 1, clause (g), and 626.845, subdivision 1, clause (g).

(g) "Reserve officer" means an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer's duties do not include enforcement of the general criminal laws of the state, and the officer does not have full powers of arrest or authorization to carry a firearm on duty.

(h) "Law enforcement agency" means a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person with the duties of preventing and detecting crime and enforcing the general criminal laws of the state.

(i) "Professional peace officer education" means a post-secondary degree program, or a nondegree program for persons who already have a college degree, that is offered by a college or university in Minnesota, designed for persons seeking licensure as a peace officer, and approved by the board.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 9 are effective July 1, 1995.

ARTICLE 6

WORKERS' COMPENSATION REINSURANCE ASSOCIATION

Section 1. Minnesota Statutes 1994, section 79.34, subdivision 2, is amended to read:

Subd. 2. [LOSSES; RETENTION LIMITS.] The reinsurance association shall provide and each member shall accept indemnification for 100 percent of the amount of ultimate loss sustained in each loss occurrence relating to one or more claims arising out of a single compensable event, including aggregate losses related to a single event or occurrence which constitutes a single loss occurrence, under chapter 176 on and after October 1, 1979, in excess of ~~\$300,000 or \$100,000 a low, a high, or a super retention limit, at the option of the member.~~ In case of occupational disease causing disablement on and after October 1, 1979, each person suffering disablement due to occupational disease is considered to be involved in a separate loss occurrence. ~~The lower retention limit shall be increased to the nearest \$10,000, on January 1, 1982 and on each January 1 thereafter by the percentage increase in the statewide average weekly wage, as determined in accordance with section 176.011, subdivision 20. On January 1, 1982 and on each January 1 thereafter, the higher retention limit shall be increased by the amount necessary to retain a \$200,000 difference between the two retention limits.~~ On January 1, 1995, the lower retention limit is \$250,000, which shall also be known as the 1995 base retention limit. On each January 1 thereafter, the cumulative annual percentage changes in the statewide average weekly wage after October 1, 1994, as determined in accordance with section 176.011, subdivision 20, shall first be multiplied by the 1995 base retention limit, the result of which shall then be added to the 1995 base retention limit. The resulting figure shall be rounded to the nearest \$10,000, yielding the low retention limit for that year, provided that the low retention limit shall not be reduced in any year. The high retention limit shall be two times the low retention limit and shall be adjusted when the low retention limit is adjusted. The super retention limit shall be four times the low retention limit and shall be adjusted when the low retention limit is adjusted. Ultimate loss as used in this section means the actual loss amount which a member is obligated to pay and which is paid by the member for workers' compensation benefits payable under chapter 176 and shall not include claim expenses, assessments, damages or penalties. For losses incurred on or after January 1, 1979, any amounts paid by a member pursuant to sections 176.183, 176.221, 176.225, and 176.82 shall not be included in ultimate loss and shall not be indemnified by the reinsurance association. A loss is incurred by the reinsurance association on the date on which the accident or other compensable event giving rise to the loss occurs, and a member is liable for a loss up to its retention limit in effect at the time that the loss was incurred, except that members which are determined by the reinsurance association to be controlled by or under common control with another member, and which are liable for claims from one or more employees entitled to compensation for a single compensable event, including aggregate losses relating to a single loss occurrence, may aggregate their losses and obtain indemnification from the reinsurance association for the aggregate losses in

excess of the ~~higher~~ highest retention limit selected by any of the members in effect at the time the loss was incurred. Each member is liable for payment of its ultimate loss and shall be entitled to indemnification from the reinsurance association for the ultimate loss in excess of the member's retention limit in effect at the time of the loss occurrence.

A member that chooses the ~~higher~~ high or super retention limit shall retain the liability for all losses below the ~~higher~~ chosen retention limit itself and shall not transfer the liability to any other entity or reinsure or otherwise contract for reimbursement or indemnification for losses below its retention limit, except in the following cases: (a) when the reinsurance or contract is with another member which, directly or indirectly, through one or more intermediaries, control or are controlled by or are under common control with the member; (b) when the reinsurance or contract provides for reimbursement or indemnification of a member if and only if the total of all claims which the member pays or incurs, but which are not reimbursable or subject to indemnification by the reinsurance association for a given period of time, exceeds a dollar value or percentage of premium written or earned and stated in the reinsurance agreement or contract; (c) when the reinsurance or contract is a pooling arrangement with other insurers where liability of the member to pay claims pursuant to chapter 176 is incidental to participation in the pool and not as a result of providing workers' compensation insurance to employers on a direct basis under chapter 176; (d) when the reinsurance or contract is limited to all the claims of a specific insured of a member which are reimbursed or indemnified by a reinsurer which, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the insured of the member so long as any subsequent contract or reinsurance of the reinsurer relating to the claims of the insured of a member is not inconsistent with the bases of exception provided under clauses (a), (b) and (c); or (e) when the reinsurance or contract is limited to all claims of a specific self-insurer member which are reimbursed or indemnified by a reinsurer which, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the self-insurer member so long as any subsequent contract or reinsurance of the reinsurer relating to the claims of the self-insurer member are not inconsistent with the bases for exception provided under clauses (a), (b) and (c).

Whenever it appears to the commissioner of labor and industry that any member that chooses the ~~higher~~ high or super retention limit has participated in the transfer of liability to any other entity or reinsured or otherwise contracted for reimbursement or indemnification of losses below its retention limit in a manner inconsistent with the bases for exception provided under clauses (a), (b), (c), (d), and (e), the commissioner may, after giving notice and an opportunity to be heard, order the member to pay to the state of Minnesota an amount not to exceed twice the difference between the reinsurance premium for the ~~higher and lower~~ high or super retention limit, as appropriate, and the low retention limit applicable to the member for each year in which the prohibited reinsurance or contract was in effect. Any member subject to this penalty provision shall continue to be bound by its selection of the ~~higher~~ high or super retention limit for purposes of membership in the reinsurance association.

Sec. 2. Minnesota Statutes 1994, section 79.35, is amended to read:

79.35 [DUTIES; RESPONSIBILITIES; POWERS.]

The reinsurance association shall do the following on behalf of its members:

(a) Assume 100 percent of the liability as provided in section 79.34;

(b) Establish procedures by which members shall promptly report to the reinsurance association each claim which, on the basis of the injury sustained, may reasonably be anticipated to involve liability to the reinsurance association if the member is held liable under chapter 176. Solely for the purpose of reporting claims, the member shall in all instances consider itself legally liable for the injury. The member shall advise the reinsurance association of subsequent developments likely to materially affect the interest of the reinsurance association in the claim;

(c) Maintain relevant loss and expense data relative to all liabilities of the reinsurance association and require each member to furnish statistics in connection with liabilities of the reinsurance association at the times and in the form and detail as may be required by the plan of operation;

(d) Calculate and charge to members a total premium sufficient to cover the expected liability which the reinsurance association will incur ~~in excess of the higher retention limit but less than the prefunded limit~~, together with incurred or estimated to be incurred operating and administrative expenses for the period to which this premium applies and actual claim payments to be made by members, during the period to which this premium applies, for claims in excess of the prefunded limit in effect at the time the loss was incurred. Each member shall be charged a premium established by the board as sufficient to cover the reinsurance association's incurred liabilities and expenses between the member's selected retention limit and the prefunded limit. The prefunded limit shall be \$2,500,000 on and after October 1, 1979, provided that the prefunded limit shall be increased on January 1, 1983 and on each January 1 thereafter by the percentage increase in the statewide average weekly wage, to the nearest \$100,000, as determined in accordance with section 176.011, subdivision 20 times the lower retention limit established in section 79.34, subdivision 2. Each member shall be charged a proportion of the total premium calculated for its selected retention limit in an amount equal to its proportion of the exposure base of all members during the period to which the reinsurance association premium will apply. The exposure base shall be determined by the board and is subject to the approval of the commissioner of labor and industry. In determining the exposure base, the board shall consider, among other things, equity, administrative convenience, records maintained by members, amenability to audit, and degree of risk refinement. ~~Each member exercising the lower retention option shall also be charged a premium established by the board as sufficient to cover incurred or estimated to be incurred claims for the liability the reinsurance association is likely to incur between the lower and higher retention limits for the period to which the premium applies.~~ Each member shall also be charged a premium determined by the board to equitably distribute excess or deficient premiums from previous periods including any excess or deficient premiums resulting from a retroactive change in the prefunded limit. The premiums charged to members shall not be unfairly discriminatory as defined in section 79.074. All premiums shall be approved by the commissioner of labor and industry;

(e) Require and accept the payment of premiums from members of the reinsurance association;

(f) Receive and distribute all sums required by the operation of the reinsurance association;

(g) Establish procedures for reviewing claims procedures and practices of members of the reinsurance association. If the claims procedures or practices of a member are considered inadequate to properly service the liabilities of the reinsurance association, the reinsurance association may undertake, or may contract with another person, including another member, to adjust or assist in the adjustment of claims which create a potential liability to the association. The reinsurance association may charge the cost of the adjustment under this paragraph to the member, except that any penalties or interest incurred under sections 176.183, 176.221, 176.225, and 176.82 as a result of actions by the reinsurance association after it has undertaken adjustment of the claim shall not be charged to the member but shall be included in the ultimate loss and listed as a separate item; and

(h) Provide each member of the reinsurance association with an annual report of the operations of the reinsurance association in a form the board of directors may specify.

Sec. 3. [79.551] [WCRA PREMIUM REFUND; DETERMINATION.]

The commissioner must disallow as excessive any premium that does not include a pass-through to its policyholders of a refund to an insurer of excess premium from the workers' compensation reinsurance association. This section applies whether or not there is a competitive market for insurance. This section does not apply if the insurer has in some other manner than a premium reduction, passed through a refund to its policyholders. This section applies to a refund of excessive premiums made on or after the effective date of this act and to refunds made before the effective date of this act if the refund was the subject of a lawsuit that was not finally determined on appeal until on or after January 1, 1995.

Sec. 4. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1996. Section 3 is effective the day following final enactment.

COLLECTIVE BARGAINING

Section 1. [176.1812] [COLLECTIVE BARGAINING AGREEMENTS.]

Subdivision 1. [REQUIREMENTS.] Upon appropriate filing, the commissioner, compensation judge, workers' compensation court of appeals, and courts shall recognize as valid and binding a provision in a collective bargaining agreement between a qualified employer or qualified groups of employers engaged in construction, construction maintenance, and related activities and the certified and exclusive representative of its employees to establish certain obligations and procedures relating to workers' compensation. For purposes of this section, "qualified employer" means any self-insured employer, any employer, through itself or any affiliate as defined in section 60D.15, subdivision 2, who is responsible for the first \$100,000 or more of any claim, or a private employer developing or projecting an annual workers' compensation premium, in Minnesota, of \$250,000 or more. For purposes of this section, a "qualified group of employers" means a group of private employers engaged in workers' compensation group self-insurance complying with section 79A.03, subdivision 6, which develops or projects annual workers' compensation insurance premiums of \$2,000,000 or more. This agreement must be limited to, but need not include, all of the following:

(a) an alternative dispute resolution system to supplement, modify, or replace the procedural or dispute resolution provisions of this chapter. The system may include mediation, arbitration, or other dispute resolution proceedings, the results of which may be final and binding upon the parties. A system of arbitration shall provide that the decision of the arbiter is subject to review either by the workers' compensation court of appeals in the same manner as an award or order of a compensation judge or, in lieu of review by the workers' compensation court of appeals, by the office of administrative hearings, by the district court, by the Minnesota court of appeals, or by the supreme court in the same manner as the workers' compensation court of appeals and may provide that any arbiter's award disapproved by a court be referred back to the arbiter for reconsideration and possible modification;

(b) an agreed list of providers of medical treatment that may be the exclusive source of all medical and related treatment provided under this chapter which need not be certified under section 176.1351;

(c) the use of a limited list of impartial physicians to conduct independent medical examinations;

(d) the creation of a light duty, modified job, or return to work program;

(e) the use of a limited list of individuals and companies for the establishment of vocational rehabilitation or retraining programs which list is not subject to the requirements of section 176.102;

(f) the establishment of safety committees and safety procedures; or

(g) the adoption of a 24-hour health care coverage plan if a 24-hour plan pilot project is authorized by law, according to the terms and conditions authorized by that law.

Subd. 2. [FILING AND REVIEW.] A copy of the agreement and the approximate number of employees who will be covered under it must be filed with the commissioner. Within 21 days of receipt of an agreement, the commissioner shall review the agreement for compliance with this section and the benefit provisions of this chapter and notify the parties of any additional information required or any recommended modification that would bring the agreement into compliance. Upon receipt of any requested information or modification, the commissioner must notify the parties within 21 days whether the agreement is in compliance with this section and the benefit provisions of this chapter.

In order for any agreement to remain in effect, it must provide for a timely and accurate method of reporting to the commissioner necessary information regarding service cost and utilization to enable the commissioner to annually report to the legislature. The information provided to the commissioner must include aggregate data on the:

(i) person hours and payroll covered by agreements filed;

(ii) number of claims filed;

(iii) average cost per claim;

(iv) number of litigated claims, including the number of claims submitted to arbitration, the workers' compensation court of appeals, the office of administrative hearings, the district court, the Minnesota court of appeals or the supreme court;

(v) number of contested claims resolved prior to arbitration;

(vi) projected incurred costs and actual costs of claims;

(vii) employer's safety history;

(viii) number of workers participating in vocational rehabilitation; and

(ix) number of workers participating in light-duty programs.

Subd. 3. [REFUSAL TO RECOGNIZE.] A person aggrieved by the commissioner's decision concerning an agreement may request in writing, within 30 days of the date the notice is issued, the initiation of a contested case proceeding under chapter 14. The request to initiate a contested case must be received by the department by the 30th day after the commissioner's decision. An appeal from the commissioner's final decision and order may be taken to the workers' compensation court of appeals pursuant to sections 176.421 and 176.442.

Subd. 4. [VOID AGREEMENTS.] Nothing in this section shall allow any agreement that diminishes an employee's entitlement to benefits as otherwise set forth in this chapter. For the purposes of this section, the procedural rights and dispute resolution agreements under subdivision 1, clauses (a) to (g), are not agreements which diminish an employee's entitlement to benefits. Any agreement that diminishes an employee's entitlement to benefits as set forth in this chapter is null and void.

Subd. 5. [NOTICE TO INSURANCE CARRIER.] If the employer is insured under this chapter, the collective bargaining agreement provision shall not be recognized by the commissioner, compensation judge, workers' compensation court of appeals, and other courts unless the employer has given notice to the employer's insurance carrier, in the manner provided in the insurance contract, of intent to enter into an agreement with its employees as provided in this section.

Subd. 6. [PILOT PROGRAM.] The commissioner shall establish a pilot program ending December 31, 1997, in which up to ten private employers not engaged in construction, construction maintenance, and related activities shall be authorized to enter into valid agreements under this section with their employees. The agreements shall be recognized and enforced as provided by this section. Private employers shall participate in the pilot program through collectively bargained agreements with the certified and exclusive representatives of their employees and without regard to the dollar insurance premium limitations in subdivision 1.

Subd. 7. [RULES.] The commissioner may adopt emergency or permanent rules necessary to implement this section.

ARTICLE 8

EQUITABLE APPORTIONMENT

Section 1. Minnesota Statutes 1994, section 176.191, is amended by adding a subdivision to read:

Subd. 1a. [EQUITABLE APPORTIONMENT.] Equitable apportionment of liability for an injury under this chapter is not allowed except that apportionment among employers and insurers is allowed in a settlement agreement filed pursuant to section 176.521, and an employer or insurer may require equitable apportionment of liability for workers' compensation benefits among employer and insurers by arbitration pursuant to subdivision 5. To the same extent limited by this subdivision, contribution and reimbursement actions based on equitable apportionment are not allowed under this chapter. If apportionment, contribution, or reimbursement issues are arbitrated

pursuant to this section, the arbitration proceeding is for the limited purpose of apportioning liability for workers' compensation benefits payable among employers and insurers. This subdivision applies without regard to whether one or more of the injuries results from cumulative trauma or a specific injury, but does not apply to an occupational disease. In the case of an occupational disease, section 176.66 applies. In the arbitration of equitable apportionment under this section, the parties and the arbitrator must be guided by general rules of arbitrator selection and presumptive apportionment among employers and insurers that are developed by the insurer's administrative task force and approved by the commissioner of the department of labor and industry. Apportionment against preexisting disability is allowed only for permanent partial disability as provided in section 176.101, subdivision 4a. Nothing in this subdivision shall be interpreted to repeal or in any way affect the law with respect to special compensation fund liability or benefits.

