SIXTY-FOURTH DAY

St. Paul, Minnesota, Friday, May 19, 1995

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

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. William F. Moeller.

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

May 17, 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. 1112.

Warmest regards,
Arne H. Carlson, Governor

May 18, 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. Nos. 273, 74, 1118 and 342.

Warmest regards,
Arne H. Carlson, Governor

May 18, 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 Acts of the 1995 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1995	Date Filed 1995
	1479	168	1:52 p.m. May 17	May 17
	536	169	1:54 p.m. May 17	May 17
	1159	170	1:56 p.m. May 17	May 17
	1573	171	1:58 p.m. May 17	May 17
1112		175	1:58 p.m. May 17	May 17
	833	176	2:00 p.m. May 17	May 17
	446	177	2:00 p.m. May 17	May 17
	5	178	11:48 a.m. May 18	May 18
	1399	179	2:02 p.m. May 17	May 17
273		180	11:32 a.m. May 18	May 18
	1377	182	11:40 a.m. May 18	May 18
	1742	183	11:45 a.m. May 18	May 18
74		185	11:33 a.m. May 18	May 18
1118		186	11:35 a.m. May 18	May 18
342		187	11:37 a.m. May 18	May 18

Sincerely,
Joan Anderson Growe
Secretary of State

May 18, 1995

The Honorable Allan H. Spear
President of the Senate

Dear President Spear:

I have vetoed and am returning Chapter 173, Senate File 375/House File 248, a bill relating to generating electric energy. Chapter 173 would add closed system pumped hydropower to the list of preferred energy sources and include it as a qualified hydroelectric facility, thereby making it eligible for subsidy.

This proposal would recognize closed system pumped hydropower as a source of electric power that is energy conscious and environmentally sound. Closed system pumped hydropower, however, is neither. It is a means of generating electricity that consumes more energy than it produces and clearly does not rank among the energy alternatives that we have encouraged the public and private sectors to develop.

In the 1994 legislative session we created a subsidy of 1.5 cents per kilowatt hour as an incentive

to generate electricity using hydropower at existing dam sites. The amendments in this chapter may result in subsidy payments from the state's general fund to closed system pumped hydropower producers of nearly $5 million per year, beginning in fiscal year 1998. I will not extend any subsidy to closed system pumped hydropower producers given its energy negative characteristic.

Furthermore, I am concerned that the legislature has passed a provision such as this without accounting for the potential cost to the state in the next biennium or without even a hearing by both appropriate finance committees. Off budget open appropriations of this nature are precisely what have contributed to the current federal budget crisis. The taxpayers of Minnesota deserve greater financial responsibility.

Warmest regards,
Arne H. Carlson, Governor

Mr. Moe, R.D. moved that S.F. No. 375 and the veto message thereon be laid on the table. The motion prevailed.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 529.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1995

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 255, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 255: A bill for an act relating to elevators; regulating persons who may do elevator work; appropriating money; amending Minnesota Statutes 1994, sections 183.355, subdivision 3; 183.357, subdivisions 1, 2, and 4; and 183.358; proposing coding for new law in Minnesota Statutes, chapter 183.

Senate File No. 255 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1995

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 257, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 257: A bill for an act relating to soil and water conservation district boards; providing that the office of soil and water conservation district supervisor is compatible with certain city and town offices; amending Minnesota Statutes 1994, sections 103C.315, by adding a subdivision; and 204B.06, subdivision 1.

Senate File No. 257 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1995

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 106, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 106: A bill for an act relating to the organization and operation of state government; appropriating money for environmental, natural resource, and agricultural purposes; modifying provisions relating to disposition of certain revenues from state trust lands, sales of software, agricultural and environmental loans, food handlers, ethanol and oxygenated fuels, the citizen's council on Voyageurs National Park, local recreation grants, zoo admission charges, watercraft surcharge, water information, well sealing grants, pollution control agency fees, sale of tax-forfeited lands, and payments in lieu of taxes; establishing the Passing on the Farm Center; establishing special critical habitat license plates; authorizing establishment of a shooting area in Sand Dunes State Forest; prohibiting the adoption or enforcement of water quality standards that are not necessary to comply with federal law; abolishing the harmful substance compensation board and account; extending performance reporting requirements; providing for easements across state trails in certain circumstances; amending Minnesota Statutes 1994, sections 15.91, subdivision 1; 16A.125; 16B.405, subdivision 2; 17.117, subdivisions 2, 4, 6, 7, 8, 9, 10, 11, 14, 16, and by adding subdivisions; 28A.03; 28A.08; 41A.09, by adding subdivisions; 41B.02, subdivision 20; 41B.043, subdivisions 1b, 2, and 3; 41B.045, subdivision 2; 41B.046, subdivision 1, and by adding a subdivision; 84.631; 84.943, subdivision 3; 84B.11, subdivision 1; 85.015, by adding a subdivision; 85.019; 85A.02, subdivision 17; 86.72, subdivision 1; 86B.415, subdivision 7; 92.46, subdivision 1; 93.22; 97A.531, subdivision 1; 103A.43; 103F.725, subdivision 1a; 103H.151, by adding a subdivision; 103I.331, subdivision 4; 115.03, subdivision 5; 115A.03, subdivision 29; 115A.908, subdivision 3; 115B.20, subdivision 1; 115B.25, subdivision 1a; 115B.26, subdivision 2; 115B.41, subdivision 1; 115B.42; 115C.03, subdivision 9; 116.07, subdivision 4d, and by adding a subdivision; 116.12, subdivision 1; 116.96, subdivision 5; 116C.69, subdivision 3; 116P.11; 239.791, subdivision 8; 282.01, subdivisions 2 and 3; 282.011, subdivision 1; 282.02; 282.04, subdivision 1; 296.02, by adding a subdivision; 446A.07, subdivision 8; 446A.071, subdivision 2; 473.845, subdivision 2; 477A.11, subdivision 4; 477A.12; and 477A.14; proposing coding for new law in Minnesota Statutes, chapters 17; 28A; 89; 116; and 168; repealing Minnesota Statutes 1994, sections 28A.08, subdivision 2; 41A.09, subdivisions 2, 3, and 5; 97A.531, subdivisions 2, 3, 4, 5, and 6; 115B.26, subdivision 1; 239.791, subdivisions 4, 5, 6, and 9; 282.018; 296.02, subdivision 7; 325E.0951, subdivision 5; and 446A.071, subdivision 7; Laws 1993, chapter 172, section 10.

Senate File No. 106 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1995

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1536: A bill for an act relating to the organization and operation of state government; appropriating money for the department of transportation and other agencies with certain conditions.

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

Lieder, Rice, Marko, Garcia and Frerichs.

Senate File No. 1536 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1995

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the

appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 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 8.31, subdivision 1; 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, subdivisions 4a and 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, chapters 585, section 51; and 628, article 3, section 209; proposing coding for new law in Minnesota Statutes, chapters 16B; 115A; 116; 325E; 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.

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

Wagenius, Ozment and Orfield.

Senate File No. 462 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1995

Mr. President:

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

S.F. No. 621: A bill for an act relating to game and fish; establishing hunting heritage week; designating mute swans as unprotected birds; providing procedures for seizure and confiscation of property; 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 28 and 52; 97A.221; 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; and 97B.301, subdivision 5.

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

Milbert, Bakk and Johnson, V.

Senate File No. 621 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1995

REPORTS OF COMMITTEES

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

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

H.F. No. 1040 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1040	806				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1040 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1040 and insert the language after the enacting clause of S.F. No. 806, the second engrossment; further, delete the title of H.F. No. 1040 and insert the title of S.F. No. 806, the second engrossment.

And when so amended H.F. No. 1040 will be identical to S.F. No. 806, and further recommends that H.F. No. 1040 be given its second reading and substituted for S.F. No. 806, and that the Senate File be indefinitely postponed.

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

SECOND READING OF HOUSE BILLS

H.F. No. 1040 was read the second time.

MOTIONS AND RESOLUTIONS

Ms. Pappas moved that the name of Mr. Langseth be added as a co-author to S.F. No. 837. The motion prevailed.

Mr. Kramer moved that the name of Mr. Kleis be added as a co-author to S.F. No. 1716. The motion prevailed.

Mr. Pogemiller introduced--

Senate Resolution No. 74: A Senate resolution declaring the week of May 21, 1995, as "Victims of Torture Week."

Referred to the Committee on Rules and Administration.

Ms. Piper, Messrs. Marty; Moe, R.D.; Spear and Ms. Flynn introduced--

Senate Resolution No. 75: A Senate resolution honoring the memory of Michael Ehrlichmann.

Referred to the Committee on Rules and Administration.

Without objection, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Riveness introduced--

S.F. No. 1721: A bill for an act relating to crime prevention; creating a grant program to enhance confiscation of illegal firearms; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 299A.

Referred to the Committee on Crime Prevention.

Mr. Riveness introduced--

S.F. No. 1722: A bill for an act relating to occupations; redefining chiropractic; amending Minnesota Statutes 1994, section 148.01, subdivision 1.

Referred to the Committee on Health Care.

Mr. Riveness introduced--

S.F. No. 1723: A bill for an act relating to insurance; regulating insurance fraud; creating an insurance fraud unit in the department of commerce; prescribing its powers and duties; prescribing penalties; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 60A.

Referred to the Committee on Commerce and Consumer Protection.

Mr. Chandler, Mrs. Pariseau, Mr. Laidig, Ms. Johnson, J.B. and Mr. Morse introduced--

S.F. No. 1724: A bill for an act relating to trade practices; regulating the sale of motor vehicle paint, thinner, and reducer; providing penalties and remedies; proposing coding for new law in Minnesota Statutes, chapter 325E.

Referred to the Committee on Commerce and Consumer Protection.

Mr. Price introduced--

S.F. No. 1725: A bill for an act relating to crime; victim reparations; allowing a victim to submit a claim under the revenue recapture act; providing for consumer credit agency reports of restitution orders; amending Minnesota Statutes 1994, sections 270A.03, subdivision 2; and 611A.04, by adding a subdivision.

Referred to the Committee on Crime Prevention.

Messrs. Kramer, Scheevel and Ourada introduced--

S.F. No. 1726: A bill for an act proposing an amendment to the Minnesota Constitution, article IV, section 5; article V, by adding a section; and article VII, section 6; requiring certain elected officials to resign on filing for another elective office or accepting appointment to another office.

Referred to the Committee on Ethics and Campaign Reform.

Messrs. Johnson, D.J.; Solon; Samuelson; Larson and Day introduced--

S.F. No. 1727: A bill for an act proposing an amendment to the Minnesota Constitution, article XIII, section 3; repealing the constitutional autonomy of the University of Minnesota.

Referred to the Committee on Education.

Messrs. Solon, Chmielewski, Novak, Laidig and Johnson, D.J. introduced--

S.F. No. 1728: A bill for an act relating to the Lake Superior Center Authority; authorizing the issuance of state bonds for construction of facilities for the authority; appropriating money.

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

Mses. Johnson, J.B.; Johnston; Mr. Kroening, Ms. Pappas and Mr. Frederickson introduced--

S.F. No. 1729: A bill for an act relating to insurance; health; requiring the commissioners of commerce and health to study and develop methods of promoting alternative, cost-effective treatments for illness and disease while ensuring that insurers cover such alternative treatments.

Referred to the Committee on Health Care.

Messrs. Kleis, Scheevel, Mrs. Pariseau, Messrs. Kramer and Ourada introduced--

S.F. No. 1730: A bill for an act relating to human services; under certain circumstances requiring residency in the state for 60 days before applying for work readiness or general assistance; proposing coding for new law in Minnesota Statutes, section 256D; repealing Minnesota Statutes 1994, section 256D.065.

Referred to the Committee on Family Services.

Mses. Runbeck, Lesewski and Mr. Novak introduced--

S.F. No. 1731: A bill for an act relating to employment; requiring the governor's workforce development council to evaluate state-funded job training programs.

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

Mr. Murphy introduced--

S.F. No. 1732: A bill for an act relating to capital improvements; authorizing the issuance of bonds to refurbish the Le Duc mansion in Hastings.

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

Mr. Kleis, Ms. Runbeck and Mr. Kramer introduced--

S.F. No. 1733: A bill for an act relating to state government; regulating rulemaking; requiring agencies to publish a notice of solicitation within 60 days of the effective date of new rulemaking grants of authority; amending Minnesota Statutes 1994, section 14.10.

Referred to the Committee on Governmental Operations and Veterans.

Mses. Runbeck, Robertson, Pappas and Mr. Knutson introduced--

S.F. No. 1734: A bill for an act relating to education; modifying probationary and continuing contract teacher review; amending Minnesota Statutes 1994, section 125.12, subdivisions 3b and 4b.

Referred to the Committee on Education.

Messrs. Solon, Finn, Hottinger, Terwilliger and Limmer introduced--

S.F. No. 1735: A bill for an act relating to trusts; enacting the uniform prudent investor act proposed by the National Conference of Commissioners on Uniform State Laws; amending Minnesota Statutes 1994, section 501B.10, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 501B.

Referred to the Committee on Judiciary.

Ms. Kiscaden introduced--

S.F. No. 1736: A bill for an act relating to utilities; allowing utility to provide electric service to its own property and facilities; amending Minnesota Statutes 1994, section 216B.42, subdivision 2.

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

Messrs. Solon and Oliver introduced--

S.F. No. 1737: A bill for an act relating to insurance; health; regulating preferred provider arrangements; authorizing rulemaking; amending Minnesota Statutes 1994, section 72A.20, subdivision 15; proposing coding for new law as Minnesota Statutes, chapter 62K.

Referred to the Committee on Commerce and Consumer Protection.

Ms. Flynn introduced--

S.F. No. 1738: A bill for an act relating to utilities; removing a restriction on municipality to exercise its power of eminent domain to acquire right to furnish electric service; amending Minnesota Statutes 1994, section 216B.47.

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

Mr. Solon introduced--

S.F. No. 1739: A bill for an act relating to horse racing; providing for additional wagering; amending Minnesota Statutes 1994, section 240.13, by adding a subdivision.

Referred to the Committee on Gaming Regulation.

Mr. Chandler introduced--

S.F. No. 1740: A bill for an act relating to courts; authorizing courts to transmit minor settlement funds to the state board of investment; proposing coding for new law in Minnesota Statutes, chapters 11A and 548.

Referred to the Committee on Judiciary.

Mr. Chandler introduced--

S.F. No. 1741: A bill for an act relating to credit unions; regulating the use of the words "credit union"; prescribing a penalty; amending Minnesota Statutes 1994, section 52.03, subdivision 1.

Referred to the Committee on Commerce and Consumer Protection.

Mr. Chandler introduced--

S.F. No. 1742: A bill for an act relating to the environment; prohibiting disposal of corrugated paper products; proposing coding for new law in Minnesota Statutes, chapter 115A.

Referred to the Committee on Environment and Natural Resources.

Mr. Stumpf introduced--

S.F. No. 1743: A bill for an act relating to civil action; amending Minnesota Statutes 1994, sections 549.20, by adding a subdivision; 595.02, subdivision 5; 604.02, subdivision 1, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 541; 548; 549.

Referred to the Committee on Judiciary.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1204 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1204

A bill for an act relating to insurance; no-fault auto; regulating rental vehicle coverages; determining when a vehicle is rented; modifying the right to compensation for loss of use of a damaged rented motor vehicle; providing for limits of liability for motor vehicle lessors; amending Minnesota Statutes 1994, section 65B.49, subdivision 5a.

May 17, 1995

The Honorable Allan H. Spear
President of the Senate

The Honorable Irv Anderson
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1204, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate concur in the House amendments and that S.F. No. 1204 be further amended as follows:

Page 2, line 16, of the Simoneau delete everything amendment adopted by the house May 12, 1995, before the period, insert "or if the term of the rental agreement is longer than one month" and after the period, insert "A vehicle is not rented for purposes of this subdivision if the rental agreement has a purchase or buyout option or otherwise functions as a substitute for purchase of the vehicle."

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

Senate Conferees: (Signed) Don Betzold, Sam G. Solon, Cal Larson

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

Mr. Betzold moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1204 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1204 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 52 and nays 2, as follows:

Those who voted in the affirmative were:

Beckman	Janezich	Laidig	Murphy	Sams
Berg	Johnson, D.E.	Langseth	Neuville	Scheevel
Berglin	Johnson, J.B.	Larson	Novak	Solon
Bertram	Johnston	Lesewski	Oliver	Spear
Betzold	Kelly	Lessard	Olson	Stevens
Chandler	Kiscaden	Marty	Ourada	Terwilliger
Chmielewski	Kleis	Merriam	Pariseau	Vickerman
Cohen	Knutson	Metzen	Piper	Wiener
Day	Kramer	Moe, R.D.	Pogemiller	
Frederickson	Krentz	Mondale	Robertson	
Hanson	Kroening	Morse	Runbeck	

Messrs. Finn and Samuelson voted in the negative.

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

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 12:30 p.m. The motion prevailed.

The hour of 12:30 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Johnson, D.J. moved that the following members be excused for a Conference Committee on H.F. No. 1864 at 11:00 a.m.:

Messrs. Johnson, D.J.; Belanger; Hottinger; Mses. Flynn and Reichgott Junge. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

SUSPENSION OF RULES

Mr. Moe, R.D. moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1040 and that the rules of the Senate be so far suspended as to give H.F. No. 1040, now on General Orders, its third reading and place it on its final passage. The motion prevailed.

H.F. No. 1040: A bill for an act relating to retirement; providing various benefit increases and related modifications; requiring collateralization and investment authority statement; amending Minnesota Statutes 1994, sections 3A.02, subdivision 5; 124.916, subdivision 3; 136.90; 352.01, subdivision 13; 352B.01, subdivision 2; 352B.02, subdivision 1a; 352B.08, subdivision 2; 352B.10, subdivision 1; 353.65, subdivision 7; 353.651, subdivision 4; 354.445; 354.66, subdivision 4; 354A.094, subdivision 4; 354A.12, subdivisions 1, 2, and by adding a subdivision; 354A.27, subdivision 1, and by adding subdivisions; 354A.31, subdivision 4, and by adding subdivisions; 354B.05, subdivisions 2 and 3; 354B.07, subdivisions 1 and 2; 354B.08, subdivision 2; 356.219, subdivision 2; 356.30, subdivision 1; 356.611; 356A.06, by adding subdivisions; 422A.05, by adding a subdivision; 422A.09, subdivision 2; and 422A.101, subdivision 1a; Laws 1994, chapter 499, section 2; proposing coding for new law in Minnesota Statutes, chapters 125; and 356; repealing Minnesota Statutes 1994, sections 3A.10, subdivision 2; 352.021, subdivision 5; and 354A.27, subdivisions 2, 3, and 4; Laws 1971, chapter 127, section 1, as amended.

Mr. Morse moved to amend H.F. No. 1040, as amended pursuant to Rule 49, adopted by the Senate May 19, 1995, as follows:

(The text of the amended House File is identical to S.F. No. 806.)

Page 10, after line 11, insert:

"Sec. 12. Minnesota Statutes 1994, section 356.219, subdivision 2, is amended to read:

Subd. 2. [CONTENT AND TIMING OF REPORTS.] (a) The following information shall be included in the report required by subdivision 1:

(1) the market value of all investments at the close of the reporting period;

(2) regular payroll-based contributions to the fund;

(3) other contributions and revenue paid into the fund, including, but not limited to, state or local non-payroll-based contributions, repaid refunds, and buybacks;

(4) total benefits paid to members;

(5) fees paid for investment management services;

(6) salaries and other administrative expenses paid; and

(7) total return on investment.

The report must also include a written statement of the investment policy in effect on June 30, 1988, and any investment policy changes made subsequently and shall include the effective date of each policy change. The information required under this subdivision must be reported separately for each investment account or investment portfolio included in the pension fund.

(b) For public pension plans other than volunteer firefighters' relief associations governed by sections 69.77 or 69.771 to 69.775, the information specified in paragraph (a) must be provided separately for each quarter for the fiscal years of the pension fund ending during calendar years 1989 through 1991 and on a monthly basis thereafter. For volunteer firefighters' relief associations governed by sections 69.77 or 69.771 to 69.775, the information specified in paragraph (a) must be provided separately each quarter.

(c) Firefighters' relief associations that have assets with a market value of less than $300,000 must begin collecting the required information January 1, 1996, and must submit the required information to the state auditor on or before October 1, ~~1995~~ 1997, and subsequently within six months of the end of each fiscal year. Other associations must submit the required information through fiscal year 1993 to the state auditor on or before October 1, 1994, and subsequently within six months of the end of each fiscal year."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Stevens moved to amend H.F. No. 1040, as amended pursuant to Rule 49, adopted by the Senate May 19, 1995, as follows:

(The text of the amended House File is identical to S.F. No. 806.)

Page 20, line 25, strike "8.5" and insert "9"

Page 20, line 26, strike "4.5" and insert "5"

Page 20, line 29, strike "8" and insert "8.25"

Page 20, line 30, strike "4.5" and insert "4.75"

The motion prevailed. So the amendment was adopted.

Mr. Morse moved to amend H.F. No. 1040, as amended pursuant to Rule 49, adopted by the Senate May 19, 1995, as follows:

(The text of the amended House File is identical to S.F. No. 806.)

Pages 2 and 3, delete section 2 and insert:

"Sec. 2. [136F.45] [EMPLOYER-PAID HEALTH INSURANCE.]

(a) This section applies to a person who:

(1) retires from the state university system, the technical college system, or the community college system, or from a successor system employing state university, technical college, or community college faculty, with at least ten years of combined service credit in a system under the jurisdiction of the higher education board;

(2) was employed on a full-time basis immediately preceding retirement as a state university, technical college, or community college faculty member or as an unclassified administrator in one of those systems;

(3) begins drawing an annuity from the teachers retirement association or from a first class city teacher plan; and

(4) returns to work on not less than a one-third time basis and not more than a two-thirds time basis in the system from which the person retired under an agreement in which the person may not earn a salary of more than $35,000 in a calendar year from employment after retirement in the system from which the person retired.

(b) Initial participation, the amount of time worked, and the duration of participation under this section must be mutually agreed upon by the employer and the employee. The employer may require up to one-year notice of intent to participate in the program as a condition of participation under this section. The employer shall determine the time of year the employee shall work.

(c) For a person eligible under paragraphs (a) and (b), the employing board shall make the same employer contribution for hospital, medical, and dental benefits as would be made if the person were employed full time.

(d) For work under paragraph (a), a person must receive a percentage of the person's salary at the time of retirement that is equal to the percentage of time the person works compared to full-time work.

(e) If a collective bargaining agreement covering a person provides for an early retirement incentive that is based on age, the incentive provided to the person must be based on the person's age at the time employment under this section ends. However, the salary used to determine the amount of the incentive must be the salary that would have been paid if the person had been employed full time for the year immediately preceding the time employment under this section ends."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Pogemiller moved to amend H.F. No. 1040, as amended pursuant to Rule 49, adopted by the Senate May 19, 1995, as follows:

(The text of the amended House File is identical to S.F. No. 806.)

Page 40, after line 12, insert:

"ARTICLE 6

LOCAL PENSION PLAN MODIFICATIONS

Section 1. [EVELETH POLICE AND FIREFIGHTERS; BENEFIT INCREASE.]

Notwithstanding any general or special law to the contrary, in addition to the current pensions and other retirement benefits payable, the pensions and retirement benefits payable to retired police officers and firefighters and their surviving spouses by the Eveleth police and fire trust fund are increased by $100 a month. Increases are retroactive to January 1, 1995. If the city of Eveleth fails to contribute an amount required in a given year sufficient to amortize the unfunded actuarial accrued liability of the police and fire trust fund by December 31, 1998, the increases under this section in the following year are not payable.

Sec. 2. [DULUTH TEACHERS RETIREMENT FUND ASSOCIATION; SPECIAL SERVICE PURCHASE AUTHORIZATION FOR CERTAIN FORMER DULUTH TECHNICAL COLLEGE TEACHERS.]

(a) A retired member of the Duluth teachers retirement fund association who:

(1) was born on April 29, 1932;

(2) was initially employed by independent school district No. 709 on September 8, 1970;

(3) terminated employment as a teacher at the Duluth technical college on July 1, 1994;

(4) retired from the Duluth teachers retirement fund association effective on July 15, 1994; and

(5) did not receive certification of eligibility for an early separation incentive from the chancellor of the higher education board in a timely fashion, but did eventually receive the required certification on October 24, 1994;

may purchase two years of additional service credit from the Duluth teachers retirement fund association as provided in Laws 1994, chapter 572, section 3, subdivision 3, paragraph (e), clause (2), item (i), as though otherwise qualified, to have the person's retirement annuity from the Duluth teachers retirement fund association recomputed based on the additional service credit, and to have any medical insurance premiums that the person paid subsequent to retirement reimbursed by the Duluth technical college on the basis of the provisions of Laws 1994, chapter 572, section 3, subdivision 3, paragraph (e), clause (1).

(b) The purchase of additional service credit must be made before July 1, 1995.

(c) The recomputed retirement annuity must be based on any optional annuity form selected upon retirement and must be subject to the early retirement reduction imposed upon retirement. The recomputed annuity accrues as of the effective date of retirement and any omitted retirement annuity amounts from the date of retirement to the date of recomputation must be paid in a lump sum as soon as practicable following the recomputation and must include annual interest on the omitted amounts at the rate of six percent, expressed as a monthly rate, and compounded monthly.

(d) If the retired member seeks reimbursement for medical insurance premiums, the retired member must furnish the president of the Duluth technical college with reasonable verification of medical insurance coverage and of prior medical insurance premiums paid.

Sec. 3. [MINNEAPOLIS EMPLOYEES RETIREMENT FUND; TEMPORARY OPTION.]

Notwithstanding any law to the contrary, a retired member of the Minneapolis employees retirement fund who elected a joint and survivor optional annuity form at the time of retirement and who has a living designated optional annuity recipient may select a substitute joint and survivor option under which the retired member will receive a normal single-life annuity if the previously designated recipient dies before the retired member. This substitute optional annuity must be the actuarial equivalent of the joint and survivor annuity option amount in effect at the time this option substitution is selected, as determined by an actuary selected by the legislative commission on pensions and retirement. This option must be exercised before July 1, 1996, according to procedures specified by the board of the Minneapolis employees retirement fund.

Sec. 4. [WEST ST. PAUL POLICE CONSOLIDATION ACCOUNT; CERTAIN SURVIVING SPOUSE BENEFITS.]

(a) Notwithstanding Minnesota Statutes, section 353A.08, the surviving spouse of a person described in paragraph (b) is entitled to receive survivor benefits provided under paragraph (c).

(b) This section applies to the surviving spouse of a person who was:

(1) employed as a police chief by the city of West St. Paul;

(2) an active member of the West St. Paul police relief association on February 8, 1993, when the governing body of West St. Paul, in accordance with Minnesota Statutes, section 353A.04, subdivision 5, gave preliminary approval to the consolidation of the association with the public employees retirement association;

(3) whose intention, upon consolidation, to elect benefits provided under the relevant provisions of the public employees retirement association police and fire fund benefit plan was recognized by the governing body of West St. Paul in a resolution adopted March 16, 1994;

(4) who died in April 1993, before the governing body of West St. Paul, on August 23, 1993, gave final approval to the consolidation in accordance with Minnesota Statutes, section 353A.04, subdivision 8; and

(5) who was thus unable, before his death, to carry out his intent to elect public employees retirement association benefits under Minnesota Statutes, section 353A.08.

(c) As of the effective date of this section, benefits for the surviving spouse identified in paragraph (b) computed under provisions of the West St. Paul police relief association plan terminate and survivor benefits computed under relevant provisions of the public employees retirement association police and fire plan commence. The relevant provisions of the public employees retirement association police and fire plan are survivor benefits computed under section 353.657, assuming the deceased police officer was covered by that plan at the time of death. The benefit will include adjustments, if any, under section 353.271. Retroactive payment of benefits is not authorized.

Sec. 5. [EDEN PRAIRIE VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION SERVICE PENSIONS.]

Subdivision 1. [SERVICE PENSION VESTING REQUIREMENT.] (a) Notwithstanding any provision of Minnesota Statutes, section 424A.02, subdivision 2, to the contrary, if the bylaws of the relief association so provide, the Eden Prairie volunteer firefighters relief association may pay an unreduced service pension to a member of the association who has terminated active service as a firefighter in the Eden Prairie fire department, who has at least ten years of service as an active firefighter in good standing with the department and at least ten years of membership in good standing in the association, and who meets all other applicable eligibility requirements of the association for entitlement to a service pension.

(b) Notwithstanding any provision of Minnesota Statutes, section 424A.02, subdivision 2, to the contrary, if the bylaws of the association so provide, the association may pay a reduced service pension to a member of the association who has terminated active service as a firefighter in the department, who has at least five years of service but less than ten years of service as an active firefighter in good standing with the department and at least five years but less than ten years as a member in good standing in the association, and who meets all other applicable eligibility requirements of the association for entitlement to a service pension. The amount of the reduced service pension is the amount determined by multiplying the total service pension amount as specified in the articles of incorporation or bylaws of the association that is appropriate for the number of completed years of service to the credit of the retiring member by the applicable percentage, as follows:

Completed years of service	Applicable percentage
5	40 percent
6	52 percent
7	64 percent

8	76 percent
9	88 percent
10 and thereafter	100 percent.

Subd. 2. [POSTRETIREMENT SERVICE PENSION ADJUSTMENTS FOR DEFERRED RETIREES.] (a) A "deferred retiree" is a former Eden Prairie volunteer firefighter who has completed at least five years of service as a firefighter in good standing with the Eden Prairie volunteer fire department and five years as a member in good standing in the Eden Prairie volunteer firefighters relief association and has separated from active service as a firefighter before attaining the earliest age for immediate receipt of service pension from the association as provided in the articles of incorporation or the bylaws of the association.

(b) Notwithstanding any provision of Minnesota Statutes, section 424A.02 to the contrary, if the articles of incorporation or bylaws of the association so provide, and if the Eden Prairie city council approves the deferred service pension increase under Minnesota Statutes, sections 69.773, subdivision 6, and 424A.02, subdivision 10, a deferred retiree who has credit for at least 15 years of active service with the department and who has not elected to receive a lump sum service pension as an alternative to a monthly service pension, may receive the same postretirement increase in the amount of that deferred monthly service pension that is approved and is payable to an association service pension recipient under Minnesota Statutes, section 424A.02, subdivision 9a.

(c) A deferred retiree who has credit for less than 15 years of active service with the department is not eligible for a postretirement increase.

Sec. 6. [RETURNING ANNUITANT.]

(a) Notwithstanding any provision of Minnesota Statutes, section 353.37 to the contrary, an eligible person described in paragraph (b) will be treated as specified in paragraph (c).

(b) An eligible person is a person who:

(1) was born on December 9, 1936;

(2) terminated from the Carlton county human services department as a financial eligibility specialist and retired from the public employees retirement association on April 1, 1992; and

(3) returned to Carlton county employment as a financial worker.

(c) As of the effective date of this section, annuity payments from the public employees retirement association terminate for an eligible person described in paragraph (b). As of that date the person is considered to have elected a deferred annuity under Minnesota Statutes, section 353.34, subdivision 3, with deferred annuity payments to commence upon the termination of the person's present employment. During the person's present employment, the person is entitled to participation in the public employees unclassified plan, and the person and the county shall make the contributions required under Minnesota Statutes, section 353D.03, paragraph (a).

Sec. 7. [REPEALER.]

Minnesota Statutes 1994, section 423B.02, is repealed effective March 1, 1995.

Sec. 8. [EFFECTIVE DATE.]

(a) Section 1 is effective on approval by the Eveleth city council and compliance with Minnesota Statutes, section 645.021.

(b) Section 2 is effective on the day following approval by the board of education of independent school district No. 709 and compliance with Minnesota Statutes, section 645.021.

(c) Section 3 is effective on approval by the Minneapolis city council and compliance with Minnesota Statutes, section 645.021.

(d) Section 4 is effective on the day following approval by the governing body of the city of West St. Paul and compliance with Minnesota Statutes, section 645.021, subdivision 2.

(e) Section 5 is effective on the day following compliance with Minnesota Statutes, section 69.773, subdivision 6, approval by the Eden Prairie city council, and compliance with Minnesota Statutes, section 645.021, subdivision 3.

(f) Section 6 is effective on the day following approval by the Carlton county board and compliance with Minnesota Statutes, section 645.021.

ARTICLE 7

CRYSTAL-NEW HOPE VOLUNTEER FIREFIGHTER

RELIEF ASSOCIATION CONSOLIDATION

Section 1. [CONSOLIDATED CRYSTAL-NEW HOPE VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION; CREATION.]

Notwithstanding any provision of law to the contrary, if the cities of Crystal and New Hope enter into a joint powers agreement under Minnesota Statutes, section 471.59, to establish and operate a joint powers fire department, the Crystal volunteer firefighters relief association and the New Hope volunteer firefighters relief association shall consolidate into a single volunteer firefighters relief association. The consolidated volunteer firefighters relief association must be governed by sections 1 to 7 and the applicable provisions of Minnesota Statutes, chapters 69, 356, 356A, and 424A.

Sec. 2. [CONSOLIDATED VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION.]

Subdivision 1. [ESTABLISHMENT.] The consolidated volunteer firefighters relief association for the joint powers fire department serving the cities of Crystal and New Hope must be incorporated under Minnesota Statutes, chapter 317A. The incorporators of the consolidated relief association must include at least one board member of the Crystal volunteer firefighters relief association and at least one board member of the former New Hope volunteer firefighters relief association. The consolidated relief association must be incorporated within 90 days of the establishment of the joint powers fire department. The joint powers fire department is established on the date specified in the joint powers agreement.

Subd. 2. [GOVERNANCE OF CONSOLIDATED VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION.] (a) Notwithstanding Minnesota Statutes, section 424A.04, subdivision 1, the consolidated volunteer firefighters relief association is governed by a board of trustees consisting of nine members, as provided in the bylaws of the consolidated relief association, composed of:

(1) six firefighters in the joint fire department elected by the membership of the consolidated relief association; and

(2) three appointed members, including the fire chief of the joint fire department, one member appointed by the city council of the city of New Hope, and one member appointed by the city council of the city of Crystal.

(b) The board must have three officers, including a president, a secretary, and a treasurer. The membership of the consolidated volunteer firefighters relief association must elect the three officers from the nine board members. A board of trustees member may not hold more than one officer position at the same time.

(c) The board of trustees must administer the affairs of the relief association consistent with sections 1 to 7 and the applicable provisions of Minnesota Statutes, chapters 69, 356A, and 424A.

Subd. 3. [SPECIAL AND GENERAL FUNDS.] (a) The consolidated volunteer firefighters relief association must establish and maintain a special fund and may establish and maintain a general fund.

(b) The special fund must be established and maintained as provided in Minnesota Statutes, section 424A.05.

(c) The general fund must be established and maintained as provided in Minnesota Statutes, section 424A.06.

Sec. 3. [CONSOLIDATION OF FORMER RELIEF ASSOCIATIONS.]

Subdivision 1. [EFFECTIVE DATE OF CONSOLIDATION.] On the first business day occurring 30 days after the establishment of the consolidated volunteer firefighters relief association under section 2, which is the effective date of consolidation, the administration, records, assets, and liabilities of the prior Crystal volunteer firefighters relief association and of the prior New Hope volunteer firefighters relief association transfer to the consolidated volunteer firefighters relief association and the Crystal volunteer firefighters relief association and the New Hope volunteer firefighters relief association cease to exist as legal entities.

Subd. 2. [TRANSFER OF ADMINISTRATION.] On the effective date of consolidation, the administration of the prior relief associations is transferred to the board of trustees of the consolidated volunteer firefighters relief association.

Subd. 3. [TRANSFER OF RECORDS.] On the effective date of consolidation, the secretary and the treasurer of the Crystal volunteer firefighters relief association and the secretary and the treasurer of the New Hope volunteer firefighters relief association shall transfer all records and documents relating to the prior relief associations to the secretary and the treasurer of the consolidated volunteer firefighters relief association.

Subd. 4. [TRANSFER OF SPECIAL FUND ASSETS AND LIABILITIES.] (a) On the effective date of consolidation, the secretary and the treasurer of the Crystal volunteer firefighters relief association and the secretary and the treasurer of the New Hope volunteer firefighters relief association shall cause to occur the transfer of the assets of the special fund of the applicable relief association to the special fund of the consolidated relief association. Unless the applicable secretary and treasurer decide otherwise, the assets may be transferred as investment securities rather than as cash. The transfer must include any accounts receivable. The applicable secretary shall settle any accounts payable from the special fund of the relief association before the effective date of consolidation.

(b) Upon the transfer of the assets of the special fund of a prior relief association, the pension liabilities of that special fund become the obligation of the special fund of the consolidated volunteer firefighters relief association.

(c) Upon the transfer of the prior relief association special fund assets, the board of trustees of the consolidated volunteer firefighters relief association has legal title to and management responsibility for the transferred assets as trustees for persons having a beneficial interest in those assets arising out of the benefit coverage provided by the prior relief association.

(d) The consolidated volunteer firefighters relief association is the successor in interest for all claims for and against the special funds of the prior Crystal volunteer firefighters relief association and the prior New Hope volunteer firefighters relief association, or the cities of Crystal and New Hope with respect to the special funds of the prior relief associations. The status of successor in interest does not apply to any claim against a prior relief association, the city in which that relief association is located, or any person connected with the prior relief association or the city, based on any act or acts that were not done in good faith and that constituted a breach of fiduciary responsibility under common law or Minnesota Statutes, chapter 356A.

Subd. 5. [DISSOLUTION OF PRIOR GENERAL FUND BALANCES.] Before the effective date of consolidation, the secretary of the Crystal volunteer firefighters relief association and the secretary of the New Hope volunteer firefighters relief association shall settle any accounts payable from the respective general fund or any other relief association fund in addition to the relief association special fund. Any investments held by a fund of the prior relief associations in addition to the special fund must be liquidated before the effective date of consolidation as the bylaws of the relief association provide. Before consolidation, the respective relief associations shall pay all applicable general fund expenses from their respective general funds and any balance remaining in the general fund or in a fund other than the relief association special fund as of the effective date of consolidation must be paid to the new general fund of the consolidated volunteer relief association.

Subd. 6. [TERMINATION OF PRIOR RELIEF ASSOCIATIONS.] Following the transfer of administration, records, special fund assets, and special fund liabilities from the prior relief

associations to the consolidated volunteer firefighters relief association, the Crystal volunteer firefighters relief association and the New Hope volunteer firefighters relief association cease to exist as legal entities. The city manager of the city of Crystal and the city manager of the city of New Hope must notify the following government officials of the termination of the respective relief associations and of the establishment of the consolidated volunteer firefighters relief association:

(1) Minnesota secretary of state;

(2) Minnesota state auditor;

(3) Minnesota commissioner of revenue; and

(4) commissioner of the federal Internal Revenue Service.

Sec. 4. [EFFECT ON PREVIOUS BENEFIT PLAN COVERAGE.]

Subdivision 1. [BENEFIT COVERAGE FOR CURRENT RETIRED MEMBERS.] (a) A person who is receiving a monthly service pension, a monthly disability benefit, or a monthly survivorship benefit from the Crystal volunteer firefighters relief association or from the New Hope volunteer firefighters relief association on the effective date of consolidation is entitled to a continuation of that pension or benefit, including any death benefit or monthly survivorship benefit provided for in the benefit plan document of the applicable prior relief association in effect on the day before the effective date of the consolidation, from the consolidated volunteer firefighters relief association. Unless paragraph (b) applies, the amount of the pension or benefit payable after the effective date of consolidation must be identical to the amount payable before the effective date of consolidation. The pension or benefit payable after the effective date of consolidation is subject to the same terms, conditions, and qualifications as were in effect before the effective date of consolidation.

(b) If the board of trustees of the consolidated volunteer firefighters relief association establishes the option, a pension or benefit recipient to whom paragraph (a) applies is entitled to elect an alternative pension or benefit amount as offered by the relief association board. To provide this alternative pension or benefit, the relief association board may arrange for a lump-sum payment or the purchase of an annuity contract for the pension or benefit recipient in place of a direct payment from the relief association to the person. The annuity contract may be purchased only from an insurance company that is licensed to do business in this state, regularly undertakes life insurance and annuity business, and is rated by a recognized national rating agency or organization as being among the top 25 percent of all insurance companies undertaking life insurance and annuity business. The alternative pension or benefit payable monthly may be in an amount greater than the pension or benefit payable before the effective date of consolidation, but may not exceed the maximum service pension or benefit payable under Minnesota Statutes, chapter 424A. In electing the alternative pension or benefit payable under an annuity contract from a qualified insurance company, the affected person must waive in writing the person's eligibility and entitlement to any direct future pension or benefit payments from the consolidated volunteer firefighters relief association.

Subd. 2. [BENEFIT COVERAGE FOR CURRENT DEFERRED MEMBERS.] (a) A person who is not an active member of the Crystal volunteer firefighters relief association or an active member of the New Hope volunteer firefighters relief association but who has sufficient service credit with one of the relief associations to be entitled to a future service pension from the appropriate relief association remains entitled to the receipt of that service pension, upon application, when the person attains at least the minimum age for receipt of a service pension unless the person elects an alternative service pension under paragraph (b). A deferred member may transfer the member's current service pension to a member's individual account established under subdivision 3, paragraph (c), subject to the same conditions of individual accounts for active members, and remain entitled to receipt of a service pension when the member reaches the normal retirement age.

(b) If the board of trustees of the consolidated volunteer firefighters relief association establishes the option for benefit recipients under subdivision 1, the deferred service pensioner described in paragraph (a) may elect the same alternative service pension as established under

subdivision 1, paragraph (b), except that the deferred service pensioner may not receive the alternative service pension at an age younger than the normal retirement age in effect for the prior applicable relief association.

Subd. 3. [BENEFIT COVERAGE FOR NEW FIREFIGHTERS AND CURRENT VESTED AND NONVESTED ACTIVE MEMBERS.] (a) The benefit coverage for persons who become firefighters for the joint fire department for the first time after the effective date of consolidation and for persons who are active members of the consolidated volunteer firefighters relief association as of the effective date of consolidation is a defined contribution plan governed under this subdivision and Minnesota Statutes, section 424A.02, subdivision 4.

(b) For an active member of the consolidated volunteer firefighters relief association as of the effective date of consolidation, that member's prior service as a firefighter in the prior Crystal fire department or the prior New Hope fire department must be converted into a dollar accumulation by multiplying each full year of prior service as a firefighter in the prior fire department of Crystal or the prior fire department of New Hope by not less than $3,000. A member's prior service of a partial year will be converted into a dollar accumulation by prorating the full year of prior service yearly amount by the number of months served in the partial year. The total calculated dollar accumulation must be credited to the member's individual account established under paragraph (c).

(c) For each active member of the consolidated volunteer firefighters relief association covered by the defined contribution plan, an individual account must be established, as provided in Minnesota Statutes, section 424A.02, subdivision 4, with an initial balance based on the conversion accumulation determined under paragraph (b), if applicable. Notwithstanding Minnesota Statutes, section 424A.02, subdivision 4, the amount of fire state aid and the amount of regular municipal contributions must be credited to individual active firefighter accounts as specified in section 6, subdivision 4.

Sec. 5. [ACTUARIAL VALUATIONS REQUIRED.]

(a) Unless all benefit recipients and deferred service pensioners elect alternative pensions or benefits under section 4, subdivisions 1, paragraph (b); and 2, paragraph (b), a special actuarial valuation of the consolidated volunteer firefighters relief association must be prepared as soon as practicable following the benefit selection under section 4, subdivision 1. The actuarial valuation must be prepared under the applicable provisions of Minnesota Statutes, sections 356.215 and 356.216.

(b) Subsequent actuarial valuations must be prepared as required under Minnesota Statutes, section 69.773, subdivisions 2 and 3, if any person is entitled or is reasonably anticipated to be entitled to a direct future monthly benefit from the consolidated relief association.

Sec. 6. [ANNUAL RELIEF ASSOCIATION FUNDING.]

Subdivision 1. [SOURCES.] In addition to investment income earned by the special fund, the sources of the annual funding of the consolidated volunteer firefighters relief association are the fire state aid received by the city of Crystal, the fire state aid received by the city of New Hope, the regular municipal contribution from the city of Crystal, and the regular municipal contribution from the city of New Hope.

Subd. 2. [FIRE STATE AID.] The fire state aid received by the city of Crystal and the fire state aid received by the city of New Hope must be deposited in the special fund of the consolidated volunteer firefighters relief association, for allocation as provided in subdivision 4.

Subd. 3. [REGULAR MUNICIPAL CONTRIBUTION.] (a) Annually, as part of the municipal budget setting process, the city council of the city of Crystal and the city council of the city of New Hope must jointly establish the amount of the regular municipal contribution by each city to the consolidated volunteer firefighters relief association.

(b) The regular municipal contribution in total must be at least equal to (1) the amount of the fire state aid received by the city of Crystal and the fire state aid received by the city of New Hope, plus (2) whatever additional amount is needed to equal the sum determined by multiplying

$1,811 by the total of the number of active firefighters who are members of the consolidated volunteer firefighters relief association.

(c) The established amount for each city must be included in the budget of the respective city, and, if not payable from a municipal revenue source other than the city's property tax levy or fire state aid, must be included in the property tax levy of the respective city. The regular municipal contribution must be allocated in the manner specified in subdivision 4.

(d) If a direct service pension or entitlement is payable under section 4, subdivision 1, paragraph (a); or subdivision 2, paragraph (a), to a retiree or deferred retiree, the applicable city remains responsible for any amount of service pension that is payable beyond the relief association assets allocated for the retiree or deferred retiree. Following any actuarial valuation of the consolidated relief association, if there is a net mortality loss attributable to the applicable city, the city shall make a contribution in addition to the regular municipal contribution under paragraphs (a) to (c) equal to the amount of that net mortality loss. The municipal contribution under this paragraph is payable on or before the last business day of the month next following the completion of the actuarial valuation.

Subd. 4. [ALLOCATION OF FUNDING AMOUNTS.] (a) The annual fire state aid and the regular municipal contribution, after deduction for payment of administrative expenses as specified in subdivision 5, must be allocated to individual active firefighter accounts based on the level of firefighting services rendered by the individual active firefighter as stated in the bylaws of the consolidated volunteer firefighters relief association.

(b) Investment income earned by the special fund of the consolidated relief association must be allocated to each individual account based on the proportion of the total assets of the special fund represented by the account.

Subd. 5. [PAYMENT OF RELIEF ASSOCIATION ADMINISTRATIVE EXPENSES.] (a) The payment of authorized administrative expenses of the consolidated volunteer firefighters relief association shall be from the special fund of the relief association according to Minnesota Statutes, section 69.80, and as provided for in the bylaws of the consolidated relief association and approved by the board of trustees of the consolidated relief association. The allocation of these administrative expenses to the individual member accounts must occur as provided in the bylaws of the consolidated relief association.

(b) The payment of any other expenses of the consolidated relief association shall be from the general fund of the consolidated relief association according to Minnesota Statutes, section 69.80, and as provided for in the bylaws of the consolidated relief association and approved by the board of trustees of the consolidated relief association.

Sec. 7. [VALIDATION OF CURRENT BENEFIT PLANS AND PRIOR ACTIONS.]

Notwithstanding any provisions of Laws 1969, chapter 1088, as amended by Laws 1978, chapters 562, section 32, and 753; Laws 1979, chapter 201, section 44; or Laws 1981, chapter 224, section 250; or Laws 1971, chapter 114, as amended by Laws 1979, chapters 97, and 201, sections 27 and 44; and Laws 1981, chapter 224, section 254, the benefit plans of the Crystal volunteer firefighters relief association and of the New Hope volunteer firefighters relief association as reflected in each relief association's articles of incorporation and bylaws as of December 15, 1993, are hereby ratified and validated. Any acts previously taken by the Crystal volunteer firefighters relief association and by the New Hope volunteer firefighters relief association with those ratified articles of incorporation and bylaws are also ratified and validated.

Sec. 8. [REPEALER OF PRIOR SPECIAL LAWS.]

Laws 1969, chapter 1088; Laws 1971, chapter 114; Laws 1978, chapters 562, section 32, and 753; Laws 1979, chapters 97, and 201, section 27; and Laws 1981, chapter 224, sections 250 and 254, are repealed.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 7 are effective on the day following final approval by the city council of the city of Crystal and by the city council of the city of New Hope and compliance with Minnesota

Statutes, section 645.021, subdivision 3. Section 8 is effective on the effective date of consolidation of the Crystal volunteer firefighters relief association and the New Hope volunteer firefighters relief association."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1040 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 42 and nays 12, as follows:

Those who voted in the affirmative were:

Beckman	Hottinger	Krentz	Neuville	Scheevel
Bertram	Janezich	Laidig	Novak	Solon
Betzold	Johnson, D.E.	Larson	Olson	Spear
Chandler	Johnson, D.J.	Lesewski	Ourada	Stevens
Cohen	Johnson, J.B.	Limmer	Pariseau	Terwilliger
Day	Kelly	Metzen	Pogemiller	Wiener
Finn	Kleis	Moe, R.D.	Reichgott Junge	
Frederickson	Knutson	Morse	Riveness	
Hanson	Kramer	Murphy	Samuelson	

Those who voted in the negative were:

Anderson	Kroening	Oliver	Piper	Robertson
Berglin	Marty	Pappas	Ranum	Runbeck
Kiscaden	Merriam			

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1207, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1207 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 19, 1995

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1207

A bill for an act relating to traffic regulations; increasing maximum length of certain combinations of vehicles from 65 to 70 feet; amending Minnesota Statutes 1994, section 169.81, subdivision 3.

May 17, 1995

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 1207, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 1207 be further amended as follows:

Page 1, line 13, delete "70" and insert "75"

Page 3, after line 28, insert:

"Sec. 2. Minnesota Statutes 1994, section 169.81, subdivision 3c, is amended to read:

Subd. 3c. [RECREATIONAL VEHICLE COMBINATIONS.] Notwithstanding subdivision 3, a recreational vehicle combination may be operated without a permit if:

(1) the combination does not consist of more than three vehicles, and the towing rating of the pickup truck is equal to or greater than the total weight of all vehicles being towed;

(2) the combination does not exceed 60 feet in length;

(3) the camper-semitrailer in the combination does not exceed ~~26~~ 28 feet in length until August 1, 1997, and 26 feet thereafter;

(4) the operator of the combination is at least 18 years of age;

(5) the trailer carrying a watercraft meets all requirements of law;

(6) the trailers in the combination are connected to the pickup truck and each other in conformity with section 169.82; and

(7) the combination is not operated within the seven-county metropolitan area, as defined in section 473.121, subdivision 2, during the hours of 6:00 a.m. to 9:00 a.m. and 4:00 p.m. to 7:00 p.m. on Mondays through Fridays.

Sec. 3. [EFFECTIVE DATE.]

Section 2 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to traffic regulations; increasing maximum length allowed for operation of certain combinations of vehicles; amending Minnesota Statutes 1994, section 169.81, subdivisions 3 and 3c."

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

House Conferees: (Signed) Ted Winter, Leslie Schumacher, Roxann Daggett

Senate Conferees: (Signed) Steve L. Murphy, Jim Vickerman, Arlene J. Lesewski

Mr. Murphy moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1207 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1207 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 43 and nays 7, as follows:

Those who voted in the affirmative were:

Anderson	Berglin	Chandler	Day	Hanson
Beckman	Bertram	Cohen	Frederickson	Janezich

Johnson, D.E.	Laidig	Moe, R.D.	Pariseau	Samuelson
Kiscaden	Larson	Morse	Piper	Scheevel
Kleis	Lesewski	Murphy	Ranum	Solon
Knutson	Lessard	Neuville	Reichgott Junge	Terwilliger
Kramer	Limmer	Oliver	Riveness	Wiener
Krentz	Marty	Olson	Robertson	
Kroening	Metzen	Ourada	Runbeck	

Those who voted in the negative were:

Berg	Finn	Kelly	Merriam	Spear
Betzold	Johnson, J.B.			

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

MOTIONS AND RESOLUTIONS - CONTINUED

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Ms. Anderson moved that the following members be excused for a Conference Committee on H.F. No. 980 from 11:00 to 11:40 a.m.:

Mses. Anderson, Ranum and Mr. Limmer. The motion prevailed.

Mr. Berg moved that S.F. No. 868 be withdrawn from the Committee on Environment and Natural Resources and re-referred to the Committee on Agriculture and Rural Development. The motion prevailed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 2:45 p.m. The motion prevailed.

The hour of 2:45 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.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 642 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 642: 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 13.69, subdivision 1; 13.82, subdivision 1; 79.074, subdivision 2; 79.085; 79.211, subdivision 1; 79.251, subdivision 2, and by adding a subdivision; 79.253, by adding a subdivision; 79.34, subdivision 2; 79.35; 79.50; 79.51, subdivisions 1 and 3; 79.52, by adding subdivisions; 79.53, subdivision 1; 79.55, subdivisions 2, 5, and by adding subdivisions; 79.56, subdivisions 1 and 3; 79.60, subdivision 1; 79A.01, subdivisions 1, 4, and by adding a subdivision; 79A.02, subdivisions 1, 2, and 4; 79A.03, by adding a subdivision; 79A.04, subdivisions 2 and 9; 79A.09, subdivision 4; 79A.15; 168.012, subdivision 1; 175.16; 176.011, subdivisions 16 and 25; 176.021, subdivisions 3 and 3a; 176.061, subdivision 10; 176.081, subdivisions 1, 7, 7a, 9, and by adding a subdivision; 176.101, subdivisions 1, 2, 4, 5, 6, 8, and by

adding a subdivision; 176.102, subdivisions 3a and 11; 176.103, subdivisions 2 and 3; 176.104, subdivision 1; 176.105, subdivision 4; 176.106; 176.129, subdivisions 9 and 10; 176.130, subdivision 9; 176.135, subdivision 1; 176.1351, subdivisions 1 and 5; 176.136, subdivisions 1a, 1b, and 2; 176.138; 176.139, subdivision 2; 176.178; 176.179; 176.181, subdivisions 7 and 8; 176.182; 176.183, subdivisions 1 and 2; 176.185, subdivision 5a; 176.191, subdivisions 1, 5, 8, and by adding a subdivision; 176.194, subdivision 4; 176.215, by adding a subdivision; 176.221, subdivisions 1, 3, 3a, 6a, and 7; 176.225, subdivisions 1 and 5; 176.231, subdivision 10; 176.238, subdivisions 6 and 10; 176.261; 176.2615, subdivision 7; 176.275, subdivision 1; 176.281; 176.285; 176.291; 176.305, subdivision 1a; 176.645; 176.66, subdivision 11; 176.82; 176.83, subdivision 5; 176.84, subdivision 2; and 268.08, subdivision 3; Laws 1994, chapter 625, article 5, section 7; proposing coding for new law in Minnesota Statutes, chapters 79; 79A; 175; 176; and 182; repealing Minnesota Statutes 1994, sections 79.53, subdivision 2; 79.54; 79.56, subdivision 2; 79.57; 79.58; 175.007; 176.011, subdivision 26; 176.081, subdivisions 2, 5, 7, and 8; 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; 176.103, subdivisions 2 and 21; 176.132; 176.133; 176.191, subdivision 2; 176.232; and 176.86; Laws 1990, chapter 521, section 4.

Mr. Novak moved to amend H.F. No. 642, as amended pursuant to Rule 49, adopted by the Senate May 11, 1995, as follows:

(The text of the amended House File is identical to S.F. No. 1020.)

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 limit 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 or 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 iof 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. Minnesota Statutes 1994, section 79.251, is amended by adding a subdivision to read:

Subd. 2a. [SAFETY INCENTIVE.] (a) An insured with an annual plan premium of less than $3,000 must, in addition to any other adjustments, receive a credit or debit based on the number of lost time claims it had in the most recent three years for which data is available as follows:

0 lost time claims - 33 percent credit

1 lost time claim - no credit or debit

2 lost time claims - up to 15 percent debit

3 lost time claims - up to 33 percent debit

(b) An insured with an annual plan premium of more than $3,000 and experience rated must, in addition to any other adjustments, receive an additional adjustment based on its experience rating as follows:

Less than 1.00 experience rating - ten percent credit

1.00 to 1.10 experience rating - no credit or debit

Greater than 1.10 experience rating - up to ten percent debit

For the purpose of this subdivision, a lost time claim is a claim for which either temporary total, temporary partial, permanent partial, or permanent total benefits are paid.

Sec. 2. [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. 3. [EFFECTIVE DATE.]

Section 1 is effective September 1, 1995, and applies to all policies or contracts of coverage issued or renewed on or after that date.

Section 2 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 section 176.101 in the immediately preceding three calendar years. This section applies only to an employer that has a covered payroll of less than $500,000 in the policy year the credit is provided. For the purpose of this section, insurer does not include 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 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 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 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 division 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 businesses insured by the assigned risk plan 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 business means a business 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. [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.

An investigator of the fraud investigation unit of the department of labor and industry has the inspection authority of the commissioner provided under section 182.659 and may apply this authority to subjects of investigations under this subdivision.

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. [REPEALER.]

Minnesota Statutes 1994, section 176.86, is repealed.

Sec. 6. [EFFECTIVE DATE.]

Sections 1 to 5 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. [EXCESS SURPLUS; WORKERS' COMPENSATION REINSURANCE ASSOCIATION.]

The workers' compensation reinsurance association must, as soon as possible, amend its bylaws, contracts with members, and any other of its governing documents and agreements to implement Minnesota Statutes, section 79.361, governing the distribution of excess surplus of the association. The association must not make a declaration or distribution of excess surplus until it complies with this section. The association must make recommendations to the legislature by January 1, 1996, for any statutory changes necessary to effectuate the intent of Laws 1993, chapter 361.

Sec. 4. [EFFECTIVE DATE.]

Section 1 is effective January 1, 1996. Section 3 is effective the day following final enactment.

ARTICLE 7

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. For purposes of this subdivision equitable apportionment of liability includes all attempts to obtain contribution or reimbursement from other employers or insurers. 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 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~~ require submission of the dispute as to apportionment of liability among employers and insurers 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 is effective October 1, 1996, and applies to injuries occurring on and after that date.

ARTICLE 9

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 66-2/3 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) (1) 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.

(2) During the year commencing on October 1, 1995, the maximum weekly compensation payable is 106 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(3) During the year commencing on October 1, 1996, the maximum weekly compensation payable is 107 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(4) During the year commencing on October 1, 1997, the maximum weekly compensation payable is 108 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(5) During the year commencing on October 1, 1998, the maximum weekly compensation payable is 109 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(6) During the year commencing on October 1, 1999, and each year thereafter, the maximum weekly compensation payable is 110 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

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

(d) ~~Subject to subdivisions 3a to 3u~~ This 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.

(f) Temporary total compensation shall cease whenever any one of the following occurs:

(1) the employee returns to work;

(2) the employee withdraws from the labor market;

(3) the employee has been released to return to work with restrictions and fails to diligently search for appropriate work;

(4) the employee retires; or

(5) the employee refuses an offer of work that the employee can physically perform and that pays at least 85 percent of the employee's preinjury wage.

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.

~~(c)~~ (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 4, is amended to read:

Subd. 4. [PERMANENT TOTAL DISABILITY.] For permanent total disability, as defined in subdivision 5, the compensation shall be 66-2/3 percent of the daily wage at the time of the injury, subject to a maximum weekly compensation equal to the maximum weekly compensation for a temporary total disability and a minimum weekly compensation equal to the minimum weekly compensation for a temporary total disability. This compensation shall be paid during the permanent total disability of the injured employee but after a total of $25,000 of weekly compensation has been paid, the amount of the weekly compensation benefits being paid by the employer shall be reduced by the amount of any disability benefits being paid by any government disability benefit program if the disability benefits are occasioned by the same injury or injuries which give rise to payments under this subdivision. This reduction shall also apply to any old age and survivor insurance benefits. Payments shall be made at the intervals when the wage was payable, as nearly as may be. In case an employee who is permanently and totally disabled becomes an inmate of a public institution, no compensation shall be payable during the period of confinement in the institution, unless there is wholly dependent on the employee for support some person named in section 176.111, subdivision 1, 2 or 3, in which case the compensation provided for in section 176.111, during the period of confinement, shall be paid for the benefit of the dependent person during dependency. The dependency of this person shall be determined as though the employee were deceased.

Permanent total disability benefits shall cease at age 70 because the employee is presumed retired from the labor market. This presumption is rebuttable by the employee. The subjective statement of an employee that the employee is not retired is not sufficient in itself to rebut the presumptive evidence of retirement but may be considered along with other evidence.