Sec. 2. Minnesota Statutes 1994, section 176.191, subdivision 5, is amended to read:

Subd. 5. [ARBITRATION.] Where a dispute exists between an employer, insurer, the special compensation fund, ~~the reopened case fund,~~ or the workers' compensation reinsurance association, regarding apportionment of liability for benefits payable under this chapter, ~~the dispute and the requesting party has expended over \$10,000 in medical or 52 weeks worth of indemnity benefits and made the request within one year thereafter, a party may be submitted with consent of all interested parties~~ request submission of the dispute as to apportionment of liability among employers and insurers to binding arbitration. The request is binding on all parties and mandates the submission to binding arbitration. The decision of the arbitrator shall be conclusive ~~with respect to all issues presented except as provided in subdivisions 6 and 7~~ on the issue of apportionment among employers and insurers. Consent of the employee is not required for submission of a dispute to arbitration pursuant to this section and the employee is not bound by the results of the arbitration. An arbitration award shall not be admissible in any other proceeding under this chapter. Notice of the proceeding shall be given to the employee.

The employee, or any person with material information to the facts to be arbitrated, shall attend the arbitration proceeding if any party to the proceeding deems it necessary. Nothing said by an employee in connection with any arbitration proceeding may be used against the employee in any other proceeding under this chapter. Reasonable expenses of meals, lost wages, and travel of the employee or witnesses in attending shall be reimbursed on a pro rata basis. Arbitration costs shall be paid by the parties, except the employee, on a pro rata basis.

Sec. 3. Minnesota Statutes 1994, section 176.191, subdivision 7, is amended to read:

Subd. 7. [REPRESENTATION.] If an employee brings an action ~~under the circumstances described in subdivision 6~~ in which there had been an arbitration proceeding under subdivisions 1a and 5, the parties to the previous arbitration may be represented at the new action by a common or joint attorney.

Sec. 4. [EFFECTIVE DATE.]

This article applies to all disputes regardless of the date of injury of an employee.

ARTICLE 9

CHAPTER 79A GROUP INSURANCE

Section 1. Minnesota Statutes 1994, section 79A.01, is amended by adding a subdivision to read:

Subd. 11. [TRADE ASSOCIATION.] "Trade association" means an association of businesses with common business interest whose members are engaged in similar employment activities and have joined together for the purpose of promoting their common interest. For the purposes of this chapter, "trade association" includes a cooperative organized under chapter 308A.

Sec. 2. Minnesota Statutes 1994, section 79A.01, is amended by adding a subdivision to read:

Subd. 12. [PREFERRED RISK GROUP.] "Preferred risk group" means a group of members of a trade association that has been in existence and operating for at least five consecutive years

before application to self-insure for workers' compensation and whose board membership consists of a manager of the trade association, and at least two of the trade association's board members. Members of the preferred risk group shall constitute a majority of the board of directors. No third-party administrators shall serve on the board.

Sec. 3. Minnesota Statutes 1994, section 79A.02, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] For the purposes of assisting the commissioner, there is established a workers' compensation self-insurers' advisory committee of five members that are employers or groups authorized to self-insure in Minnesota. Three of the members shall be elected by the members of the self-insurers' security fund and two shall be appointed by the commissioner. One of the members shall be a group.

Sec. 4. Minnesota Statutes 1994, section 79A.02, subdivision 4, is amended to read:

Subd. 4. [RECOMMENDATIONS TO COMMISSIONER REGARDING REVOCATION.] After each fifth anniversary from the date each individual and, group, or preferred risk group self-insurer becomes certified to self-insure, the committee shall review all relevant financial data filed with the department of commerce that is otherwise available to the public and make a recommendation to the commissioner about whether each self-insurer's certificate should be revoked.

Sec. 5. Minnesota Statutes 1994, section 79A.03, subdivision 2, is amended to read:

Subd. 2. [CERTIFIED FINANCIAL STATEMENT.] Each application for self-insurance shall be accompanied by a certified financial statement, except in the case of a group application. Certified financial statements for a period ending more than six months prior to the date of the application must be accompanied by an affidavit, signed by a company officer under oath, stating that there has been no material lessening of the net worth nor other adverse changes in its financial condition since the end of the period. The commissioner may require additional financial information necessary to carry out the purpose of this chapter.

Sec. 6. Minnesota Statutes 1994, section 79A.03, subdivision 6, is amended to read:

Subd. 6. [APPLICATIONS FOR GROUP SELF-INSURANCE.] (a) Two or more employers, or a trade association may apply to the commissioner for the authority to self-insure as a group or preferred risk group, using forms available from the commissioner. This initial application shall be accompanied by a copy of the bylaws or plan of operation adopted by the group. Such bylaws or plan of operation shall conform to the conditions prescribed by law or rule. The commissioner shall approve or disapprove the bylaws within 60 days unless a question as to the legality of a specific bylaw or plan provision has been referred to the attorney general's office. The commissioner shall make a determination as to the application within 15 days after receipt of the requested response from the attorney general's office.

(b) After the initial application and the bylaws or plan of operation have been approved by the commissioner or at the time of the initial application, the group or preferred risk group shall submit the names of employers that will be members of the group; an indemnity agreement providing for joint and several liability, and in the case of a preferred group, an individual and proportional liability assessment agreement for all group members for any and all workers' compensation claims incurred by any member of the group, as set forth in Minnesota Rules, part 2780.9920, signed by an officer of each member; and an accounting review performed by a certified public accountant. A certified financial audit may be filed in lieu of an accounting review. In the case of preferred risk group members, individual member financial statements need only be sent to the group, unless one member's premium exceeds 30 percent of the total group premium. If one member exceeds 30 percent, then that member must provide a reviewed or audited financial statement to the department.

Sec. 7. Minnesota Statutes 1994, section 79A.03, subdivision 7, is amended to read:

Subd. 7. [FINANCIAL STANDARDS.] A group or preferred group risk proposing to self-insure shall have and maintain:

(a) A combined net worth of all of the members of an amount at least equal to the greater of ten

times the retention selected with the workers' compensation reinsurance association or one-third of the current annual modified premium of the members. In the case of preferred risk group members, members shall have a combined net worth of all of the members of an amount at least equal to the greater of 15 times the retention selected with the workers' compensation reinsurance association or 100 percent of the current annual modified premium of the members, whichever is greater.

(b) Sufficient assets, net worth, and liquidity to promptly and completely meet all obligations of its members under chapter 176 or this chapter. In determining whether a group is in sound financial condition, consideration shall be given to the combined net worth of the member companies; the consolidated long-term and short-term debt to equity ratios of the member companies; any excess insurance other than reinsurance with the workers' compensation reinsurance association, purchased by the group from an insurer licensed in Minnesota or from an authorized surplus line carrier; other financial data requested by the commissioner or submitted by the group; and the combined workers' compensation experience of the group for the last four years.

Sec. 8. Minnesota Statutes 1994, section 79A.03, subdivision 8, is amended to read:

Subd. 8. [PROCESSING APPLICATION.] The commissioner shall grant or deny the group's application to self-insure within 60 days after a complete application has been filed, provided that the time may be extended for an additional 30 days upon 15 days' prior notice to the applicant. The commissioner shall grant approval for self-insurance upon a determination that the financial ability of the self-insurer's group is sufficient to fulfill all joint and several obligations of the member companies that may arise under chapter 176 or this chapter; the gross annual premium of the group members is at least \$300,000 and \$500,000 for preferred risk group members; the group has established a fund pursuant to Minnesota Rules, parts 2780.4100 to 2780.5000; the group has contracted with a licensed workers' compensation service company to administer its program; and the required securities or surety bond shall be on deposit prior to the effective date of coverage for any member. Approval shall be effective until revoked by order of the commissioner or until the employer members of the group become insured.

Sec. 9. Minnesota Statutes 1994, section 79A.03, subdivision 9, is amended to read:

Subd. 9. [FILING REPORTS.] (a) Incurred losses, paid and unpaid, specifying indemnity and medical losses by classification, payroll by classification, and current estimated outstanding liability for workers' compensation shall be reported to the commissioner by each self-insurer on a calendar year basis, in a manner and on forms available from the commissioner. Payroll information must be filed by April 1 of the following year, and loss information and total workers' compensation liability must be filed by August 1 of the following year.

(b) Each self-insurer shall, under oath, attest to the accuracy of each report submitted pursuant to paragraph (a). Upon sufficient cause, the commissioner shall require the self-insurer to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the commissioner, based on generally accepted accounting principles and generally accepted auditing standards, and supported by an actuarial review and opinion of the future contingent liabilities. The basis for sufficient cause shall include the following factors: where the losses reported appear significantly different from similar types of businesses; where major changes in the reports exist from year to year, which are not solely attributable to economic factors; or where the commissioner has reason to believe that the losses and payroll in the report do not accurately reflect the losses and payroll of that employer. If any discrepancy is found, the commissioner shall require changes in the self-insurer's or workers' compensation service company record keeping practices.

(c) With the annual loss report due August 1, each self-insurer shall report to the commissioner any workers' compensation claim from the previous year where the full, undiscounted value is estimated to exceed \$50,000, in a manner and on forms prescribed by the commissioner.

(d) Each individual self-insurer shall, within four months after the end of its fiscal year, annually file with the commissioner its latest 10K report required by the Securities and Exchange Commission. If an individual self-insurer does not prepare a 10K report, it shall file an annual certified financial statement, together with such other financial information as the commissioner may require to substantiate data in the financial statement.

(e) Each member of the group shall, within four months after the end of each fiscal year for that group, file the most recent annual financial statement, reviewed by a certified public accountant in accordance with the Statements on Standards for Accounting and Review Services, Volume 2, the American Institute of Certified Public Accountants Professional Standards, or audited in accordance with generally accepted auditing standards, together with such other financial information the commissioner may require. In addition, the group shall file, within four months after the end of each fiscal year for that group, combining financial statements of the group members, compiled by a certified public accountant in accordance with the Statements on Standards for Accounting and Review Services, Volume 2, the American Institute of Certified Public Accountants Professional Standards. Payroll and loss information must also be provided to the Workers' Compensation Insurers Association. The combining financial statements shall include, but not be limited to, a balance sheet, income statement, statement of changes in net worth, and statement of cash flow. Each combining financial statement shall include a column for each individual group member along with a total column.

Where a group has 50 or more members, the group shall file, in lieu of the combining financial statements, a combined financial statement showing only the total column for the entire group's balance sheet, income statement, statement of changes in net worth, and statement of cash flow. Additionally, the group shall disclose, for each member, the total assets, net worth, revenue, and income for the most recent fiscal year. The combining and combined financial statements may omit all footnote disclosures.

Where members belong to a preferred risk group, the preferred group shall file, in lieu of the combining financial statements, a compiled combined financial statement prepared by a certified public accountant showing only the total column for the entire group's balance sheet, income statement, statement of changes in net worth, statement of cash flow, and a list of all members comprising the combined statement. Additionally, individual members constituting at least 75 percent of the premium shall submit to the preferred risk group reviewed or audited financial statements, and the remaining members may submit compilation level statements. The combined financial statement shall attest that financial statements of members representing 75 percent of the group's premium has been reviewed or audited. The preferred risk group shall also provide any footnote disclosures of individual members to the department of commerce which indicate contingent liabilities that could potentially exceed 30 percent of the combined net worth of all members of the group, and provide the financial statement of any individual member company whose premium exceeds 30 percent of the total group premium.

(f) In addition to the financial statements required by paragraphs (d) and (e), interim financial statements or 10Q reports required by the Securities and Exchange Commission may be required by the commissioner upon an indication that there has been deterioration in the self-insurer's financial condition, including a worsening of current ratio, lessening of net worth, net loss of income, the downgrading of the company's bond rating, or any other significant change that may adversely affect the self-insurer's ability to pay expected losses. Any self-insurer that files an 8K report with the Securities and Exchange Commission shall also file a copy of the report with the commissioner within 30 days of the filing with the Securities and Exchange Commission.

Sec. 10. Minnesota Statutes 1994, section 79A.03, subdivision 11, is amended to read:

Subd. 11. [JOINT AND SEVERAL LIABILITY.] All members of a private self-insurer group shall be jointly and severally liable for the obligations incurred by any member of the same group under chapter 176., except that preferred risk group members shall also be individually and proportionally liable. For assessment purposes, the proportional liability of each preferred risk member shall be based on the member's percentage of the group's total obligations. If a member of the group becomes insolvent, the remaining member liability must be adjusted upward, based on the member's proportion of the total group obligation, to satisfy the obligation. All preferred group marketing materials shall explain that members are jointly and severally liable, but individually and proportionally assessed should the group become insolvent.

Sec. 11. Minnesota Statutes 1994, section 79A.08, is amended to read:

79A.08 [LEGISLATIVE INTENT.]

It is the intent of the legislature in enacting sections 79A.08 to 79A.10 to provide for the

continuation of workers' compensation benefits delayed due to the failure of ~~a~~ an individual or group private self-insured employer to meet its compensation obligations, whenever the commissioner of commerce issues a certificate of default or there is a declaration of bankruptcy or insolvency by a court of competent jurisdiction. With respect to the continued liability of a surety for claims that arise under a bond after termination of that bond and to a surety's liability for the cost of administration of claims, it is the intent of the legislature to provide that that liability ceases upon lawful termination of that bond. This applies to all surety bonds which are purchased by the self-insured employer after July 1, 1988. The legislature finds and declares that the establishment of the self-insurers' security fund is a necessary component of a complete system of workers' compensation, required by chapter 176, to have adequate provisions for the comfort, health, safety, and general welfare of any and all workers and their dependents to the extent of relieving the consequences of any industrial injury or death, and full provision for securing the payment of compensation.

ARTICLE 10

BENEFITS

Section 1. Minnesota Statutes 1994, section 176.011, subdivision 18, is amended to read:

Subd. 18. [WEEKLY WAGE.] "Weekly wage" is arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved. If the employee normally works less than five days per week or works an irregular number of days per week, the number of days normally worked shall be computed by dividing the total number of days in which the employee actually performed any of the duties of employment in the last 26 weeks by the number of weeks in which the employee actually performed such duties, provided that the weekly wage for part time employment during a period of seasonal or temporary layoff shall be computed on the number of days and fractional days normally worked in the business of the employer for the employment involved. If, at the time of the injury, the employee was regularly employed by two or more employers, the employee's days of work for all such employments shall be included in the computation of weekly wage. Occasional overtime is not to be considered in computing the weekly wage, but if overtime is regular or frequent throughout the year it shall be taken into consideration. The maximum weekly compensation payable to an employee, or to the employee's dependents in the event of death, shall not exceed $66\frac{2}{3}$ percent of the product of the daily wage times the number of days normally worked, provided that the compensation payable for permanent partial disability under section 176.101, subdivision 3 3w, and for permanent total disability under section 176.101, subdivision 4, or death under section 176.111, shall not be computed on less than the number of hours normally worked in the employment or industry in which the injury was sustained, subject also to such maximums as are specifically otherwise provided.

Sec. 2. Minnesota Statutes 1994, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of compensation at the time and in the manner prescribed by this chapter without the necessity of any agreement or any order of the division. Except for medical, burial, and other nonperiodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by section 176.101. If doubt exists as to the eventual permanent partial disability, payment ~~for the economic recovery compensation or impairment compensation, whichever is due, pursuant to section 176.101,~~ shall be then made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. Prior to or at the time of commencement of the payment of ~~economic recovery compensation or lump sum or periodic payment of impairment compensation,~~ permanent partial disability the employee and employer shall be furnished with a copy of the medical report upon which the payment is based and all other medical reports which the insurer has that indicate a permanent partial disability rating, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. ~~Economic recovery compensation or impairment compensation~~

~~Permanent partial disability compensation pursuant to section 176.101, subdivision 3w, is payable in addition to but not concurrently with compensation for temporary total disability but is payable pursuant to section 176.101. Impairment compensation Permanent partial disability is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101. Economic recovery compensation or impairment compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total disability, and No credit shall be taken for payment of economic recovery compensation or impairment compensation permanent partial disability compensation against liability for temporary total or future permanent total disability. Liability on the part of an employer or the insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and compensation is payable accordingly, subject to section 176.101. Economic recovery compensation or impairment compensation Permanent partial disability compensation is payable for functional loss of use or impairment of function, permanent in nature, and payment therefore shall be separate, distinct, and in addition to payment for any other compensation, subject to section 176.101. The right to receive temporary total, temporary partial, or permanent total disability payments vests in the injured employee or the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained and the right is not abrogated by the employee's death prior to the making of the payment.~~

~~The right to receive economic recovery compensation or impairment compensation permanent partial disability compensation vests in an injured employee at the time the disability can be ascertained provided that the employee lives for at least 30 days beyond the date of the injury. Upon the death of an employee who is receiving economic recovery compensation or impairment compensation, further compensation is payable pursuant to section 176.101. Impairment compensation is payable under this paragraph if vesting has occurred, the employee dies prior to reaching maximum medical improvement, and the requirements and conditions under section 176.101, subdivision 3e, are not met. from causes unrelated to the injury, further permanent partial disability is payable to the employee's dependents. If the employee has no dependents, permanent partial disability is payable to the employee's adult children. If an employee dies without dependents or adult children, no further permanent partial disability is payable. Upon the death of an employee from causes related to the injury when permanent partial disability compensation is payable, no further permanent partial disability compensation is due and benefits are determined under section 176.111.~~

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

Sec. 3. Minnesota Statutes 1994, section 176.021, subdivision 3a, is amended to read:

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

- (a) ~~If the employee returns to work, payment shall be made by lump sum;~~
- (b) ~~If begin after temporary total payments have ceased, but the employee has not returned to work, payment and shall be made at the same intervals as temporary total payments were made;~~
- (c) ~~If temporary total disability payments cease because the employee is receiving payments for permanent total disability or because the employee is retiring or has retired from the work force, then payment shall be made by lump sum;~~
- (d) ~~If the employee completes a rehabilitation plan pursuant to section 176.102, but the employer does not furnish the employee with work the employee can do in a permanently partially disabled condition, and the employee is unable to procure such work with another employer, then payment shall be made by lump sum.~~

Sec. 4. Minnesota Statutes 1994, section 176.061, subdivision 10, is amended to read:

Subd. 10. [INDEMNITY.] Notwithstanding the provisions of chapter 65B or any other law to the contrary, an employer has a right of indemnity for any compensation paid or payable pursuant

to this chapter, including temporary total compensation, temporary partial compensation, permanent partial disability, ~~economic recovery compensation, impairment compensation~~ permanent partial disability compensation, medical compensation, rehabilitation, death, and permanent total compensation.

Sec. 5. Minnesota Statutes 1994, section 176.101, subdivision 1, is amended to read:

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

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

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

(d) ~~Subject to subdivisions 3a to 3u~~ This compensation shall be paid during the period of disability, except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be.

(e) Except as provided in section 176.102, subdivision 11, paragraph (b), temporary total disability compensation may be paid during the period of disability, for up to a maximum of 100 weeks of actual payment, regardless of when payment is made. Temporary total disability compensation may be extended and paid beyond 100 weeks to an employee who is medically disabled because of the injury. Each week of temporary total disability compensation extended beyond 100 weeks reduces the number of weeks of temporary partial disability compensation available under subdivision 2, by an equivalent amount. In no event may an employee receive more than 450 weeks of a combination of temporary total disability and temporary partial disability.

Sec. 6. Minnesota Statutes 1994, section 176.101, subdivision 2, is amended to read:

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

(b) ~~Except as provided under subdivision 3k in paragraph (e),~~ temporary partial compensation may be paid only while the employee is employed, earning less than the employee's weekly wage at the time of the injury, and the reduced wage the employee is able to earn in the employee's partially disabled condition is due to the injury. An employer may establish that an employee's ability to earn exceeds the employee's actual wages.

(c) Except as provided in subdivision 1, paragraph (e), and section 176.102, subdivision 11, paragraph (b), temporary partial compensation may not be paid for more than 225 for up to a maximum of 350 weeks, or after 450 weeks after the date of injury, whichever occurs first of actual payment, regardless of when payment is made.

(e) (d) Temporary partial compensation must be reduced to the extent that the wage the employee is able to earn in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 500 percent of the statewide average weekly wage.

(e) An employee may receive temporary partial disability based on the wage the employee is able to earn if the employee is not eligible for temporary total disability because of the 100-week limitation of subdivision 1, paragraph (e); and the employee is not earning a wage because the employer has not furnished the employee with work the employee can perform in the employee's partially disabled condition and the employee is unable to find work after a reasonably diligent effort.

Sec. 7. Minnesota Statutes 1994, section 176.101, is amended by adding a subdivision to read:

Subd. 3w. [PERMANENT PARTIAL DISABILITY COMPENSATION.] An employee who suffers a permanent partial disability due to a personal injury shall receive permanent partial disability compensation in an amount provided by this subdivision. The amount shall be equal to the proportion that the loss of function of the disabled part bears to the whole body multiplied by \$100,000.

Payments for permanent disability of more than one body part due to a personal injury in a single occurrence may not exceed 100 percent of the whole body.

Sec. 8. Minnesota Statutes 1994, section 176.101, subdivision 6, is amended to read:

Subd. 6. [MINORS; APPRENTICES.] (a) If any employee entitled to the benefits of this chapter is an apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total or a compensable permanent partial disability, for the purpose of computing the compensation to which the employee is entitled for the injury, the compensation rate for temporary total, temporary partial, or a permanent total disability ~~or economic recovery compensation~~ shall be the maximum rate for temporary total disability under subdivision 1.

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

Sec. 9. Minnesota Statutes 1994, section 176.105, subdivision 2, is amended to read:

Subd. 2. [RULES; INTERNAL ORGANS.] The commissioner shall by rule establish a schedule of internal organs that are compensable and indicate in the schedule to what extent the organs are compensable under section 176.101, subdivision 3 3w.

Sec. 10. Minnesota Statutes 1994, section 176.105, subdivision 4, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 11. Minnesota Statutes 1994, section 176.106, subdivision 7, is amended to read:

Subd. 7. [REQUEST FOR HEARING.] Any party aggrieved by the decision of the commissioner may request a formal hearing by filing the request with the commissioner no later than 30 days after the decision. The request shall be referred to the office of administrative hearings for a de novo hearing before a compensation judge. The commissioner shall refer a timely request to the office of administrative hearings within five working days after filing of the request ~~and~~. If the request for hearing concerns a claim for rehabilitation services, retraining, or surgery, the hearing at the office of administrative hearings must be held on the first date that all parties are available but not later than 60 days after the office of administrative hearings receives

the matter. Following the hearing, the compensation judge must issue the decision within 30 days. The decision of the compensation judge is appealable pursuant to section 176.421.

Sec. 12. Minnesota Statutes 1994, section 176.132, subdivision 2, is amended to read:

Subd. 2. [AMOUNT.] (a) The supplementary benefit payable under this section shall be the difference between the amount the employee receives on or after January 1, 1976, under section 176.101, subdivision 1 or 4, and 65 percent of the statewide average weekly wage as computed annually. For injuries that occur on or after October 1, 1995, the supplementary benefit payable under this section shall be the difference between the amount the employee receives under section 176.101, subdivision 4, and 60 percent of the statewide average weekly wage as computed annually. For injuries that occur on or after October 1, 1997, the supplementary benefit payable under this section shall be the difference between the amount the employee receives under section 176.101, subdivision 4, and 55 percent at the statewide average weekly wage as computed annually.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or 65 percent of the statewide average weekly wage as computed annually, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section. Attorney's fees shall be allowed in settlements of claims for supplementary benefits in accordance with this chapter.

(d) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and 65 percent of the statewide average weekly wage as computed annually.

(e) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent. If the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provisions of United States Code, title 42, section 424a(d), this reduction shall not apply.

(f) Notwithstanding any other provision in this subdivision to the contrary, if the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provision of United States Code, title 42, section 424a(d), the calculation of supplementary benefits payable to the individual shall be as provided under this section in Minnesota Statutes 1988.

Sec. 13. Minnesota Statutes 1994, section 176.135, subdivision 2, is amended to read:

Subd. 2. [CHANGE OF PHYSICIANS, PODIATRISTS, OR CHIROPRACTORS.] An employee is entitled to only one change of physician, podiatrist, or chiropractor as a matter of right. For employees receiving treatment under section 176.1351, the change as a matter of right shall be to another provider within the plan in accordance with the rules governing managed care. The commissioner shall adopt rules establishing standards and criteria to be used when a dispute arises over a change of physicians, podiatrists, or chiropractors in the case that either the employee or the employer desire a change. If a change is required as a matter of right, agreed upon, or ordered, the medical expenses shall be borne by the employer upon the same terms and conditions as provided in subdivision 1.

Sec. 14. Minnesota Statutes 1994, section 176.179, is amended to read:

176.179 [RECOVERY OF OVERPAYMENTS.]

Notwithstanding section 176.521, subdivision 3, or any other provision of this chapter to the contrary, except as provided in this section, no lump sum or weekly payment, or settlement, which is voluntarily paid to an injured employee or the survivors of a deceased employee in apparent or seeming accordance with the provisions of this chapter by an employer or insurer, or is paid pursuant to an order of the workers' compensation division, a compensation judge, or court of appeals relative to a claim by an injured employee or the employee's survivors, and received in good faith by the employee or the employee's survivors shall be refunded to the paying employer or insurer in the event that it is subsequently determined that the payment was made under a mistake in fact or law by the employer or insurer. When the payments have been made to a person who is entitled to receive further payments of compensation for the same injury, the mistaken compensation may be taken as a full credit against future lump sum benefit entitlement and as a partial credit against future weekly benefits. The credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits, death benefits, or weekly payments of ~~economic recovery or impairment compensation~~ permanent partial disability shall not exceed 20 percent of the amount that would otherwise be payable.

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

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

Sec. 15. Minnesota Statutes 1994, section 176.221, subdivision 1, is amended to read:

Subdivision 1. [COMMENCEMENT OF PAYMENT.] Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of temporary total compensation shall commence. Within 14 days of notice to or knowledge by an employer of a new period of temporary total disability which is caused by an old injury compensable under this chapter, the payment of temporary total compensation shall commence; provided that the employer or insurer may file for an extension with the commissioner within this 14-day period, in which case the compensation need not commence within the 14-day period but shall commence no later than 30 days from the date of the notice to or knowledge by the employer of the new period of disability. Commencement of payment by an employer or insurer does not waive any rights to any defense the employer has on any claim or incident either with respect to the compensability of the claim under this chapter or the amount of the compensation due. Where there are multiple employers, the first employer shall pay, unless it is shown that the injury has arisen out of employment with the second or subsequent employer. Liability for compensation under this chapter may be denied by the employer or insurer by giving the employee written notice of the denial of liability. If liability is denied for an injury which is required to be reported to the commissioner under section 176.231, subdivision 1, the denial of liability must be filed with the commissioner within 14 days after notice to or knowledge by the employer of an injury which is alleged to be compensable under this chapter. If the employer or insurer has commenced payment of compensation under this subdivision but determines within ~~30~~ 120 days of notice to or knowledge by the employer of the injury that the disability is not a result of a personal injury, payment of compensation may be terminated upon the filing of a notice of denial of liability within ~~30~~ 120 days of notice or knowledge. After the ~~30-day~~ 120-day period, payment may be terminated only by the filing of a notice as provided under section 176.239. Upon the termination, payments made may be recovered by the employer if the commissioner or compensation judge finds that the employee's claim of work related disability was not made in good faith. A notice of denial of liability must state in detail the facts forming the basis for the denial and specific reasons explaining why the claimed injury or occupational disease was determined not to be within the scope and course of employment and shall include the name and telephone number of the person making this determination.

Sec. 16. Minnesota Statutes 1994, section 176.221, subdivision 6a, is amended to read:

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

Sec. 17. Minnesota Statutes 1994, section 176.238, subdivision 6, is amended to read:

Subd. 6. [EXPEDITED HEARING BEFORE A COMPENSATION JUDGE.] A hearing before a compensation judge shall be held within ~~30~~ 60 calendar days after the office receives the file from the commissioner if:

(a) an objection to discontinuance has been filed under subdivision 4 within 60 calendar days after the notice of discontinuance was filed and where no administrative conference has been held;

(b) an objection to discontinuance has been filed under subdivision 4 within 60 calendar days after the commissioner's decision under this section has been issued;

(c) a petition to discontinue has been filed by the insurer in lieu of filing a notice of discontinuance; or

(d) a petition to discontinue has been filed within 60 calendar days after the commissioner's decision under this section has been issued.

If the petition or objection is filed later than the deadlines listed above, the expedited procedures in this section apply only where the employee is unemployed at the time of filing the objection and shows, to the satisfaction of the chief administrative judge, by sworn affidavit, that the failure to file the objection within the deadlines was due to some infirmity or incapacity of the employee or to circumstances beyond the employee's control. The hearing shall be limited to the issues raised by the notice or petition unless all parties agree to expanding the issues. If the issues are expanded, the time limits for hearing and issuance of a decision by the compensation judge under this subdivision shall not apply.

Once a hearing date has been set, a continuance of the hearing date will be granted only under the following circumstances:

(a) the employer has agreed, in writing, to a continuation of the payment of benefits pending the outcome of the hearing; or

(b) the employee has agreed, in a document signed by the employee, that benefits may be discontinued pending the outcome of the hearing.

Absent a clear showing of surprise at the hearing or the unexpected unavailability of a crucial witness, all evidence must be introduced at the hearing. If it is necessary to accept additional evidence or testimony after the scheduled hearing date, it must be submitted no later than 14 days following the hearing, unless the compensation judge, for good cause, determines otherwise.

The compensation judge shall issue a decision pursuant to this subdivision within 30 days following the close of the hearing record.

Sec. 18. Minnesota Statutes 1994, section 268.08, subdivision 3, is amended to read:

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

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

calendar days provided that 50 percent of the total of any such payments in excess of eight weeks shall be similarly allocated to the period immediately following the 28 days; or

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

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

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

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

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

Sec. 19. [REPEALER.]

Minnesota Statutes 1994, sections 176.011, subdivisions 25 and 26; and 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u, are repealed.

Sec. 20. [EFFECTIVE DATE.]

Sections 1 to 9, and 16, are effective October 1, 1995, and apply to injuries occurring on or after that date. Sections 10, 11, 13 to 15, 17, and 18, are effective August 1, 1995.

ARTICLE 11

MISCELLANEOUS

Section 1. Minnesota Statutes 1994, section 79.211, subdivision 1, is amended to read:

Subdivision 1. [CERTAIN WAGES ~~EXCLUDED~~ INCLUDED FOR RATEMAKING.] The rating association or an insurer shall ~~not~~ include wages paid for a vacation, holiday, or sick leave in the determination of a workers' compensation insurance premium.

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

Sec. 2. [176.187] [RETURN TO WORK.]

All employers must develop and maintain an inventory of temporary alternative work opportunities for injured employees. The alternative work opportunities can be with the employer or with other employers.

Sec. 3. [REPEALER.]

Laws 1990, chapter 521, section 4, is repealed.

Sec. 4. [EFFECTIVE DATE.]

Section 2 is effective the day following final enactment.

ARTICLE 12

INSURANCE REGULATION

Section 1. [79.64] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purpose of sections 79.64 to 79.78, the terms defined in this section have the meanings given them.

Subd. 2. [ASSOCIATION.] "Association" or "rating association" means the Minnesota Workers' Compensation Insurers Association.

Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of commerce.

Subd. 4. [INTERESTED PARTY.] "Interested party" means any person or association acting on behalf of its members who is directly affected by a change in the schedule of rates and includes the staff of the department of commerce.

Subd. 5. [RATE SERVICE ORGANIZATION.] "Rate service organization" means any person, other than an employee of an insurer, who assists insurers in ratemaking or filing by:

- (1) collecting, compiling, and furnishing loss or expense statistics;
- (2) recommending, making, or filing rates or supplementary rate information; or
- (3) advising about rate questions, except as an attorney giving legal advice.

Sec. 2. [79.65] [SCOPE OF APPLICATION.]

Sections 79.64 to 79.78 apply to all workers' compensation insurance written on risks or operations in this state, employer's liability insurance when written in connection with workers' compensation insurance, or insurance covering any part of the liability of an employer exempted from insuring the employer's liability for compensation under section 176.181.

Sec. 3. [79.66] [RATING ASSOCIATION.]

The rating association is continued and every insurer, including the assigned risk plan, writing any insurance specified under section 79.65 is a member of it.

Sec. 4. [79.67] [GENERAL PROVISIONS CONCERNING THE ASSOCIATION.]

The association has the following purposes:

- (1) to establish, maintain, and administer rules, regulations, classifications, rates, and rating plans to govern the transaction of insurance included in section 79.65;
- (2) to cooperate with other rate service organizations and with insurers in the development of rules, rates, and rating plans and insurance policies and forms;
- (3) to secure and analyze statistical and other data required to accomplish these purposes;
- (4) to inspect and classify risks;
- (5) to file with the commissioner on behalf of its members every manual of classifications, rules, and rates, every rating plan and every modification of any of them proposed for use in this state;
- (6) to assist the commissioner and insurers in the promotion of safety in industry; and
- (7) to assist in any matter necessary for the accomplishment of these purposes.

Sec. 5. [79.68] [RATE STANDARDS.]

Subdivision 1. [GENERAL.] Rates determined under sections 79.64 to 79.78 shall not be excessive, inadequate, or unfairly discriminatory.

Subd. 2. [EXCESSIVENESS.] Rates determined under sections 79.64 to 79.78 are not excessive merely because a reasonable margin is allowed for a profit. Premiums are excessive if the expected underwriting profit, together with expected income from invested reserves for the market in question, that would accrue to an insurer would be unreasonably high in relation to the risk undertaken by the insurer in transacting the business.