Sec. 9. Minnesota Statutes 1994, section 176.101, subdivision 5, is amended to read:

Subd. 5. [DEFINITION.] (a) For purposes of subdivision 4, for injuries occurring on or after October 1, 1995, permanent total disability means only:

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

(2) any other injury which totally and permanently incapacitates the employee from working at an occupation which brings the employee an income, if the employee also meets the criteria of one of the following clauses:

(i) the employee has a permanent partial disability rating of at least 12 percent of the whole body;

(ii) the employee has been evaluated by the vocational rehabilitation unit of the division and it has been found by that unit that the employee would be unlikely to be able to secure anything more than sporadic employment resulting in an insubstantial income even after the employee had received all appropriate services under section 176.102; or

(iii) the employee has diligently searched for employment for a period of at least two years and has received all other appropriate services under section 176.102 and has been unable to secure anything more than sporadic employment resulting in an insubstantial income.

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

Sec. 10. 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. 11. 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. 12. 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.

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

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

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

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

Sec. 13. 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. 14. 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~~ the applicable percent as specified in paragraph (a) 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~~ the applicable percent as specified in paragraph (a) 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. 15. 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. 16. 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. 17. 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. 18. 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. 19. 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. 20. Minnesota Statutes 1994, section 176.645, subdivision 1, is amended to read:

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

injuries occurring on or after October 1, 1992, no adjustment increase made on or after October 1, 1992, under this section shall exceed four percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be four percent. For injuries occurring on or after October 1, 1995, no adjustment increase made on or after October 1, 1995, under this section shall exceed three percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be three percent.

Sec. 21. 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. 22. [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. 23. [EFFECTIVE DATE.]

Sections 1 to 11, 14, 16 to 18, and 20 to 22, are effective October 1, 1995, and apply to injuries occurring on or after that date. Sections 12, 13, 15, and 19, are effective July 1, 1995.

ARTICLE 10

MISCELLANEOUS

Section 1. [176.187] [RETURN TO WORK.]

An employer 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. 2. [REPEALER.]

Laws 1990, chapter 521, section 4, is repealed.

Sec. 3. [EFFECTIVE DATE.]

Section 2 is effective the day following final enactment.

ARTICLE 11

INSURANCE REGULATION

Section 1. [79.63] [DEFINITIONS.]

Subdivision 1. [TERMS.] Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of sections 79.63 to 79.87, shall have the meanings given them.

Subd. 2. [INSURER.] "Insurer" means the assigned risk plan and any insurance carrier authorized by license issued by the commissioner of insurance to transact the business of workers' compensation insurance in this state.

Subd. 3. [INSURANCE.] "Insurance" means workers' compensation insurance and insurance covering any part of the liability of an employer exempted from insuring liability for compensation, as provided in section 176.181.

Subd. 4. [COMMISSIONER.] "Commissioner" means the commissioner of commerce.

Subd. 5. [ASSOCIATION.] "Association" or "rating association" means the Minnesota workers' compensation insurers association.

Subd. 6. [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. 7. [SCHEDULE OF RATES.] "Schedule of rates" means the rate level applicable to the various industry groupings or classes, including the risk classifications thereunder upon which the determination of workers' compensation premiums are based, including, but not limited to, all systems for merit or experience rating, retrospective rating, and premium discounts.

Sec. 2. [79.64] [RATES; HEARINGS.]

Subdivision 1. [OPTIONAL HEARING.] The commissioner shall adopt a schedule of workers' compensation insurance rates for use in this state for each classification under which business is written. The schedule of rates shall not be excessive, inadequate, or unfairly discriminatory. In adopting a schedule of rates, the commissioner may act on the written petition of the association or any other interested party requesting that a hearing be held for modification of the schedule of rates.

Subd. 2. [LAW CHANGES; LOSS EXPERIENCE.] If the legislature enacts amendments to the workers' compensation laws that indicate a reduction in the schedule of rates, or the commissioner determines that the loss experience of Minnesota workers' compensation insurers indicates a change in the existing schedule of rates, the commissioner may order a change in the schedule of rates or order a hearing to determine whether and by what percentage the schedule of rates should be changed. A hearing held pursuant to this subdivision is not subject to the contested case proceeding requirements of this section or section 79.65, notwithstanding section 79.69.

Subd. 3. [HEARING PETITION.] The department of labor and industry, the association, or any other interested party may file a petition. Upon receipt of a petition requesting a hearing for modification of an existing schedule of rates, the commissioner shall determine whether the

petition sufficiently sets forth facts that show that the existing schedule of rates is excessive, inadequate, unfairly discriminatory, or otherwise in need of modification so as to indicate the need to hold a hearing. If the association is the petitioner, the commissioner may decline to grant a hearing if the association fails to provide information requested by previous orders modifying the schedule of rates, provided that the request was not unreasonable. The commissioner may accept or reject the petition for a hearing and shall give notice of the determination to the petitioning party within 30 days of receipt of the petition. If the commissioner rejects the petition, the commissioner shall notify the petitioning party of the reasons for the rejection.

Subd. 4. [CONTESTED CASE HEARING.] If the commissioner accepts the petition for hearing, the commissioner shall order a hearing on matters set forth in the petition requesting modification of the schedule of rates. The hearing shall be held pursuant to the contested case procedures set forth in sections 14.01 to 14.69. The burden of proof is on the petitioning party. An employer, person representing a group of employers, or other person that will be directly affected by a change in an insurer's existing rate level or rating plan, and the commissioner of labor and industry, must be allowed to intervene and participate in any hearing to challenge the rate level or rating plan as being excessive, inadequate, or unfairly discriminatory. The administrative law judge may admit documentary and statistical evidence accepted and relied upon by an expert whose field of expertise has relevance to workers' compensation rate matters, without the requirement of traditional evidentiary foundation. Within 30 days after the close of the hearing record, the judge shall transmit to the commissioner the entire record of the hearing, including the transcript, exhibits, and all other material properly accepted into evidence, together with the finding of facts, conclusions, and recommended order made by the administrative law judge. The time for filing the report may be extended by the chief administrative law judge for good cause.

Subd. 5. [COMMISSIONER'S DETERMINATION; POWERS; EVIDENCE.] The commissioner may accept, reject, or modify, in whole or in part, matters raised in the petition for modification of the schedule of rates or matters raised in the findings and recommendations of the administrative law judge. The commissioner's determination shall be based upon substantial evidence.

Subd. 6. [FINAL DETERMINATION.] The commissioner shall make a final determination with respect to adoption of a schedule of rates within 90 days after receipt of the administrative law judge's report. If the commissioner fails to act within the 90-day period, the findings, conclusions, and recommended order of the judge become the final order of the commissioner.

Subd. 7. [ACTUARY; EXPERTS.] The commissioner may hire a consulting actuary and other experts necessary to assist in the hearing for modification of the schedule of rates. The costs of conducting the hearing provided under subdivision 3, including the costs of hiring a consulting actuary and other experts, shall be assessed against the rating association and its members.

Subd. 8. [CONSULTANTS.] The office of administrative hearings, upon approval of the chief administrative law judge, may hire consultants necessary to assist the judge assigned to a rate proceeding.

Subd. 9. [RESERVES.] Any assumption as to reserves required due to the operation of section 176.645, shall, for the purposes of determining rates, be offset by an assumption that the amount initially reserved shall be invested and yield a return equal to the annual percentage increase in the statewide average weekly wage. With respect to other reserved amounts, the commissioner shall, in determining rates, cause those rates to fully reflect the investment earnings of insurers which arise from revenues derived from the sale of workers' compensation insurance, either by use of an appropriate discount rate in determining the reserves necessary for all claims, or by the use of an alternative methodology which the commissioner finds is more appropriate. Reserves must be adjusted to account for reimbursements from the special compensation fund. Insurers shall provide the commissioner with any information the commissioner deems necessary to arrive at the determination required by this subdivision.

Subd. 10. [PROHIBITED RESERVES.] In no case shall more than one insurer reserve amounts in anticipation of losses on a single claim, nor shall an insurer reserve amounts in anticipation of losses which are the responsibility of the reinsurance association.

Subd. 11. [EXPERIENCE RATING MODIFICATION.] A modification by an insurer or the

association of an experience rating plan, an experience rating plan formula, or an experience rating factor is not effective unless approved by the commissioner of insurance.

Sec. 3. [79.65] [PETITION FOR REHEARING.]

Subdivision 1. [WHEN SERVED.] An interested party may petition the commissioner for rehearing and reconsideration of a determination made pursuant to section 79.64. The petition for rehearing and reconsideration shall be served upon the commissioner and all parties to the rate hearing within 30 days after service of the commissioner's final order. The petition shall set forth factual grounds in support of the petition. An interested party adversely affected by a petition for review and reconsideration shall be afforded 15 days to respond to factual matters alleged in the petition.

Subd. 2. [REHEARING DISCRETIONARY.] The commissioner may grant a rehearing upon the filing of a petition. Upon rehearing, the commissioner may limit the scope of factual matters that are subject to rehearing and reconsideration. The rehearing is subject to section 79.64.

Subd. 3. [GROUNDS FOR MODIFICATION.] Following a rehearing, the commissioner may modify the terms of the initial order adopting a change in the schedule of rates upon a determination that adequate factual grounds exist to support modification. Adequate factual grounds shall include, but need not be limited to, erroneous testimony by any witness or party to the hearing, material change in Minnesota loss or expense data occurring after a petition for modification of the schedule of rates has been filed, or any other mistake of fact that has a substantial effect upon the schedule of rates adopted in the initial order of the commissioner.

Sec. 4. [79.66] [JUDICIAL REVIEW.]

Final orders of the commissioner pursuant to sections 79.64 and 79.65 are subject to judicial review pursuant to sections 14.63 to 14.69 but shall remain in effect during the pendency of any appeal.

Sec. 5. [79.67] [DISCRIMINATION; EXCESSIVENESS.]

Subdivision 1. [RATES.] A rate, rating plan, or schedule of rates is unfairly discriminatory in relation to another if it clearly fails to reflect equitably the differences in expected losses, expenses, and the degree of risk. Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates reflect the differences with reasonable accuracy.

Subd. 2. [DIVIDENDS.] Dividend plans are not unfairly discriminatory where different premiums result for different policyholders with similar loss exposures but different expense factors, or where different premiums result for different policyholders with similar expense factors but different loss exposures, so long as the respective premiums reflect the differences with reasonable accuracy. Every insurer that issues participating policies shall file with the commissioner a true copy or summary as the commissioner shall direct of its participating dividend rates as to policyholders.

Subd. 3. [EXCESSIVENESS.] Rates, rating plans, or schedules of rates are not excessive if the expected underwriting profit, together with expected income from invested reserves for the market in question, that would accrue to an insurer would be reasonable in relation to the risk undertaken by the insurer in transacting the business or if expenses are reasonable in relation to the services rendered.

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

Sec. 6. [79.68] [AUTOMATIC ADJUSTMENT OF RATES.]

The commissioner shall, by rule, establish a formula by which a schedule of rates may be automatically adjusted to reflect benefit changes that have been mandated by operation of law subsequent to the most recent change in the statewide schedule of rates. This adjustment shall also

reflect the annual change in the maximum weekly compensation made pursuant to section 176.101, any adjustment in the assessment for the assigned risk plan under section 79.251, subdivision 5, any adjustment in the assessment for the Minnesota insurance guarantee association under section 60C.05, an adjustment in the assessment rate for the financing of the special compensation fund, the annual adjustment made pursuant to section 176.645, or any other assessment required by law. Any automatic adjustment made pursuant to this subdivision is effective on October 1 or as soon thereafter as possible and is not subject to sections 14.01 to 14.69.

At each rate hearing held pursuant to section 79.64 or rehearing pursuant to section 79.65, following an automatic adjustment, the commissioner shall review the rate adjustment to assure that the schedule of rates adopted subsequent to the adjustment are not excessive, inadequate, or unfairly discriminatory. If the commissioner finds that the schedule of rates adopted subsequent to the adjustment are excessive, inadequate, or unfairly discriminatory, the commissioner shall order appropriate remedial action.

Sec. 7. [79.69] [RATE REVISION ORDER; EFFECT.]

Subdivision 1. [WHEN APPLICABLE.] Following adoption of a revised schedule of rates pursuant to section 79.64 or 79.65, the revised rates apply to new and renewal policies issued after the effective date of the commissioner's final order.

Subd. 2. [MANUALS.] The revised schedule of rates apply to all insureds and prospective insureds pursuant to the provisions of the workers' compensation rating manual adopted by the association and approved by the commissioner. A manual in use on June 1, 1995, may remain in force until disapproved by the commissioner.

Sec. 8. [79.70] [COMMISSIONER MAY REQUIRE SURVEY.]

The commissioner may at any time require a survey and report by the association of any risk regarding which complaint may have been made. Approval of any rate or classification may be withdrawn by the commissioner upon ten days' notice to the parties interested.

Sec. 9. [79.71] [CLASSIFICATION OF WORKERS' COMPENSATION INSURANCE.]

No classification for compensation insurance purposes shall be effective until approved as correct by the commissioner. No rule or regulation with reference to compensation risks filed by any insurer, or by the association shall be effective until approved by the commissioner. No kind of insurance covering any part of the liability of an employer exempted from insuring liability for compensation, as provided in section 176.181, shall be effective in this state unless approved by the commissioner. If at any time reasonable doubt exists on the part of the commissioner as to the proper classification or rate for any risk, the risk may be bound for insurance subject to rate and classification to be established for it.

Sec. 10. [79.72] [APPOINTMENT OF ACTUARY.]

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

Sec. 11. [79.73] [REVIEW OF ACTS OF INSURERS.]

The commerce department staff may investigate on the request of any person or on its own initiative the acts of the rating association, an insurer, or an agent that are subject to sections 79.63 to 79.87, and may make findings and recommendations that the commissioner issue an order requiring compliance with those sections. The proposed findings and recommended order shall be served on all affected parties at the same time that the staff transmits its findings and recommendations to the commissioner. Any party adversely affected by the proposed findings and recommended order may request that a hearing be held concerning the issues raised therein within 15 days after service of the findings and recommended order. This hearing shall be conducted as a contested case pursuant to sections 14.01 to 14.69. If a hearing is not requested within the time

specified in this section, the proposed findings and recommended order may be adopted by the commissioner as a final order.

Sec. 12. [79.74] [INSURERS SHALL BE MEMBERS OF ASSOCIATION.]

Every insurer transacting the business of workers' compensation insurance in this state shall be a member of the association organized under sections 79.63 to 79.87, to be maintained in this state for the following purposes:

(1) to separate the industries of this state that are subject to workers' compensation insurance into proper classes for compensation insurance purposes; to make inspections of compensation risks and to apply the merit and experience rating system approved for use in this state; to establish charges and credits under the system and make reports showing all facts affecting these risks as the subject of compensation insurance; and for approving policies of compensation insurance as being written in conformity with classifications and rates previously promulgated by the association and approved by the commissioner; and

(2) to assist the commissioner and insurers in approving rates, determining hazards and other material facts in connection with compensation risks, and to assist in promoting safety in the industries.

Sec. 13. [79.75] [ORGANIZATION OF ASSOCIATION.]

The association shall adopt articles of association and bylaws for its government and for the government of its members. These articles and bylaws and all amendments must be filed with and approved by the commissioner and are not effective until filed and approved. The association must admit to membership any insurer authorized to transact workers' compensation insurance in this state. The charges and service of the association shall be fixed in the articles or bylaws and shall be equitable and nondiscriminatory as between members.

Sec. 14. [79.76] [EXPENSE; HOW PAID.]

Each member of the association shall pay an equitable and nondiscriminatory share of the cost of operating the association. If the members of the association cannot agree upon an apportionment of cost, any member may in writing petition the commissioner to establish a basis for apportioning the cost. If any member is aggrieved by an apportionment made by the association, it may in writing petition the commissioner for a review of the apportionment. The commissioner shall, upon not less than five days' notice to each member of the association hold a hearing on the petition at which all members are entitled to be present and be heard. The commissioner shall determine the matter and mail a copy of the decision to each member of the association. The decision of the commissioner is final and binding upon all members of the association.

Sec. 15. [79.77] [REPRESENTATION.]

Each class of insurers, stock companies, mutual companies, and interinsurers, which are members of the association shall be represented in the association management and on committees, as provided in the bylaws, but the nonstock and stock companies shall have equal representation on the governing or managing committee and on the rating committee of the association. One-half of the members of each committee shall be chosen by the nonstock companies and one-half by the stock companies. The commissioner of commerce shall appoint the member representing the assigned risk plan. Each member company shall be entitled to one vote. In case of a tie vote upon any committee, the commissioner shall cast the deciding vote.

Sec. 16. [79.78] [LICENSE; FEE.]

The association shall procure annually from the commissioner a license to carry on its business. The license year for the association is from March 1 to the last day of February succeeding. The association shall pay an annual license fee of $100 to be paid at the time of filing application for license. The commissioner shall prescribe blanks and make needed regulations governing the licensing of the association.

Sec. 17. [79.79] [ANNUAL STATEMENT.]

The association shall annually on or before March 1 file with the commissioner a report covering its activities for the preceding calendar year. The report shall cover its financial transactions and other matters connected with its operation as required by the commissioner. The commissioner shall prescribe the form of the report. The association is subject to supervision and examination by the commissioner or any examiner authorized by the commissioner. Examinations may be made as often as deemed expedient. The expense of an examination shall be paid by the association.

Sec. 18. [79.80] [ASSOCIATION SHALL MAKE CLASSIFICATION.]

The association shall, on behalf of its members, assign each compensation risk in this state to its proper classification. The determination as to the proper classification by the association is subject to the approval of the commissioner. The association shall, on behalf of its members, inspect and make a written survey of each risk to which the system of merit rating approved for use in this state is applicable. It shall, on behalf of all its members, file with the commissioner its classification of risks and keep on file at the office of the association the written surveys of all risks inspected by it. The survey shall show the location and description of all items producing charges and credits, if any, and other facts as are material in the writing of insurance. It shall file any subsequent proposed classification or later survey and all rules and regulations which may affect the writing of these risks. The association classification shall be binding upon all insurers. The commissioner and the association and its representatives shall give all information as to classifications, rates, surveys, and other facts collected and intended for the common use of insurers subject to sections 79.63 to 79.87 to all these insurers at the same time. A copy of the complete survey, with the approved classification and rates and the effective date, shall be furnished to the insurer of record as soon as approved. The approved classification and rates upon a specific risk shall be furnished upon request to any other insurer upon the payment of a reasonable charge for the service. Every insurer shall promptly file with the association a copy of each payroll audit, which shall be checked by the association for correctness of classification and rate. The commissioner may require the association to file with it any such copy and may verify any payroll audit by a reaudit of the books of the employer or in such other manner as may to it appear most expedient. Upon written complaint stating facts sufficient to warrant action by it, the commissioner shall verify any payroll audit reported to it.

Sec. 19. [79.81] [INFORMATION.]

(a) In addition to other information that the commissioner requests pursuant to section 79.64, the rating association shall file annually with the commissioner, the following information on its members Minnesota experience:

(1) reserves for incurred but not reported losses of its members;

(2) paid claims;

(3) adjustments on reserves for settlements;

(4) a schedule of claims in which its members have established a reserve in excess of $50,000;

(5) the income on invested reserves of its members;

(6) an itemized list of policies written at other than the filed rates;

(7) loss adjustment expenses;

(8) subrogation recoveries;

(9) administrative expenses; and

(10) commission expenses.

The filing of the information of Minnesota experience must be based on separate records containing only Minnesota information separately maintained by the association. The commissioner may request and the association must provide the separate records to the commissioner.

(b) Losses and reserves shall be reported separately as to medical and indemnity expenses.

The commissioner shall consider this information in an appropriate manner in adopting a schedule of rates and shall decline to grant a hearing on petition of the association pursuant to section 79.64 if the association fails to provide the information.

Sec. 20. [79.82] [RECORD; SHALL FURNISH INFORMATION.]

The association shall keep a careful record of its proceedings. It shall furnish, upon demand, to any employer upon whose workers' compensation risk a survey has been made, full information as to the survey, including the method of the computation and a detailed description and location of all items producing charges or credits. The association shall provide a procedure approved by the commissioner so that any member or any employer whose risk has been inspected by it may be heard, either in person or by a representative, before the governing or rating committee or other proper representatives with reference to any matter affecting the risk. An insurer or employer may appeal from a decision of the association to the commissioner. The association shall make rules governing appeals, which rules shall be filed with and approved by the commissioner. The association shall, upon request of the commissioner, file with the commissioner information it has concerning any matter connected with its activities.

Sec. 21. [79.83] [INSURERS SHALL NOT DISCRIMINATE.]

An insurer shall not make or charge any rate for workers' compensation insurance in this state which discriminates unfairly between risks or classes, or which discriminates unfairly between risks in the application of like charges and credits in the plan of merit or experience rating in use; and no insurer shall discriminate by granting to any employer insurance against other hazards at less than its regular rates for such insurance or otherwise.

Sec. 22. [79.84] [RATES SHALL BE FILED.]

Every insurer writing workers' compensation insurance in this state shall, except as otherwise ordered by the commissioner, file with the commissioner its rates for this insurance and all additions or changes. All rates so filed shall comply with the requirements of law and shall not be effective or used until approved by the commissioner. A rate which is filed and approved shall not be changed until the substituted rate has been filed for at least 15 days and has been approved by the commissioner.

Sec. 23. [79.85] [RATES TO BE UNIFORM; EXCEPTIONS.]

An insurer shall not write insurance at a rate that exceeds that approved as reasonable by the commissioner. An insurer may reduce or increase a rate by the application to individual risks of the system of merit or experience rating which has been approved by the commissioner. This reduction or increase shall be set forth in the policy. Upon written request an insurer shall furnish a written explanation to the insured of how and why the individual rate was adjusted by application of a system of merit or experience rating. This explanation shall be mailed to the insured within 30 days of the request. An insurer may write insurance at rates that are lower than the rates approved by the commissioner provided the rates are not unfairly discriminatory.

Sec. 24. [79.86] [POWERS OF COMMISSIONER.]

Subdivision 1. [REPORTS.] The commissioner shall require insurers to file reports as in the judgment of the commissioner, may be necessary for the purposes of sections 79.64 to 79.87. This filed information is available for the use of the commissioner. The commissioner shall require compensation insurers, or their agents, to file the necessary reports for the purposes of this chapter for use by the commissioner including but not limited to a supplemental report to the annual report required by licensed property casualty insurers under section 60A.13 that satisfies this section.

The supplemental report must include the following data for the previous year ending on the 31st day of December:

(1) direct premiums written;

(2) direct premiums earned;

(3) net investment income, including net realized capital gains and losses, using appropriate estimates where necessary;

(4) incurred claims, listed individually, together with the date each claim was incurred and the following:

(i) dollar amount of claims closed with payment, plus

(ii) reserves for reported claims at the end of the current year, minus

(iii) reserves for reported claims at the end of the previous year, plus

(iv) reserves for incurred but not reported claims at the end of the current year, minus

(v) reserves for incurred but not reported claims at the end of the previous year, plus

(vi) reserves for loss adjustment expense at the end of the current year, minus

(vii) reserves for loss adjustment expense at the end of the previous year;

(viii) actual incurred expenses allocated separately to loss adjustment, commissions, other acquisition costs, general office expenses, taxes, licenses and fees, and all other expenses;

(ix) net underwriting gain or loss; and

(x) net operation gain or loss, including net investment income.

The supplemental report is due by the first of May of each year. The initial report required by this section is due May 1, 1996.

Subd. 2. [RULES.] The commissioner may adopt rules to implement sections 79.64 to 79.87.

Sec. 25. [79.87] [VIOLATIONS; PENALTIES.]

Any insurer, rating association, agent, or other representative or employee of any insurer or rating association failing to comply with, or which is guilty of a violation of, any of the provisions of sections 79.63 to 79.87, or of any order or ruling of the commissioner made thereunder, shall be punished by a fine of not less than $100 nor more than $25,000. In addition, the license of any insurer, agent, or broker guilty of a violation may be revoked or suspended.

Sec. 26. [LEGISLATIVE INTENT.]

It is the intent of the legislature in enacting this article to reinstate with minor modifications the prior state workers' compensation insurance rate regulatory system that was repealed effective January 1, 1984. Judicial and administrative decisions regarding the prior law shall be deemed to be applicable to this article in the same manner as to the prior law unless in express conflict with a provision of this article.

Sec. 27. [PRIOR RATES.]

Subdivision 1. [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 until the initial schedule of rates has been approved by order of the commissioner.

Subd. 2. [FILING.] If a rate was not filed by an insurer before the effective date of this section, an insurer may file a rate for any classification for which a rate was not previously filed. The rate shall not be used until it is approved by the commissioner. The commissioner may approve a rate up to the rate level approved for use by the assigned risk plan for that rate class. The rates may remain in force until the commissioner has approved a schedule of rates under section 79.64. If the commissioner disapproves of any rate or rating plan pursuant to authority granted in this subdivision, the disapproval shall not be subject to chapter 14 and the decision shall be final.

Subd. 3. [APPROVAL.] Until the commissioner issues an order approving a schedule of rates under section 79.64, an insurer may not, through the use of any rating plan, charge a rate higher

than the rates applicable to the insurer under subdivision 1 or 2. This subdivision does not prohibit the use of approved experience rate plans or retrospective rating plans that have been adopted in the filed rates by insurers, the assigned risk plan, or a data service organization. This section does not prohibit the adjustment of a schedule of rates to reflect adjustments in the assessment rate for the special compensation fund, any adjustment in the assessment for the assigned risk plan pursuant to section 79.251, subdivision 5, any adjustment in the assessment for the Minnesota insurance guaranty association pursuant to section 60C.05, or any other assessment required by law.

Subd. 4. [INTERIM RATES.] Rates, schedules of rates, and rating plans filed after March 31, 1994, may not be used after the effective date of this article and the rates, schedules of rates, and rating plans in effect prior to April 1, 1995, are reinstated.

Subd. 5. [COMPLIANCE.] No insurer may avoid the application of this section by limiting or denying the use of credits or other adjustments to the rates that were available and used before April 1, 1995. The commissioner shall monitor the activities of insurers to ensure that the requirements of this section are satisfied.

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

Sec. 28. [REPEALER.]

Minnesota Statutes 1994, sections 79.01, subdivision 8; 79.095; 79.10; 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. 29. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 12

MINIMUM WAGE

Section 1. Minnesota Statutes 1994, section 177.24, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] (a) For purposes of this subdivision, the terms defined in this paragraph have the meanings given them.

(1) "Large employer" means an enterprise whose annual gross volume of sales made or business done is not less than ~~$362,500~~ $500,000 (exclusive of excise taxes at the retail level that are separately stated) and covered by the Minnesota fair labor standards act, sections 177.21 to 177.35.

(2) "Small employer" means an enterprise whose annual gross volume of sales made or business done is less than ~~$362,500~~ $500,000 (exclusive of excise taxes at the retail level that are separately stated) and covered by the Minnesota fair labor standards act, sections 177.21 to 177.35.

(b) Except as otherwise provided in sections 177.21 to 177.35, every large employer must pay each employee wages at a rate of at least $4.25 an hour beginning January 1, 1991, at least $4.50 an hour beginning October 1, 1995, at least $4.75 an hour to each employee who has worked 90 or more days for that employer after October 1, 1995, and at least $5 an hour to each employee who has worked 180 or more days for that employer after October 1, 1995. Every small employer must pay each employee at a rate of at least $4 an hour beginning January 1, 1991, at least $4.25 an hour beginning October 1, 1995, at least $4.50 an hour to each employee who has worked 90 or more days for that employer after October 1, 1995, and at least $4.75 an hour to each employee who has worked 180 or more days for that employer after October 1, 1995.

(c) A large employer must pay each employee at a rate of at least the minimum wage set by this section or federal law without the reduction for training wage or full-time student status allowed under federal law.

ARTICLE 13

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 14

APPROPRIATIONS

Section 1. [DEPARTMENT OF COMMERCE.]

Subdivision 1. [SPECIAL COMPENSATION FUND.] $926,000 for fiscal year 1996 and $961,000 for fiscal year 1997 are appropriated from the special compensation fund to the department of commerce for the purposes of workers' compensation rate regulation under article 11.

Subd. 2. [ASSIGNED RISK SAFETY ACCOUNT.] $300,000 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 article 3, section 5.

Sec. 2. [DEPARTMENT OF LABOR AND INDUSTRY.]

$151,000 in fiscal year 1996 and $136,000 in fiscal year 1997 are appropriated from the special compensation fund to the department of labor and industry for the purposes of this act.

Sec. 3. [OFFICE OF ATTORNEY GENERAL.]

$105,000 in fiscal year 1996 and $105,000 in fiscal year 1997 are appropriated from the special compensation fund to the office of attorney general for the purposes of this act.

Sec. 4. [UNIVERSITY OF MINNESOTA.]

$200,000 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 article 3, section 6."

Amend the title accordingly

CALL OF THE SENATE

Mr. Novak imposed a call of the Senate for the balance of the proceedings on H.F. No. 642. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 31 and nays 35, as follows:

Those who voted in the affirmative were:

Anderson	Flynn	Krentz	Novak	Samuelson
Berglin	Hanson	Kroening	Pappas	Solon
Betzold	Hottinger	Marty	Piper	Spear
Chandler	Janezich	Merriam	Pogemiller	
Chmielewski	Johnson, D.J.	Metzen	Ranum	
Cohen	Johnson, J.B.	Moe, R.D.	Reichgott Junge	
Finn	Kelly	Murphy	Riveness	

Those who voted in the negative were:

Beckman	Johnson, D.E.	Langseth	Neuville	Sams
Belanger	Johnston	Larson	Oliver	Scheevel
Berg	Kiscaden	Lesewski	Olson	Stevens
Bertram	Kleis	Lessard	Ourada	Stumpf
Day	Knutson	Limmer	Pariseau	Terwilliger
Dille	Kramer	Mondale	Robertson	Vickerman
Frederickson	Laidig	Morse	Runbeck	Wiener

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

Mr. Sams moved that the amendment made to H.F. No. 642 by the Committee on Rules and Administration in the report adopted May 11, 1995, pursuant to Rule 49, be stricken.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 35 and nays 31, as follows:

Those who voted in the affirmative were:

Beckman	Johnson, D.E.	Langseth	Neuville	Sams
Belanger	Johnston	Larson	Oliver	Scheevel
Berg	Kiscaden	Lesewski	Olson	Stevens
Bertram	Kleis	Lessard	Ourada	Stumpf
Day	Knutson	Limmer	Pariseau	Terwilliger
Dille	Kramer	Mondale	Robertson	Vickerman
Frederickson	Laidig	Morse	Runbeck	Wiener

Those who voted in the negative were:

Anderson	Flynn	Krentz	Novak	Samuelson
Berglin	Hanson	Kroening	Pappas	Solon
Betzold	Hottinger	Marty	Piper	Spear
Chandler	Janezich	Merriam	Pogemiller	
Chmielewski	Johnson, D.J.	Metzen	Ranum	
Cohen	Johnson, J.B.	Moe, R.D.	Reichgott Junge	
Finn	Kelly	Murphy	Riveness	

The motion prevailed. So the amendment was stricken.