Subd. 3. [UNFAIR DISCRIMINATION.] Premiums are unfairly discriminatory if differentials for insureds fail to reasonably reflect the differences in expected losses and expenses to the insurer attributable to the insureds.

Subd. 4. [INADEQUACY.] Premiums are inadequate if, together with the investment income associated with an insurer's Minnesota workers' compensation insurance business, they are clearly insufficient to sustain projected losses and expenses of the insurer and (a) if their continued use could lead to an insolvent situation for the insurer; or (b) if their use destroys or lessens competition or is likely to destroy or lessen competition.

Sec. 6. [79.69] [RATING METHODS.]

Subdivision 1. [CRITERIA.] In determining whether rates comply with the standards under section 79.68, the criteria in this section shall be applied.

Subd. 2. [BASIC FACTORS IN RATES.] Due consideration must be given to past and prospective loss and expense experience within and outside this state, to catastrophe hazards and contingencies, to a reasonable margin for profit, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, and to all other relevant factors.

Subd. 3. [CLASSIFICATION.] Risks may be classified in any reasonable way for the establishment of rates. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which established standards for measuring variations in hazards or expense provisions, or both. The standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.

Subd. 4. [PHYSICAL IMPAIRMENT.] Rates or rating plans may not take into account the physical impairment of employees. Any employer who applies or promotes any oppressive plan of physical examination and rejection of employees or applicants for employment shall forfeit the right to experience rating. If the commissioner determines that grounds exist for forfeiture, it shall suspend any experience rating credit for the employer. Restoration of an employer to the advantages of experience rating may be allowed upon cessation of the oppressive plan.

Sec. 7. [79.70] [APPROVAL OF RATES AND RATING PLANS.]

The association must file with the commissioner on behalf of its members every manual of classifications, rules, and every rating plan and every modification of any of them proposed for use in this state. Modifications allowed include dividends, merit or experience rating, retrospective rating, and premium discounts. Every filing shall state a proposed effective date. The association shall also file the information upon which it supports the filings. All filings must comply with law and shall not be effective nor used until approved by the commissioner. A filing that has been on file for 30 days is deemed to meet the requirements of sections 79.68 and 79.69 unless the commissioner earlier disapproves in a written order.

Sec. 8. [79.71] [FILINGS OPEN TO INSPECTION.]

Rate filings are open for public inspection.

Sec. 9. [79.72] [DISAPPROVAL OF RATES.]

Subdivision 1. [ORDER IN EVENT OF VIOLATION.] If the commissioner finds after a hearing that a filing already in effect under section 79.70 fails to meet the requirements of law, the commissioner shall order that its use be discontinued for any policy issued or renewed after a date specified in the order.

Subd. 2. [TIMING OF ORDER.] The commissioner shall issue an order under subdivision 1

within 30 days after the close of the hearing. In either case, the commissioner may extend the period for a reasonable time by written order prior to the expiration of the time limit.

Subd. 3. [INTERIM RATES.] Whenever an insurer has no legally effective rates as a result of an order by the commissioner under subdivision 1 or section 79.70, the commissioner shall on request specify interim rates for the insurer and may order that a specified portion of the premiums be placed in an escrow account approved by the commissioner. When new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds that are trifling shall not be required.

Subd. 4. [HEARING.] If negotiations between the association and the commissioner fail to result in the approval of all or part of a filing under section 79.70, the association may at any time after the disapproval, request a contested case hearing to address issues in dispute. An interested party may intervene in the hearing. The burden is on the association to demonstrate that a proposed filing meets the requirements of sections 79.68 and 79.69.

Sec. 10. [79.73] [USE OF RATES.]

Subdivision 1. [APPROVAL REQUIRED.] An insurer writing any insurance specified under section 79.65 may not use a rate, rating plan, classification, or an expense loading unless approved by the commissioner.

Subd. 2. [UNFAIR DISCRIMINATION.] No insurer writing any insurance specified under section 79.65 may make or charge any rate which discriminates unfairly between risks or classes, nor discriminates unfairly between risks in the application of rating plans, nor discriminates by granting to any employer insurance against other hazards except in accordance with its rates and rating plans filed and which are in effect for the insurer.

Sec. 11. [79.74] [OPERATION AND CONTROL OF ASSOCIATION.]

Subdivision 1. [ASSOCIATION ADMINISTRATION.] The association shall make bylaws for its government which, with amendments thereto, shall be filed with and approved by the commissioner before they are effective.

One-half of the members of the managing committee and of the rating committee shall be chosen by stock insurers and one-half by mutual insurers. Both classes of insurers shall be represented on all other committees. Each committee member shall have one vote, with the commissioner deciding the matter in the event of a tie.

The services of the association must be supplied to members without discrimination. Each member of the association shall pay an equitable share of the cost of operating the association including assessments by the commissioner against the association.

Subd. 2. [INFORMATION TO BE SUPPLIED.] Upon demand the association must furnish to any employer upon whose risk a survey has been made under section 79.75 and to any insurer full information about the survey.

The association must, within a reasonable time after receiving a written request and upon payment of a reasonable charge, furnish information as to any rate to the insured affected by it or to an authorized representative.

Subd. 3. [REVIEW BY ASSOCIATION.] The following persons or their authorized representatives shall be heard by the association upon written request:

(1) any insurer or employer on any matter affecting the risk in connection with a survey under section 79.75, subdivision 2;

(2) any person or employer aggrieved by the application of the association's rating system to the person; and

(3) any member alleging discrimination as to services or charges of the association.

The association shall provide within this state a specified procedure for review of the matters under this subdivision.

The commissioner may disapprove the review procedure if the commissioner finds that it does not provide adequate notice and fair hearing to the person asking for review.

The person asking for review may appeal to the commissioner under subdivision 4 from a decision of the association or from its failure to provide a review and decision within 30 days after a written request.

Subd. 4. [APPEALS FROM THE ASSOCIATION.] The following persons or their authorized representatives may petition the commissioner in writing, for review of an association action or decision:

(1) any member aggrieved by an apportionment of costs made by the association under subdivision 1, or by the association's failure to make an apportionment;

(2) any member aggrieved by discrimination in the supplying of services by the association;

(3) any member aggrieved by the association's rejection of proposed changes in or additions to its filings that would affect the member;

(4) any insurer or employer aggrieved by findings made in a survey under subdivision 2; and

(5) any insurer or employer aggrieved by the application of the association's rating system to that person or agency.

Subd. 5. [PROCEDURE FOR APPEAL.] An appeal is initiated by a written petition to the commissioner, which must be filed within 30 days after the adverse decision of the association on review or, if the association has not announced a decision within the specified 30 days, within 60 days after the written request for review. If the association announces a decision after the specified 30 days but before filing of the petition, the petitioner has 30 days after announcement of the decision to petition the commissioner.

The commissioner shall give not less than ten days' notice of hearing to the appellant and the association, and in cases under subdivision 4, clause (1), to all other members of the association.

Procedure in the hearing shall be as provided for other hearings before the commissioner or as provided by rule.

The commissioner shall mail a copy of the commissioner's decision to the appellant and the association.

Subd. 6. [RELIEF AUTHORIZED.] The commissioner's decision shall be by order, with findings of fact and conclusions of law, which order may:

(1) approve the action or decision of the association;

(2) direct the association within a reasonable time the commissioner designates to give further consideration to the matter and to reach a conclusion consistent with the commissioner's order; or

(3) direct the association within a reasonable time the commissioner designates to take specified action consistent with the commissioner's findings.

Sec. 12. [79.75] [DEVELOPMENT OF RATES BY ASSOCIATION.]

Subdivision 1. [ACQUISITION OF INFORMATION.] (a) Every insurer writing any insurance specified under section 79.65 shall report its insurance in this state to the association at least annually, on forms and under rules prescribed by the association. The association must file, pursuant to rules adopted by the commissioner, a record of its reports with the department. No such information may be made public by the association or any of its employees except as required by law and in accordance with its rules.

(b) Payroll audits by insurers shall show information classified under the statistical plan and shall be correct as to amount in each classification. The commissioner or the association may check any payroll audit and upon written complaint alleging facts that if true would create serious doubt about the accuracy of the payroll audit shall check it.

Subd. 2. [CLASSIFICATIONS AND PLANS.] The commissioner shall promulgate a statistical plan, which shall give due consideration to the rating system on file with the commissioner and seek to make the plan as uniform among the several states as is practicable. The statistical plan may be modified from time to time. It shall be used thereafter by each insurer in the recording and reporting under subdivision 1 of its Minnesota loss and countrywide expense experience. The rules and statistical plan may also provide for the recording and reporting of expense experience items which are specially applicable to this state. The association shall assign each compensation risk to its proper class, and its classification shall be used by all insurers writing any insurance specified under section 79.65. On behalf of all members the association shall inspect and make a written survey of compensation risks to determine their proper classifications, shall maintain a record of its classification of risks, and the written surveys of all risks inspected by it showing such facts as are material in the writing of insurance thereon.

Subd. 3. [AIDS IN RATEMAKING.] The commissioner and every insurer and rate service organization may exchange information and experience data with insurance supervisory officials, insurers, and rate service organizations in other states and may consult with them with respect to ratemaking and the application of rates. The commissioner may designate one or more rate service organizations to assist the commissioner in gathering experience and making compilations thereof, and the compilations shall be made available to insurers and rating organizations.

Sec. 13. [79.76] [OTHER RATE SERVICE ORGANIZATIONS.]

Any group, association, or other organization which assists the association in ratemaking by the collection and furnishing of loss and expense statistics or by the submission of recommendations is a rate service organization and shall be governed by sections 79.74 and 79.75.

Sec. 14. [79.77] [COSTS OF REGULATION.]

The costs for carrying out the commissioner's duties under sections 79.64 to 79.78, including the costs of any hearings and hearing officers, shall be paid by the special compensation fund and assessed to the association quarterly. The assessment must be paid to the commissioner within 30 days and deposited into the special compensation fund.

Sec. 15. [79.78] [RULES.]

The commissioner may adopt rules necessary to implement and administer sections 79.64 to 79.77.

Sec. 16. Minnesota Statutes 1994, section 176.185, subdivision 1, is amended to read:

Subdivision 1. [NOTICE OF COVERAGE, TERMINATION, CANCELLATION.] (a) Within ten days after the issuance of a policy of insurance covering the liability to pay compensation under this chapter written by an insurer licensed to insure such liability in this state, the insurer shall file notice of coverage with the commissioner under rules and on forms prescribed by the commissioner. No policy shall be canceled by the insurer within the policy period nor terminated upon its expiration date until a notice in writing is delivered or mailed to the insured and filed with the commissioner, fixing the date on which it is proposed to cancel it, or declaring that the insurer does not intend to renew the policy upon the expiration date. A cancellation or termination is not effective until 30 days after written notice has been filed with the commissioner in a manner prescribed by the commissioner unless prior to the expiration of the 30-day period the employer obtains other insurance coverage or an order exempting the employer from carrying insurance as provided in section 176.181. Upon receipt of the notice, the commissioner shall notify the insured that the insured must obtain coverage from some other licensed carrier and that, if unable to do so, the insured shall request the commissioner of commerce to require the issuance of a policy as provided in section 79.251, subdivision 4. Upon a cancellation or termination of a policy by the insurer, the employer is entitled to be assigned a policy in accordance with sections 79.251 and 79.252.

(b) Notice of cancellation or termination by the insured shall be served upon the insurer by written statement mailed or delivered to the insurer. Upon receipt of the notice, the insurer shall notify the commissioner of the cancellation or termination and the commissioner shall ask the employer for the reasons for the cancellation or termination and notify the employer of the duty under this chapter to insure the employer's employees.

(c) In addition to the requirements under paragraphs (a) and (b), with respect to any trucker employer in classification 7219, 7230, 7231, or 7360 pursuant to the classification plan required to be filed under ~~section 79.61~~ chapter 79, if the insurer or its agent has delivered or mailed a written certificate of insurance certifying that a policy in the name of a trucker employer under this paragraph is in force, then the insurer or its agent shall also deliver or mail written notice of any midterm cancellation to the trucker employer recipient of the certificate of insurance at the address listed on the certificate. If an insurer or its agent fails to mail or deliver notice of any midterm cancellation of the trucker employer's policy to the trucker employer recipient of the certificate of insurance, then the special compensation fund shall indemnify and hold harmless the recipient from any award of benefits or other damages under this chapter resulting from the failure to give notice.

Sec. 17. [PRIOR RATES; PRESUMPTION.]

Unless disapproved by the commissioner, rates, schedules of rates, and rating plans that have been filed with the commissioner of commerce before April 1, 1995, are conclusively presumed to satisfy the requirements of this article.

Sec. 18. [APPROPRIATION.]

\$..... is appropriated from the special compensation fund for the biennium ending June 30, 1997, to the department of commerce for the purpose of this article.

Sec. 19. [REPEALER.]

Minnesota Statutes 1994, sections 79.01, subdivision 8; 79.50; 79.51; 79.52; 79.53; 79.54; 79.55; 79.56; 79.57; 79.58; 79.59; 79.60; 79.61; and 79.62, are repealed.

Sec. 20. [EFFECTIVE DATE.]

This article is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to workers' compensation; providing for comprehensive reform of the workers' compensation system; providing a group insurance mechanism; regulating benefits; providing safety incentives and assistance; strengthening antifraud tools; regulating independent contractors; regulating the reinsurance association; appropriating money; amending Minnesota Statutes 1994, sections 13.69, subdivision 1; 79.085; 79.211, subdivision 1; 79.34, subdivision 2; 79.35; 79A.01, by adding subdivisions; 79A.02, subdivisions 1 and 4; 79A.03, subdivisions 2, 6, 7, 8, 9, and 11; 79A.08; 175.16; 176.011, subdivision 18; 176.021, subdivisions 3 and 3a; 176.041, subdivision 1; 176.061, subdivision 10; 176.101, subdivisions 1, 2, 6, and by adding a subdivision; 176.105, subdivisions 2 and 4; 176.106, subdivision 7; 176.132, subdivision 2; 176.135, subdivision 2; 176.179; 176.181, subdivision 8; 176.185, subdivision 1; 176.191, subdivisions 5, 7, and by adding a subdivision; 176.221, subdivisions 1 and 6a; 176.232; 176.238, subdivision 6; 268.08, subdivision 3; 299C.46, subdivision 2; 626.05, subdivision 2; 626.11; 626.13; and 626.84, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 79; and 176; proposing coding for new law as Minnesota Statutes, chapter 79B; repealing Minnesota Statutes 1994, sections 79.01, subdivision 8; 79.50; 79.51; 79.52; 79.53; 79.54; 79.55; 79.56; 79.57; 79.58; 79.59; 79.60; 79.61; 79.62; 176.011, subdivisions 25 and 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u; Laws 1990, chapter 521, section 4."