Mr. Novak moved to amend H.F. No. 642 as follows:

Pages 25 and 26, delete section 28 and insert:

"Sec. 28. Minnesota Statutes 1994, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2 and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this

section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, of the year previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on or after October 1, 1977, ~~but prior to October 1, 1992,~~ under this section shall exceed six percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be six percent. For injuries occurring on or after October 1, 1992, no adjustment increase made on or after October 1, 1992, under this section shall exceed four percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be four percent. For injuries occurring on or after October 1, 1995, no adjustment increase made on or after October 1, 1995, under this section shall exceed three percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be three percent."

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 32 and nays 34, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Beckman	Johnson, D.E.	Langseth	Oliver	Scheevel
Belanger	Johnston	Larson	Olson	Stevens
Berg	Kiscaden	Lesewski	Ourada	Stumpf
Bertram	Kleis	Lessard	Pariseau	Terwilliger
Day	Knutson	Limmer	Robertson	Vickerman
Dille	Kramer	Morse	Runbeck	Wiener
Frederickson	Laidig	Neuville	Sams	

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

Mr. Finn moved to amend H.F. No. 642 as follows:

Pages 2 to 8, delete sections 1 to 11

Page 30, delete section 33

Page 30, line 21, delete "79.53, subdivision 2;"

Page 30, line 22, delete "79.54; 79.56, subdivision 2; 79.57; 79.58;"

Pages 40 to 42, delete sections 11 to 16

Page 132, line 17, delete "79.53, subdivision 2;"

Page 132, line 18, delete "79.54; 79.56, subdivision 2; 79.57; 79.58;"

Page 132, delete section 110

Page 133, after line 3, insert:

"ARTICLE 3

INSURANCE REGULATION

Section 1. [79.63] [DEFINITIONS.]

Subdivision 1. [TERMS.] Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of sections 79.63 to 79.87, shall have the meanings given them.

Subd. 2. [INSURER.] "Insurer" means the assigned risk plan and any insurance carrier authorized by license issued by the commissioner of insurance to transact the business of workers' compensation insurance in this state.

Subd. 3. [INSURANCE.] "Insurance" means workers' compensation insurance and insurance covering any part of the liability of an employer exempted from insuring liability for compensation, as provided in section 176.181.

Subd. 4. [COMMISSIONER.] "Commissioner" means the commissioner of commerce.

Subd. 5. [ASSOCIATION.] "Association" or "rating association" means the Minnesota workers' compensation insurers association.

Subd. 6. [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. 7. [SCHEDULE OF RATES.] "Schedule of rates" means the rate level applicable to the various industry groupings or classes, including the risk classifications thereunder upon which the determination of workers' compensation premiums are based, including, but not limited to, all systems for merit or experience rating, retrospective rating, and premium discounts.

Sec. 2. [79.64] [RATES; HEARINGS.]

Subdivision 1. [OPTIONAL HEARING.] The commissioner shall adopt a schedule of workers' compensation insurance rates for use in this state for each classification under which business is written. The schedule of rates shall not be excessive, inadequate, or unfairly discriminatory. In adopting a schedule of rates, the commissioner may act on the written petition of the association or any other interested party requesting that a hearing be held for modification of the schedule of rates.

Subd. 2. [LAW CHANGES; LOSS EXPERIENCE.] If the legislature enacts amendments to the workers' compensation laws that indicate a reduction in the schedule of rates, or the commissioner determines that the loss experience of Minnesota workers' compensation insurers indicates a change in the existing schedule of rates, the commissioner may order a change in the schedule of rates or order a hearing to determine whether and by what percentage the schedule of rates should be changed. A hearing held pursuant to this subdivision is not subject to the contested case proceeding requirements of this section or section 79.65, notwithstanding section 79.69.

Subd. 3. [HEARING PETITION.] The department of labor and industry, the association, or any other interested party may file a petition. Upon receipt of a petition requesting a hearing for modification of an existing schedule of rates, the commissioner shall determine whether the petition sufficiently sets forth facts that show that the existing schedule of rates is excessive, inadequate, unfairly discriminatory, or otherwise in need of modification so as to indicate the need to hold a hearing. If the association is the petitioner, the commissioner may decline to grant a hearing if the association fails to provide information requested by previous orders modifying the schedule of rates, provided that the request was not unreasonable. The commissioner may accept or reject the petition for a hearing and shall give notice of the determination to the petitioning party within 30 days of receipt of the petition. If the commissioner rejects the petition, the commissioner shall notify the petitioning party of the reasons for the rejection.

Subd. 4. [CONTESTED CASE HEARING.] If the commissioner accepts the petition for hearing, the commissioner shall order a hearing on matters set forth in the petition requesting

modification of the schedule of rates. The hearing shall be held pursuant to the contested case procedures set forth in sections 14.01 to 14.69. The burden of proof is on the petitioning party. An employer, person representing a group of employers, or other person that will be directly affected by a change in an insurer's existing rate level or rating plan, and the commissioner of labor and industry, must be allowed to intervene and participate in any hearing to challenge the rate level or rating plan as being excessive, inadequate, or unfairly discriminatory. The administrative law judge may admit documentary and statistical evidence accepted and relied upon by an expert whose field of expertise has relevance to workers' compensation rate matters, without the requirement of traditional evidentiary foundation. Within 30 days after the close of the hearing record, the judge shall transmit to the commissioner the entire record of the hearing, including the transcript, exhibits, and all other material properly accepted into evidence, together with the finding of facts, conclusions, and recommended order made by the administrative law judge. The time for filing the report may be extended by the chief administrative law judge for good cause.

Subd. 5. [COMMISSIONER'S DETERMINATION; POWERS; EVIDENCE.] The commissioner may accept, reject, or modify, in whole or in part, matters raised in the petition for modification of the schedule of rates or matters raised in the findings and recommendations of the administrative law judge. The commissioner's determination shall be based upon substantial evidence.

Subd. 6. [FINAL DETERMINATION.] The commissioner shall make a final determination with respect to adoption of a schedule of rates within 90 days after receipt of the administrative law judge's report. If the commissioner fails to act within the 90-day period, the findings, conclusions, and recommended order of the judge become the final order of the commissioner.

Subd. 7. [ACTUARY; EXPERTS.] The commissioner may hire a consulting actuary and other experts necessary to assist in the hearing for modification of the schedule of rates. The costs of conducting the hearing provided under subdivision 3, including the costs of hiring a consulting actuary and other experts, shall be assessed against the rating association and its members.

Subd. 8. [CONSULTANTS.] The office of administrative hearings, upon approval of the chief administrative law judge, may hire consultants necessary to assist the judge assigned to a rate proceeding.

Subd. 9. [RESERVES.] Any assumption as to reserves required due to the operation of section 176.645, shall, for the purposes of determining rates, be offset by an assumption that the amount initially reserved shall be invested and yield a return equal to the annual percentage increase in the statewide average weekly wage. With respect to other reserved amounts, the commissioner shall, in determining rates, cause those rates to fully reflect the investment earnings of insurers which arise from revenues derived from the sale of workers' compensation insurance, either by use of an appropriate discount rate in determining the reserves necessary for all claims, or by the use of an alternative methodology which the commissioner finds is more appropriate. Reserves must be adjusted to account for reimbursements from the special compensation fund. Insurers shall provide the commissioner with any information the commissioner deems necessary to arrive at the determination required by this subdivision.

Subd. 10. [PROHIBITED RESERVES.] In no case shall more than one insurer reserve amounts in anticipation of losses on a single claim, nor shall an insurer reserve amounts in anticipation of losses which are the responsibility of the reinsurance association.

Subd. 11. [EXPERIENCE RATING MODIFICATION.] A modification by an insurer or the association of an experience rating plan, an experience rating plan formula, or an experience rating factor is not effective unless approved by the commissioner of insurance.

Sec. 3. [79.65] [PETITION FOR REHEARING.]

Subdivision 1. [WHEN SERVED.] An interested party may petition the commissioner for rehearing and reconsideration of a determination made pursuant to section 79.64. The petition for rehearing and reconsideration shall be served upon the commissioner and all parties to the rate hearing within 30 days after service of the commissioner's final order. The petition shall set forth factual grounds in support of the petition. An interested party adversely affected by a petition for review and reconsideration shall be afforded 15 days to respond to factual matters alleged in the petition.

Subd. 2. [REHEARING DISCRETIONARY.] The commissioner may grant a rehearing upon the filing of a petition. Upon rehearing, the commissioner may limit the scope of factual matters that are subject to rehearing and reconsideration. The rehearing is subject to section 79.64.

Subd. 3. [GROUNDS FOR MODIFICATION.] Following a rehearing, the commissioner may modify the terms of the initial order adopting a change in the schedule of rates upon a determination that adequate factual grounds exist to support modification. Adequate factual grounds shall include, but need not be limited to, erroneous testimony by any witness or party to the hearing, material change in Minnesota loss or expense data occurring after a petition for modification of the schedule of rates has been filed, or any other mistake of fact that has a substantial effect upon the schedule of rates adopted in the initial order of the commissioner.

Sec. 4. [79.66] [JUDICIAL REVIEW.]

Final orders of the commissioner pursuant to sections 79.64 and 79.65 are subject to judicial review by writ of certiorari brought in the district court in Ramsey County by an interested party of record adversely affected by the order. The operation of the commissioner's order is not suspended during judicial review; provided that in the event of a judicial determination against the validity of the commissioner's order, the order under review and any subsequent order shall be modified so as to give effect to the court's ruling. For purposes of further judicial review, the commissioner is an aggrieved party to the extent that order is modified or set aside by the district court.

Sec. 5. [79.67] [DISCRIMINATION; EXCESSIVENESS.]

Subdivision 1. [RATES.] A rate, rating plan, or schedule of rates is unfairly discriminatory in relation to another if it clearly fails to reflect equitably the differences in expected losses, expenses, and the degree of risk. Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates reflect the differences with reasonable accuracy.

Subd. 2. [DIVIDENDS.] Dividend plans are not unfairly discriminatory where different premiums result for different policyholders with similar loss exposures but different expense factors, or where different premiums result for different policyholders with similar expense factors but different loss exposures, so long as the respective premiums reflect the differences with reasonable accuracy. Every insurer that issues participating policies shall file with the commissioner a true copy or summary as the commissioner shall direct of its participating dividend rates as to policyholders.

Subd. 3. [EXCESSIVENESS.] Rates, rating plans, or schedules of rates are not excessive if the expected underwriting profit, together with expected income from invested reserves for the market in question, that would accrue to an insurer would be reasonable in relation to the risk undertaken by the insurer in transacting the business or if expenses are reasonable in relation to the services rendered.

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

Sec. 6. [79.68] [AUTOMATIC ADJUSTMENT OF RATES.]

The commissioner shall, by rule, establish a formula by which a schedule of rates may be automatically adjusted to reflect benefit changes that have been mandated by operation of law subsequent to the most recent change in the statewide schedule of rates. This adjustment shall also reflect the annual change in the maximum weekly compensation made pursuant to section 176.101, any adjustment in the assessment for the assigned risk plan under section 79.251, subdivision 5, any adjustment in the assessement for the Minnesota insurance guarantee association under section 60C.05, an adjustment in the assessment rate for the financing of the special compensation fund, the annual adjustment made pursuant to section 176.645, or any other assessment required by law. Any automatic adjustment made pursuant to this subdivision is effective on October 1 or as soon thereafter as possible and is not subject to sections 14.01 to 14.69.

At each rate hearing held pursuant to section 79.64 or rehearing pursuant to section 79.65, following an automatic adjustment, the commissioner shall review the rate adjustment to assure that the schedule of rates adopted subsequent to the adjustment are not excessive, inadequate, or unfairly discriminatory. If the commissioner finds that the schedule of rates adopted subsequent to the adjustment are excessive, inadequate, or unfairly discriminatory, the commissioner shall order appropriate remedial action.

Sec. 7. [79.69] [RATE REVISION ORDER; EFFECT.]

Subdivision 1. [WHEN APPLICABLE.] Following adoption of a revised schedule of rates pursuant to section 79.64 or 79.65, the revised rates apply to new and renewal policies issued after the effective date of the commissioner's final order.

Subd. 2. [MANUALS.] The revised schedule of rates apply to all insureds and prospective insureds pursuant to the provisions of the workers' compensation rating manual adopted by the association and approved by the commissioner. A manual in use on June 1, 1995, may remain in force until disapproved by the commissioner.

Sec. 8. [79.70] [COMMISSIONER MAY REQUIRE SURVEY.]

The commissioner may at any time require a survey and report by the association of any risk regarding which complaint may have been made. Approval of any rate or classification may be withdrawn by the commissioner upon ten days' notice to the parties interested.

Sec. 9. [79.71] [CLASSIFICATION OF WORKERS' COMPENSATION INSURANCE.]

No classification for compensation insurance purposes shall be effective until approved as correct by the commissioner. No rule or regulation with reference to compensation risks filed by any insurer, or by the association shall be effective until approved by the commissioner. No kind of insurance covering any part of the liability of an employer exempted from insuring liability for compensation, as provided in section 176.181, shall be effective in this state unless approved by the commissioner. If at any time reasonable doubt exists on the part of the commissioner as to the proper classification or rate for any risk, the risk may be bound for insurance subject to rate and classification to be established for it.

Sec. 10. [79.72] [APPOINTMENT OF ACTUARY.]

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

Sec. 11. [79.73] [REVIEW OF ACTS OF INSURERS.]

The commerce department staff may investigate on the request of any person or on its own initiative the acts of the rating association, an insurer, or an agent that are subject to sections 79.63 to 79.87, and may make findings and recommendations that the commissioner issue an order requiring compliance with those sections. The proposed findings and recommended order shall be served on all affected parties at the same time that the staff transmits its findings and recommendations to the commissioner. Any party adversely affected by the proposed findings and recommended order may request that a hearing be held concerning the issues raised therein within 15 days after service of the findings and recommended order. This hearing shall be conducted as a contested case pursuant to sections 14.01 to 14.69. If a hearing is not requested within the time specified in this section, the proposed findings and recommended order may be adopted by the commissioner as a final order.

Sec. 12. [79.74] [INSURERS SHALL BE MEMBERS OF ASSOCIATION.]

Every insurer transacting the business of workers' compensation insurance in this state shall be a member of the association organized under sections 79.63 to 79.87, to be maintained in this state for the following purposes:

(1) to separate the industries of this state that are subject to workers' compensation insurance into proper classes for compensation insurance purposes; to make inspections of compensation risks and to apply the merit and experience rating system approved for use in this state; to establish charges and credits under the system and make reports showing all facts affecting these risks as the subject of compensation insurance; and for approving policies of compensation insurance as being written in conformity with classifications and rates previously promulgated by the association and approved by the commissioner; and

(2) to assist the commissioner and insurers in approving rates, determining hazards and other material facts in connection with compensation risks, and to assist in promoting safety in the industries.

Sec. 13. [79.75] [ORGANIZATION OF ASSOCIATION.]

The association shall adopt articles of association and bylaws for its government and for the government of its members. These articles and bylaws and all amendments must be filed with and approved by the commissioner and are not effective until filed and approved. The association must admit to membership any insurer authorized to transact workers' compensation insurance in this state. The charges and service of the association shall be fixed in the articles or bylaws and shall be equitable and nondiscriminatory as between members.

Sec. 14. [79.76] [EXPENSE; HOW PAID.]

Each member of the association shall pay an equitable and nondiscriminatory share of the cost of operating the association. If the members of the association cannot agree upon an apportionment of cost, any member may in writing petition the commissioner to establish a basis for apportioning the cost. If any member is aggrieved by an apportionment made by the association, it may in writing petition the commissioner for a review of the apportionment. The commissioner shall, upon not less than five days' notice to each member of the association hold a hearing on the petition at which all members are entitled to be present and be heard. The commissioner shall determine the matter and mail a copy of the decision to each member of the association. The decision of the commissioner is final and binding upon all members of the association.

Sec. 15. [79.77] [REPRESENTATION.]

Each class of insurers, stock companies, mutual companies, and interinsurers, which are members of the association shall be represented in the association management and on committees, as provided in the bylaws, but the nonstock and stock companies shall have equal representation on the governing or managing committee and on the rating committee of the association. One-half of the members of each committee shall be chosen by the nonstock companies and one-half by the stock companies. The commissioner of commerce shall appoint the member representing the assigned risk plan. Each member company shall be entitled to one vote. In case of a tie vote upon any committee, the commissioner shall cast the deciding vote.

Sec. 16. [79.78] [LICENSE; FEE.]

The association shall procure annually from the commissioner a license to carry on its business. The license year for the association is from March 1 to the last day of February succeeding. The association shall pay an annual license fee of $100 to be paid at the time of filing application for license. The commissioner shall prescribe blanks and make needed regulations governing the licensing of the association.

Sec. 17. [79.79] [ANNUAL STATEMENT.]

The association shall annually on or before March 1 file with the commissioner a report covering its activities for the preceding calendar year. The report shall cover its financial transactions and other matters connected with its operation as required by the commissioner. The commissioner shall prescribe the form of the report. The association is subject to supervision and examination by the commissioner or any examiner authorized by the commissioner. Examinations may be made as often as deemed expedient. The expense of an examination shall be paid by the association.

Sec. 18. [79.80] [ASSOCIATION SHALL MAKE CLASSIFICATION.]

The association shall, on behalf of its members, assign each compensation risk in this state to its proper classification. The determination as to the proper classification by the association is subject to the approval of the commissioner. The association shall, on behalf of its members, inspect and make a written survey of each risk to which the system of merit rating approved for use in this state is applicable. It shall, on behalf of all its members, file with the commissioner its classification of risks and keep on file at the office of the association the written surveys of all risks inspected by it. The survey shall show the location and description of all items producing charges and credits, if any, and other facts as are material in the writing of insurance. It shall file any subsequent proposed classification or later survey and all rules and regulations which may affect the writing of these risks. The association classification shall be binding upon all insurers. The commissioner and the association and its representatives shall give all information as to classifications, rates, surveys, and other facts collected and intended for the common use of insurers subject to sections 79.63 to 79.87 to all these insurers at the same time. A copy of the complete survey, with the approved classification and rates and the effective date, shall be furnished to the insurer of record as soon as approved. The approved classification and rates upon a specific risk shall be furnished upon request to any other insurer upon the payment of a reasonable charge for the service. Every insurer shall promptly file with the association a copy of each payroll audit, which shall be checked by the association for correctness of classification and rate. The commissioner may require the association to file with it any such copy and may verify any payroll audit by a reaudit of the books of the employer or in such other manner as may to it appear most expedient. Upon written complaint stating facts sufficient to warrant action by it, the commissioner shall verify any payroll audit reported to it.

Sec. 19. [79.81] [INFORMATION.]

(a) In addition to other information that the commissioner requests pursuant to section 79.64, the rating association shall file annually with the commissioner, the following information on its members Minnesota experience:

(1) reserves for incurred but not reported losses of its members;

(2) paid claims;

(3) adjustments on reserves for settlements;

(4) a schedule of claims in which its members have established a reserve in excess of $50,000;

(5) the income on invested reserves of its members;

(6) an itemized list of policies written at other than the filed rates;

(7) loss adjustment expenses;

(8) subrogation recoveries;

(9) administrative expenses; and

(10) commission expenses.

The filing of the information of Minnesota experience must be based on separate records containing only Minnesota information separately maintained by the association. The commissioner may request and the association must provide the separate records to the commissioner.

(b) Losses and reserves shall be reported separately as to medical and indemnity expenses.

The commissioner shall consider this information in an appropriate manner in adopting a schedule of rates and shall decline to grant a hearing pursuant to section 79.64 if the association fails to provide the information.

Sec. 20. [79.82] [RECORD; SHALL FURNISH INFORMATION.]

The association shall keep a careful record of its proceedings. It shall furnish, upon demand, to any employer upon whose workers' compensation risk a survey has been made, full information as to the survey, including the method of the computation and a detailed description and location of all items producing charges or credits. The association shall provide a procedure approved by the commissioner so that any member or any employer whose risk has been inspected by it may be heard, either in person or by a representative, before the governing or rating committee or other proper representatives with reference to any matter affecting the risk. An insurer or employer may appeal from a decision of the association to the commissioner. The association shall make rules governing appeals, which rules shall be filed with and approved by the commissioner. The association shall, upon request of the commissioner, file with the commissioner information it has concerning any matter connected with its activities.

Sec. 21. [79.83] [INSURERS SHALL NOT DISCRIMINATE.]

An insurer shall not make or charge any rate for workers' compensation insurance in this state which discriminates unfairly between risks or classes, or which discriminates unfairly between risks in the application of like charges and credits in the plan of merit or experience rating in use; and no insurer shall discriminate by granting to any employer insurance against other hazards at less than its regular rates for such insurance or otherwise.

Sec. 22. [79.84] [RATES SHALL BE FILED.]

Every insurer writing workers' compensation insurance in this state shall, except as otherwise ordered by the commissioner, file with the commissioner its rates for this insurance and all additions or changes. All rates so filed shall comply with the requirements of law and shall not be effective or used until approved by the commissioner. A rate which is filed and approved shall not be changed until the substituted rate has been filed for at least 15 days and has been approved by the commissioner.

Sec. 23. [79.85] [RATES TO BE UNIFORM; EXCEPTIONS.]

An insurer shall not write insurance at a rate that exceeds that approved as reasonable by the commissioner. An insurer may reduce or increase a rate by the application to individual risks of the system of merit or experience rating which has been approved by the commissioner. This reduction or increase shall be set forth in the policy. Upon written request an insurer shall furnish a written explanation to the insured of how and why the individual rate was adjusted by application of a system of merit or experience rating. This explanation shall be mailed to the insured within 30 days of the request. An insurer may write insurance at rates that are lower than the rates approved by the commissioner provided the rates are not unfairly discriminatory.

Sec. 24. [79.86] [POWERS OF COMMISSIONER.]

Subdivision 1. [REPORTS.] The commissioner shall require insurers to file reports as in the judgment of the commissioner, may be necessary for the purposes of sections 79.64 to 79.87. This filed information is available for the use of the commissioner. The commissioner shall require compensation insurers, or their agents, to file the necessary reports for the purposes of this chapter for use by the commissioner including but not limited to a supplemental report to the annual report required by licensed property casualty insurers under section 60A.13 that satisfies this section.

The supplemental report must include the following data for the previous year ending on the 31st day of December:

(1) direct premiums written;

(2) direct premiums earned;

(3) net investment income, including net realized capital gains and losses, using appropriate estimates where necessary;

(4) incurred claims, listed individually, together with the date each claim was incurred and the following:

(i) dollar amount of claims closed with payment, plus

(ii) reserves for reported claims at the end of the current year, minus

(iii) reserves for reported claims at the end of the previous year, plus

(iv) reserves for incurred but not reported claims at the end of the current year, minus

(v) reserves for incurred but not reported claims at the end of the previous year, plus

(vi) reserves for loss adjustment expense at the end of the current year, minus

(vii) reserves for loss adjustment expense at the end of the previous year;

(viii) actual incurred expenses allocated separately to loss adjustment, commissions, other acquisition costs, general office expenses, taxes, licenses and fees, and all other expenses;

(ix) net underwriting gain or loss; and

(x) net operation gain or loss, including net investment income.

The supplemental report is due by the first of May of each year. The initial report required by this section is due May 1, 1996.

Subd. 2. [RULES.] The commissioner may adopt rules to implement sections 79.64 to 79.87.

Sec. 25. [79.87] [VIOLATIONS; PENALTIES.]

Any insurer, rating association, agent, or other representative or employee of any insurer or rating association failing to comply with, or which is guilty of a violation of, any of the provisions of sections 79.63 to 79.87, or of any order or ruling of the commissioner made thereunder, shall be punished by a fine of not less than $100 nor more than $25,000. In addition, the license of any insurer, agent, or broker guilty of a violation may be revoked or suspended.

Sec. 26. [LEGISLATIVE INTENT.]

It is the intent of the legislature in enacting this article to reinstate with minor modifications the prior state workers' compensation insurance rate regulatory system that was repealed effective January 1, 1984. Judicial and administrative decisions regarding the prior law shall be deemed to be applicable to this article in the same manner as to the prior law unless in express conflict with a provision of this article.

Sec. 27. [PRIOR RATES.]

Subdivision 1. [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 until the initial schedule of rates has been approved by order of the commissioner.

Subd. 2. [FILING.] If a rate was not filed by an insurer before the effective date of this section, an insurer may file a rate for any classification for which a rate was not previously filed. The rate shall not be used until it is approved by the commissioner. The commissioner may approve a rate up to the rate level approved for use by the assigned risk plan for that rate class. The rates may remain in force until the commissioner has approved a schedule of rates under section 79.64. If the commissioner disapproves of any rate or rating plan pursuant to authority granted in this subdivision, the disapproval shall not be subject to chapter 14 and the decision shall be final.

Subd. 3. [APPROVAL.] Until the commissioner issues an order approving a schedule of rates under section 79.64, an insurer may not, through the use of any rating plan, charge a rate higher than the rates applicable to the insurer under subdivision 1 or 2. This subdivision does not prohibit the use of approved experience rate plans or retrospective rating plans that have been adopted in the filed rates by insurers, the assigned risk plan, or a data service organization. This section does not prohibit the adjustment of a schedule of rates to reflect adjustments in the assessment rate for the special compensation fund, any adjustment in the assessment for the assigned risk plan pursuant to section 79.251, subdivision 5, any adjustment in the assessment for the Minnesota insurance guaranty association pursuant to section 60C.05, or any other assessment required by law.

Subd. 4. [INTERIM RATES.] Rates, schedules of rates, and rating plans filed after March 31, 1994, may not be used after the effective date of this article and the rates, schedules of rates, and rating plans in effect prior to April 1, 1995, are reinstated.

Subd. 5. [COMPLIANCE.] No insurer may avoid the application of this section by limiting or denying the use of credits or other adjustments to the rates that were available and used before April 1, 1995. The commissioner shall monitor the activities of insurers to ensure that the requirements of this section are satisfied.

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

Sec. 28. [APPROPRIATION.]

$926,000 for fiscal year 1996 and $961,000 for fiscal year 1997 are appropriated from the special compensation fund to the department of commerce for the purposes of this article.

Sec. 29. [REPEALER.]

Minnesota Statutes 1994, sections 79.01, subdivision 8; 79.095; 79.10; 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. 30. [EFFECTIVE DATE.]

This article is effective the day following final enactment."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 29 and nays 37, as follows:

Those who voted in the affirmative were:

Anderson	Finn	Kelly	Murphy	Reichgott Junge
Berglin	Flynn	Krentz	Novak	Riveness
Betzold	Hanson	Kroening	Pappas	Samuelson
Chandler	Janezich	Marty	Piper	Solon
Chmielewski	Johnson, D.J.	Metzen	Pogemiller	Spear
Cohen	Johnson, J.B.	Moe, R.D.	Ranum	

Those who voted in the negative were:

Beckman	Johnson, D.E.	Larson	Oliver	Stevens
Belanger	Johnston	Lesewski	Olson	Stumpf
Berg	Kiscaden	Lessard	Ourada	Terwilliger
Bertram	Kleis	Limmer	Pariseau	Vickerman
Day	Knutson	Merriam	Robertson	Wiener
Dille	Kramer	Mondale	Runbeck	
Frederickson	Laidig	Morse	Sams	
Hottinger	Langseth	Neuville	Scheevel	

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

Mr. Sams moved to amend H.F. No. 642 as follows:

Page 19, delete lines 2 to 5 and insert "Permanent total disability shall cease at age 67 because the employee is presumed retired from the labor market. This presumption is rebuttable by the employee. The subjective statement the employee is not retired is not sufficient in itself to rebut the presumptive evidence of retirement but may be considered along with other evidence."

Page 26, lines 10 to 14, delete the new language

Page 26, lines 15 to 19, reinstate the stricken language and delete the new language

Page 26, line 20, delete everything before the period and before "The" insert "For injuries

occurring on and after October 1, 1995, no adjustment increase made on or after October 1, 1995, shall exceed two percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be two percent."

Page 26, line 28, reinstate the stricken language and delete the new language

Page 26, line 30, after the period, insert "For injuries occurring on or after October 1, 1995, the initial adjustment under subdivision 1 is deferred until the fourth anniversary of the date of injury. The adjustment at that time shall be that of the last year only."

Page 30, line 27, delete "and 27" and insert "27, and 28"

Page 81, lines 2 to 5, delete the new language and insert "Notwithstanding any other law to the contrary, the commissioner is the administrator and supervisor of all of the department's dispute resolution functions and personnel and may delegate authority to settlement judges and others to make determinations under sections 176.106, 176.238, and 176.239 and to approve settlement of claims under section 176.521."

Page 84, lines 30 to 33, reinstate the stricken language

Page 132, after line 15, insert:

"Sec. 109. [APPROPRIATION.]

$2,820,000 is appropriated from the special compensation fund to the department of labor and industry for the fiscal year ending June 30, 1996, for the Daedalus imaging systems project to be available until June 30, 1997.

Sec. 110. [INCONSISTENT LAWS SUPERSEDED.]

Notwithstanding the order of final enactment, the amendments to Minnesota Statutes, section 175.16, by this act, supersede any conflicting provision of law enacted by the 1995 regular legislative session."

Page 132, line 29, delete "and"

Page 132, line 30, before "are" insert ", and 110"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Mr. Moe, R.D. requested division of the amendment as follows:

First portion:

Page 132, after line 15, insert:

"Sec. 109. [APPROPRIATION.]

$2,820,000 is appropriated from the special compensation fund to the department of labor and industry for the fiscal year ending June 30, 1996, for the Daedalus imaging systems project to be available until June 30, 1997.

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Second portion: The remainder of the amendment.

The question was taken on the adoption of the first portion of the Sams amendment.

The roll was called, and there were yeas 31 and nays 35, as follows:

Those who voted in the affirmative were:

Belanger	Johnson, D.E.	Langseth	Olson	Stevens
Berg	Johnston	Larson	Ourada	Terwilliger
Bertram	Kiscaden	Lesewski	Pariseau	Vickerman
Chmielewski	Kleis	Lessard	Robertson	
Day	Knutson	Limmer	Runbeck	
Dille	Kramer	Neuville	Sams	
Frederickson	Laidig	Oliver	Scheevel	

Those who voted in the negative were:

Anderson	Flynn	Krentz	Morse	Reichgott Junge
Beckman	Hanson	Kroening	Murphy	Riveness
Berglin	Hottinger	Marty	Novak	Samuelson
Betzold	Janezich	Merriam	Pappas	Solon
Chandler	Johnson, D.J.	Metzen	Piper	Spear
Cohen	Johnson, J.B.	Moe, R.D.	Pogemiller	Stumpf
Finn	Kelly	Mondale	Ranum	Wiener

The motion did not prevail. So the first portion of the Sams amendment was not adopted.

The question was taken on the adoption of the second portion of the Sams amendment.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

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

The motion prevailed. So the second portion of the Sams amendment was adopted.

Ms. Johnson, J.B. moved to amend H.F. No. 642 as follows:

Pages 79 and 80, delete section 43

Page 132, line 18, delete "175.007;"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 34 and nays 32, as follows:

Those who voted in the affirmative were:

Anderson	Finn	Kelly	Mondale	Reichgott Junge
Beckman	Flynn	Krentz	Murphy	Riveness
Berglin	Hanson	Kroening	Novak	Samuelson
Betzold	Hottinger	Marty	Pappas	Solon
Chandler	Janezich	Merriam	Piper	Spear
Chmielewski	Johnson, D.J.	Metzen	Pogemiller	Wiener
Cohen	Johnson, J.B.	Moe, R.D.	Ranum	

Those who voted in the negative were:

Belanger	Day	Johnson, D.E.	Kleis	Laidig
Berg	Dille	Johnston	Knutson	Langseth
Bertram	Frederickson	Kiscaden	Kramer	Larson

Lesewski	Neuville	Pariseau	Scheevel	Vickerman
Lessard	Oliver	Robertson	Stevens	
Limmer	Olson	Runbeck	Stumpf	
Morse	Ourada	Sams	Terwilliger	

The motion prevailed. So the amendment was adopted.

Ms. Krentz moved to amend H.F. No. 642 as follows:

Page 133, after line 3, insert:

"ARTICLE 3

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."

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 31 and nays 35, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Beckman	Frederickson	Laidig	Neuville	Sams
Belanger	Johnson, D.E.	Langseth	Oliver	Scheevel
Berg	Johnston	Larson	Olson	Stevens
Bertram	Kiscaden	Lesewski	Ourada	Stumpf
Chmielewski	Kleis	Lessard	Pariseau	Terwilliger
Day	Knutson	Limmer	Robertson	Vickerman
Dille	Kramer	Morse	Runbeck	Wiener

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

Mr. Murphy moved to amend H.F. No. 642 as follows:

Page 131, after line 36, insert:

"Sec. 106. [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 contracts 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."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Ms. Piper moved to amend H.F. No. 642 as follows:

Page 101, after line 15, insert:

"Sec. 65. [176.1352] [INJURIES; EMPLOYER'S DUTIES.]

If an employee is injured at work and needs immediate medical attention at a hospital or clinic, an employer or an appointee must accompany an injured employee to the clinic or hospital and also contact the injured worker's family to explain what benefits are available to the injured employee and respond to questions. The employer or appointee must continue to have weekly contact with the person for the same purpose until the employee returns to work or the contact is no longer reasonably necessary."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 20 and nays 46, as follows:

Those who voted in the affirmative were:

Anderson	Flynn	Johnson, J.B.	Moe, R.D.	Piper
Berglin	Hottinger	Kelly	Murphy	Pogemiller
Chandler	Janezich	Kroening	Novak	Ranum
Finn	Johnson, D.J.	Marty	Pappas	Reichgott Junge

Those who voted in the negative were:

Beckman	Hanson	Larson	Olson	Spear
Belanger	Johnson, D.E.	Lesewski	Ourada	Stevens
Berg	Johnston	Lessard	Pariseau	Stumpf
Bertram	Kiscaden	Limmer	Riveness	Terwilliger
Betzold	Kleis	Merriam	Robertson	Vickerman
Chmielewski	Knutson	Metzen	Runbeck	Wiener
Cohen	Kramer	Mondale	Sams	
Day	Krentz	Morse	Samuelson	
Dille	Laidig	Neuville	Scheevel	
Frederickson	Langseth	Oliver	Solon	

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

Mr. Murphy moved to amend H.F. No. 642 as follows:

Page 101, line 18, before "RELATIVE" insert "MEDICARE OR" and before "The" insert "(a)"

Page 102, line 5, before "After" insert "(b)"

Page 102, after line 18, insert:

"(c) For treatment provided on or after October 1, 1995, the maximum allowable fee is the lesser of the amount allowed under the Medicare relative value fee schedule plus ten percent or the amount under paragraphs (a) and (b) of this subdivision."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 6 and nays 54, as follows:

Those who voted in the affirmative were:

Anderson	Murphy	Pappas	Piper	Samuelson
Kroening				

Those who voted in the negative were:

Beckman	Finn	Knutson	Morse	Runbeck
Belanger	Flynn	Kramer	Neuville	Sams
Berg	Hanson	Krentz	Oliver	Scheevel
Berglin	Hottinger	Laidig	Olson	Solon
Bertram	Janezich	Lesewski	Ourada	Spear
Betzold	Johnson, D.E.	Limmer	Pariseau	Stevens
Chandler	Johnson, J.B.	Marty	Pogemiller	Stumpf
Chmielewski	Johnston	Merriam	Ranum	Terwilliger
Cohen	Kelly	Metzen	Reichgott Junge	Vickerman
Day	Kiscaden	Moe, R.D.	Riveness	Wiener
Dille	Kleis	Mondale	Robertson	

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

Mr. Moe, R.D. moved to amend H.F. No. 642 as follows:

Page 33, line 20, delete "up to"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 55 and nays 11, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Belanger	Knutson	Limmer	Olson	Runbeck
Day	Laidig	Oliver	Pariseau	Terwilliger
Kiscaden				

The motion prevailed. So the amendment was adopted.

Mr. Murphy moved to amend H.F. No. 642 as follows:

Page 9, line 35, reinstate the stricken language and delete the new language

Page 9, line 36, delete "complaints of pain."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 30 and nays 35, as follows:

Those who voted in the affirmative were:

Anderson	Finn	Johnson, J.B.	Moe, R.D.	Ranum
Berglin	Flynn	Kelly	Murphy	Reichgott Junge
Betzold	Hanson	Kroening	Novak	Riveness
Chandler	Hottinger	Marty	Pappas	Samuelson
Chmielewski	Janezich	Merriam	Piper	Solon
Cohen	Johnson, D.J.	Metzen	Pogemiller	Spear

Those who voted in the negative were:

Beckman	Johnson, D.E.	Langseth	Neuville	Sams
Belanger	Johnston	Larson	Oliver	Scheevel
Berg	Kiscaden	Lesewski	Olson	Stevens
Bertram	Kleis	Lessard	Ourada	Stumpf
Day	Knutson	Limmer	Pariseau	Terwilliger
Dille	Kramer	Mondale	Robertson	Vickerman
Frederickson	Laidig	Morse	Runbeck	Wiener

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

Mr. Finn moved to amend H.F. No. 642 as follows:

Pages 88 and 89, delete section 52

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 32 and nays 34, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Beckman	Johnson, D.E.	Langseth	Oliver	Scheevel
Belanger	Johnston	Larson	Olson	Stevens
Berg	Kiscaden	Lesewski	Ourada	Stumpf
Bertram	Kleis	Lessard	Pariseau	Terwilliger
Day	Knutson	Limmer	Robertson	Vickerman
Dille	Kramer	Morse	Runbeck	Wiener
Frederickson	Laidig	Neuville	Sams	

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

Ms. Reichgott Junge moved to amend H.F. No. 642 as follows:

Page 19, line 8, reinstate the stricken language

Page 19, delete lines 19 to 36 and insert:

"(i) the employee has a permanent partial disability rating of at least 15 percent of the whole body;

(ii) the employee has been evaluated by the vocational rehabilitation unit of the division and it has been found by that unit that the employee would be unlikely to be able to secure anything more than sporadic employment resulting in an insubstantial income even after the employee had received all appropriate services under section 176.102; or

(iii) the employee has diligently searched for employment for a period of at least two years and has received all other appropriate services under section 176.102 and has been unable to secure anything more than sporadic employment resulting in an insubstantial income."

Page 20, lines 1 to 10, delete the new language and reinstate the stricken language

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 30 and nays 36, as follows:

Those who voted in the affirmative were:

Anderson	Flynn	Kelly	Moe, R.D.	Ranum
Berglin	Hanson	Krentz	Murphy	Reichgott Junge
Betzold	Hottinger	Kroening	Novak	Riveness
Chandler	Janezich	Marty	Pappas	Samuelson
Cohen	Johnson, D.J.	Merriam	Piper	Solon
Finn	Johnson, J.B.	Metzen	Pogemiller	Spear

Those who voted in the negative were:

Beckman	Johnson, D.E.	Larson	Olson	Stumpf
Belanger	Johnston	Lesewski	Ourada	Terwilliger
Berg	Kiscaden	Lessard	Pariseau	Vickerman
Bertram	Kleis	Limmer	Robertson	Wiener
Chmielewski	Knutson	Mondale	Runbeck	
Day	Kramer	Morse	Sams	
Dille	Laidig	Neuville	Scheevel	
Frederickson	Langseth	Oliver	Stevens	

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

Mr. Kelly moved to amend H.F. No. 642 as follows:

Page 89, after line 31, insert:

"Sec. 53. [176.1025] [SERVICES; REHABILITATION CONSULTANTS.]

(a) If the commissioner, employer, or injured employee requests that a rehabilitation consultation or that rehabilitation services be provided to an injured employee, the consultation and services must be provided or supervised by a qualified rehabilitation consultant under section 176.102. The qualified rehabilitation consultant shall provide rehabilitation services to an injured employee if the qualified rehabilitation consultant determines that the injured employee:

(1) is precluded or is likely to be precluded from engaging in the employee's usual and customary occupation or from engaging in the job the employee held at the time of injury;

(2) requires rehabilitation services in order to return to suitable gainful employment; and

(3) can reasonably be expected to return to suitable gainful employment only through the provision of rehabilitation services.

(b) The employer or insurer shall provide written notice to the injured employee and the commissioner within five days after the employee has 30 days of lost work time that the employee has a right to request a rehabilitation consultation paid for by the employer.

(c) The commissioner may waive rehabilitation consultations and services for a period of 180 days following the injury only if:

(1) the injured employee is offered a job by the date of injury employer within 60 days of the injury;

(2) the job will begin within the 180-day period following the injury;

(3) the job offered is the date of injury job or other suitable gainful employment with the same employer; and

(4) the treating physician has approved the proposed job as being within the physical restrictions of the employee.

(d) If a rehabilitation consultation is waived and the employer withdraws its job offer, the injured employee is entitled to a rehabilitation consultation and services provided by a qualified rehabilitation consultant of the injured employee's choice. The commissioner shall report annually to the workers' compensation advisory council the number of waivers granted and denied and the number of employers who obtain waivers and fail to take the injured employee back to work."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 24 and nays 39, as follows:

Those who voted in the affirmative were:

Anderson	Hottinger	Kroening	Novak	Reichgott Junge
Berglin	Janezich	Marty	Pappas	Riveness
Chandler	Johnson, D.J.	Metzen	Piper	Samuelson
Finn	Johnson, J.B.	Moe, R.D.	Pogemiller	Spear
Flynn	Krentz	Murphy	Ranum	

Those who voted in the negative were:

Beckman	Frederickson	Laidig	Morse	Sams
Belanger	Hanson	Langseth	Neuville	Scheevel
Berg	Johnson, D.E.	Larson	Oliver	Stevens
Bertram	Johnston	Lesewski	Olson	Stumpf
Betzold	Kiscaden	Lessard	Ourada	Terwilliger
Chmielewski	Kleis	Limmer	Pariseau	Vickerman
Day	Knutson	Merriam	Robertson	Wiener
Dille	Kramer	Mondale	Runbeck	

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

Mr. Novak moved to amend H.F. No. 642 as follows:

Page 30, after line 7, insert:

"Sec. 33. [RATE FREEZE; RATE INDEXING.]

No rating plan increases may be filed between May 1, 1995, and January 1, 1997. Any rating plan increase filed after May 1, 1995, and before the day following final enactment is unenforceable. After December 31, 1996, no rating plan increase may exceed the annual percentage increase in the consumer price index for urban consumers, as prepared by the United States bureau of labor statistics for the year prior to the date the request for an increase is filed."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 29 and nays 35, as follows:

Those who voted in the affirmative were:

Anderson	Flynn	Kelly	Moe, R.D.	Ranum
Berglin	Hanson	Krentz	Murphy	Reichgott Junge
Betzold	Hottinger	Kroening	Novak	Riveness
Chandler	Janezich	Lessard	Pappas	Samuelson
Chmielewski	Johnson, D.J.	Marty	Piper	Spear
Finn	Johnson, J.B.	Metzen	Pogemiller	

Those who voted in the negative were:

Beckman	Johnson, D.E.	Langseth	Neuville	Sams
Belanger	Johnston	Larson	Oliver	Scheevel
Berg	Kiscaden	Lesewski	Olson	Stevens
Bertram	Kleis	Limmer	Ourada	Stumpf
Day	Knutson	Merriam	Pariseau	Terwilliger
Dille	Kramer	Mondale	Robertson	Vickerman
Frederickson	Laidig	Morse	Runbeck	Wiener

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

Ms. Reichgott Junge moved to amend H.F. No. 642 as follows:

Page 26, lines 28 to 30, reinstate the stricken language and delete the new language

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 25 and nays 38, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Beckman	Johnson, D.E.	Langseth	Neuville	Scheevel
Belanger	Johnston	Larson	Oliver	Stevens
Berg	Kiscaden	Lesewski	Olson	Stumpf
Bertram	Kleis	Lessard	Ourada	Terwilliger
Day	Knutson	Limmer	Pariseau	Vickerman
Dille	Kramer	Mondale	Robertson	Wiener
Frederickson	Krentz	Morse	Runbeck	
Hottinger	Laidig	Murphy	Sams	

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

Mr. Hottinger moved to amend H.F. No. 642 as follows:

Page 13, delete lines 12 to 24 and insert:

"(b) (1) 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.

(2) During the year commencing on October 1, 1995, the maximum weekly compensation payable is 106 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(3) During the year commencing on October 1, 1996, the maximum weekly compensation payable is 107 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(4) During the year commencing on October 1, 1997, the maximum weekly compensation payable is 108 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(5) During the year commencing on October 1, 1998, the maximum weekly compensation payable is 109 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(6) During the year commencing on October 1, 1999, and each year thereafter, the maximum weekly compensation payable is 110 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

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

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 26 and nays 38, as follows:

Those who voted in the affirmative were:

Anderson	Flynn	Krentz	Novak	Solon
Berglin	Hanson	Kroening	Pappas	Spear
Betzold	Hottinger	Marty	Piper	
Chandler	Janezich	Metzen	Pogemiller	
Chmielewski	Johnson, J.B.	Moe, R.D.	Reichgott Junge	
Finn	Kelly	Murphy	Riveness	

Those who voted in the negative were:

Beckman	Bertram	Frederickson	Johnston	Knutson
Belanger	Day	Johnson, D.E.	Kiscaden	Kramer
Berg	Dille	Johnson, D.J.	Kleis	Laidig

Langseth	Merriam	Olson	Sams	Terwilliger
Larson	Mondale	Ourada	Samuelson	Vickerman
Lesewski	Morse	Pariseau	Scheevel	Wiener
Lessard	Neuville	Robertson	Stevens	
Limmer	Oliver	Runbeck	Stumpf	

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

Ms. Pappas moved to amend H.F. No. 642 as follows:

Page 101, line 35, after the period, insert "The commissioner shall require all health care providers to only utilize the codes and descriptions described in the Current Procedural Terminology (CPT) book of the current year."

Mr. Betzold moved to amend the Pappas amendment to H.F. No. 642 as follows:

Page 1, line 3, delete "only"

Page 1, line 4, after "utilize" insert "only"

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

The question recurred on the Pappas amendment, as amended.

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

Those who voted in the affirmative were:

Anderson	Flynn	Kelly	Moe, R.D.	Ranum
Berglin	Hanson	Kramer	Murphy	Reichgott Junge
Betzold	Hottinger	Krentz	Novak	Riveness
Chandler	Janezich	Kroening	Pappas	Samuelson
Chmielewski	Johnson, D.J.	Marty	Piper	
Finn	Johnson, J.B.	Metzen	Pogemiller	

Those who voted in the negative were:

Beckman	Johnston	Lessard	Ourada	Stumpf
Belanger	Kiscaden	Limmer	Pariseau	Terwilliger
Berg	Kleis	Merriam	Robertson	Vickerman
Bertram	Knutson	Mondale	Runbeck	Wiener
Day	Laidig	Morse	Sams	
Dille	Langseth	Neuville	Scheevel	
Frederickson	Larson	Oliver	Spear	
Johnson, D.E.	Lesewski	Olson	Stevens	

The motion did not prevail. So the Pappas amendment, as amended, was not adopted.

Mr. Finn moved to amend H.F. No. 642 as follows:

Page 13, line 29, delete "(l)" and insert "(k)"

Page 13, line 34, delete "prior to payment"

Page 13, line 35, delete everything before "and"

Page 14, lines 8, 14, and 20, delete "(l)" and insert "(k)"

Page 14, line 28, delete everything after the period

Page 14, delete lines 29 and 30

Page 14, line 36, delete everything after "improvement"

Page 15, line 1, delete everything before the period

Page 15, lines 3 and 14, delete "(l)" and insert "(k)"

Page 15, line 11, delete everything after "improvement"

Page 15, line 12, delete everything before the period

Page 16, delete lines 3 to 14

Page 16, line 15, delete "(l) Items (e) to (k)" and insert "(k) Paragraphs (e) to (j)"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 30 and nays 35, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Krentz	Mondale	Ranum
Berglin	Hottinger	Kroening	Murphy	Reichgott Junge
Betzold	Janezich	Marty	Novak	Riveness
Chandler	Johnson, D.J.	Merriam	Pappas	Samuelson
Finn	Johnson, J.B.	Metzen	Piper	Solon
Flynn	Kelly	Moe, R.D.	Pogemiller	Spear

Those who voted in the negative were:

Beckman	Frederickson	Laidig	Neuville	Sams
Belanger	Johnson, D.E.	Langseth	Oliver	Scheevel
Berg	Johnston	Larson	Olson	Stevens
Bertram	Kiscaden	Lesewski	Ourada	Stumpf
Chmielewski	Kleis	Lessard	Pariseau	Terwilliger
Day	Knutson	Limmer	Robertson	Vickerman
Dille	Kramer	Morse	Runbeck	Wiener

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

Mr. Sams moved to amend H.F. No. 642 as follows:

Page 13, lines 12 and 13, delete the new language

Page 14, line 1, before "temporary" insert "if" and after "compensation" insert "ceased because the employee returned to work, it"

Page 14, line 9, before "temporary" insert "if" and after "compensation" insert "ceased because the employee returned to work or ceased under paragraph (h) or (j), it"

Page 14, line 23, delete "(e)" and insert "(j)"

Page 14, line 30, delete "(l)" and insert "(k)"

Page 16, line 15, delete "Items" and insert "Paragraphs"

Page 21, line 6, after "98-21" insert ", as amended"

Page 27, line 27, after "liable" insert "in a civil action"

Page 30, line 21, before "Minnesota" insert "(a)"

Page 30, line 22, after "79.57," insert "and" and after "79.58" delete the semicolon and insert ", are repealed.

(b) Minnesota Statutes 1994, sections"

Page 30, line 23, after "26;" insert "and"

Page 30, line 24, delete "; and" and insert ", are repealed.

(c) Minnesota Statutes 1994, section"

Page 30, line 25, delete "are" and insert "is" and before "Laws" insert:

"(d)"

Page 30, delete lines 27 to 32 and insert:

"Sections 1 to 11 and 36, paragraph (a), are effective January 1, 1996. Rates and rating plans in use as of January 1, 1996, may continue to be used until such time as an amendment thereto or a new rate or rating plan is filed, at which time the filing is subject to sections 1 to 11.

Sections 23, 24, 26, 27, and 36, paragraph (b), are effective October 1, 1995.

Sections 13 to 22, 28, 29, 30, and 32 are effective October 1, 1995, and apply to personal injuries occurring on and after that date."

Page 35, line 34, delete "period" and insert "limit"

Page 41, line 33, delete "1, 1996" and insert "1 of each year"

Page 44, line 5, delete everything after the period

Page 44, line 6, delete "shall treat" and delete "as" and insert "is"

Page 44, lines 9 and 10, delete the new language

Page 58, line 15, delete "or" and insert "and"

Page 82, line 20, after "formula" insert "where the employer or insurer is liable for attorney fees"

Page 83, lines 7 and 8, delete the new language

Page 101, line 13, delete "violates or"

Page 109, line 30, delete "1997" and insert "2001"

Page 132, line 10, delete "section"

Page 132, line 19, delete "7,"

Page 132, line 20, delete "subdivisions 2 and 21" and insert "subdivision 2a"

Page 132, line 24, delete "1995" and insert "1996" in both places

Page 132, line 36, delete "69 (176.139, subd. 2)" and insert "52 (176.102, subd. 11)"

Page 133, line 2, delete "1991" and insert "1995"

Page 133, line 3, after the period, insert "Sections 78 (176.191, subd. 1a) and 79 (176.191, subd. 5) are effective for apportionment proceedings instituted after July 1, 1995."

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 55 and nays 9, as follows:

Those who voted in the affirmative were:

Beckman	Janezich	Laidig	Morse	Robertson
Belanger	Johnson, D.E.	Langseth	Neuville	Runbeck
Berg	Johnson, D.J.	Larson	Oliver	Sams
Bertram	Johnson, J.B.	Lesewski	Olson	Samuelson
Betzold	Johnston	Lessard	Ourada	Scheevel
Chmielewski	Kelly	Limmer	Pariseau	Solon
Day	Kiscaden	Marty	Piper	Stevens
Dille	Kleis	Merriam	Pogemiller	Stumpf
Frederickson	Knutson	Metzen	Ranum	Terwilliger
Hanson	Kramer	Moe, R.D.	Reichgott Junge	Vickerman
Hottinger	Krentz	Mondale	Riveness	Wiener

Those who voted in the negative were:

Anderson	Chandler	Flynn	Novak	Spear
Berglin	Finn	Murphy	Pappas	

The motion prevailed. So the amendment was adopted.

Mr. Murphy moved to amend H.F. No. 642 as follows:

Pages 19 and 20, delete section 21 and insert:

"Sec. 21. Minnesota Statutes 1994, section 176.101, subdivision 5, is amended to read:

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

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

(2) any other injury which totally and permanently incapacitates the employee from working at an occupation which brings the employee an income.

(b) For purposes of paragraph (a), clause (2), "totally and permanently incapacitated" means that the employee's physical disability, in combination with the employee's age, education, training, and experience, causes the employee to be unable to secure anything more than sporadic employment resulting in an insubstantial income, provided that if an employee has a permanent partial disability rating of less than 15 percent, the employee has the burden to show by clear and convincing evidence that the employee is totally and permanently incapacitated."

Page 30, line 27, delete "21" and insert "22"

Page 30, line 29, before "29" insert "21 (176.101, subdivision 5),"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 28 and nays 35, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Krentz	Moe, R.D.	Reichgott Junge
Berglin	Hottinger	Kroening	Murphy	Riveness
Betzold	Janezich	Lessard	Novak	Samuelson
Chandler	Johnson, D.J.	Marty	Piper	Spear
Finn	Johnson, J.B.	Merriam	Pogemiller	
Flynn	Kelly	Metzen	Ranum	

Those who voted in the negative were:

Beckman	Johnson, D.E.	Langseth	Oliver	Scheevel
Belanger	Johnston	Larson	Olson	Solon
Berg	Kiscaden	Lesewski	Ourada	Stevens
Bertram	Kleis	Limmer	Pariseau	Stumpf
Day	Knutson	Mondale	Robertson	Terwilliger
Dille	Kramer	Morse	Runbeck	Vickerman
Frederickson	Laidig	Neuville	Sams	Wiener

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

Mr. Riveness moved to amend H.F. No. 642 as follows:

Page 88, after line 13, insert:

"Sec. 52. Minnesota Statutes 1994, section 176.102, is amended by adding a subdivision to read:

Subd. 4a. [WAIVER PROHIBITED; NOTICE.] The commissioner or compensation judge may not waive the rehabilitation consultation authorized by this section if the injured employee has 30 days or more of lost work time due to a personal injury unless the job being offered by the date of injury employer is the date of injury job or other suitable gainful employment with the same

employer; and the treating physician has approved the proposed job as being within the physical restrictions of the employee.

The employer or insurer shall provide written notice to the injured employee within five days after the employee has 30 days of lost work time due to the injury that the employee has a right to request a rehabilitation consultation paid for by the employer."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 26 and nays 36, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Krentz	Novak	Solon
Berglin	Hottinger	Kroening	Pogemiller	Spear
Betzold	Janezich	Marty	Ranum	
Chandler	Johnson, D.J.	Metzen	Reichgott Junge	
Finn	Johnson, J.B.	Moe, R.D.	Riveness	
Flynn	Kelly	Murphy	Samuelson	

Those who voted in the negative were:

Beckman	Johnston	Lesewski	Olson	Stumpf
Belanger	Kiscaden	Lessard	Ourada	Terwilliger
Berg	Kleis	Limmer	Pariseau	Vickerman
Bertram	Knutson	Merriam	Robertson	Wiener
Day	Kramer	Mondale	Runbeck	
Dille	Laidig	Morse	Sams	
Frederickson	Langseth	Neuville	Scheevel	
Johnson, D.E.	Larson	Oliver	Stevens	

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

Mr. Chandler moved to amend H.F. No. 642 as follows:

Page 133, after line 3, insert:

"ARTICLE 3

RATE REDUCTION

Section 1. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in this act and the resulting savings to the Minnesota's workers' compensation system, an insurer's approved schedule of workers' compensation rates in effect on October 1, 1995, must be reduced by 11 percent and applied by the insurer to all policies with an effective date between October 1, 1995, and March 31, 1996. For purposes of this section, "insurer" includes the assigned risk plan, and "rates" include the rates approved by the commissioner of commerce for the assigned risk plan. The reduction mandated by this section must also be applied on a prorated basis to the unexpired portion of all workers' compensation policies on October 1, 1995.

(b) No rate increases may be filed between April 1, 1995, and April 1, 1996.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment retroactive to April 1, 1995."

Amend the title accordingly

The question was taken on the adoption of the amendment.

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

Those who voted in the affirmative were:

Anderson	Hanson	Krentz	Murphy	Reichgott Junge
Berglin	Hottinger	Kroening	Novak	Riveness
Betzold	Janezich	Lessard	Pappas	Samuelson
Chandler	Johnson, D.J.	Marty	Piper	Spear
Finn	Johnson, J.B.	Metzen	Pogemiller	
Flynn	Kelly	Moe, R.D.	Ranum	

Those who voted in the negative were:

Beckman	Johnson, D.E.	Larson	Olson	Stumpf
Belanger	Johnston	Lesewski	Ourada	Terwilliger
Berg	Kiscaden	Limmer	Pariseau	Vickerman
Bertram	Kleis	Merriam	Robertson	Wiener
Chmielewski	Knutson	Mondale	Runbeck	
Day	Kramer	Morse	Sams	
Dille	Laidig	Neuville	Scheevel	
Frederickson	Langseth	Oliver	Stevens	

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

Mr. Hottinger moved to amend H.F. No. 642 as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. Minnesota Statutes 1994, section 79.50, is amended to read:

79.50 [PURPOSES.]

The purposes of chapter 79 are to:

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

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

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

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

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

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

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

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

Sec. 2. Minnesota Statutes 1994, section 79.51, subdivision 1, is amended to read:

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

Sec. 3. Minnesota Statutes 1994, section 79.51, subdivision 3, is amended to read:

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

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

(2) experience rating plans;

(3) retrospective rating plans;

(4) general expenses and related expense provisions;

(5) minimum premiums;

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

(7) loss development and trend factors;

(8) the workers' compensation reinsurance association;

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

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

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

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

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

(b) The rules shall provide for the following:

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

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

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

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

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

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

Sec. 4. Minnesota Statutes 1994, section 79.53, subdivision 1, is amended to read:

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

Rates shall be applied to an exposure base to yield a base premium which may be further ~~modified~~ increased or decreased up to 25 percent by merit rating, premium discounts, and other appropriate factors contained in the rating plan of an insurer to produce premium if the increase or decrease is not unfairly discriminatory. Nothing in this chapter shall be deemed to prohibit the use of any premium, provided the premium is not excessive, inadequate or unfairly discriminatory.

Sec. 5. Minnesota Statutes 1994, section 79.55, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVENESS.] ~~No premium is excessive in a competitive market. In the~~

~~absence of a competitive market, premiums~~ Rates and rating plans are excessive if the expected underwriting profit, together with expected income from invested reserves ~~for the market in question~~, that would accrue to an insurer under the rates and rating plans would be unreasonably high in relation to the risk undertaken by the insurer in transacting the business. The burden is on the insurer to establish that profit is not unreasonably high.

Sec. 6. Minnesota Statutes 1994, section 79.55, subdivision 5, is amended to read:

Subd. 5. [DISCOUNTS PERMITTED.] An insurer may offer a ~~discount from~~ scheduled credit or debit to a manual premium of up to 25 percent if the premium otherwise complies with this section. ~~The commissioner shall not by rule, or otherwise, prohibit a credit or discount from a manual premium solely because it is greater than a certain fixed percentage of the premium.~~

Sec. 7. Minnesota Statutes 1994, section 79.55, is amended by adding a subdivision to read:

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

Sec. 8. Minnesota Statutes 1994, section 79.55, is amended by adding a subdivision to read:

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

Sec. 9. Minnesota Statutes 1994, section 79.56, subdivision 1, is amended to read:

Subdivision 1. [~~AFTER EFFECTIVE DATE~~ PREFILING OF RATES.] Each insurer shall file with the commissioner a complete copy of its rates and rating plan, and all changes and amendments thereto, ~~within 15 days after their~~ and such supporting data and information that the commissioner may by rule require, at least 60 days prior to its effective ~~dates~~ date. ~~An insurer need not file a rating plan if it uses a rating plan filed by a data service organization. If an insurer uses a rating plan of a data service organization but deviates from it, then all deviations must be filed by the insurer.~~ The commissioner shall advise an insurer within 30 days of the filing if its submission is not accompanied with such supporting data and information that the commissioner by rule may require. The commissioner may extend the filing review period and effective date for an additional 30 days if an insurer, after having been advised of what supporting data and information are necessary to complete its filing, does not provide such information within 15 days of having been so notified. If any rate or rating plan filing or amendment thereto is not disapproved by the commissioner within the filing review period, the insurer may implement it. For the period January 1, 1995, to December 31, 1995, the filing shall be made at least 90 days prior to the effective date and the department shall advise an insurer within 60 days of such filing if the filing is insufficient under this section.