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

S.F. No. 956: A bill for an act relating to state departments; abolishing the department of public safety, the higher education coordinating board, the Minnesota racing commission, the gambling control board, the state lottery board, and the department of public service; transferring certain

responsibilities and personnel to other agencies; creating new agencies; reducing certain appropriations; amending Minnesota Statutes 1994, sections 3.732, subdivision 1; 8.33; 10A.01, subdivision 18; 10A.09, subdivision 1; 15.01; 15A.081, subdivisions 1 and 7b; 16B.14; 16B.46; 16B.54, subdivision 2; 43A.05, subdivision 4; 43A.34, subdivision 4; 65B.28, subdivision 2; 116C.03, subdivision 2; 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; 161.125, subdivision 3; 161.20, subdivision 4; 161.465; 168.011, by adding subdivisions; 168.126, subdivision 3; 168.325; 169.751; 169.783, subdivision 1; 170.23; 170.24; 171.015; 216A.01; 216A.035; 216A.036; 216A.04; 216A.05, by adding a subdivision; 216A.07; 216A.085; 216A.095; 216B.02, subdivision 7, and by adding subdivisions; 216B.16, subdivision 2; 216B.162, subdivision 7; 216B.241, subdivisions 1 and 2; 216B.62; 216B.64; 216B.65; 216C.01, subdivisions 2, 3, and by adding a subdivision; 216C.10; 216C.19, subdivision 1; 216C.37, subdivision 1; 218.031, subdivision 2; 237.02; 237.075, subdivision 2; 237.295; 237.30; 239.01; 239.05, subdivisions 6c, 7a, and 8; 240.01, by adding subdivisions; 240.011; 240.03; 240.04; 240.05, subdivision 2; 240.06, subdivisions 3, 7, and 8; 240.07, subdivision 2; 240.08; 240.09, subdivision 3a; 240.155; 240.16; 240.18, subdivision 2; 240.21; 240.24; 240.28; 270.73, subdivision 1; 297B.01, subdivision 3; 297C.09; 297C.10, subdivision 1; 298.2214, subdivision 5; 299A.02; 299A.30; 299A.31, subdivision 1; 299A.331, subdivision 1; 299A.38, subdivision 1; 299C.01; 299C.03; 299C.06; 299C.13; 299C.50; 299F.01; 299F.05, subdivision 2; 299L.01; 299L.02, subdivisions 2, 3, 4, and 5; 299L.03, subdivisions 1, 4, 5, and 7; 340A.201; 347.51, subdivision 2a; 349.12, subdivision 10, and by adding subdivisions; 349.13; 349.151, subdivisions 2 and 8; 349.152, subdivision 1; 349.153; 349.155, subdivision 4; 349.162, subdivisions 2 and 6; 349.163, subdivision 6; 349.165, subdivision 2; 349.18, subdivision 1; 349.19, subdivision 6; 349A.01, by adding a subdivision; 349A.02, subdivisions 1 and 8; 349A.03, subdivision 2; 349A.04; 349A.05; 349A.06, subdivision 2; 349A.08, subdivision 7; 349A.11; 349A.12, subdivision 4; 352B.01, subdivision 2; 360.0752, subdivision 7; 360.0753, subdivision 6; 611A.20, subdivision 2; 624.7151; 626.5531, subdivision 2; 626.562, subdivision 1; and 634.16; proposing coding for new law in Minnesota Statutes, chapters 135A; 136A; 216C; and 349B; 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; 136A.88; 216A.06; 216B.02, subdivision 8; 237.69, subdivision 3; 240.01, subdivision 4; 240.02; 270B.12, subdivision 4; 299A.01; 349.12, subdivision 6; 349.151, subdivisions 1, 2, and 3a; 349.152, subdivision 4; 349A.01, subdivision 2; and 349A.03, subdivision 1; Laws 1987, chapter 315, section 4, subdivision 2; Laws 1990, chapters 571, section 39; and 594, article 3, sections 6 and 7.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

PUBLIC SERVICE ABOLISHED

Section 1. [DEPARTMENT OF PUBLIC SERVICE ABOLISHED; RESPONSIBILITIES TRANSFERRED.]

Subdivision 1. [DEPARTMENT ABOLISHED; RESPONSIBILITIES TRANSFERRED.] The department of public service is abolished. The responsibilities held by the department are transferred to a receiving agency as designated in this article. Except as otherwise provided by this article, the responsibilities of the department must be transferred under Minnesota Statutes, section 15.039. For the purposes of this article, "responsibilities" means the powers, duties, rights, obligations, rules, court actions, contracts, records, property of every description, unexpended funds, personnel, and authority imposed by law of the department of public service. For the purposes of this article, "receiving agency" has the meaning given it in Minnesota Statutes, section 15.039, subdivision 1.

Subd. 2. [SPECIFIC POSITIONS ABOLISHED.] The following positions in the department of public service are not transferred to a receiving agency and are specifically abolished:

- (1) commissioner;

- (2) deputy commissioner;
- (3) assistant commissioner; and
- (4) executive assistant.

Subd. 3. [ATTORNEY GENERAL.] The responsibility for intervention as a party in all public utility and telecommunications matters before the public utilities commission is transferred to the utility consumers division of the attorney general's office.

Subd. 4. [PUBLIC UTILITIES COMMISSION.] (a) The following responsibilities are transferred to the public utilities commission:

(1) the intervention office that represents the interests of Minnesota residents, businesses, and governments before bodies and agencies outside the state that make, interpret, or implement national and international energy policy;

(2) enforcement of Minnesota Statutes, chapters 216A, 216B, 216C, and 237, and orders of the public utilities commission under those chapters;

(3) conservation improvement; and

(4) all other responsibilities related to energy production, transportation, transmission, consumption, conservation, and efficiency.

(b) The positions and personnel of the department of public service related to the responsibilities listed in paragraph (a) are transferred to the public utilities commission.

Subd. 5. [DEPARTMENT OF AGRICULTURE.] The division of weights and measures is transferred to the department of agriculture.

Subd. 6. [RULES.] All rules adopted by the department of public service before the effective date of this article become rules of the agency to which the appropriate rulemaking authority is transferred by this article.

ARTICLE 2

CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 1994, section 8.33, is amended to read:

8.33 [REPRESENTATION OF CONSUMER AND SMALL BUSINESS INTEREST IN PUBLIC UTILITY MATTERS.]

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

(1) "Public utility" means a publicly or privately owned entity engaged in supplying utility services to residential utility consumers in this state or to another public utility for ultimate distribution to residential utility consumers in this state and whose rates or charges are subject to approval by the public utilities commission or an agency of the federal government. No municipal or cooperative utility shall be considered a "public utility" for the purposes of this clause.

(2) ~~"Residential and small business~~ Utility consumer" or "consumer" means a person ~~or small business, firm, association, partnership, or corporation that uses utility services at the person's a residence or business location in this state and who is billed by or pays a public utility for these services.~~

(3) "Small business" has the meaning given it in section 645.445.

(3) (4) "Utility services" means electricity, natural gas, or telephone services distributed to residential utility consumers by a public utility.

A utility consumers division is established in the office of the attorney general to carry out the duties assigned to the attorney general under this section.

Subd. 2. [DIVISION ESTABLISHED; DUTIES.] (a) A utility consumers division is established in the office of the attorney general to carry out the duties assigned to the attorney general under this section.

(b) The attorney general is responsible for representing and furthering the interests of ~~residential and small-business~~ utility consumers, other than utility consumers who represent their own interests, through participation in matters before the public utilities commission involving utility rates and adequacy of utility services to ~~residential or small-business~~ utility consumers. The attorney general shall expend a reasonable portion of effort among all three kinds of utility services and shall identify and promote the needs of each class of ~~residential and small-business~~ consumers with respect to each of the utility services.

Subd. 3. [RIGHT OF INTERVENTION.] Subject to the limitations of subdivision 2, the attorney general may intervene as of right or participate as an interested party in matters pending before the public utilities commission which affect the distribution by a public utility of utility services to ~~residential or small-business~~ utility consumers. When intervening in gas or electric hearings, the attorney general shall prepare and defend testimony designed to encourage energy conservation improvements as defined in section 216B.241. The right of the attorney general to participate or intervene does not affect the obligation of the public utilities commission to protect the public interest.

Subd. 4. [NOTICE; PROCEDURES.] The public utilities commission shall give reasonable notice to the attorney general of any matter scheduled to come before the commission affecting a public utility's rates or adequacy of services to ~~residential or small-business~~ utility consumers. Rules of the commission governing procedures before the commission apply to the attorney general and the attorney general's employees or representatives. The attorney general has the same rights and privileges accorded other intervenors or participants in matters pending before the commission.

Subd. 5. [APPEALS.] The attorney general has an interest sufficient to maintain, intervene as of right in, or otherwise participate in any civil action in the courts of this state for the review or enforcement of any public utilities commission action which affects a public utility's rates or adequacy of service to ~~residential or small-business~~ utility consumers.

Subd. 6. [INTERVENTION IN FEDERAL PROCEEDINGS.] The attorney general and the public utilities commission shall jointly represent and further the interests of ~~residential and small-business~~ utility consumers through participation as an intervenor or interested party in federal proceedings relating to the regulation of: (a) wholesale rates for energy delivered through interstate facilities; or (b) fuel used in generation of electricity or the manufacture of gas. The attorney general may maintain, intervene in, or otherwise participate in civil actions relating to the federal proceedings.

Subd. 7. [ADDITIONAL POWERS.] The power granted by this section is in addition to powers otherwise provided by law to the attorney general.

Sec. 2. Minnesota Statutes 1994, section 15.01, is amended to read:

15.01 [DEPARTMENTS OF THE STATE.]

The following agencies are designated as the departments of the state government: the department of administration; the department of agriculture; the department of commerce; the department of corrections; the department of education; the department of economic security; the department of trade and economic development; the department of finance; the department of health; the department of human rights; the department of labor and industry; the department of military affairs; the department of natural resources; the department of employee relations; the department of public safety; ~~the department of public service~~; the department of human services; the department of revenue; the department of transportation; the department of veterans affairs; and their successor departments.

Sec. 3. Minnesota Statutes 1994, section 116C.03, subdivision 2, is amended to read:

Subd. 2. [MEMBERSHIP.] The members of the board are the director of the office of strategic

and long-range planning, the ~~commissioner of public service~~ director of the division of energy in the public utilities commission, the commissioner of the pollution control agency, the commissioner of natural resources, the director of the office of environmental assistance, the commissioner of agriculture, the commissioner of health, the commissioner of transportation, the chair of the board of water and soil resources, and a representative of the governor's office designated by the governor. The governor shall appoint five members from the general public to the board, subject to the advice and consent of the senate. At least two of the five public members must have knowledge of and be conversant in water management issues in the state. Notwithstanding the provisions of section 15.06, subdivision 6, members of the board may not delegate their powers and responsibilities as board members to any other person.

Sec. 4. Minnesota Statutes 1994, section 216A.01, is amended to read:

216A.01 [ESTABLISHMENT OF DEPARTMENT AND COMMISSION.]

There ~~are~~ is hereby created and established the ~~department of public service~~, and the public utilities commission. The ~~department of public service~~ utility consumers division of the attorney general's office shall have and possess all of the rights and powers and perform all of the duties vested in it by this chapter. The public utilities commission shall have and possess all of the rights and powers and perform all of the duties vested in it by this chapter, and those formerly vested by law in the railroad and warehouse commission.

Sec. 5. Minnesota Statutes 1994, section 216A.035, is amended to read:

216A.035 [CONFLICT OF INTEREST.]

(a) No person, while a member of the public utilities commission, while acting as executive ~~secretary~~ director of the commission, or while employed in a professional capacity by the commission, shall receive any income, other than dividends or other earnings from a mutual fund or trust if these earnings do not constitute a significant portion of the person's income, directly or indirectly from any public utility or other organization subject to regulation by the commission.

(b) No person is eligible to be appointed as a member of the commission if the person has been employed with an entity, or an affiliated company of an entity, that is subject to rate regulation by the commission within one year from the date when the person's term on the commission will begin.

(c) No person who is an employee of the ~~public service department~~ utility consumers division of the attorney general's office shall participate in any manner in any decision or action of the commission where that person has a direct or indirect financial interest. Each commissioner or employee of the ~~public service department~~ utility consumers division who is in the general professional, supervisory, or technical units established in section 179A.10 or who is a professional, supervisory, or technical employee defined as confidential in section 179A.03, subdivision 4, or who is a management classification employee and whose duties are related to public utilities or transportation regulation shall report to the ethical practices board annually before April 15 any interest in an industry or business regulated by the commission. Each commissioner shall file a statement of economic interest as required by section 10A.09 with the ethical practices board and the public utilities commission before taking office. The statement of economic interest must state any interest that the commissioner has in an industry or business regulated by the commission.

(d) A professional employee of the commission or department must immediately disclose to the commission or to the commissioner of the department, respectively, any communication, direct or indirect, with a person who is a party to a pending proceeding before the commission regarding future benefits, compensation, or employment to be received from that person.

Sec. 6. Minnesota Statutes 1994, section 216A.036, is amended to read:

216A.036 [EMPLOYMENT RESTRICTIONS.]

(a) A person who serves as (1) a ~~commissioner~~ member of the public utilities commission, (2) ~~commissioner of the department of public service~~, or (3) ~~deputy commissioner of the department~~, shall not, while employed with or within one year after leaving the commission, or ~~department~~,

accept employment with, receive compensation directly or indirectly from, or enter into a contractual relationship with an entity, or an affiliated company of an entity, that is subject to rate regulation by the commission.

(b) An entity or an affiliated company of an entity that is subject to rate regulation by the commission, or a person acting on behalf of the entity, shall not negotiate or offer to employ or compensate a commissioner of the public utilities commission, ~~the commissioner of public service, or the deputy commissioner,~~ while the person is ~~so employed~~ a member of the commission or within one year after the person leaves ~~that employment~~ the commission.

(c) For the purposes of this section, "affiliated company" means a company that controls, is controlled by, or is under common control with an entity subject to rate regulation by the commission.

(d) A person who violates this section is subject to a civil penalty not to exceed \$10,000 for each violation. The attorney general may bring an action in district court to collect the penalties provided in this section.

Sec. 7. Minnesota Statutes 1994, section 216A.04, is amended to read:

216A.04 [EXECUTIVE ~~SECRETARY~~ DIRECTOR; EMPLOYEES.]

Subdivision 1. [SELECTION OF EXECUTIVE ~~SECRETARY~~ DIRECTOR.] The commission shall appoint an executive ~~secretary~~ director, not a member, who shall be in the unclassified service of the state and shall serve at the pleasure of the commission. The executive ~~secretary~~ director shall take, subscribe and file an oath similar to that required of the commissioners, and shall be subject to the same disqualifications as commissioners.

Subd. 1a. [POWERS AND DUTIES OF EXECUTIVE ~~SECRETARY~~ DIRECTOR.] The executive ~~secretary~~ director shall:

(1) cause to be kept full and correct records of all transactions and proceedings of the commission;

(2) appoint, subject to chapter 43A and the approval of the commission, the director of the energy division and all other classified employees of the commission and supervise and direct their activities;

(3) have custody of the seal of the commission;

(4) serve as the administrative officer of the commission with responsibility for personnel, budget and other administrative details related to the work of the commission or as required by state law;

(5) prepare orders, reports, and other materials as assigned by the commission and recommend to the commission such measures as may be appropriate to achieve the objectives of the commission;

(6) advise the commission of its financial position and recommend a budget for its approval; and

(7) perform other duties as the commission directs.

Subd. 2. [ACTING ~~SECRETARY~~ EXECUTIVE DIRECTOR.] The commission may designate any responsible employee to serve as acting ~~secretary~~ director in the absence of the ~~secretary~~ director.

Subd. 3. [OFFICERS AND EMPLOYEES.] The commission may establish other positions in the unclassified service if the positions meet the criteria of section 43A.08, subdivision 1a, clauses (a) to (g). The commission may employ other persons as may be necessary to carry out its functions.

Hearing reporters may provide transcripts of proceedings before the commission to persons requesting transcripts who pay a reasonable charge therefor to the reporter. The amount of the

charge shall be fixed by the commission and retained by the reporter, any other law to the contrary notwithstanding.

Sec. 8. Minnesota Statutes 1994, section 216A.05, is amended by adding a subdivision to read:

Subd. 1a. [ADMINISTRATIVE FUNCTIONS.] The commission shall delegate to the executive director, to the greatest extent practicable, performance of any administrative functions assigned to the commission by the legislature.

Sec. 9. Minnesota Statutes 1994, section 216A.07, is amended to read:

216A.07 [COMMISSIONER EXECUTIVE DIRECTOR; POWERS AND DUTIES.]

Subdivision 1. [ADMINISTRATIVE DUTIES.] The commissioner shall be the executive and administrative head of the public service department and shall have and possess executive director of the commission has and possesses all the rights and powers and shall perform all the duties relating to the administrative function of the department as functions set forth in this chapter and chapters 216B and 237. The commissioner executive director may:

(1) prepare all forms or blanks for the purpose of obtaining information which the commissioner may deem necessary or useful in the proper exercise of the authority and duties of the commissioner in connection with regulated businesses;

(2) prescribe the time and manner within which forms or blanks shall be filed with the department;

(3) inspect at all reasonable times, and copy the books, records, memoranda and correspondence or other documents and records of any person relating to any regulated business; and

(4) cause the deposition to be taken of any person concerning the business and affairs of any business regulated by the department commission. Information sought through said deposition shall be for a lawfully authorized purpose and shall be relevant and material to the investigation or hearing before the commission. Information obtained from said deposition shall be used by the department commission only for a lawfully authorized purpose and pursuant to powers and responsibilities conferred upon the department commission. Said deposition is to be taken in the manner prescribed by law for taking depositions in civil actions in the district court.

Subd. 2. [ENFORCEMENT.] The commissioner executive director is responsible for the enforcement of chapters 216A, 216B and 237 and the orders of the commission issued pursuant to those chapters.

Subd. 3. [INTERVENTION IN PROCEEDINGS.] The commissioner may intervene as a party in all proceedings before the commission. When intervening in gas or electric hearings, the commissioner shall prepare and defend testimony designed to encourage energy conservation improvements as defined in section 216B.241. The attorney general shall act as counsel in the proceedings.

Subd. 4. [INVESTIGATIONS.] The commissioner executive director may, on the commissioner's executive director's own initiative, investigate any matter subject to the jurisdiction of the department or commission.

Subd. 5. [RULEMAKING.] The commissioner executive director shall make substantive and procedural rules to implement the provisions of this chapter and chapters 216B and 237. Rules adopted under this authority shall be promulgated pursuant to the administrative procedure act and shall have the force and effect of law.

Sec. 10. Minnesota Statutes 1994, section 216A.085, is amended to read:

216A.085 [ENERGY ISSUES INTERVENTION OFFICE.]

Subdivision 1. [CREATION.] There is created within the department of public service energy division of the public utilities commission an intervention office to represent the interests of

Minnesota residents, businesses, and governments before bodies and agencies outside the state that make, interpret, or implement national and international energy policy.

Subd. 2. [DUTIES.] The intervention office shall determine those areas in which state intervention is most needed, most likely to have a positive impact, and most effective for the broad public interest of the state. The office shall seek recommendations from appropriate public and private sources before deciding which cases merit intervention.

Subd. 3. [STAFFING.] The intervention office shall be under the control and supervision of the ~~commissioner of the department of public service~~ director of the energy division. On approval by the executive director of the commission, the ~~commissioner~~ director may hire staff or contract for outside services as needed to carry out the purposes of this section. The attorney general shall act as counsel in all intervention proceedings.

Sec. 11. Minnesota Statutes 1994, section 216A.095, is amended to read:

216A.095 [INTERAGENCY COOPERATION BETWEEN DEPARTMENT AND COMMISSION.]

Nothing in this chapter prevents the ~~department~~ attorney general or the commission from entering into agreements with each other or with other agencies to coordinate and share services, to conduct joint projects or investigations on matters within the authority and jurisdiction of the parties thereto, or to temporarily assign staff to projects requested by each other or by other agencies. The cooperative agreements may provide for the sharing of costs between the parties thereto or the reimbursement of the department or commission operating budget for expenditures made on behalf of the department or commission or agency. No cooperative effort shall interfere with the independence and integrity of either the commission or the department or any other agency that is a party.

Sec. 12. Minnesota Statutes 1994, section 216B.02, subdivision 7, is amended to read:

Subd. 7. [COMMISSION.] "Commission" means the public utilities commission ~~of the department of public service~~.

Sec. 13. Minnesota Statutes 1994, section 216B.02, is amended by adding a subdivision to read:

Subd. 8a. [DIRECTOR.] "Director" means the director of the energy division.

Sec. 14. Minnesota Statutes 1994, section 216B.02, is amended by adding a subdivision to read:

Subd. 8b. [ENERGY DIVISION.] "Energy division" means the energy division established in chapter 216C.

Sec. 15. Minnesota Statutes 1994, section 216B.02, is amended by adding a subdivision to read:

Subd. 8c. [EXECUTIVE DIRECTOR.] "Executive director" means the executive director of the public utilities commission.

Sec. 16. Minnesota Statutes 1994, section 216B.16, subdivision 2, is amended to read:

Subd. 2. [SUSPENSION OF PROPOSED RATES; HEARING; FINAL DETERMINATION DEFINED.] (a) Whenever there is filed with the commission a schedule modifying or resulting in a change in any rates then in force as provided in subdivision 1, the commission may suspend the operation of the schedule by filing with the schedule of rates and delivering to the affected utility a statement in writing of its reasons for the suspension at any time before the rates become effective. The suspension shall not be for a longer period than ten months beyond the initial filing date except as provided in this subdivision or subdivision 1a. During the suspension the commission shall determine whether all questions of the reasonableness of the rates requested raised by persons deemed interested or by the ~~administrative division of the department of public service~~ utility consumers division of the attorney general's office can be resolved to the satisfaction of the commission. If the commission finds that all significant issues raised have not been resolved to its satisfaction, or upon petition by ten percent of the affected customers or 250 affected customers, whichever is less, it shall refer the matter to the office of administrative hearings with instructions

for a public hearing as a contested case pursuant to chapter 14, except as otherwise provided in this section. The commission may order that the issues presented by the proposed rate changes be bifurcated into two separate hearings as follows: (1) determination of the utility's revenue requirements and (2) determination of the rate design. Upon issuance of both administrative law judge reports, the issues shall again be joined for consideration and final determination by the commission. All prehearing discovery activities of state agency intervenors shall be consolidated and conducted by the department of public service. If the commission does not make a final determination concerning a schedule of rates within ten months after the initial filing date, the schedule shall be deemed to have been approved by the commission; except if:

(1) an extension of the procedural schedule has been granted under subdivision 1a, in which case the schedule of rates is deemed to have been approved by the commission on the last day of the extended period of suspension; or

(2) a settlement has been submitted to and rejected by the commission and the commission does not make a final determination concerning the schedule of rates, the schedule of rates is deemed to have been approved 60 days after the initial or, if applicable, the extended period of suspension.

(b) If the commission finds that it has insufficient time during the suspension period to make a final determination of a case involving changes in general rates because of the need to make final determinations of other previously filed cases involving changes in general rates under this section or section 237.075, the commission may extend the suspension period to the extent necessary to allow itself 20 working days to make the final determination after it has made final determinations in the previously filed cases. An extension of the suspension period under this paragraph does not alter the setting of interim rates under subdivision 3.

(c) For the purposes of this section, "final determination" means the initial decision of the commission and not any order which may be entered by the commission in response to a petition for rehearing or other further relief. The commission may further suspend rates until it determines all those petitions.

Sec. 17. Minnesota Statutes 1994, section 216B.162, subdivision 7, is amended to read:

Subd. 7. [COMMISSION DETERMINATION.] Except as provided under subdivision 6, competitive rates offered by electric utilities under this section must be filed with the commission and must be approved, modified, or rejected by the commission within 90 days. The utility's filing must include statements of fact demonstrating that the proposed rates meet the standards of this subdivision. The filing must be served on ~~the department of public service and~~ the office of the attorney general at the same time as it is served on the commission. In reviewing a specific rate proposal, the commission shall determine:

(1) that the rate meets the terms and conditions in subdivision 4, unless the commission determines that waiver of one or more terms and conditions would be in the public interest;

(2) that the consumer can obtain its energy requirements from an energy supplier not rate-regulated by the commission under section 216B.16;

(3) that the customer is not likely to take service from the electric utility seeking to offer the competitive rate if the customer was charged the electric utility's standard tariffed rate; and

(4) that after consideration of environmental and socioeconomic impacts it is in the best interest of all other customers to offer the competitive rate to the customer subject to effective competition.

If the commission approves the competitive rate, it becomes effective as agreed to by the electric utility and the customer. If the competitive rate is modified by the commission, the commission shall issue an order modifying the competitive rate subject to the approval of the electric utility and the customer. Each party has ten days in which to reject the proposed modification. If no party rejects the proposed modification, the commissioner's order becomes final. If either party rejects the commission's proposed modification, the electric utility, on its behalf or on the behalf of the customer, may submit to the commission a modified version of the commission's proposal. The commission shall accept or reject the modified version within 30

days. If the commission rejects the competitive rate, it shall issue an order indicating the reasons for the rejection.

Sec. 18. Minnesota Statutes 1994, section 216B.241, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Commission" means the public utilities commission.

(b) ~~"Commissioner"~~ "Director" means the ~~commissioner of public service~~ director of the energy division.

(c) ~~"Department"~~ "Division" means the ~~department of public service~~ energy division.

(d) "Energy conservation improvement" means the purchase or installation of a device, method, or material that reduces consumption of or increases efficiency in the use of electricity or natural gas, including, but not limited to:

- (1) insulation and ventilation;
- (2) storm or thermal doors or windows;
- (3) caulking and weatherstripping;
- (4) furnace efficiency modifications;
- (5) thermostat or lighting controls;
- (6) awnings; or

(7) systems to turn off or vary the delivery of energy. The term "energy conservation improvement" includes a device or method that creates, converts, or actively uses energy from renewable sources such as solar, wind, and biomass, provided that the device or method conforms with national or state performance and quality standards whenever applicable.

(e) "Investments and expenses of a public utility" includes the investments and expenses incurred by a public utility in connection with an energy conservation improvement including, but not limited to:

(1) the differential in interest cost between the market rate and the rate charged on a no interest or below market interest loan made by a public utility to a customer for the purchase or installation of an energy conservation improvement;

(2) the difference between the utility's cost of purchase or installation of energy conservation improvements and any price charged by a public utility to a customer for such improvements.

Sec. 19. Minnesota Statutes 1994, section 216B.241, subdivision 2, is amended to read:

Subd. 2. [PROGRAMS.] The ~~commissioner~~ director may by rule require public utilities to make investments and expenditures in energy conservation improvements, explicitly setting forth the interest rates, prices, and terms under which the improvements must be offered to the customers. The required programs must cover a two-year period. The ~~commissioner~~ director shall require at least one public utility to establish a pilot program to make investments in and expenditures for energy from renewable resources such as solar, wind, or biomass and shall give special consideration and encouragement to programs that bring about significant net savings through the use of energy-efficient lighting. The ~~commissioner~~ director shall evaluate the program on the basis of cost-effectiveness and the reliability of technologies employed. The rules of the ~~department~~ division must provide to the extent practicable for a free choice, by consumers participating in the program, of the device, method, or material constituting the energy conservation improvement and for a free choice of the seller, installer, or contractor of the energy conservation improvement, provided that the device, method, material, seller, installer, or contractor is duly licensed, certified, approved, or qualified, including under the residential conservation services program, where applicable. The ~~commissioner~~ director may require a utility

to make an energy conservation improvement investment or expenditure whenever the ~~commissioner~~ director finds that the improvement will result in energy savings at a total cost to the utility less than the cost to the utility to produce or purchase an equivalent amount of new supply of energy. The ~~commissioner~~ director shall nevertheless ensure that every public utility operate one or more programs under periodic review by the department. Load management may be used to meet the requirements for energy conservation improvements under this section if it results in a demonstrable reduction in consumption of energy. The ~~commissioner~~ director shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision or a nonprofit or community organization. No utility may make an energy conservation improvement under this section to a building envelope unless:

- (1) it is the primary supplier of energy used for either space heating or cooling in the building;
- (2) the ~~commissioner~~ director determines that special circumstances, which would unduly restrict the availability of conservation programs, warrant otherwise; or
- (3) the utility has been awarded a contract under subdivision 2a.

The ~~commissioner~~ director shall ensure that a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the needs of renters and low-income persons unless an insufficient number of appropriate programs are available.

A utility, a political subdivision, or a nonprofit or community organization that has suggested a program, ~~the attorney general acting on behalf of consumers and small business interests, or a utility customer that has suggested a program and is not represented by the attorney general under section 8.33,~~ may petition the commission to modify or revoke a ~~department~~ division decision under this section, and the commission may do so if it determines that the program is not cost-effective, does not adequately address the residential conservation improvement needs of low-income persons, has a long-range negative effect on one or more classes of customers, or is otherwise not in the public interest. The person petitioning for commission review has the burden of proof. The commission shall reject a petition that, on its face, fails to make a reasonable argument that a program is not in the public interest.

Sec. 20. Minnesota Statutes 1994, section 216B.62, is amended to read:

216B.62 [REGULATORY EXPENSES.]

Subd. 2. [ASSESSING SPECIFIC UTILITY.] Whenever the attorney general or the commission or department, in a proceeding upon ~~its~~ the commission's own motion, on complaint, or upon an application to it, shall deem it necessary, in order to carry out the duties imposed under this chapter and section 216A.085, to investigate the books, accounts, practices, and activities of, or make appraisals of the property of any public utility, or to render any engineering or accounting services to any public utility, or to intervene before an energy regulatory agency, the public utility shall pay the expenses reasonably attributable to the investigation, appraisal, service, or intervention. The attorney general and commission and department shall ascertain the expenses, and the ~~department~~ attorney general or commission shall render a bill therefor to the public utility, either at the conclusion of the investigation, appraisal, or services, or from time to time during its progress, which bill shall constitute notice of the assessment and a demand for payment. The amount of the bills so rendered by the department shall be paid by the public utility into the state treasury within 30 days from the date of rendition. The total amount, in any one calendar year, for which any public utility shall become liable, by reason of costs incurred by the attorney general or commission within that calendar year, shall not exceed two-fifths of one percent of the gross operating revenue from retail sales of gas, or electric service by the public utility within the state in the last preceding calendar year. Where, pursuant to this subdivision, costs are incurred within any calendar year which are in excess of two-fifths of one percent of the gross operating revenues, the excess costs shall not be chargeable as part of the remainder under subdivision 3, but shall be paid out of the general appropriation to the ~~department~~ attorney general and commission. In the case of public utilities offering more than one public utility service only the gross operating revenues from the public utility service in connection with which the investigation is being conducted shall be considered when determining this limitation.

Subd. 3. [ASSESSING ALL PUBLIC UTILITIES.] (a) The ~~department~~ attorney general and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to (1) public utilities under section 216A.085, sections 216B.01 to 216B.67, other than amounts chargeable to public utilities under subdivision 2 or 6, and alternative energy engineering activity under section 216C.261. The remainder, except the amount assessed against cooperatives and municipalities for alternative energy engineering activity under subdivision 5, shall be assessed by the attorney general and commission ~~and department~~ to the several public utilities in proportion to their respective gross operating revenues from retail sales of gas or electric service within the state during the last calendar year. The assessment shall be paid into the state treasury within 30 days after the bill has been mailed to the several public utilities, which shall constitute notice of the assessment and demand of payment thereof. The total amount which may be assessed to the public utilities, under authority of this subdivision, shall not exceed one-sixth of one percent of the total gross operating revenues of the public utilities during the calendar year from retail sales of gas or electric service within the state. The assessment for the third quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the attorney general and commission ~~and department~~ for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

Subd. 4. [OBJECTIONS.] Within 30 days after the date of the mailing of any bill as provided by subdivisions 2 and 3, the public utility against which the bill has been rendered may file with the commission objections setting out the grounds upon which it is claimed the bill is excessive, erroneous, unlawful or invalid. The commission shall within 60 days hold a hearing and issue an order in accordance with its findings. The order shall be appealable in the same manner as other final orders of the commission.

Subd. 5. [ASSESSING COOPERATIVES AND MUNICIPALS.] The attorney general and commission ~~and department~~ may charge cooperative electric associations and municipal electric utilities their proportionate share of the expenses incurred in the review and disposition of resource plans, adjudication of service area disputes and the costs incurred in the adjudication of complaints over service standards, practices, and rates. Cooperative electric associations electing to become subject to rate regulation by the commission pursuant to section 216B.026, subdivision 4, are also subject to this section. Neither a cooperative electric association nor a municipal electric utility is liable for costs and expenses in a calendar year in excess of the limitation on costs that may be assessed against public utilities under subdivision 2. A cooperative electric association or municipal electric utility may object to and appeal bills of the commission and department as provided in subdivision 4.

The department shall assess cooperatives and municipalities for the costs of alternative energy engineering activities under section 216C.261. Each cooperative and municipality shall be assessed in proportion that its gross operating revenues for the sale of gas and electric service within the state for the last calendar year bears to the total of those revenues for all public utilities, cooperatives, and municipalities.

Subd. 6. [ADMINISTRATIVE HEARING COSTS.] Any amounts billed to the attorney general or commission ~~or the department~~ by the office of administrative hearings for public utility contested case hearings shall be assessed by the commission or the department ~~or attorney general~~ against the public utility. The assessment shall be paid into the state treasury within 30 days after a bill, which constitutes notice of the assessment and demand for payment of it, has been mailed to the public utility. Money received shall be credited to a special account and is appropriated to the attorney general or commission ~~or the department~~ for payment to the office of administrative hearings.

Sec. 21. Minnesota Statutes 1994, section 216B.64, is amended to read:

216B.64 [ATTORNEY GENERAL'S RESPONSIBILITIES.]

The attorney general of the state shall, upon request of the commission or department ~~department~~, represent and appear for the commission or department ~~department~~ in all actions and proceedings involving any question under Laws 1974, chapter 429, and shall aid in any investigation or hearing had under the provisions of Laws 1974, chapter 429. The attorney general shall perform all duties and services in

connection with Laws 1974, chapter 429 and the enforcement thereof as the commission or department may require. The attorney general shall also bring all actions to collect penalties herein provided.

Sec. 22. Minnesota Statutes 1994, section 216B.65, is amended to read:

216B.65 [~~DEPARTMENT~~ COMMISSION TO EMPLOY NECESSARY STAFF.]

The ~~department~~ commission may employ experts, engineers, statisticians, accountants, inspectors, clerks, hearing examiners who may be attorneys and employees it deems necessary to carry out the provisions of Laws 1974, chapter 429.

Sec. 23. Minnesota Statutes 1994, section 216C.01, subdivision 2, is amended to read:

Subd. 2. [~~COMMISSIONER~~ COMMISSION.] "~~Commissioner~~" ~~means the commissioner of the department of public service~~ "Commission" means the public utilities commission.

Sec. 24. Minnesota Statutes 1994, section 216C.01, subdivision 3, is amended to read:

Subd. 3. [~~DEPARTMENT DIRECTOR.~~] "~~Department~~" ~~means the department of public service~~ "Director" means the director of the division of energy in the public utilities commission.