Sec. 10. Minnesota Statutes 1994, section 79.56, subdivision 3, is amended to read:

Subd. 3. [PENALTIES.] Any insurer using a rate or a rating plan which has not been filed shall be subject to a fine of up to $100 for each day the failure to file continues. The commissioner may, after a hearing on the record, find that the failure is willful. A willful failure to meet filing requirements shall be punishable by a fine of up to $500 for each day during which a willful failure continues. These penalties shall be in addition to any other penalties provided by law. Notwithstanding this subdivision, an employer that generates $500,000 in annual written workers' compensation premium under the rates and rating plan of an insurer before the application of any large deductible rating plans, may be written by that insurer using rates or rating plans that are not subject to disapproval but which have been filed. The $500,000 threshold shall be increased on January 1, 1996, and on each January 1 thereafter by the percentage increase in the statewide average weekly wage, to the nearest $1,000. The commissioner shall advise insurers licensed to write workers' compensation insurance in this state of the annual threshold adjustment.

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

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

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

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

Sec. 12. [APPROPRIATION.]

$2,600,000 is appropriated from the special compensation fund for the biennium ending June 30, 1997, to the department of commerce for the purposes of this article. The complement of the department of commerce is increased by 13 positions for the purposes of this article.

Sec. 13. [REPEALER.]

Minnesota Statutes 1994, sections 79.53, subdivision 2; 79.54; 79.56, subdivision 2; 79.57; and 79.58, are repealed.

Sec. 14. [EFFECTIVE DATE; TRANSITION.]

This article is effective on January 1, 1996. Rates and rating plans in use as of January 1, 1996,

may continue to be used until such time as an amendment thereto or a new rate or rating plan is filed, at which time such submission shall be subject to this article.

ARTICLE 2

Section 1. Minnesota Statutes 1994, section 176.011, subdivision 25, is amended to read:

Subd. 25. [MAXIMUM MEDICAL IMPROVEMENT.] "Maximum medical improvement" means the date after which no further significant recovery from or significant lasting improvement to a personal injury can reasonably be anticipated, based upon reasonable medical probability. Once the date of maximum medical improvement has been determined, no further determinations of other dates of maximum medical improvement for that personal injury is permitted.

Sec. 2. Minnesota Statutes 1994, section 176.101, subdivision 4, is amended to read:

Subd. 4. [PERMANENT TOTAL DISABILITY.] For permanent total disability, as defined in subdivision 5, the compensation shall be 66-2/3 percent of the daily wage at the time of the injury, subject to a maximum weekly compensation equal to the maximum weekly compensation for a temporary total disability and a minimum weekly compensation equal to ~~the minimum weekly compensation for a temporary total disability~~ 65 percent of the statewide average weekly wage. This compensation shall be paid during the permanent total disability of the injured employee but after a total of $25,000 of weekly compensation has been paid, the amount of the weekly compensation benefits being paid by the employer shall be reduced by the amount of any disability benefits being paid by any government disability benefit program if the disability benefits are occasioned by the same injury or injuries which give rise to payments under this subdivision. This reduction shall also apply to any old age and survivor insurance benefits. Payments shall be made at the intervals when the wage was payable, as nearly as may be. In case an employee who is permanently and totally disabled becomes an inmate of a public institution, no compensation shall be payable during the period of confinement in the institution, unless there is wholly dependent on the employee for support some person named in section 176.111, subdivision 1, 2 or 3, in which case the compensation provided for in section 176.111, during the period of confinement, shall be paid for the benefit of the dependent person during dependency. The dependency of this person shall be determined as though the employee were deceased.

Sec. 3. Minnesota Statutes 1994, section 176.101, subdivision 5, is amended to read:

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

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

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

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

Sec. 4. Minnesota Statutes 1994, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2 and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, of the year previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be

included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on or after October 1, 1977, but prior to October 1, 1992, under this section shall exceed six percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be six percent. No adjustment increase made on or after October 1, 1992, under this section shall exceed four percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be four percent. No adjustment increase shall be made under this section on or after October 1, 1995, for any injuries occurring after October 1, 1995. The workers' compensation advisory council may consider adjustment increases and make recommendations to the legislature.

Sec. 5. Minnesota Statutes 1994, section 176.66, subdivision 11, is amended to read:

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

Sec. 6. [REPEALER.]

Minnesota Statutes 1994, section 176.132, is repealed.

Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 6 are effective October 1, 1995, and apply to a personal injury, as defined under Minnesota Statutes, section 176.011, subdivision 16, occurring on or after October 1, 1995.

ARTICLE 3

Section 1. 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.

Sec. 2. Minnesota Statutes 1994, section 176.178, is amended to read:

176.178 [FRAUD.]

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

Subd. 2. [FORMS.] The text of subdivision 1 shall be placed on all forms prescribed by the commissioner for claims or responses to claims for workers' compensation benefits under this

chapter. The absence of the text does not constitute a defense against prosecution under subdivision 1.

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

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

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

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

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

ARTICLE 4

Section 1. 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~~ permanent partial compensation, the employee and employer shall be furnished with a copy of the medical report upon which the payment is based and all other medical reports which the insurer has that indicate a permanent partial disability rating, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. ~~Economic recovery compensation or impairment~~ Permanent partial compensation pursuant to section 176.101 is payable in addition to but not concurrently with compensation for temporary total disability but is payable pursuant to section 176.101. ~~Impairment~~ Permanent partial compensation is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101. ~~Economic recovery compensation or impairment compensation~~ Permanent partial compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total disability, and no credit shall be taken for payment of ~~economic recovery compensation or impairment~~ permanent partial compensation against liability for temporary total or future permanent total disability. Liability on the part of an employer or the insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and compensation is payable accordingly, subject to section 176.101. ~~Economic recovery compensation or impairment~~ Permanent partial compensation is payable for functional loss of use or impairment of function, permanent in nature, and payment therefore shall be separate, distinct, and in addition to payment for any other compensation, subject to section 176.101. The right to receive temporary total, temporary partial, or permanent total disability payments vests in the

injured employee or the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained and the right is not abrogated by the employee's death prior to the making of the payment.

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

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

Sec. 2. Minnesota Statutes 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~~ 2a, shall be made in the following manner:

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

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

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

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

Sec. 3. Minnesota Statutes 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, medical compensation, rehabilitation, death, and permanent total compensation.

Sec. 4. 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) (1) During the year commencing on October 1, ~~1992~~ 1994, ~~and each year thereafter,~~ the maximum weekly compensation payable is 105 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(2) During the year commencing on October 1, 1995, the maximum weekly compensation payable is 106 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(3) During the year commencing on October 1, 1996, the maximum weekly compensation payable is 107 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(4) During the year commencing on October 1, 1997, the maximum weekly compensation

payable is 108 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(5) During the year commencing on October 1, 1998, the maximum weekly compensation payable is 109 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(6) During the year commencing on October 1, 1999, and each year thereafter, the maximum weekly compensation payable is 110 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

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

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

(1) the employee returns to work;

(2) the employee withdraws from the labor market;

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

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

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

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

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

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

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

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

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

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

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

(g) Once temporary total disability compensation has ceased under paragraph (d), clauses (4)

and (5), it may not be recommenced at a later date except as provided under section 176.102, subdivision 11, paragraph (b).

Sec. 5. Minnesota Statutes 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,~~ Temporary partial compensation may be paid only while the employee is employed, earning less than the employee's weekly wage at the time of the injury, and the reduced wage the employee is able to earn in the employee's partially disabled condition is due to the injury. Except as provided in section 176.102, subdivision 11, paragraph (b), temporary partial compensation may not be paid for more than 225 weeks, or after 450 weeks after the date of injury, whichever occurs first.

(c) Temporary partial compensation must be reduced to the extent that the wage the employee is able to earn in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 500 percent of the statewide average weekly wage.

Sec. 6. Minnesota Statutes 1994, section 176.101, is amended by adding a subdivision to read:

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

Impairment rating (percent)	Amount
0-5	$ 65,000
6-10	67,500
11-15	70,000
16-20	72,500
21-25	75,000
26-30	80,000
31-35	90,000
36-40	100,000
41-45	110,000
46-50	120,000
51-55	140,000
56-60	160,000
61-65	200,000
66-70	250,000
71-75	300,000
76-80	350,000
81-85	400,000
86-90	450,000

91-95	500,000
96-100	600,000

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

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

Sec. 7. Minnesota Statutes 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, ~~a~~ or permanent total disability ~~or economic recovery compensation~~ shall be the maximum rate for temporary total disability under subdivision 1.

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

Sec. 8. Minnesota Statutes 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.

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

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

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

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

Sec. 9. Minnesota Statutes 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~~ periodic benefits. The credit applied against further payments of temporary total disability, temporary partial disability, permanent partial disability, permanent total disability, retraining benefits, death benefits, or weekly payments of economic recovery or impairment compensation shall not exceed 20 percent of the amount that would otherwise be payable.

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

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

Sec. 10. Minnesota Statutes 1994, section 176.221, subdivision 6a, is amended to read:

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

Sec. 11. Minnesota Statutes 1994, section 176.82, is amended to read:

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

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

Subd. 2. [REFUSAL TO OFFER CONTINUED EMPLOYMENT.] An employer who, without reasonable cause, refuses to offer continued employment to its employee when employment is available within the employee's physical limitations shall be liable for one year's wages. The wages are payable from the date of the refusal to offer continued employment, and at the same time and at the same rate as the employee's preinjury wage, to continue during the period of the refusal up to a maximum of $15,000. These payments shall be in addition to any other payments provided by this chapter. In determining the availability of employment, the continuance in business of the employer shall be considered and written rules promulgated by the employer with respect to seniority or the provisions or any collective bargaining agreement with respect to seniority shall govern.

Sec. 12. Minnesota Statutes 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. 13. [REPEALER.]

Minnesota Statutes 1994, sections 176.011, subdivision 26; and 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, and 3u, are repealed.

Sec. 14. [EFFECTIVE DATE.]

Sections 1 to 13 are effective October 1, 1995."

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 28 and nays 35, as follows:

Those who voted in the affirmative were:

Anderson	Flynn	Krentz	Murphy	Riveness
Berglin	Hanson	Kroening	Novak	Samuelson
Betzold	Hottinger	Marty	Piper	Solon
Chandler	Janezich	Merriam	Pogemiller	Spear
Chmielewski	Johnson, D.J.	Metzen	Ranum	
Finn	Johnson, J.B.	Moe, R.D.	Reichgott Junge	

Those who voted in the negative were:

Beckman	Johnson, D.E.	Langseth	Neuville	Sams
Belanger	Johnston	Larson	Oliver	Scheevel
Berg	Kiscaden	Lesewski	Olson	Stevens
Bertram	Kleis	Lessard	Ourada	Stumpf
Day	Knutson	Limmer	Pariseau	Terwilliger
Dille	Kramer	Mondale	Robertson	Vickerman
Frederickson	Laidig	Morse	Runbeck	Wiener

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

Mr. Chandler moved to amend H.F. No. 642 as follows:

Delete everything after the enacting clause and insert:

"Section 1. [WORKERS' COMPENSATION; COMMON LAW REPLACEMENT.]

Claims formerly subject to Minnesota Statutes, chapter 176, shall be governed by common law.

Sec. 2. [REPEALER.]

Minnesota Statutes 1994, sections 176.001; 176.011; 176.021; 176.031; 176.041; 176.051; 176.061; 176.071; 176.081; 176.091; 176.092; 176.095; 176.101; 176.1011; 176.102; 176.1021; 176.103; 176.104; 176.1041; 176.105; 176.106; 176.111; 176.121; 176.129; 176.130; 176.1311; 176.132; 176.1321; 176.133; 176.135; 176.1351; 176.136; 176.1361; 176.137; 176.138; 176.139; 176.141; 176.145; 176.151; 176.155; 176.161; 176.165; 176.171; 176.175; 176.178; 176.179; 176.181; 176.182; 176.183; 176.184; 176.185; 176.186; 176.191; 176.192; 176.194; 176.195; 176.201; 176.205; 176.211; 176.215; 176.221; 176.222; 176.225; 176.231; 176.232; 176.234; 176.235; 176.238; 176.239; 176.245; 176.251; 176.253; 176.261; 176.2615; 176.271; 176.275; 176.281; 176.285; 176.291; 176.295; 176.301; 176.305; 176.306; 176.307; 176.311; 176.312; 176.321; 176.322; 176.325; 176.331; 176.341; 176.351; 176.361; 176.371; 176.381; 176.391; 176.401; 176.411; 176.421; 176.442; 176.451; 176.461; 176.471; 176.481; 176.491; 176.511; 176.521; 176.522; 176.531; 176.5401; 176.541; 176.551; 176.561; 176.571; 176.572; 176.581; 176.591; 176.603; 176.611; 176.641; 176.645; 176.651; 176.66; 176.669; 176.82; 176.83; 176.84; 176.85; and 176.86, are repealed.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective July 1, 1995."

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 20 and nays 44, as follows:

Those who voted in the affirmative were:

Anderson	Flynn	Johnson, D.J.	Neuville	Ranum
Berglin	Hanson	Kroening	Novak	Reichgott Junge
Chandler	Hottinger	Marty	Pappas	Samuelson
Finn	Janezich	Murphy	Piper	Spear

Those who voted in the negative were:

Beckman	Johnson, D.E.	Langseth	Morse	Sams
Belanger	Johnston	Larson	Oliver	Scheevel
Berg	Kelly	Lesewski	Olson	Solon
Bertram	Kiscaden	Lessard	Ourada	Stevens
Betzold	Kleis	Limmer	Pariseau	Stumpf
Chmielewski	Knutson	Merriam	Pogemiller	Terwilliger
Day	Kramer	Metzen	Riveness	Vickerman
Dille	Krentz	Moe, R.D.	Robertson	Wiener
Frederickson	Laidig	Mondale	Runbeck	

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

H.F. No. 642 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 37 and nays 28, as follows:

Those who voted in the affirmative were:

Beckman	Johnson, D.E.	Langseth	Oliver	Stevens
Belanger	Johnston	Larson	Olson	Stumpf
Berg	Kiscaden	Lesewski	Ourada	Terwilliger
Bertram	Kleis	Lessard	Pariseau	Vickerman
Day	Knutson	Limmer	Robertson	Wiener
Dille	Kramer	Mondale	Runbeck	
Frederickson	Krentz	Morse	Sams	
Hottinger	Laidig	Neuville	Scheevel	

Those who voted in the negative were:

Anderson	Flynn	Kroening	Novak	Riveness
Berglin	Hanson	Marty	Pappas	Samuelson
Betzold	Janezich	Merriam	Piper	Solon
Chandler	Johnson, D.J.	Metzen	Pogemiller	Spear
Chmielewski	Johnson, J.B.	Moe, R.D.	Ranum	
Finn	Kelly	Murphy	Reichgott Junge	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Terwilliger moved that S.F. No. 1406 be taken from the table. The motion prevailed.

S.F. No. 1406: A bill for an act relating to employment; establishing and modifying certain salary limits; requiring an evaluation of agency head responsibilities; amending Minnesota Statutes 1994, sections 3.855, subdivision 3; 15A.081, subdivision 8; 15A.083, subdivisions 5, 6a, and 7; 43A.17, subdivisions 1, 3, and by adding a subdivision; 43A.18, subdivision 4; 85A.02, subdivision 5a; and 298.22, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 15A; repealing Minnesota Statutes 1994, sections 15A.081, subdivisions 1, 7, and 7b; and 43A.18, subdivision 5.

Mr. Terwilliger then moved to amend S.F. No. 1406 as follows:

Page 11, delete lines 26 to 28

The motion prevailed. So the amendment was adopted.

Mr. Marty moved to amend S.F. No. 1406 as follows:

Page 2, line 32, after the period, insert "The salary of the governor as set under that section, however, may not exceed an amount equal to ten times the annual income of a full-time worker earning the minimum wage for large employers currently in effect under section 177.24, subdivision 1."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 8 and nays 52, as follows:

Those who voted in the affirmative were:

Anderson	Flynn	Kelly	Pappas	Piper
Berglin	Johnson, D.J.	Marty		

Those who voted in the negative were:

Beckman	Hanson	Laidig	Neuville	Samuelson
Belanger	Hottinger	Langseth	Novak	Scheevel
Berg	Johnson, D.E.	Larson	Oliver	Solon
Bertram	Johnson, J.B.	Lesewski	Ourada	Spear
Betzold	Johnston	Lessard	Pariseau	Stevens
Chandler	Kiscaden	Limmer	Pogemiller	Terwilliger
Chmielewski	Kleis	Merriam	Ranum	Vickerman
Day	Knutson	Moe, R.D.	Reichgott Junge	Wiener
Dille	Kramer	Mondale	Robertson	
Finn	Krentz	Morse	Runbeck	
Frederickson	Kroening	Murphy	Sams	

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

CALL OF THE SENATE

Mr. Frederickson imposed a call of the Senate for the balance of the proceedings on S.F. No. 1406. The Sergeant at Arms was instructed to bring in the absent members.

S.F. No. 1406 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 35 and nays 30, as follows:

Those who voted in the affirmative were:

Beckman	Janezich	Langseth	Pappas	Samuelson
Belanger	Johnson, D.E.	Lessard	Pogemiller	Solon
Berg	Johnson, D.J.	Merriam	Reichgott Junge	Spear
Betzold	Kelly	Metzen	Riveness	Stevens
Flynn	Kiscaden	Moe, R.D.	Robertson	Stumpf
Frederickson	Knutson	Novak	Runbeck	Terwilliger
Hottinger	Laidig	Oliver	Sams	Wiener

Those who voted in the negative were:

Anderson	Dille	Kramer	Marty	Ourada
Berglin	Finn	Krentz	Mondale	Pariseau
Bertram	Hanson	Kroening	Morse	Piper
Chandler	Johnson, J.B.	Larson	Murphy	Ranum
Chmielewski	Johnston	Lesewski	Neuville	Scheevel
Day	Kleis	Limmer	Olson	Vickerman

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

Mr. Kelly moved that S.F. No. 302 be taken from the table. The motion prevailed.

S.F. No. 302: A bill for an act relating to employment; increasing the minimum wage; amending Minnesota Statutes 1994, section 177.24, subdivision 1.

Mr. Dille moved to amend S.F. No. 302 as follows:

Page 2, after line 9, insert:

"(c) Notwithstanding paragraph (b), every large employer must pay each employee who averages $25 or more per week in gratuities in a pay period at a rate of at least $4.25 an hour and every small employer must pay each employee who averages $25 or more per week in gratuities in a pay period at a rate of at least $4 an hour, except that, if an employee's hourly wages plus reported gratuity income divided by the hours worked in a pay period, is less than the hourly wage rate required by paragraph (b), the employer shall, for that pay period, pay to the employee at least the hourly wage rate required under paragraph (b) exclusive of any reported gratuity income."

Page 2, line 10, strike "(c)" and insert "(d)"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 30 and nays 31, as follows:

Those who voted in the affirmative were:

Belanger	Frederickson	Knutson	Murphy	Riveness
Bertram	Hottinger	Kramer	Neuville	Robertson
Chandler	Johnson, D.E.	Laidig	Oliver	Sams
Chmielewski	Johnston	Larson	Olson	Scheevel
Day	Kiscaden	Lesewski	Ourada	Solon
Dille	Kleis	Lessard	Pariseau	Terwilliger

Those who voted in the negative were:

Anderson	Hanson	Limmer	Novak	Samuelson
Beckman	Janezich	Marty	Pappas	Spear
Berg	Johnson, D.J.	Merriam	Piper	Vickerman
Berglin	Kelly	Metzen	Pogemiller	
Betzold	Krentz	Moe, R.D.	Ranum	
Finn	Kroening	Mondale	Reichgott Junge	
Flynn	Langseth	Morse	Runbeck	

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

CALL OF THE SENATE

Mr. Novak imposed a call of the Senate for the balance of the proceedings on S.F. No. 302. The Sergeant at Arms was instructed to bring in the absent members.

S.F. No. 302 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 40 and nays 24, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Belanger	Kiscaden	Larson	Olson	Scheevel
Day	Kleis	Lesewski	Ourada	Stevens
Frederickson	Knutson	Limmer	Pariseau	Terwilliger
Johnson, D.E.	Kramer	Neuville	Robertson	Vickerman
Johnston	Laidig	Oliver	Runbeck	

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

SUSPENSION OF RULES

Mr. Pogemiller moved that Senate Rule 48 be suspended as to S.F. No. 1406.

CALL OF THE SENATE

Mr. Pogemiller imposed a call of the Senate for the balance of the proceedings on his motion. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the motion of Mr. Pogemiller.

The roll was called, and there were yeas 35 and nays 29, as follows:

Those who voted in the affirmative were:

Anderson	Finn	Kelly	Morse	Reichgott Junge
Beckman	Flynn	Krentz	Murphy	Riveness
Berglin	Hanson	Kroening	Novak	Sams
Bertram	Hottinger	Langseth	Pappas	Samuelson
Betzold	Janezich	Marty	Piper	Stumpf
Chandler	Johnson, D.J.	Moe, R.D.	Pogemiller	Vickerman
Cohen	Johnson, J.B.	Mondale	Ranum	Wiener

Those who voted in the negative were:

Belanger	Johnston	Larson	Oliver	Scheevel
Berg	Kiscaden	Lesewski	Olson	Solon
Day	Kleis	Limmer	Ourada	Spear
Dille	Knutson	Merriam	Pariseau	Stevens
Frederickson	Kramer	Metzen	Robertson	Terwilliger
Johnson, D.E.	Laidig	Neuville	Runbeck	

The motion did not prevail.

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1670, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1670: A bill for an act relating to the organization and operation of state government; appropriating money for community development and certain agencies of state government, with certain conditions; establishing and modifying certain programs; providing for regulation of certain activities and practices; providing for accounts, assessments, and fees; requiring studies and reports; amending Minnesota Statutes 1994, sections 116J.873, subdivision 3, and by adding subdivisions; 116M.16, subdivision 2; 116M.18, subdivisions 4, 5, and by adding a subdivision; 116N.03, subdivision 2; 116N.08, subdivisions 5, 6, and by adding a subdivision; 124.85, by adding a subdivision; 175.171; 268A.01, subdivisions 4, 5, 6, 9, and 10; 268A.03; 268A.06, subdivision 1; 268A.07; 268A.08, subdivisions 1 and 2; 268A.13; 462A.201, subdivision 2; 462A.204, subdivision 1; and 462A.21, subdivisions 3b, 8b, 21, and by adding a subdivision; Laws 1994, chapter 643, section 19, subdivision 9; proposing coding for new law in Minnesota Statutes, chapters 178; 268A; and 462A; repealing Minnesota Statutes 1994, sections 116J.874, subdivision 6; 268A.01, subdivisions 7, 11, and 12; and 268A.09.

Senate File No. 1670 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1995

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 1204, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 1204: A bill for an act relating to insurance; no-fault auto; regulating rental vehicle coverages; determining when a vehicle is rented; modifying the right to compensation for loss of use of a damaged rented motor vehicle; providing for limits of liability for motor vehicle lessors; amending Minnesota Statutes 1994, section 65B.49, subdivision 5a.

Senate File No. 1204 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1995

Mr. President:

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

S.F. No. 224: A bill for an act relating to motor vehicles; providing for biennial payment of tax on certain towed recreational vehicles and trailers; amending Minnesota Statutes 1994, section 168.013, subdivisions 1d and 1g.

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

Wenzel, Osthoff and Ozment.

Senate File No. 224 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1995

Mr. President:

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

S.F. No. 557: A bill for an act relating to employment; authorizing the legislative commission on employee relations to modify compensation for certain managerial positions in the higher education board; ratifying certain labor agreements; amending Minnesota Statutes 1994, sections 3.855, subdivision 3; 179A.04, subdivision 3; and 179A.16, subdivisions 6, 7, and 8.

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

Solberg, Rest and Mares.

Senate File No. 557 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1995

Mr. President:

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

S.F. No. 1444: A bill for an act relating to state lands; providing for the sale of certain tax-forfeited lands in St. Louis county; authorizing Crow Wing county to allow the sale of certain nonconforming lots within the Mississippi headwaters corridor; requiring the commissioner of natural resources to convey certain land to the city of Akeley; authorizing the sale of certain trust fund lands.

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

Rukavina, Kinkel and Haas.

Senate File No. 1444 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 19, 1995

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1700, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1700 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 19, 1995

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1700

A bill for an act relating to the organization and operation of state government; appropriating money for the judicial branch, public safety, public defense, corrections, and for other criminal justice agencies and purposes; making changes to various criminal laws and penalties; modifying

juvenile justice provisions; amending Minnesota Statutes 1994, sections 2.722, subdivision 1; 3.732, subdivision 1; 16A.285; 43A.18, by adding a subdivision; 120.101, subdivision 1; 120.14; 120.17, subdivisions 5a, 6, and 7; 120.181; 120.73, by adding a subdivision; 124.18, by adding a subdivision; 124.32, subdivision 6; 125.05, by adding a subdivision; 125.09, subdivision 1; 127.20; 127.27, subdivision 10; 145A.05, subdivision 7a; 152.18, subdivision 1; 171.04, subdivision 1; 171.29, subdivision 2; 176.192; 179A.03, subdivision 7; 242.31, subdivision 1; 243.166; 243.23, subdivision 3; 243.51, subdivisions 1 and 3; 243.88, by adding a subdivision; 260.015, subdivision 21; 260.115, subdivision 1; 260.125; 260.126, subdivision 5; 260.131, subdivision 4, and by adding a subdivision; 260.132, subdivisions 1, 4, and by adding a subdivision; 260.155, subdivisions 2 and 4; 260.161, subdivision 3; 260.181, subdivision 4; 260.185, subdivision 6, and by adding subdivisions; 260.191, subdivision 1; 260.193, subdivision 4; 260.195, subdivision 3, and by adding a subdivision; 260.215, subdivision 1; 260.291, subdivision 1; 271.06, subdivision 4; 299A.33, subdivision 3; 299A.35, subdivision 1; 299A.51, subdivision 2; 299C.065, subdivisions 1a, 3, and 3a; 299C.10, subdivision 1, and by adding a subdivision; 299C.62, subdivision 4; 357.021, subdivision 2; 364.09; 388.24, subdivision 4; 401.065, subdivision 3a; 401.10; 466.03, by adding a subdivision; 480.30; 481.01; 494.03; 518.165, by adding subdivisions; 518B.01, subdivisions 2, 4, 8, 14, and by adding a subdivision; 609.055, subdivision 2; 609.101, subdivisions 1, 2, and 3; 609.115, by adding a subdivision; 609.135, by adding a subdivision; 609.1352, subdivisions 1, 3, and 5; 609.152, subdivision 1; 609.19; 609.3451, subdivision 1; 609.485, subdivisions 2 and 4; 609.605, subdivision 4; 609.746, subdivision 1; 609.748, subdivision 3a; 609.749, subdivision 5; 611.27, subdivision 4; 611A.01; 611A.04, subdivision 1; 611A.19, subdivision 1; 611A.31, subdivision 2; 611A.53, subdivision 2; 611A.71, subdivision 7; 611A.73, subdivision 3; 611A.74; 617.23; 624.22; 624.712, subdivision 5; 626.841; 626.843, subdivision 1; 626.861, subdivisions 1 and 4; 628.26; 629.341, subdivision 1; 629.715, subdivision 1; 629.72, subdivisions 1, 2, and 6; 641.14; and 641.15, subdivision 2; Laws 1993, chapter 255, sections 1, subdivisions 1 and 4; and 2; and Laws 1994, chapter 643, section 79, subdivisions 1, 2, and 4; proposing coding for new law in Minnesota Statutes, chapters 8; 16B; 120; 127; 243; 244; 257; 260; 299A; 299C; 299F; 401; 504; 563; 609; 611A; 626; and 629; proposing coding for new law as Minnesota Statutes, chapter 260A; repealing Minnesota Statutes 1994, sections 121.166; 126.25; and 611A.61, subdivision 3; Laws 1994, chapter 576, section 1.

May 18, 1995

The Honorable Irv Anderson
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

We, the undersigned conferees for H.F. No. 1700, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 1700 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [CRIMINAL JUSTICE APPROPRIATIONS.]

The sums shown in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another fund named, to the agencies and for the purposes specified in this act, to be available for the fiscal years indicated for each purpose. The figures "1996" and "1997," where used in this act, mean that the appropriation or appropriations listed under them are available for the year ending June 30, 1996, or June 30, 1997, respectively.

SUMMARY BY FUND

	1996	1997	TOTAL
General	$ 438,334,000	$ 429,192,000	$ 867,526,000

Environmental	40,000	40,000	80,000
Special Revenue	4,859,000	4,848,000	9,707,000
Trunk Highway	1,694,000	1,696,000	3,390,000
TOTAL	$ 444,927,000	$ 435,776,000	$ 880,703,000

	APPROPRIATIONS Available for the Year Ending June 30	
	1996	1997
Sec. 2. SUPREME COURT		
Subdivision 1. Total Appropriation	$ 20,340,000	$ 19,434,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. Supreme Court Operations

3,975,000	3,987,000

$2,500 the first year and $2,500 the second year are for a contingent account for expenses necessary for the normal operation of the court for which no other reimbursement is provided.

Subd. 3. Civil Legal Services

5,007,000	5,007,000

This appropriation is for legal service to low-income clients and for family farm legal assistance under Minnesota Statutes, section 480.242. Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium. A qualified legal services program, as defined in Minnesota Statutes, section 480.24, subdivision 3, may provide legal services to persons eligible for family farm legal assistance under Minnesota Statutes, section 480.242.

The supreme court is requested to create a joint committee including representatives from the supreme court, the Minnesota state bar association, and the Minnesota legal services coalition to prepare recommendations for state funding changes or other alternatives to maintain an adequate level of funding and voluntary services that will address the critical civil legal needs of low income persons as a result of reductions in federal government funding for such programs. The recommendations should be submitted to the chairs of the judiciary finance committee in the house of representatives and the crime prevention committee in the senate by December 31, 1995.

Subd. 4. Family Law Legal Services

	877,000	877,000	

This appropriation is to improve the access of low-income clients to legal representation in family law matters and must be distributed under Minnesota Statutes, section 480.242, to the qualified legal services programs described in Minnesota Statutes, section 480.242, subdivision 2, paragraph (a). Any unencumbered balance remaining in the first year does not cancel and is available for the second year of the biennium.