Sec. 25. Minnesota Statutes 1994, section 216C.01, is amended by adding a subdivision to read:

Subd. 3a. [EXECUTIVE DIRECTOR.] "Executive director" means the executive director of the public utilities commission.

Sec. 26. [216C.011] [DIVISION OF ENERGY.]

A division of energy is established in the public utilities commission under the control and supervision of a director, appointed by the executive director and serving at the pleasure of the executive director in the unclassified service. The director shall employ in the division personnel in the classified service necessary to carry out the duties under this chapter.

Sec. 27. Minnesota Statutes 1994, section 216C.10, is amended to read:

216C.10 [POWERS.]

The ~~commissioner~~ director may:

(1) adopt rules under chapter 14 as necessary to carry out the purposes of sections 216C.05 to 216C.30 and, when necessary for the purposes of section 216C.15, adopt emergency rules under sections 14.29 to 14.36;

(2) make all contracts under sections 216C.05 to 216C.30 and do all things necessary to cooperate with the United States government, and to qualify for, accept, and disburse any grant intended for the administration of sections 216C.05 to 216C.30;

(3) provide on-site technical assistance to units of local government in order to enhance local capabilities for dealing with energy problems;

(4) administer for the state, energy programs under federal law, regulations, or guidelines, except for the low-income home energy assistance program and low-income weatherization programs administered by the department of economic security, and coordinate the programs and activities with other state agencies, units of local government, and educational institutions;

(5) develop a state energy investment plan with yearly energy conservation and alternative energy development goals, investment targets, and marketing strategies;

(6) perform market analysis studies relating to conservation, alternative and renewable energy resources, and energy recovery;

(7) assist with the preparation of proposals for innovative conservation, renewable, alternative, or energy recovery projects;

(8) manage and disburse funds made available for the purpose of research studies or demonstration projects related to energy conservation or other activities deemed appropriate by the commissioner;

(9) ~~intervene~~ appear in certificate of need proceedings before the public utilities commission;

(10) collect fees from recipients of loans, grants, or other financial aid from money received from litigation or settlement of alleged violations of federal petroleum pricing regulations, which fees must be used to pay the department's costs in administering those financial aids; and

(11) collect fees from proposers and operators of conservation and other energy-related programs that are reviewed, evaluated, or approved by the department, other than proposers that are political subdivisions or community or nonprofit organizations, to cover the department's cost in making the review, evaluation, or approval and in developing additional programs for others to operate.

Notwithstanding any other law, the commissioner is designated the state agent to apply for, receive, and accept federal or other funds made available to the state for the purposes of sections 216C.05 to 216C.30.

Sec. 28. Minnesota Statutes 1994, section 216C.37, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] In this section:

(a) ~~"Commissioner"~~ "Authority" means the ~~commissioner of public service~~ Minnesota public facilities authority.

(b) "Energy conservation investments" means all capital expenditures that are associated with conservation measures identified in an energy project study, and that have a ten-year or less payback period.

(c) "Municipality" means any county, statutory or home rule charter city, town, school district, or any combination of those units operating under an agreement to jointly undertake projects authorized in this section.

(d) "Energy project study" means a study of one or more energy-related capital improvement projects analyzed in sufficient detail to support a financing application. At a minimum, it must include one year of energy consumption and cost data, a description of existing conditions, a description of proposed conditions, a detailed description of the costs of the project, and calculations sufficient to document the proposed energy savings.

Sec. 29. Minnesota Statutes 1994, section 237.02, is amended to read:

237.02 [GENERAL AUTHORITY OF ~~DEPARTMENT~~ AND COMMISSION; DEFINITIONS.]

The ~~department of public service and the public utilities commission~~, now existing under the laws of this state, ~~are~~ is hereby vested with the same jurisdiction and supervisory power over telephone companies doing business in this state as it now has over railroad and express companies and over public utilities under chapter 216B. The definitions set forth in ~~section~~ sections 216A.02 shall and 216B.02 apply also to this chapter.

Sec. 30. Minnesota Statutes 1994, section 237.075, subdivision 2, is amended to read:

Subd. 2. [SUSPENSION OF PROPOSED RATES; HEARING; FINAL DETERMINATION DEFINED.] (a) Whenever there is filed with the commission as provided in subdivision 1 a schedule modifying or resulting in a change in any rate then in force, the commission may suspend the operation of the schedule by filing with the schedule of rates and delivering to the affected telephone company a statement in writing of its reasons for the suspension at any time before the rates become effective. The suspension shall not be for a longer period than ten months beyond the initial filing date except as provided in paragraph (b). During the suspension the commission shall determine whether all questions of the reasonableness of the rates requested raised by persons deemed interested or by the ~~administrative division of the department of public service utility~~

consumers division of the attorney general's office can be resolved to the satisfaction of the commission. If the commission finds that all significant issues raised have not been resolved to its satisfaction, or upon petition by ten percent of the affected customers or 250 affected customers, whichever is less, it shall refer the matter to the office of administrative hearings with instructions for a public hearing as a contested case pursuant to chapter 14, except as otherwise provided in this section. The commission may order that the issues presented by the proposed rate changes be bifurcated into two separate hearings as follows: (1) determination of the telephone company's revenue requirements and (2) determination of the rate design. Upon issuance of both administrative law judge reports, the issues shall again be joined for consideration and final determination by the commission. All prehearing discovery activities of state agency intervenors shall be consolidated and conducted by the ~~department of public service~~ utility consumers division. If the commission does not make a final determination concerning a schedule of rates within ten months after the initial filing date, the schedule shall be deemed to have been approved by the commission; except if a settlement has been submitted to and rejected by the commission, the schedule is deemed to have been approved 12 months after the initial filing.

(b) If the commission finds that it has insufficient time during the suspension period to make a final determination of a case involving changes in general rates because of the need to make final determinations of other previously filed cases involving changes in general rates under this section or section 216B.16, the commission may extend the suspension period to the extent necessary to allow itself 20 working days to make the final determination after it has made final determinations in the previously filed cases. An extension of the suspension period under this paragraph does not alter the setting of interim rates under subdivision 3.

(c) For the purposes of this section, "final determination" means the initial decision of the commission and not any order which may be entered by the commission in response to a petition for rehearing or other further relief. The commission may further suspend rates until it determines all those petitions.

Sec. 31. Minnesota Statutes 1994, section 237.295, is amended to read:

237.295 [ASSESSMENT OF REGULATORY EXPENSES.]

Subdivision 1. [PAYMENT FOR INVESTIGATIONS.] Whenever the ~~department~~ attorney general or commission, in a proceeding upon its own motion, on complaint, or upon an application to it, considers it necessary, in order to carry out the duties imposed on it, to investigate the books, accounts, practices, and activities of, or make appraisals of the property of, a telephone company, or to render engineering or accounting services to a telephone company, the telephone company shall pay the expenses reasonably attributable to the investigation, appraisal, or service. The ~~department~~ attorney general and commission shall ascertain the expenses, and the ~~department~~ attorney general shall render a bill for those expenses to the telephone company, either at the conclusion of the investigation, appraisal, or services, or from time to time during its progress. The bill constitutes notice of the assessment and a demand for payment. The amount of the bills assessed by the department under this subdivision must be paid by the telephone company into the state treasury within 30 days from the date of assessment. The total amount, in a calendar year, for which a telephone company may become liable, by reason of costs incurred by the ~~department~~ attorney general and commission within that calendar year, may not exceed two-fifths of one percent of the gross jurisdictional operating revenue of the telephone company in the last preceding calendar year. Direct charges may be assessed without regard to this limitation until the gross jurisdictional operating revenue of the telephone company for the preceding calendar year has been reported for the first time. Where, under this subdivision, costs are incurred within a calendar year that are in excess of two-fifths of one percent of the gross jurisdictional operating revenues, the excess costs are not chargeable as part of the remainder under subdivision 2, but must be paid out of the general appropriation of the ~~department~~ attorney general or commission.

Subd. 2. [ASSESSMENT OF COSTS.] The ~~department~~ attorney general and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to telephone companies, other than amounts chargeable to telephone companies under subdivision 1, 5, or 6. The remainder must be assessed by the department to the telephone companies operating in this state in proportion to their respective gross jurisdictional operating revenues during the last calendar year. The assessment must be paid

into the state treasury within 30 days after the bill has been mailed to the telephone companies. The bill constitutes notice of the assessment and demand of payment. The total amount that may be assessed to the telephone companies under this subdivision may not exceed one-eighth of one percent of the total gross jurisdictional operating revenues during the calendar year. The assessment for the third quarter of each fiscal year must be adjusted to compensate for the amount by which actual expenditures by the attorney general and commission ~~and department~~ for the preceding fiscal year were more or less than the estimated expenditures previously assessed. A telephone company with gross jurisdictional operating revenues of less than \$5,000 is exempt from assessments under this subdivision.

Subd. 3. [OBJECTIONS.] Within 30 days after the date of the mailing of any bill as provided by subdivisions 1 and 2, the telephone company against which the bill has been assessed may file with the commission objections setting out the grounds upon which it is claimed the bill is excessive, erroneous, unlawful or invalid. The commission shall within 60 days provide for a contested case hearing and issue an order in accordance with its findings. The order shall be appealable in the same manner as other final orders of the commission.

Subd. 4. [INTEREST IMPOSED.] The amounts assessed against any telephone company not paid after 30 days after the mailing of a notice advising the telephone company of the amount assessed against it, shall draw interest at the rate of six percent per annum, and upon failure to pay the assessment the attorney general shall proceed by action in the name of the state against the telephone company to collect the amount due, together with interest and the cost of the suit.

Subd. 5. [ADMINISTRATIVE HEARING COSTS; APPROPRIATION.] Any amounts billed to the commission ~~or the department~~ by the office of administrative hearings for telephone contested case hearings shall be assessed by the commissioner ~~or the department~~ against the telephone company. The assessment shall be paid into the state treasury within 30 days after a bill, which constitutes notice of the assessment and demand for payment of it, has been mailed to the telephone company. Money received shall be credited to a special account and is appropriated to the ~~commissioner or the department~~ director for payment to the office of administrative hearings.

Subd. 6. [EXTENDED AREA SERVICE BALLOTING ACCOUNT; APPROPRIATION.] The extended area service balloting account is created as a separate account in the special revenue fund in the state treasury. The commission shall render separate bills to telephone companies only for direct balloting costs incurred by the commission under section 237.161. The bill constitutes notice of the assessment and demand of payment. The amount of a bill assessed by the commission under this subdivision must be paid by the telephone company into the state treasury within 30 days from the date of assessment. Money received under this subdivision must be credited to the extended area service balloting account and is appropriated to the commission.

Sec. 32. Minnesota Statutes 1994, section 237.30, is amended to read:

237.30 [TELEPHONE INVESTIGATION FUND; APPROPRIATION.]

The sum of \$25,000 is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to establish and provide a revolving fund to be known as the Minnesota Telephone Investigation Fund for the use of the ~~department of public service and of the attorney general~~ in investigations, valuations, and revaluations under section 237.295. All sums paid by the telephone companies to reimburse the ~~department of public service~~ attorney general for its ~~the~~ attorney general's expenses pursuant to section 237.295 shall be credited to the revolving fund and shall be deposited in a separate bank account and not commingled with any other state funds or moneys, but any balance in excess of \$25,000 in the revolving fund at the end of each fiscal year shall be paid into the state treasury and credited to the general fund. The sum of \$25,000 herein appropriated and all subsequent credits to said revolving fund shall be paid upon the warrant of the commissioner of finance upon application of the ~~department or of the attorney general~~ to an aggregate amount of not more than one-half of such sums to each of them, which proportion shall be constantly maintained in all credits and withdrawals from the revolving fund.

Sec. 33. Minnesota Statutes 1994, section 239.01, is amended to read:

239.01 [WEIGHTS AND MEASURES DIVISION; JURISDICTION.]

The weights and measures division, referred to in this chapter as the division, is created under the jurisdiction of the department of ~~public service~~ agriculture. The division has supervision and control over all weights, weighing devices, and measures in the state.

Sec. 34. Minnesota Statutes 1994, section 239.05, subdivision 6c, is amended to read:

Subd. 6c. [COMMISSIONER.] "Commissioner" means the commissioner of the department of ~~public service~~ agriculture.

Sec. 35. Minnesota Statutes 1994, section 239.05, subdivision 7a, is amended to read:

Subd. 7a. [DEPARTMENT.] "Department" means the department of ~~public service~~ agriculture.

Sec. 36. Minnesota Statutes 1994, section 239.05, subdivision 8, is amended to read:

Subd. 8. [DIRECTOR.] "Director" means the director of the division of weights and measures of the department of ~~public service~~ agriculture.

Sec. 37. [INSTRUCTION TO REVISOR.]

(a) The revisor of statutes, in the next and subsequent editions of Minnesota Statutes and Minnesota Rules, shall make the changes in paragraphs (b) to (j), and shall also make any stylistic and conforming changes necessary to incorporate the following changes:

(b) Change the terms "commissioner" and "commissioner of public service," or similar terms, to "director," or similar term, and the term "department," or similar term, to "commission," or similar term, in Minnesota Statutes, section 137.14.

(c) Change the terms "commissioner" and "commissioner of public service" to "authority" in Minnesota Statutes, section 216C.37.

(d) Change the terms "commissioner" or "commissioner of public service," or similar terms, to "director of the division of energy in the public utilities commission," or similar term, in Minnesota Statutes, sections 13.68, subdivision 1; 13.99, subdivision 65; 16B.165; 16B.56, subdivision 1; 17.86; 18.024, subdivision 1; 103F.325, subdivisions 2 and 3; 115A.15, subdivision 5; 116D.11, subdivision 4; 174.03, subdivision 7; 216B.162, subdivision 9; 216B.241; 216C.02; 216C.07; 216C.08; 216C.09; 216C.11; 216C.12; 216C.13; 216C.14; 216C.15; 216C.16; 216C.17; 216C.18; 216C.19; 216C.195; 216C.20; 216C.21; 216C.22; 216C.23; 216C.24; 216C.25; 216C.26; 216C.261; 216C.262; 216C.27; 216C.29; 216C.30; 216C.31; 216C.315; 216C.32; 216C.33; 216C.35; 216C.373; 216C.38; 216C.381; 446A.03, subdivision 1; and 446A.21, subdivision 2.

(e) Change the terms "department" and "department of public service" to "commission" and "public utilities commission" in Minnesota Statutes, sections 13.692; 116O.06, subdivision 2; 161.45; 469.164, subdivision 2; and 484.50.

(f) Change the terms "department" and "department of public service" to "division of energy in the public utilities commission" in Minnesota Statutes, sections 16B.32, subdivision 2; 160.262, subdivision 3; 161.45; and 326.243.

(g) Change the term "department of public service" to "department of agriculture" in Minnesota Statutes, sections 17A.04, subdivisions 6, 7, and 8; 17A.10, subdivision 1; 41A.09, subdivision 7; 93.38; 137.14; 325E.11; 325E.115, subdivision 2; and 325F.733, subdivision 7.

(h) Change the term "department of public service" to "department of transportation" in Minnesota Statutes, sections 168.61, subdivision 1; 169.073; and 181.30.

(i) Delete references to "commissioner," "commissioner of public service," and "department of public service" in Minnesota Statutes, sections 15.06, subdivision 1; 15A.081, subdivision 1; 43A.08, subdivision 1a; 237.59, subdivision 2; and 237.70, subdivision 7.

(j) Change the title of Minnesota Statutes, chapter 216A to "PUBLIC UTILITIES COMMISSION; ADMINISTRATION."

Sec. 38. [REPEALER.]

Minnesota Statutes 1994, sections 216A.06; 216B.02, subdivision 8; and 237.69, subdivision 3, are repealed.

Sec. 39. [EFFECTIVE DATE.]

This article is effective January 1, 1996."

Delete the title and insert:

"A bill for an act relating to state departments; abolishing the department of public service; transferring certain responsibilities and personnel to other agencies; amending Minnesota Statutes 1994, sections 8.33; 15.01; 116C.03, subdivision 2; 216A.01; 216A.035; 216A.036; 216A.04; 216A.05, by adding a subdivision; 216A.07; 216A.085; 216A.095; 216B.02, subdivision 7, and by adding subdivisions; 216B.16, subdivision 2; 216B.162, subdivision 7; 216B.241, subdivisions 1 and 2; 216B.62; 216B.64; 216B.65; 216C.01, subdivisions 2, 3, and by adding a subdivision; 216C.10; 216C.37, subdivision 1; 237.02; 237.075, subdivision 2; 237.295; 237.30; 239.01; and 239.05, subdivisions 6c, 7a, and 8; proposing coding for new law in Minnesota Statutes, chapter 216C; repealing Minnesota Statutes 1994, sections 216A.06; 216B.02, subdivision 8; and 237.69, subdivision 3."