Subd. 5. State Court Administration

	8,507,000	7,574,000	

The nonfelony enforcement advisory committee may seek additional funding from public and private sources.

$500,000 the first year and $50,000 the second year are for the statewide juvenile criminal history system, extended juvenile justice data, statewide misdemeanor system, and the tracking system for domestic abuse orders for protection.

$73,000 the first year and $64,000 the second year are to administer the statewide criminal and juvenile justice community model including salary expenses.

$374,000 the first year is to implement the electronic livescan/cardscan fingerprint technology for the statewide designated court locations in accordance with the Minnesota criminal and juvenile justice task force recommendations.

$125,000 the first year and $125,000 the second year are to fund the activities of the juvenile violence prevention and enforcement unit.

Subd. 6. Community Dispute Resolution

	245,000	245,000	

Subd. 7. Law Library Operations

	1,729,000	1,744,000	

Sec. 3. COURT OF APPEALS	5,814,000	5,832,000
Sec. 4. DISTRICT COURTS	66,854,000	67,020,000

$180,000 the first year and $180,000 the second year are for two referees in the fourth judicial district, if a law is enacted providing for a homestead agricultural and credit assistance offset in the same amount.

Sec. 5. BOARD OF JUDICIAL STANDARDS	209,000	209,000
Sec. 6. TAX COURT	592,000	592,000
Sec. 7. PUBLIC SAFETY		

Subdivision 1. Total Appropriation 31,209,000 28,798,000

Summary by Fund

	1996	1997
General	28,991,000	26,564,000
Special Revenue	484,000	498,000
Trunk Highway	1,694,000	1,696,000
Environmental	40,000	40,000

The commissioner shall distribute additional federal Byrne grant funds received in federal fiscal year 1995 in accordance with the commissioner of public safety's May 12, 1995, letter to the chairs of the house judiciary finance committee and senate crime prevention finance division.

Subd. 2. Emergency Management 2,520,000 1,985,000

Summary by Fund

General	2,480,000	1,945,000
Environmental	40,000	40,000

Subd. 3. Driver and Vehicle Services 12,000 -0-

$12,000 the first year is for improvements to the department's driving records computer system to better indicate to a peace officer whether to impound the vehicle registration plates of an individual pursuant to Minnesota Statutes, section 168.042.

Subd. 4. Criminal Apprehension 17,197,000 16,292,000

Summary by Fund

General	15,019,000	14,098,000
Special Revenue	484,000	498,000
Trunk Highway	1,694,000	1,696,000

Notwithstanding any other law to the contrary, the bureau of criminal apprehension shall be responsible for the following duties in addition to its other duties:

(1) it shall administer and maintain the computerized criminal history record system;

(2) it shall administer and maintain the fingerprint record system, including the automated fingerprint identification system;

(3) it shall administer and maintain the electronic livescan receipt of fingerprints system;

(4) it shall administer and maintain the criminal justice data communications network;

(5) it shall collect and preserve statistics on crimes committed in this state;

(6) it shall maintain a criminal justice information system (CJIS) that provides a capability for federal, state, and local criminal justice agencies to enter, store, and retrieve documented information relating to wanted persons, missing persons, and stolen property;

(7) it shall be responsible for performing criminal background checks on employees, applicants for employment, and volunteers, as otherwise required by law;

(8) it shall be responsible for reporting to the federal bureau of investigation under the interstate identification index system; and

(9) it shall administer and maintain the forensic science laboratory.

The bureau of criminal apprehension shall make public criminal history data in its possession accessible to law enforcement agencies by means of the internet. A prototype for making public criminal history data accessible by means of the internet shall be available by March 31, 1996.

$500,000 the first year and $50,000 the second year are for integration and development of the statewide juvenile criminal history system, extended juvenile justice data system, statewide misdemeanor system, and the tracking system for domestic abuse orders for protection with the bureau's centralized computer systems.

Up to $1,000,000 from dedicated noncriminal justice records fees may be used to implement the electronic livescan/cardscan fingerprint technology for the statewide arrest/booking locations in accordance with the Minnesota criminal and juvenile justice task force recommendations.

$751,000 the first year and $510,000 the second year are to upgrade the bureau's forensic laboratory to implement new methods of DNA testing.

$60,000 the first year and $60,000 the second year are to provide the reimbursements authorized by Minnesota Statutes, section 299C.063, subdivision 2.

$387,000 the first year and $398,000 the second year from the bureau of criminal apprehension account in the special revenue fund are for laboratory activities.

$200,000 the first year and $200,000 the second year are for use by the bureau of criminal apprehension for the purpose of investigating cross-jurisdictional criminal activity.

$97,000 the first year and $100,000 the second year from the bureau of criminal apprehension account in the special revenue fund are for grants to local officials for the cooperative investigation of cross-jurisdictional criminal activity. Any unencumbered balance remaining in the first year does not cancel but is available for the second year.

$250,000 the first year is for the continuation of the crime fax integrated criminal alert network project.

$206,000 the first year and $206,000 the second year are for improvements in the bureau's internal systems support functions.

Subd. 5. Fire Marshal

2,631,000	2,619,000

The commissioner of health shall transfer $333,000 the first year and $333,000 the second year from the state government special revenue fund to the general fund to reimburse the general fund for costs of fire safety inspections performed by the state fire marshal.

Of this appropriation, $14,000 is appropriated from the general fund to the commissioner of public safety to implement and administer the fireworks display operator certification program under Minnesota Statutes, section 624.22.

Subd. 6. Capitol Security

1,436,000	1,436,000

Subd. 7. Liquor Control

490,000	490,000

Subd. 8. Gambling Enforcement

1,137,000	1,140,000

Subd. 9. Drug Policy and Violence Prevention

3,571,000	2,621,000

Of this appropriation, $852,000 in each year of the biennium is to be distributed by the commissioner of public safety after consulting with the chemical abuse and violence prevention council. Amounts not expended in the first year of the biennium do not cancel but may be expended in the second year of the biennium.

$300,000 the first year is for grants to local law enforcement jurisdictions to develop three

truancy service centers under Minnesota Statutes, proposed section 260A.04. Applicants must provide a one-to-one funding match. If the commissioner has received applications from fewer than three counties by the application deadline, the commissioner may make unallocated funds from this appropriation available to an approved grantee that can provide the required one-to-one funding match for the additional funds.

Of this appropriation, not less than $75,000 in the first year and not less than $75,000 in the second year are appropriated to the commissioner of public safety for transfer to the commissioner of education for grants to cities, counties, and school boards for community violence prevention councils. During the biennium, councils shall identify community needs and resources for violence prevention and development services that address community needs related to violence prevention. Any of the funds awarded to school districts but not expended in fiscal year 1996, are available to the award recipient in fiscal year 1997 for the same purposes and activities. Any portion of the 1996 appropriation not spent in 1996 is available in 1997. One hundred percent of this aid must be paid in the current fiscal year in the same manner as specified in Minnesota Statutes, section 124.195, subdivision 9.

Of this appropriation, $225,000 in each year is for targeted early intervention pilot project grants.

$50,000 the first year is for a grant to a statewide program to create and develop theatrical plays, workshops, and educational resources based on a peer education model that promotes increased awareness and prevention of sexual abuse, interpersonal violence, and sexual harassment. This appropriation is available until June 30, 1997.

$25,000 the first year and $25,000 the second year are to establish youth neighborhood centers.

$100,000 the first year and $100,000 the second year are for a grant to the Northwest Hennepin Human Services Council to administer and expand the Northwest law enforcement project to municipal and county law enforcement agencies throughout the metropolitan area.

$100,000 the first year is for grants for truancy reduction pilot programs.

$500,000 the first year is for grants to local law enforcement agencies for law enforcement

officers assigned to schools. The grants may be used to expand the assignment of law enforcement officers to middle schools, junior high schools, and high schools. The grants may be used to provide the local share required for eligibility for federal funding for these positions. The amount of the state grant must be matched by at least an equal amount of money from nonstate sources.

Subd. 10. Crime Victims Services

2,012,000 2,012,000

Of this amount, $50,000 may be used to hire or contract with an attorney to obtain and collect judgments for amounts owed to victims by offenders.

Subd. 11. Crime Victims Ombudsman

203,000 203,000

Sec. 8. BOARD OF PRIVATE DETECTIVE AND PROTECTIVE AGENT SERVICES 102,000 115,000

Of this appropriation, $10,000 is appropriated for the biennium ending June 30, 1997, for the purpose of completing the adoption of agency rules concerning training requirements and training programs. This appropriation shall not become part of the base funding for the 1998-1999 biennium.

Sec. 9. BOARD OF PEACE OFFICER STANDARDS AND TRAINING 4,375,000 4,350,000

This appropriation is from the peace officers training account in the special revenue fund. Any receipts credited to the peace officer training account in the special revenue fund in the first year in excess of $4,375,000 must be transferred and credited to the general fund. Any receipts credited to the peace officer training account in the special revenue fund in the second year in excess of $4,350,000 must be transferred and credited to the general fund.

$850,000 the first year and $850,000 the second year are for law enforcement educational programs provided by the state colleges and universities.

$100,000 the first year and $100,000 the second year are for the development of an advanced law enforcement degree at the existing school of law enforcement at Metropolitan State University.

$203,000 the first year and $203,000 the second year shall be made available to law enforcement agencies to pay educational expenses and other costs of students who have been given conditional offers of employment by the agency

and who are enrolled in the licensing core of a professional peace officer education program. No more than $5,000 may be expended on a single student.

$2,300,000 the first year and $2,300,000 the second year are to reimburse local law enforcement for the cost of administering board-approved continuing education to peace officers.

$50,000 in the first year and $50,000 in the second year shall be used to provide DARE officer training.

$50,000 the first year and $25,000 the second year are for transfers to the crime victim and witness account in the state treasury for the purposes specified in Minnesota Statutes, section 611A.675. This sum is available until expended.

The remaining money shall be spent for the board's operations.

Sec. 10. BOARD OF PUBLIC DEFENSE

Subdivision 1. Total Appropriation	37,593,000	38,731,000

None of this appropriation shall be used to pay for lawsuits against public agencies or public officials to change social or public policy.

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Subd. 2. State Public Defender	3,012,000	2,981,000
Subd. 3. District Public Defense	33,836,000	35,009,000

$904,000 the first year and $904,000 the second year are for grants to the five existing public defense corporations under Minnesota Statutes, section 611.216.

Subd. 4. Board of Public Defense	745,000	741,000

For fiscal year 1997, the state board of public defense shall provide pay equity for the salaries of state employed assistant district public defenders and provide overhead compensation to state employed part-time assistant district public defenders, consistent with the legislative proposal based on the April 1995 house research department study entitled Minnesota's Public Defender Salaries: A Research Study.

The appropriation to the board of public defense in Laws 1995, chapter 48, section 2, does not expire and is available until expended.

Sec. 11. CORRECTIONS

Subdivision 1. Total Appropriation 276,085,000 269,576,000

The amounts that may be spent from this appropriation for each program are specified in the following subdivisions.

Any unencumbered balances remaining in the first year do not cancel but are available for the second year of the biennium.

Positions and administrative money may be transferred within the department of corrections as the commissioner considers necessary, upon the advance approval of the commissioner of finance.

For the biennium ending June 30, 1997, the commissioner of corrections may, with the approval of the commissioner of finance, transfer funds to or from salaries.

Subd. 2. Correctional Institutions

186,467,000 179,533,000

$50,000 is appropriated the first year for a youth placement profile study.

The commissioner of corrections, in consultation with the commissioner of human services and the veterans homes board, shall investigate alternatives for housing geriatric inmates in the custody of the commissioner of corrections.

The commissioner of corrections shall consider the cost-effectiveness of various housing alternatives, the possibility of federal reimbursement under various alternatives, the impact on existing correctional institutions, any impact on clients served by facilities operated by the departments of human services and veterans affairs, and the impact on existing employees and the physical plant at alternative sites. The commissioner of corrections shall consult with bargaining units that represent state employees affected by an alternative housing proposal.

The commissioner of corrections shall report findings and recommendations to the legislature by January 15, 1996.

During the biennium ending June 30, 1997, if it is necessary to reduce services or staffing within a correctional facility, the commissioner or his designee shall meet with affected exclusive

representatives. The commissioner shall make every reasonable effort to retain correctional officer and prison industry employees should reductions be necessary.

Subd. 3. Community Services

71,076,000 71,481,000

Of this appropriation, $400,000 shall be used for the biennium ending June 30, 1997, to provide operational subsidies under Minnesota Statutes, section 241.0221, subdivision 5, paragraph (c), to eight-day temporary holdover facilities in Washington and Carver counties.

Of this appropriation, $250,000 is available in each year of the biennium for grants to counties under Minnesota Statutes, section 169.1265, to pay the costs of developing and operating intensive probation programs for repeat DWI offenders; provided that at least one-half of this appropriation shall be used for grants to counties seeking to develop new programs.

The commissioner of public safety shall impose a surcharge of $10 on each fee charged for driver license reinstatement under Minnesota Statutes, section 171.29, subdivision 2, paragraph (b), and shall forward these surcharges to the commissioner of finance on a monthly basis. Upon receipt, the commissioner of finance shall credit the surcharges to the remote electronic alcohol monitoring pilot program account in the general fund of the state treasury. Of the money in this account, up to $250,000 shall be available to the commissioner of corrections in each year of the biennium for the remote electronic alcohol monitoring pilot program. The unencumbered balance remaining in the first year does not cancel but is available for the second year.

$3,586,000 the first year and $7,314,000 the second year are for a statewide probation and supervised release caseload reduction grant program. Counties that deliver correctional services through Minnesota Statutes, chapter 260, and that qualify for new probation officers under this program shall receive full reimbursement for the officers' salaries and reimbursement for the officers' benefits and support as set forth in the probations standards task force report, not to exceed $70,000 per officer annually. Positions funded by this appropriation may not supplant existing services. Position control numbers for these positions must be annually reported to the commissioner of corrections.

Notwithstanding Minnesota Statutes, section

401.10, in fiscal year 1996 the commissioner shall allocate $27,912,000 in community corrections act base funding so that no county receives less money in fiscal year 1996 than it received in fiscal year 1995.

The chairs of the house judiciary finance committee and the senate crime prevention finance division or their designees shall convene a work group to review the current community corrections equalization formula contained in Minnesota Statutes, section 401.10 and to develop a new formula that is more fair and equitable. The work group shall include representatives from the legislature, the department of corrections, and the Minnesota association of community corrections act counties. The work group shall develop the new formula by September 1, 1995, and present it for consideration to the 1996 legislature.

In fiscal year 1997, if the legislature enacts a new community corrections act formula, the commissioner shall allocate all community corrections act funding according to the new formula.

In fiscal year 1996, the commissioner shall distribute money appropriated for state and county probation officer caseload reduction, increased intensive supervised release and probation services, and county probation officer reimbursement according to the formula contained in Minnesota Statutes, section 401.10. These appropriations may not be used to supplant existing state or county probation officer positions or existing correctional services or programs. The money appropriated under this provision is intended to reduce state and county probation officer workload overcrowding and to increase supervision of individuals sentenced to probation at the county level. This increased supervision may be accomplished through a variety of methods, including but not limited to: (1) innovative technology services, such as automated probation reporting systems and electronic monitoring; (2) prevention and diversion programs; (3) intergovernmental cooperation agreements between local governments and appropriate community resources; and (4) traditional probation program services.

Of this appropriation, $75,000 in the first year is to be transferred by the commissioner of corrections to the legislative auditor for a weighted workload study to be used as a basis for fund distributions across all three probation

delivery systems, based on uniform workload standards and level of risk of individual offenders, and to make ongoing outcome data available on cases.

The study must recommend to the legislature by January 10, 1996, a statewide, uniform workload system and definitions of levels of risk; a standardized data collection system using the uniform definitions of workload and risk and a timeline for reporting data; and a new mechanism or formula for aid distribution based on the data, that could be operational by July 1, 1996.

In fiscal year 1997, the commissioner shall distribute money appropriated for state and county probation officer caseload reduction, increased intensive supervised release and reimbursement according to uniform workload standards and definitions of levels of risk adopted by the legislature after review of the legislative auditor's weighted workload study.

Of this appropriation, $3,400,000 the first year and $3,400,000 the second year are for the extended jurisdiction juvenile partnership program subsidy. Each county will be charged a sum equal to the per diem cost of confinement of those juveniles under 18 years of age convicted as extended jurisdiction juveniles and committed to the commissioner after July 1, 1995, and confined in a state correctional facility. Provided, however, that the amount charged a county for the costs of confinement shall not exceed the extended jurisdiction juvenile subsidy to which the county is eligible. All charges shall be upon the county of commitment. Nothing in this section shall relieve counties participating in the community corrections act from the requirement to pay per diem costs as prescribed in Minnesota Statutes, chapter 401.

$1,000,000 the first year and $1,000,000 the second year are for grants for a comprehensive continuum of care for juveniles at high risk to become extended jurisdiction juveniles and for extended jurisdiction juveniles.

The sentencing to service program shall include at least three work crews whose primary function is the removal of graffiti and other defacing signs and symbols from public property and from the property of requesting private property owners.

$500,000 in the first year is for grants to family services collaboratives to establish youth service center pilot projects for juveniles under the jurisdiction of the juvenile court. The centers

may provide medical, educational, job-related and social service programs. At least two-thirds of the funds appropriated shall be awarded to collaboratives in the first, third, fifth, sixth, seventh, eighth, ninth, or tenth judicial districts. A written report, detailing the impact of the projects, shall be presented to the legislature on January 1, 1997.

$2,161,000 is appropriated from the general fund for the fiscal biennium ending June 30, 1997, to develop and implement the productive day initiative program established in Minnesota Statutes, section 241.275. Of this amount, 11 percent shall be distributed to Anoka county and 11 percent to Olmsted county. The remainder shall be distributed pro rata to Hennepin and Ramsey counties and to Arrowhead regional corrections. The recipients must provide an equal match of local government resources.

$200,000 for the biennium ending June 30, 1997, is to be used by the commissioner of corrections to develop a grant for the development and implementation of a criterion-related cross validation study designed to measure outcomes of placing juveniles in out-of-home placement programs. The study must be completed in two years. The goals of the study are to:

(1) provide outcome data as a result of out-of-home placement intervention for juveniles;

(2) provide a measurement to predict the future behavior of juveniles; and

(3) identify the particular character traits of juveniles that each program treats most effectively so as to place juveniles in facilities that are best suited to providing effective treatment.

$12,000 the first year is to adopt rules and administer the advisory committee on juvenile facility programming rules.

$25,000 the first year is to conduct a study on the use of secure treatment facilities for juveniles.

None of this appropriation shall be used to pay for biomedical intervention for sex offenders.

Subd. 4. Management Services

18,542,000 18,562,000

Of this appropriation, $200,000 is appropriated for the biennium ending June 30, 1997, to be transferred to the ombudsman for crime victims.

During the biennium ending June 30, 1997, when awarding grants for victim's programs and

services, the commissioner shall give priority to geographic areas that are unserved or underserved by programs or services.

Of this appropriation $325,000 is appropriated from the general fund to the commissioner of corrections for the purpose of funding battered women's services under Minnesota Statutes, section 611A.32. The services to be funded include:

(1) Asian battered women's shelter;

(2) African-American battered women's shelter;

(3) child advocacy services in battered women programs; and

(4) community-based domestic abuse advocacy and support services programs in judicial districts not currently receiving grants from the commissioner.

Of this appropriation, $325,000 is appropriated in fiscal years 1996 and 1997 from the general fund to the commissioner of corrections to be used to fund grants to sexual assault programs. Grant money for sexual assault programs may be used to:

(1) establish and maintain sexual assault services;

(2) increase the funding base for providers of services to victims of sexual assault;

(3) establish and maintain six new programs to serve unserviced and underserviced populations; and

(4) fund special need programs.

$100,000 the first year and $100,000 the second year are to develop a continuum of care for juvenile female offenders. The commissioner of corrections shall collaborate with the commissioners of human services, health, economic security, planning, education, and public safety and with representatives of the private sector to develop a comprehensive continuum of care to address the gender-specific needs of juvenile female offenders.

Of this amount, $455,000 the first year and $375,000 the second year are for increased rent for an increase in space and for the destruction of building No. 30 at the Minnesota Correctional Facility, Willow River - Moose Lake. When the department of human services receives federal reimbursement for the destruction of building No. 30, the department of human services must transfer the federal funds it receives to the department of corrections.

The department of corrections shall develop options for achieving equity in its employee pension program by December 1, 1995. The plan must consider financially responsible mechanisms to achieve pension equity, including but not limited to, changing participation rates, age of retirement, and benefits provided under the plan. The departments of corrections and human services shall consult with affected employee unions in developing a plan and shall bear the cost of any actuarial studies needed to establish the cost of possible options. The department shall propose legislation during the 1996 regular session to implement a plan.		
Sec. 12. CORRECTIONS OMBUDSMAN	530,000	530,000
Sec. 13. SENTENCING GUIDELINES COMMISSION	369,000	371,000
Sec. 14. ATTORNEY GENERAL	125,000	125,000
$125,000 the first year and $125,000 the second year are for the advisory council on drug abuse resistance education for drug abuse resistance education programs under Minnesota Statutes, section 299A.331.		
Sec. 15. HUMAN SERVICES	150,000	93,000
$100,000 is appropriated from the general fund to the commissioner of human services for the fiscal biennium ending June 30, 1997, to provide grants to agencies for interdisciplinary training of criminal justice officials who conduct forensic interviews of children who report being sexually abused.		
$93,000 is appropriated from the general fund to the commissioner of human services for the child abuse help line established under this act to be available until June 30, 1997.		
$25,000 the first year and $25,000 the second year are for a grant to a nonprofit, statewide child abuse prevention organization whose primary focus is parental self-help and support.		
Sec. 16. EDUCATION	500,000	-0-
$500,000 the first year is for grants to school districts for alternative programming for at-risk and in-risk students.		
Sec. 17. HEALTH	80,000	-0-
This amount is for expanded projects for the Institute of Child and Adolescent Sexual Health.		

Sec. 18. Minnesota Statutes 1994, section 16A.285, is amended to read:

16A.285 [ALLOWED APPROPRIATION TRANSFERS.]

An agency in the executive, legislative, or judicial branch may transfer state agency operational money between programs within the same fund if: (1) the agency first notifies the commissioner as to the type and intent of the transfer; and (2) the transfer is consistent with legislative intent. If an amount is specified for an item within an activity, that amount must not be transferred or used for any other purpose.

The commissioner shall report the transfers to the chairs of the senate finance and house of representatives ways and means committees.

Sec. 19. Minnesota Statutes 1994, section 243.51, subdivision 1, is amended to read:

Subdivision 1. The commissioner of corrections is hereby authorized to contract with agencies and bureaus of the United States ~~attorney general~~ and with the proper officials of other states or a county of this state for the custody, care, subsistence, education, treatment and training of persons convicted of criminal offenses constituting felonies in the courts of this state, the United States, or other states of the United States. Such contracts shall provide for reimbursing the state of Minnesota for all costs or other expenses involved. Funds received under such contracts shall be deposited in the state treasury ~~to the credit of the facility in which such persons may be confined~~ and are appropriated to the commissioner of corrections for correctional purposes. Any prisoner transferred to the state of Minnesota pursuant to this subdivision shall be subject to the terms and conditions of the prisoner's original sentence as if the prisoner were serving the same within the confines of the state in which the conviction and sentence was had or in the custody of the United States ~~attorney general~~. Nothing herein shall deprive such inmate of the right to parole or the rights to legal process in the courts of this state.

Sec. 20. Minnesota Statutes 1994, section 243.51, subdivision 3, is amended to read:

Subd. 3. [TEMPORARY DETENTION.] The commissioner of corrections is authorized to contract with agencies and bureaus of the United States ~~attorney general~~ and with the appropriate officials of any other state or county of this state for the temporary detention of any person in custody pursuant to any process issued under the authority of the United States, other states of the United States, or the district courts of this state. The contract shall provide for reimbursement to the state of Minnesota for all costs and expenses involved. Money received under contracts shall be deposited in the state treasury ~~to the credit of the facility in which the persons may be confined~~ and are appropriated to the commissioner of corrections for correctional purposes.

Sec. 21. Minnesota Statutes 1994, section 626.861, subdivision 4, is amended to read:

Subd. 4. [PEACE OFFICERS TRAINING ACCOUNT.] ~~(a)~~ Receipts from penalty assessments must be credited to a peace ~~officer~~ officers training account in the special revenue fund. ~~The peace officers standards and training board shall make the following allocations from appropriated funds, net of operating expenses:~~

~~(1) for fiscal year 1994:~~

~~(i) at least 25 percent for reimbursement to board approved skills courses; and~~

~~(ii) at least 13.5 percent for the school of law enforcement;~~

~~(2) for fiscal year 1995:~~

~~(i) at least 17 percent to the community college system for one time start up costs associated with the transition to an integrated academic program;~~

~~(ii) at least eight percent for reimbursement to board approved skills courses in the technical college system; and~~

~~(iii) at least 13.5 percent for the school of law enforcement.~~

~~The balance in each year may be used to pay each local unit of government an amount in proportion to the number of licensed peace officers and constables employed, at a rate to be determined by the board. The disbursed amount must be used exclusively for reimbursement of the cost of in service training required under this chapter and chapter 214.~~

~~(b) The board must not reduce allocations to law enforcement agencies or higher education systems or institutions to fund legal costs or other board operating expenses not presented in the board's biennial legislative budget request.~~

~~(c) No school in Minnesota certified by the board shall provide a nondegree professional peace officer education program for any state agency or local law enforcement agency after December 31, 1994, without affirmative legislative approval.~~

Sec. 22. [CONSOLIDATION OF VICTIM SERVICES.]

Notwithstanding any provision to the contrary, the funds appropriated for the fiscal year ending June 30, 1997 to the department of corrections for victim services, the department of public safety for crime victim services and the supreme court for community dispute resolution shall not be available unless the departments of corrections and public safety and the supreme court provide a plan to the legislature by January 1, 1996. The plan shall be developed in consultation with affected constituent groups and shall include the following:

(1) An agreed upon staffing structure to be implemented no later than July 1, 1996, that places all of the named victim services programs in one agency; and

(2) Recommendations on a structure for constituent advisory participation in administering programs in the victim services unit, including functions of the sexual assault advisory council under section 611A.32, the battered women advisory council under section 611A.34, the general crime victims advisory council under section 611A.361, the abused children advisory council under section 611A.365, and the crime victim and witness advisory council under section 611A.71.

Until an advisory structure is implemented, members of existing councils may receive expense reimbursements as specified in Minnesota Statutes, section 15.059.

The plan shall be submitted to the chairs of the house judiciary committee and the senate crime prevention committee.

ARTICLE 2

CRIME

Section 1. Minnesota Statutes 1994, section 145A.05, subdivision 7a, is amended to read:

Subd. 7a. [CURFEW.] A county board may adopt an ordinance establishing a countywide curfew for unmarried persons under ~~17~~ 18 years of age. If the county board of a county located in the seven-county metropolitan area adopts a curfew ordinance under this subdivision, the ordinance shall contain an earlier curfew for children under the age of 12 than for older children.

Sec. 2. Minnesota Statutes 1994, section 152.18, subdivision 1, is amended to read:

Subdivision 1. If any person who has not previously participated in or completed a diversion program authorized under section 401.065 or who has not previously been placed on probation without a judgment of guilty and thereafter been discharged from probation under this section is found guilty of a violation of section 152.024, subdivision 2, 152.025, subdivision 2, or 152.027, subdivision 2, 3, or 4, for possession of a controlled substance, after trial or upon a plea of guilty, and the court determines that the violation does not qualify as a subsequent controlled substance conviction under section 152.01, subdivision 16a, the court may, without entering a judgment of guilty and with the consent of the person, defer further proceedings and place the person on probation upon such reasonable conditions as it may require and for a period, not to exceed the maximum sentence provided for the violation. The court may give the person the opportunity to attend and participate in an appropriate program of education regarding the nature and effects of alcohol and drug abuse as a stipulation of probation. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against the person and discharge the person from probation before the expiration of the maximum period prescribed for the person's probation. If during the period of probation the person does not violate any of the conditions of the probation, then upon expiration of the period the court shall discharge the person and dismiss the proceedings

against that person. Discharge and dismissal under this subdivision shall be without court adjudication of guilt, but a not public record of it shall be retained by the department of public safety for the purpose of use by the courts in determining the merits of subsequent proceedings against the person. The not public record may also be opened only upon court order for purposes of a criminal investigation, prosecution, or sentencing. Upon request by law enforcement, prosecution, or corrections authorities, the department shall notify the requesting party of the existence of the not public record and the right to seek a court order to open it pursuant to this section. The court shall forward a record of any discharge and dismissal under this subdivision to the department of public safety who shall make and maintain the not public record of it as provided under this subdivision. The discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or for any other purpose.

For purposes of this subdivision, "not public" has the meaning given in section 13.02, subdivision 8a.

Sec. 3. Minnesota Statutes 1994, section 299A.38, subdivision 2, is amended to read:

Subd. 2. [STATE AND LOCAL REIMBURSEMENT.] Peace officers and heads of local law enforcement agencies who buy vests for the use of peace officer employees may apply to the commissioner for reimbursement of funds spent to buy vests. On approving an application for reimbursement, the commissioner shall pay the applicant an amount equal to the lesser of ~~one-third~~ one-half of the vest's purchase price or ~~$165~~ $300. The political subdivision that employs the peace officer shall pay at least the lesser of ~~one-third~~ one-half of the vest's purchase price or ~~$165~~ $300. The political subdivision may not deduct or pay its share of the vest's cost from any clothing, maintenance, or similar allowance otherwise provided to the peace officer by the law enforcement agency.

Sec. 4. Minnesota Statutes 1994, section 299A.44, is amended to read:

299A.44 [DEATH BENEFIT.]

Subdivision 1. [PAYMENT REQUIRED.] On certification to the governor by the commissioner of public safety that a public safety officer employed within this state has been killed in the line of duty, leaving a spouse or one or more eligible dependents, the commissioner of finance shall pay $100,000 from the public safety officer's benefit account, as follows:

(1) if there is no dependent child, to the spouse;

(2) if there is no spouse, to the dependent child or children in equal shares;

(3) if there are both a spouse and one or more dependent children, one-half to the spouse and one-half to the child or children, in equal shares;

(4) if there is no surviving spouse or dependent child or children, to the parent or parents dependent for support on the decedent, in equal shares; or

(5) if there is no surviving spouse, dependent child, or dependent parent, then no payment may be made from the public safety officer's benefit fund.