And when so amended the bill be re-referred to the Committee on Jobs, Energy and Community Development without recommendation. Amendments adopted. Report adopted.

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

S.F. No. 503: A bill for an act relating to state government; providing for the Minnesota collection enterprise; imposing duties and providing powers; providing for the disclosure of certain data; imposing a collection penalty; appropriating money; amending Minnesota Statutes 1994, sections 16D.02, subdivision 6, and by adding a subdivision; 16D.04, subdivisions 1 and 3; 16D.06, subdivision 2; and 16D.08, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 16D.

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

Page 1, after line 11, insert:

"Section 1. Minnesota Statutes 1994, section 8.16, is amended by adding a subdivision to read:

Subd. 1a. [SUBPOENAS.] The attorney general may in any county of the state subpoena and require the production of any records relating to the location of a debtor or the assets of a debtor, as that term is defined in section 16D.02, subdivision 4. Subpoenas may be issued only for records that are relevant to an investigation related to debt collection."

Page 1, line 15, strike ", the University of Minnesota," and delete the new language

Page 1, line 16, delete the new language

Page 1, lines 22 and 23, delete "within the department of revenue"

Page 1, line 26, after the period, insert "New employees of the enterprise are in unclassified positions."

Page 2, line 13, after the period, insert "An audited financial statement may not be required as a condition of debt placement with a private agency if the private agency: (1) has errors and omissions coverage under a professional liability policy in an amount of at least \$1,000,000; or (2) has a fidelity bond to cover actions of its employees, in an amount of at least \$100,000."

Pages 2 and 3, delete section 5 and insert:

"Sec. 6. Minnesota Statutes 1994, section 16D.06, is amended to read:

16D.06 [DEBTOR INFORMATION.]

Subdivision 1. [ACCESS TO GOVERNMENT DATA NOT PUBLIC.] Notwithstanding chapter 13 or any other state law classifying or restricting access to government data, upon request from the commissioner or the attorney general, state agencies, political subdivisions, and statewide systems shall disseminate not public data to the commissioner or the attorney general for the sole purpose of collecting debt. Not public data disseminated under this subdivision is limited to financial data of the debtor or data related to the location of the debtor or the assets of the debtor.

Subd. 2. [DISCLOSURE OF DATA.] Data received, collected, created, or maintained by the commissioner or the attorney general to collect debts are classified as private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9. The commissioner or the attorney general may disclose not public data:

- (1) under section 13.05;
- (2) under court order;
- (3) under a statute specifically authorizing access to the not public data;
- (4) to provide notices required or permitted by statute;
- (5) to an agent of the commissioner, including a law enforcement person, attorney, or investigator acting for the commissioner in the investigation or prosecution of a criminal or civil proceeding relating to collection of a debt;
- (6) to report names of debtors, amount of debt, date of debt, and the agency to whom debt is owed to credit bureaus and private collection agencies under contract with the commissioner; and
- (7) when necessary to locate the debtor, locate the assets of the debtor, or to enforce or implement the collection of a debt; and
- (8) to the commissioner of revenue for tax administration purposes.

The commissioner and the attorney general may not disclose data that is not public to a private collection agency or other entity with whom the commissioner has contracted under section 16D.04, subdivision 4, unless disclosure is otherwise authorized by law."

Page 4, line 18, delete "In such cases,"

Page 4, delete lines 19 to 25

Page 4, line 28, after "commissioner" insert "or private collection agency"

Page 4, lines 29 and 33, after "commissioner" insert "or private agency"

Page 4, line 35, after "collected" insert "by the commissioner"

Page 5, line 5, after "commissioner" insert "or private collection agency"

Page 5, line 9, before the period, insert "or by referring the debt on for additional collection activity by a private collection agency. If, after referral of a debt to a private collection agency, the debtor requests cancellation of the penalty under section 16D.11, subdivision 3, the debt must be returned to the commissioner for resolution of the request"

Page 6, line 21, delete "16A.128" and insert "16A.1285"

Page 6, after line 21, insert:

"Sec. 9. [16D.12] [INTEREST.]

Subdivision 1. [AUTHORITY.] Unless otherwise provided by contract out of which the debt arises or by state or federal law, a state agency shall charge simple interest on debts owed to the state at the rate provided in subdivision 2 if notice has been given in accordance with this subdivision. Interest charged under this section begins to accrue on the 30th calendar day

following the state agency's first written demand for payment that includes notification to the debtor that interest will begin to accrue on the debt in accordance with this section.

Subd. 2. [COMPUTATION.] Notwithstanding chapter 334, the rate of interest is the rate determined by the state court administrator under section 549.09, subdivision 1, paragraph (c).

Subd. 3. [EXCLUSION.] A state agency may not charge interest under this section on overpayments of assistance benefits under sections 256.031 to 256.0361, 256.72 to 256.87, chapters 256D and 256I, or the federal food stamp program. Notwithstanding this prohibition, any debts that have been reduced to judgment under these programs are subject to the interest charges provided under section 549.09.

Sec. 10. [16D.13] [VENUE.]

The commissioner or attorney general may bring an action to recover debts owed to the state in Ramsey county district court or Ramsey county conciliation court, or a district or conciliation court of any other county at the discretion of the state. Before bringing an action under this section in any county other than the county in which the defendant resides or where the cause of action arose, the commissioner or the attorney general must notify the debtor, in writing, of the intent to bring an action in the specified county and enclose a form for the debtor to use to request that the action be brought in the county of either the debtor's residence or the county where the cause of action arose. If the debtor, within 20 days of the receipt of the notice of intent to bring an action in a specified county, requests in writing that the action be brought in the county of either the debtor's residence or the county where the cause of action arose, that request must be granted by the commissioner or the attorney general, and any subsequent action must be venued in accordance with the request of the debtor. If the debtor does not make a timely request under this section, venue is as chosen by the commissioner or attorney general. No court filing fees, docketing fees, or release of judgment fees may be assessed against the state for collection actions filed under this chapter.

Sec. 11. [16D.14] [COMPROMISE OF DEBT.]

Unless expressly prohibited by other federal or state law, a state agency may compromise debts owed to the state, whether reduced to judgment or not, where the state agency determines that it is in the best interests of the state to do so.

Sec. 12. [16D.16] [SETOFFS.]

Subdivision 1. [AUTHORIZATION.] The commissioner or a state agency may automatically deduct the amount of a debt owed to the state from any state payment due to the debtor, except that funds exempt under section 550.37 or funds owed an individual who receives assistance under the provisions of chapter 256 are not subject to setoff. If a debtor has entered into a written payment plan with respect to payment of a specified debt, the right of setoff may not be used to satisfy that debt. Notwithstanding section 181.79, the state may deduct from the wages due or earned by a state employee to collect a debt, subject to the limitations in section 571.922.

Subd. 2. [NOTICE AND HEARING.] The commissioner or state agency shall mail written notice to the debtor, addressed to the debtor's last known address, that the commissioner or state agency intends to set off a debt owed to the state by the debtor against future payments due the debtor from the state. The commissioner or state agency shall notify the debtor within ten days that a setoff has occurred. The debtor has 30 days from the date of that notice to make a written request for a contested case hearing to contest the validity of the debt or the right to setoff. The debtor's request must state the debtor's reasons for contesting the debt or the right to setoff. If the commissioner or state agency desires to pursue the right to setoff following receipt of the debtor's request for a hearing, the commissioner or state agency shall schedule a contested case hearing within 30 days of the receipt of the request for the hearing. If the commissioner or state agency decides not to pursue the right to setoff, the debtor must be notified of that decision.

Sec. 13. [COLLECTION; REPORT.]

The commissioner of finance shall attempt to collect 90 percent of debt older than 120 days owed to the state and report back to the legislature by January 15, 1997.

Sec. 14. [PILOT PROGRAM.]

The commissioner of finance shall initiate a pilot program to compare effectiveness and efficiencies of the Minnesota collection enterprise and private collection agencies. The commissioner shall issue a request for proposals and place at least \$35,000,000 of state debt with private collection agencies no later than September 1, 1995. In placing debt with private collection agencies, the commissioner must consider the following factors in comparison to the enterprise; age and size of the debt, type of debt, and direct and indirect costs of collecting the debt. Eligible private collection agencies include those not currently under contract with the commissioner. The commissioner shall report back to the legislature by February 1, 1996."

Page 6, line 23, delete "1" and insert "2"

Page 6, line 24, delete "6" and insert "7"

Page 6, line 26, delete "7" and insert "8"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 7, after "sections" insert "8.16, by adding a subdivision;"

Page 1, lines 8 and 9, delete ", subdivision 2"

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 410: A bill for an act relating to health; giving the commissioner of administration authority to negotiate contract prices for all prescription drugs sold in Minnesota; allowing correction orders to be issued; establishing a statewide drug formulary; requiring a pharmacy to post a sign on generic substitution; amending Minnesota Statutes 1994, sections 151.21, subdivisions 2, 3, and by adding a subdivision; and 256B.0625, subdivision 13; proposing coding for new law in Minnesota Statutes, chapters 16B; and 256.

Reports the same back with the recommendation that the report from the Committee on Governmental Operations and Veterans, shown in the Journal for April 5, 1995, be amended to read:

"the bill be amended 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. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

H.F. No. 446: A bill for an act relating to occupations and professions; establishing licensure for acupuncture practitioners by the board of medical practice; providing penalties; proposing coding for new law as Minnesota Statutes, chapter 147B.

Reports the same back with the recommendation that the report from the Committee on Governmental Operations and Veterans, shown in the Journal for April 5, 1995, be amended to read:

"the bill do pass and be re-referred to the Committee on Finance". Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 399: A bill for an act relating to recreational vehicles; driving while intoxicated;

providing for forfeiture of snowmobiles, all-terrain vehicles, and motorboats for designated, DWI-related offenses; extending vehicle forfeiture law by expanding the definition of prior conviction to include other types of vehicles; amending Minnesota Statutes 1994, sections 84.83, subdivision 2; and 169.1217, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 84; and 86B.

Reports the same back with the recommendation that the report from the Committee on Crime Prevention, shown in the Journal for April 5, 1995, be adopted; that committee recommendation being:

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 1570: A bill for an act relating to taxes; freezing property tax values, levies, and rates for taxes payable in 1996; limiting increases in property tax values, levies, and rates for taxes payable in 1997; appropriating money; repealing Minnesota Statutes 1994, sections 124.01; 124.05; 124.06; 124.07; 124.76; 124.82; 124.829; 124.83; 124.84; 124.85; 124.86; 124.90; 124.91; 124.912; 124.914; 124.916; 124.918; 124.95; 124.961; 124.962; 124.97; 124A.02, subdivisions 16, 23, and 24; 124A.03, subdivisions 1b, 1c, 1d, 1e, 1f, 1g, 1h, and 1i; 124A.0311; 124A.032; 124A.04; 124A.22, subdivisions 1, 2, 3, 4, 4a, 4b, 6, 6a, 8, and 9; 124A.23; 124A.24; 124A.26, subdivisions 1, 2, and 3; 124A.27; 124A.28; 124A.29, subdivision 2; 273.13; 273.1398; 473F.001; 473F.01; 473F.02; 473F.03; 473F.05; 473F.06; 473F.07; 473F.08; 473F.09; 473F.10; 473F.11; 473F.13; 477A.011; 477A.012; 477A.0121; 477A.0122; 477A.013; 477A.0132; 477A.014; 477A.015; 477A.016; 477A.017; 477A.03; 477A.11; 477A.12; 477A.13; 477A.14; and 477A.15; Laws 1991, chapter 265, article 7, section 35.

Reports the same back with the recommendation that the report from the Committee on Taxes and Tax Laws, shown in the Journal for April 5, 1995, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Joint Rule 2.03, together with the committee report thereon,

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; 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.

Reports the same back with the recommendation that the report from the Committee on Jobs, Energy and Community Development, shown in the Journal for April 5, 1995, be adopted; that committee recommendation being:

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

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

S.F. No. 1551: A bill for an act relating to agricultural economics; providing loans and incentives for agricultural energy resources development for family farms and cooperatives; amending Minnesota Statutes 1994, sections 41B.02, subdivision 19; 41B.046, subdivision 1, and by adding a subdivision; and 216C.41, subdivisions 1, 2, 3, and 4.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Jobs, Energy and Community Development. Report adopted.

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

S.F. No. 462: A bill for an act relating to the environment; implementing the transfer of solid waste management duties of the metropolitan council to the office of environmental assistance; providing for the management of waste; providing penalties; amending Minnesota Statutes 1992, section 115A.33, as reenacted; Minnesota Statutes 1994, sections 16B.122, subdivision 3; 115.071, subdivision 1; 115A.055; 115A.07, subdivision 3; 115A.072, subdivisions 1, 3, and 4; 115A.12; 115A.14, subdivision 4; 115A.15, subdivision 9; 115A.191, subdivisions 1 and 2; 115A.32; 115A.411; 115A.42; 115A.45; 115A.46, subdivisions 1 and 5; 115A.55, by adding a subdivision; 115A.5501, subdivisions 2, 3, and 4; 115A.5502; 115A.551, subdivisions 2a, 4, 5, 6, and 7; 115A.554; 115A.557, subdivisions 3 and 4; 115A.558; 115A.63, subdivision 3; 115A.84, subdivision 3; 115A.86, subdivision 2; 115A.919, subdivision 3; 115A.921, subdivision 1; 115A.923, subdivision 1; 115A.9302, subdivisions 1 and 2; 115A.951, subdivision 4; 115A.96, subdivision 2; 115A.965, subdivision 1; 115A.9651, subdivision 3; 115A.97, subdivisions 5 and 6; 115A.981, subdivision 3; 116.07, subdivision 4j; 116.072; 116.66, subdivisions 2 and 4; 116.92, subdivision 4; 400.16; 400.161; 473.149, subdivisions 1, 2d, 2e, 3, 4, and 6; 473.151; 473.516, subdivision 2; 473.801, subdivision 1, and by adding subdivisions; 473.8011; 473.803, subdivisions 1, 1c, 2, 2a, 3, 4, and 5; 473.804; 473.811, subdivisions 1, 4a, 5, 5c, 7, and 8; 473.813, subdivision 2; 473.823, subdivisions 3, 5, and 6; 473.843, subdivision 1; 473.844, subdivisions 1a and 4; 473.8441, subdivisions 2, 4, and 5; 473.845, subdivision 4; 473.846; and 473.848, subdivisions 2 and 4; Laws 1994, chapter 628, article 3, section 209; proposing coding for new law in Minnesota Statutes, chapters 16B; 115A; 116; and 480; repealing Minnesota Statutes 1994, sections 115A.81, subdivision 3; 115A.90, subdivision 3; 116.94; 383D.71, subdivision 2; 473.149, subdivisions 2, 2a, 2c, 2f, and 5; 473.181, subdivision 4; and 473.803, subdivisions 1b and 1e.

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

Page 21, line 27, after "orders" insert "and may issue orders"

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

SECOND READING OF SENATE BILLS

S.F. Nos. 777, 903, 1140, 1469, 1268, 995, 870, 1420 and 1570 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 813, 226, 843 and 1211 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Belanger moved that the name of Mr. Marty be added as a co-author to S.F. No. 1199. The motion prevailed.

Mr. Belanger moved that the name of Ms. Hanson be added as a co-author to S.F. No. 1163. The motion prevailed.

Mr. Samuelson moved that the name of Mr. Kleis be added as a co-author to S.F. No. 1254. The motion prevailed.

Mr. Johnson, D.J. moved that the name of Mr. Limmer be added as a co-author to S.F. No. 1626. The motion prevailed.

Mr. Kroening moved that the names of Ms. Hanson and Mr. Kramer be added as co-authors to S.F. No. 1636. The motion prevailed.

Mr. Bertram moved that the name of Mr. Metzen be added as a co-author to Senate Resolution No. 51. The motion prevailed.

Mr. Marty moved that S.F. No. 1617 be withdrawn from the Committee on Metropolitan and Local Government and re-referred to the Committee on Taxes and Tax Laws. The motion prevailed.

Ms. Johnson, J.B. moved that S.F. No. 1551 be withdrawn from the Committee on Jobs, Energy and Community Development and re-referred to the Committee on Environment and Natural Resources. The motion prevailed.

Ms. Lesewski moved that S.F. No. 1140, on General Orders, be stricken and re-referred to the Committee on Jobs, Energy and Community Development. The motion prevailed.

Mr. Vickerman moved that S.F. No. 995, on General Orders, be stricken and re-referred to the Committee on Taxes and Tax Laws. The motion prevailed.

MEMBERS EXCUSED

Messrs. Day and Sams were excused from the Session of today. Ms. Krentz and Mr. Larson were excused from this afternoon's session.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 8:30 a.m., Thursday, April 6, 1995. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