Subd. 2. [ADJUSTMENT OF BENEFIT.] On October 1 of each year beginning after the effective date of this subdivision, the commissioner of public safety shall adjust the level of the benefit payable immediately before October 1 under subdivision 1, to reflect the annual percentage change in the Consumer Price Index for all urban consumers, published by the federal Bureau of Labor Statistics, occurring in the one-year period ending on June 1 immediately preceding such October 1.

Sec. 5. [388.25] [SEX OFFENDER SENTENCING; TRAINING FOR PROSECUTORS AND PEACE OFFICERS.]

The county attorneys association, in conjunction with the attorney general's office and the bureau of criminal apprehension, shall conduct an annual training course for prosecutors, public defenders, and peace officers on the specific sentencing statutes and sentencing guidelines

applicable to persons convicted of sex offenses and crimes that are sexually motivated. The training shall focus on the sentencing provisions applicable to repeat sex offenders and patterned sex offenders. The course may be combined with other training conducted by the county attorneys association or other groups.

Sec. 6. Minnesota Statutes 1994, section 480.30, is amended to read:

480.30 [JUDICIAL TRAINING.]

Subdivision 1. [CHILD ABUSE; DOMESTIC ABUSE; HARASSMENT.] The supreme court's judicial education program must include ongoing training for district court judges on child and adolescent sexual abuse, domestic abuse, harassment, stalking, and related civil and criminal court issues. The program must include information about the specific needs of victims. The program must include education on the causes of sexual abuse and family violence and culturally responsive approaches to serving victims. The program must emphasize the need for the coordination of court and legal victim advocacy services and include education on sexual abuse and domestic abuse programs and policies within law enforcement agencies and prosecuting authorities as well as the court system.

Subd. 2. [SEXUAL VIOLENCE.] The supreme court's judicial education program must include ongoing training for judges, judicial officers, court services personnel, and sex offender assessors on the specific sentencing statutes and sentencing guidelines applicable to persons convicted of sex offenses and other crimes that are sexually motivated. The training shall focus on the sentencing provisions applicable to repeat sex offenders and patterned sex offenders.

Subd. 3. [BAIL EVALUATIONS.] The supreme court's judicial education program also must include training for judges, judicial officers, and court services personnel on how to assure that their bail evaluations and decisions are racially and culturally neutral.

Sec. 7. Minnesota Statutes 1994, section 494.03, is amended to read:

494.03 [EXCLUSIONS.]

The guidelines shall exclude:

(1) any dispute involving violence against persons, ~~including~~ in which incidents arising out of situations that would support charges under sections 609.221 to 609.2231, 609.342 to 609.345, ~~or~~ 609.365, or any other felony charges;

(2) any matter involving ~~a person who has been adjudicated incompetent or relating to guardianship, conservatorship~~ competency, or civil commitment;

(3) any matter involving a person who has been adjudicated incompetent or relating to guardianship or conservatorship unless the incompetent person is accompanied by a competent advocate or the respondent in a guardianship or conservatorship matter is represented by an attorney, guardian ad litum, or other representative appointed by the court;

(4) any matter involving neglect or dependency, or involving termination of parental rights arising under sections 260.221 to 260.245; and

~~(4)~~ (5) any matter arising under section 626.557 or sections 144.651 to 144.652, or any dispute subject to chapters 518, ~~518A,~~ and 518B, ~~and 518C,~~ whether or not an action is pending, except for postdissolution property distribution matters and postdissolution visitation matters. This shall not restrict the present authority of the court or departments of the court from accepting for resolution a dispute arising under chapters 518, ~~518A,~~ and ~~518C~~ 518B, or from referring disputes arising under chapters 518, and 518A to for-profit mediation.

Sec. 8. Minnesota Statutes 1994, section 609.101, subdivision 1, is amended to read:

Subdivision 1. [SURCHARGES AND ASSESSMENTS.] (a) When a court sentences a person convicted of a felony, gross misdemeanor, or misdemeanor, other than a petty misdemeanor such as a traffic or parking violation, and if the sentence does not include payment of a fine, the court shall impose an assessment of not less than $25 nor more than $50. If the sentence for the felony,

gross misdemeanor, or misdemeanor includes payment of a fine of any amount, including a fine of less than $100, the court shall impose a surcharge on the fine of 20 percent of the fine. This section applies whether or not the person is sentenced to imprisonment and when the sentence is suspended.

(b) In addition to the assessments in paragraph (a), the court shall assess ~~the following surcharges~~ a surcharge of $20 after a person is convicted:

~~(1) for a person charged with a felony, $25;~~

~~(2) for a person charged with a gross misdemeanor, $15;~~

~~(3) for a person charged with a misdemeanor other than a traffic, parking, or local ordinance violation, $10; and~~

~~(4) for a person charged with a local ordinance violation other than a parking or traffic violation, $5~~ of a violation of state law or local ordinance, other than a traffic or parking violation.

~~The surcharge must be assessed for the original charge, whether or not it is subsequently reduced.~~ A person charged on more than one count may be assessed only one surcharge under this paragraph, but must be assessed for the most serious offense. This paragraph applies whether or not the person is sentenced to imprisonment and when the sentence is suspended.

(c) If the court fails to impose an assessment required by paragraph (a), the court administrator shall correct the record to show imposition of an assessment of $25 if the sentence does not include payment of a fine, or if the sentence includes a fine, to show an imposition of a surcharge of ten percent of the fine. If the court fails to impose an assessment required by paragraph (b), the court administrator shall correct the record to show imposition of the assessment described in paragraph (b).

(d) Except for assessments and surcharges imposed on persons convicted of violations described in section 97A.065, subdivision 2, the court shall collect and forward to the commissioner of finance the total amount of the assessments or surcharges and the commissioner shall credit all money so forwarded to the general fund.

(e) If the convicted person is sentenced to imprisonment, the chief executive officer of the correctional facility in which the convicted person is incarcerated may collect the assessment or surcharge from any earnings the inmate accrues for work performed in the correctional facility and forward the amount to the commissioner of finance, indicating the part that was imposed for violations described in section 97A.065, subdivision 2, which must be credited to the game and fish fund.

Sec. 9. Minnesota Statutes 1994, section 609.101, subdivision 2, is amended to read:

Subd. 2. [MINIMUM FINES.] Notwithstanding any other law:

~~(1)~~, when a court sentences a person convicted of violating section 609.221, 609.222, 609.223, 609.2231, 609.224, 609.267, ~~or~~ 609.2671, 609.2672, 609.342, 609.343, 609.344, or 609.345, it must impose a fine of not less than ~~$500~~ 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law;

~~(2) when a court sentences a person convicted of violating section 609.222, 609.223, 609.2671, 609.343, 609.344, or 609.345, it must impose a fine of not less than $300 nor more than the maximum fine authorized by law; and~~

~~(3) when a court sentences a person convicted of violating section 609.2231, 609.224, or 609.2672, it must impose a fine of not less than $100 nor more than the maximum fine authorized by law~~.

The court shall collect the portion of the fine mandated by this subdivision and forward 70 percent of it to a local victim assistance program that provides services locally in the county in which the crime was committed. The court shall forward the remaining 30 percent to the commissioner of finance to be credited to the general fund. If more than one victim assistance

program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the nature of the crime committed, the types of victims served by the program, and the funding needs of the program. If no victim assistance program serves that county, the court shall forward 100 percent of the fine proceeds to the commissioner of finance to be credited to the general fund. Fine proceeds received by a local victim assistance program must be used to provide direct services to crime victims.

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1 and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

As used in this subdivision, "victim assistance program" means victim witness programs within county attorney offices or any of the following programs: crime victim crisis centers, victim-witness programs, battered women shelters and nonshelter programs, and sexual assault programs.

Sec. 10. Minnesota Statutes 1994, section 609.101, subdivision 3, is amended to read:

Subd. 3. [CONTROLLED SUBSTANCE OFFENSES; MINIMUM FINES.] (a) Notwithstanding any other law, when a court sentences a person convicted of a controlled substance crime under sections 152.021 to 152.025, it must impose a fine of not less than ~~20~~ 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law.

(b) The minimum fine required by this subdivision is in addition to the surcharge or assessment required by subdivision 1 and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

(c) The court shall collect the fine mandated by this subdivision and forward 70 percent of it to a local drug abuse prevention program existing or being implemented in the county in which the crime was committed. The court shall forward the remaining 30 percent to the state treasurer to be credited to the general fund. If more than one drug abuse prevention program serves the county in which the crime was committed, the court may designate on a case-by-case basis which program will receive the fine proceeds, giving consideration to the community in which the crime was committed, the funding needs of the program, the number of peace officers in each community certified to teach the program, and the number of children served by the program in each community. If no drug abuse prevention program serves communities in that county, the court shall forward 100 percent of the fine proceeds to the state treasurer to be credited to the general fund.

(d) The minimum fines required by this subdivision shall be collected as are other fines. Fine proceeds received by a local drug abuse prevention program must be used to support that program, and may be used for salaries of peace officers certified to teach the program. The drug abuse resistance education program must report receipt and use of money generated under this subdivision as prescribed by the drug abuse resistance education advisory council.

(e) As used in this subdivision, "drug abuse prevention program" and "program" include:

(1) the drug abuse resistance education program described in sections 299A.33 and 299A.331; and

(2) any similar drug abuse education and prevention program that includes the following components:

(A) instruction for students enrolled in kindergarten through grade six that is designed to teach students to recognize and resist pressures to experiment with controlled substances and alcohol;

(B) provisions for parental involvement;

(C) classroom instruction by uniformed law enforcement personnel;

(D) the use of positive student leaders to influence younger students not to use drugs; and

(E) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations.

Sec. 11. Minnesota Statutes 1994, section 609.135, is amended by adding a subdivision to read:

Subd. 8. [FINE AND SURCHARGE COLLECTION.] A defendant's obligation to pay court-ordered fines, surcharges, court costs, and fees shall survive for a period of six years from the date of the expiration of the defendant's stayed sentence for the offense for which the fines, surcharges, court costs, and fees were imposed, or six years from the imposition or due date of the fines, surcharges, court costs, and fees, whichever is later. Nothing in this subdivision extends the period of a defendant's stay of sentence imposition or execution.

Sec. 12. Minnesota Statutes 1994, section 609.1352, is amended by adding a subdivision to read:

Subd. 1a. [STATUTORY MAXIMUMS LENGTHENED.] If the factfinder determines, at the time of the trial or the guilty plea, that a predatory offense was motivated by, committed in the course of, or committed in furtherance of sexual contact or penetration, as defined in section 609.341, and the court is imposing a sentence under subdivision 1, the statutory maximum imprisonment penalty for the offense is 40 years, notwithstanding the statutory maximum imprisonment penalty otherwise provided for the offense.

Sec. 13. Minnesota Statutes 1994, section 609.1352, subdivision 3, is amended to read:

Subd. 3. [DANGER TO PUBLIC SAFETY.] The court shall base its finding that the offender is a danger to public safety on ~~either~~ any of the following factors:

(1) the crime involved an aggravating factor that would justify a durational departure from the presumptive sentence under the sentencing guidelines; ~~or~~

(2) the offender previously committed or attempted to commit a predatory crime or a violation of section 609.224, including:

(i) an offense committed as a juvenile that would have been a predatory crime or a violation of section 609.224 if committed by an adult; or

(ii) a violation or attempted violation of a similar law of any other state or the United States; or

(3) the offender planned or prepared for the crime prior to its commission.

Sec. 14. Minnesota Statutes 1994, section 609.1352, subdivision 5, is amended to read:

Subd. 5. [CONDITIONAL RELEASE.] At the time of sentencing under subdivision 1, the court shall provide that after the offender has completed the sentence imposed, less any good time earned by an offender whose crime was committed before August 1, 1993, the commissioner of corrections shall place the offender on conditional release for the remainder of the statutory maximum period or for ten years, whichever is longer.

The conditions of release may include successful completion of treatment and aftercare in a program approved by the commissioner, satisfaction of the release conditions specified in section 244.05, subdivision 6, and any other conditions the commissioner considers appropriate. Before the offender is released, the commissioner shall notify the sentencing court, the prosecutor in the jurisdiction where the offender was sentenced and the victim of the offender's crime, where available, of the terms of the offender's conditional release. If the offender fails to meet any condition of release, the commissioner may revoke the offender's conditional release and order that the offender serve all or a part of the remaining portion of the conditional release term in prison. The commissioner shall not dismiss the offender from supervision before the conditional release term expires.

Conditional release granted under this subdivision is governed by provisions relating to supervised release, except as otherwise provided in this subdivision, section 244.04, subdivision 1, or 244.05.

Sec. 15. Minnesota Statutes 1994, section 609.152, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) As used in this section, the following terms have the meanings given.

(b) "Conviction" means any of the following accepted and recorded by the court: a plea of guilty, a verdict of guilty by a jury, or a finding of guilty by the court. The term includes a conviction by any court in Minnesota or another jurisdiction.

(c) "Prior conviction" means a conviction that occurred before the offender committed the next felony resulting in a conviction and before the offense for which the offender is being sentenced under this section.

(d) "Violent crime" means a violation of or an attempt or conspiracy to violate any of the following laws of this state or any similar laws of the United States or any other state: section 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228; 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662; 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268; 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1; 609.561; 609.562; 609.582, subdivision 1; 609.687; 609.855, subdivision 5; any provision of sections 609.229; 609.377; 609.378; and 609.749 that is punishable by a felony penalty; or any provision of chapter 152 that is punishable by a maximum sentence of 15 years or more.

Sec. 16. Minnesota Statutes 1994, section 609.19, is amended to read:

609.19 [MURDER IN THE SECOND DEGREE.]

Whoever does any of the following is guilty of murder in the second degree and may be sentenced to imprisonment for not more than 40 years:

(1) causes the death of a human being with intent to effect the death of that person or another, but without premeditation;

(2) causes the death of a human being, without intent to effect the death of any person, while committing or attempting to commit a felony offense other than criminal sexual conduct in the first or second degree with force or violence; or

(3) causes the death of a human being without intent to effect the death of any person, while intentionally inflicting or attempting to inflict bodily harm upon the victim, when the perpetrator is restrained under an order for protection ~~issued under chapter 518B~~ and the victim is a person designated to receive protection under the order. As used in this clause, "order for protection" includes an order for protection issued under chapter 518B; a harassment restraining order issued under section 609.748; a court order setting conditions of pretrial release or conditions of a criminal sentence or juvenile court disposition; a restraining order issued in a marriage dissolution action; and any order issued by a court of another state or of the United States that is similar to any of these orders.

Sec. 17. [609.2241] [KNOWING TRANSFER OF COMMUNICABLE DISEASE.]

Subdivision 1. [DEFINITIONS.] As used in this section, the following terms have the meanings given:

(a) "Communicable disease" means a disease or condition that causes serious illness, serious disability, or death; the infectious agent of which may pass or be carried from the body of one person to the body of another through direct transmission.

(b) "Direct transmission" means predominately sexual or blood borne transmission.

(c) "A person who knowingly harbors an infectious agent" refers to a person who receives from a physician or other health professional:

(1) advice that the person harbors an infectious agent for a communicable disease;

(2) educational information about behavior which might transmit the infectious agent; and

(3) instruction of practical means of preventing such transmission.

(d) "Transfer" means to engage in behavior that has been demonstrated epidemiologically to be a mode of direct transmission of an infectious agent which causes the communicable disease.

(e) "Sexual penetration" means any of the acts listed in section 609.341, subdivision 12, when the acts described are committed without the use of a latex or other effective barrier.

Subd. 2. [CRIME.] It is a crime, which may be prosecuted under section 609.17, 609.185, 609.19, 609.221, 609.222, 609.223, 609.2231, or 609.224, for a person who knowingly harbors an infectious agent to transfer, if the crime involved:

(1) sexual penetration with another person without having first informed the other person that the person has a communicable disease;

(2) transfer of blood, sperm, organs, or tissue, except as deemed necessary for medical research or if disclosed on donor screening forms; or

(3) sharing of nonsterile syringes or needles for the purpose of injecting drugs.

Subd. 3. [AFFIRMATIVE DEFENSE.] It is an affirmative defense to prosecution, if it is proven by a preponderance of the evidence, that:

(1) the person who knowingly harbors an infectious agent for a communicable disease took practical means to prevent transmission as advised by a physician or other health professional; or

(2) the person who knowingly harbors an infectious agent for a communicable disease is a health care provider who was following professionally accepted infection control procedures.

Nothing in this section shall be construed to be a defense to a criminal prosecution that does not allege a violation of subdivision 2.

Subd. 4. [HEALTH DEPARTMENT DATA.] Data protected by section 13.38 and information collected as part of a health department investigation under sections 144.4171 to 144.4186 may not be accessed or subpoenaed by law enforcement authorities or prosecutors without the consent of the subject of the data.

Sec. 18. Minnesota Statutes 1994, section 609.341, subdivision 11, is amended to read:

Subd. 11. (a) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (a) to (f), and 609.345, subdivision 1, clauses (a) to (e), and (h) to ~~(k)~~ (l), includes any of the following acts committed without the complainant's consent, except in those cases where consent is not a defense, and committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts, or

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts effected by coercion or the use of a position of authority, or by inducement if the complainant is under 13 years of age or mentally impaired, or

(iii) the touching by another of the complainant's intimate parts effected by coercion or the use of a position of authority, or

(iv) in any of the cases above, the touching of the clothing covering the immediate area of the intimate parts.

(b) "Sexual contact," for the purposes of sections 609.343, subdivision 1, clauses (g) and (h), and 609.345, subdivision 1, clauses (f) and (g), includes any of the following acts committed with sexual or aggressive intent:

(i) the intentional touching by the actor of the complainant's intimate parts;

(ii) the touching by the complainant of the actor's, the complainant's, or another's intimate parts;

(iii) the touching by another of the complainant's intimate parts; or

(iv) in any of the cases listed above, touching of the clothing covering the immediate area of the intimate parts.

(c) "Sexual contact with a person under 13" means the intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent.

Sec. 19. Minnesota Statutes 1994, section 609.3451, subdivision 1, is amended to read:

Subdivision 1. [CRIME DEFINED.] A person is guilty of criminal sexual conduct in the fifth degree:

(1) if the person engages in nonconsensual sexual contact; or

(2) the person engages in masturbation or lewd exhibition of the genitals in the presence of a minor under the age of 16, knowing or having reason to know the minor is present.

For purposes of this section, "sexual contact" has the meaning given in section 609.341, subdivision 11, paragraph (a), clauses (i) and (iv), but does not include the intentional touching of the clothing covering the immediate area of the buttocks. Sexual contact also includes the intentional removal or attempted removal of clothing covering the complainant's intimate parts or undergarments, if the action is performed with sexual or aggressive intent.

Sec. 20. Minnesota Statutes 1994, section 609.485, subdivision 2, is amended to read:

Subd. 2. [ACTS PROHIBITED.] Whoever does any of the following may be sentenced as provided in subdivision 4:

(1) escapes while held in lawful custody on a charge or conviction of a crime, or while held in lawful custody on an allegation or adjudication of a delinquent act while 18 years of age;

(2) transfers to another, who is in lawful custody on a charge or conviction of a crime, or introduces into an institution in which the latter is confined, anything usable in making such escape, with intent that it shall be so used;

(3) having another in lawful custody on a charge or conviction of a crime, intentionally permits the other to escape; ~~or~~

(4) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order after a finding of not guilty by reason of mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a. Notwithstanding section 609.17, no person may be charged with or convicted of an attempt to commit a violation of this clause; or

(5) escapes while in a facility designated under section 253B.18, subdivision 1, pursuant to a court commitment order under section 253B.185 or 526.10.

For purposes of clause (1), "escapes while held in lawful custody" includes absconding from electronic monitoring or absconding after removing an electronic monitoring device from the person's body.

Sec. 21. Minnesota Statutes 1994, section 609.485, subdivision 4, is amended to read:

Subd. 4. [SENTENCE.] (a) Except as otherwise provided in subdivision 3a, whoever violates this section may be sentenced as follows:

(1) if the person who escapes is in lawful custody on a charge or conviction of a felony, to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both;

(2) if the person who escapes is in lawful custody after a finding of not guilty by reason of

mental illness or mental deficiency of a crime against the person, as defined in section 253B.02, subdivision 4a, or pursuant to a court commitment order under section 253B.185 or 526.10, to imprisonment for not more than one year and one day or to payment of a fine of not more than $3,000, or both; or

(3) if such charge or conviction is for a gross misdemeanor or misdemeanor, or if the person who escapes is in lawful custody on an allegation or adjudication of a delinquent act while 18 years of age, to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) If the escape was a violation of subdivision 2, clause (1), (2), or (3), and was effected by violence or threat of violence against a person, the sentence may be increased to not more than twice those permitted in paragraph (a), clauses (1) and (3).

(c) Unless a concurrent term is specified by the court, a sentence under this section shall be consecutive to any sentence previously imposed or which may be imposed for any crime or offense for which the person was in custody when the person escaped.

(d) Notwithstanding paragraph (c), if a person who was committed to the commissioner of corrections under section 260.185 escapes from the custody of the commissioner while 18 years of age, the person's sentence under this section shall commence on the person's 19th birthday or on the person's date of discharge by the commissioner of corrections, whichever occurs first. However, if the person described in this clause is convicted under this section after becoming 19 years old and after having been discharged by the commissioner, the person's sentence shall commence upon imposition by the sentencing court.

(e) Notwithstanding paragraph (c), if a person who is in lawful custody on an allegation or adjudication of a delinquent act while 18 years of age escapes from a local juvenile correctional facility, the person's sentence under this section begins on the person's 19th birthday or on the person's date of discharge from the jurisdiction of the juvenile court, whichever occurs first. However, if the person described in this paragraph is convicted after becoming 19 years old and after discharge from the jurisdiction of the juvenile court, the person's sentence begins upon imposition by the sentencing court.

Sec. 22. Minnesota Statutes 1994, section 609.746, subdivision 1, is amended to read:

Subdivision 1. [SURREPTITIOUS INTRUSION; OBSERVATION DEVICE.] (a) A person is guilty of a misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously gazes, stares, or peeps in the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(b) A person is guilty of a misdemeanor who:

(1) enters upon another's property;

(2) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or any other aperture of a house or place of dwelling of another; and

(3) does so with intent to intrude upon or interfere with the privacy of a member of the household.

(c) A person is guilty of a misdemeanor who:

(1) surreptitiously gazes, stares, or peeps in the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose

their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(d) A person is guilty of a misdemeanor who:

(1) surreptitiously installs or uses any device for observing, photographing, recording, amplifying, or broadcasting sounds or events through the window or other aperture of a sleeping room in a hotel, as defined in section 327.70, subdivision 3, a tanning booth, or other place where a reasonable person would have an expectation of privacy and has exposed or is likely to expose their intimate parts, as defined in section 609.341, subdivision 5, or the clothing covering the immediate area of the intimate parts; and

(2) does so with intent to intrude upon or interfere with the privacy of the occupant.

(e) A person is guilty of a gross misdemeanor if the person violates this subdivision after a previous conviction under this subdivision or section 609.749.

~~(d) Paragraph (b) does~~ (f) Paragraphs (b) and (d) do not apply to law enforcement officers or corrections investigators, or to those acting under their direction, while engaged in the performance of their lawful duties. Paragraphs (c) and (d) do not apply to conduct in: (1) a medical facility; or (2) a commercial establishment if the owner of the establishment has posted conspicuous signs warning that the premises are under surveillance by the owner or the owner's employees.

Sec. 23. Minnesota Statutes 1994, section 609.749, subdivision 5, is amended to read:

Subd. 5. [PATTERN OF HARASSING CONDUCT.] (a) A person who engages in a pattern of harassing conduct with respect to a single victim or one or more members of a single household in a manner that would cause a reasonable person under the circumstances to feel terrorized or to fear bodily harm and that does cause this reaction on the part of the victim, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

(b) For purposes of this subdivision, a "pattern of harassing conduct" means two or more acts within a five-year period that violate the provisions of any of the following:

(1) this section;

(2) section 609.713;

(3) section 609.224;

(4) section 518B.01, subdivision 14;

(5) section 609.748, subdivision 6;

(6) section 609.605, subdivision 1, paragraph (b), ~~clause~~ clauses (3), (4), and (7);

(7) section 609.79; ~~or~~

(8) section 609.795;

(9) section 609.582; or

(10) section 609.595.

Sec. 24. Minnesota Statutes 1994, section 611.17, is amended to read:

611.17 [FINANCIAL INQUIRY; STATEMENTS.]

(a) Each judicial district must screen requests under paragraph (b).

(b) Upon a request for the appointment of counsel, the court shall make appropriate inquiry into

the financial circumstances of the applicant, who shall submit a financial statement under oath or affirmation setting forth the applicant's assets and liabilities, including the value of any real property owned by the applicant, whether homestead or otherwise, less the amount of any encumbrances on the real property, the source or sources of income, and any other information required by the court. The applicant shall be under a continuing duty while represented by a public defender to disclose any changes in the applicant's financial circumstances that might be relevant to the applicant's eligibility for a public defender. The state public defender shall furnish appropriate forms for the financial statements. The forms must contain conspicuous notice of the applicant's continuing duty to disclose to the court changes in the applicant's financial circumstances. The information contained in the statement shall be confidential and for the exclusive use of the court and the public defender appointed by the court to represent the applicant except for any prosecution under section 609.48. A refusal to execute the financial statement or produce financial records constitutes a waiver of the right to the appointment of a public defender.

Sec. 25. Minnesota Statutes 1994, section 611.20, subdivision 3, is amended to read:

Subd. 3. [REIMBURSEMENT.] In each fiscal year, the state treasurer shall deposit the first $180,000 in the general fund. Payments in excess of $180,000 shall be deposited in the general fund and credited to a separate account with the board of public defense. The amount credited to this account is appropriated to the board of public defense ~~to reimburse the costs of attorneys providing part-time public defense services~~.

The balance of this account does not cancel but is available until expended. Expenditures by the board from this account for each judicial district public defense office must be based on the amount of the payments received by the state from the courts in each judicial district.

Sec. 26. Minnesota Statutes 1994, section 611.20, is amended by adding a subdivision to read:

Subd. 4. [EMPLOYED DEFENDANTS.] A defendant who is employed when a public defender is appointed, or who becomes employed while represented by a public defender, shall reimburse the state for the cost of the public defender. The court may accept partial reimbursement from the defendant if the defendant's financial circumstances warrant a reduced reimbursement schedule. The court may consider the guidelines in subdivision 6 in determining a defendant's reimbursement schedule. If a defendant does not agree to make payments, the court may order the defendant's employer to withhold a percentage of the defendant's income to be turned over to the court. The percentage to be withheld may be determined under subdivision 6.

Sec. 27. Minnesota Statutes 1994, section 611.20, is amended by adding a subdivision to read:

Subd. 5. [REIMBURSEMENT RATE.] Legal fees required to be reimbursed under subdivision 4, shall be determined by multiplying the total number of hours worked on the case by a public defender by $30 per hour. The public defender assigned to the defendant's case shall provide to the court, upon the court's request, a written statement containing the total number of hours worked on the defendant's case up to the time of the request.

Sec. 28. Minnesota Statutes 1994, section 611.20, is amended by adding a subdivision to read:

Subd. 6. [REIMBURSEMENT SCHEDULE GUIDELINES.] In determining a defendant's reimbursement schedule, the court may derive a specific dollar amount per month by multiplying the defendant's net income by the percent indicated by the following guidelines:

Net Income Per Month of Defendant	Number of Dependents Not Including Defendant				
	4 or more	3	2	1	0
$200 and Below	Percentage based on the ability of the defendant to pay as determined by the court.				
$200 - 350	8%	9.5%	11%	12.5%	14%
$351 - 500	9%	11%	12.5%	14%	15%

$501 - 650	10%	12%	14%	15%	17%
$651 - 800	11%	13.5%	15.5%	17%	19%
$801 and above	12%	14.5%	17%	19%	20%

"Net income" shall have the meaning given it in section 518.551, subdivision 5.

Sec. 29. Minnesota Statutes 1994, section 611.20, is amended by adding a subdivision to read:

Subd. 7. [INCOME WITHHOLDING.] (a) Whenever an obligation for reimbursement of public defender costs is ordered by a court under this section, the amount of reimbursement as determined by court order must be withheld from the income of the person obligated to pay. The court shall serve a copy of the reimbursement order on the defendant's employer. Notwithstanding any law to the contrary, the order is binding on the employer when served. Withholding must begin no later than the first pay period that occurs after 14 days following the date of the notice. The employer shall withhold from the income payable to the defendant the amount specified in the order and shall remit, within ten days of the date the defendant is paid the remainder of the income, the amounts withheld to the court.

(b) An employer shall not discharge, or refuse to hire, or otherwise discipline an employee as a result of a wage or salary withholding authorized by this section. The employer shall be liable to the court for any amounts required to be withheld. An employer that fails to withhold or transfer funds in accordance with this section is also liable for interest on the funds at the rate applicable to judgments under section 549.09, computed from the date the funds were required to be withheld. An employer that has failed to comply with the requirements of this section is subject to contempt of court.

(c) Amounts withheld under this section do not supersede or have priority over amounts withheld pursuant to other sections of law.

Sec. 30. Minnesota Statutes 1994, section 611.35, subdivision 1, is amended to read:

Subdivision 1. Any person who is represented by a public defender or appointive counsel shall, if financially able to pay, reimburse the governmental unit chargeable with the compensation of such public defender or appointive counsel for the actual costs to the governmental unit in providing the services of the public defender or appointive counsel. The court in hearing such matter shall ascertain the amount of such costs to be charged to the defendant and shall direct reimbursement over a period of not to exceed six months, unless the court for good cause shown shall extend the period of reimbursement. If a term of probation is imposed as a part of a sentence, reimbursement of costs as required by this ~~subdivision may~~ chapter must not be made a condition of probation. Reimbursement of costs as required by this chapter is a civil obligation and must not be made a condition of a criminal sentence.

Sec. 31. Minnesota Statutes 1994, section 617.23, is amended to read:

617.23 [INDECENT EXPOSURE; PENALTIES.]

~~Every~~ (a) A person is guilty of a misdemeanor who ~~shall~~ in any public place, or in any place where others are present:

(1) willfully and lewdly ~~expose~~ exposes the person's body, or the private parts thereof~~, in any public place, or in any place where others are present, or shall procure~~;

(2) procures another to expose private parts~~, and every person who shall be guilty of~~; or

(3) engages in any open or gross lewdness or lascivious behavior, or any public indecency other than ~~hereinbefore~~ behavior specified~~, shall be guilty of a misdemeanor~~ in clause (1) or (2) or this clause.

(b) A person is guilty of a gross misdemeanor if:

(1) the person violates this section in the presence of a minor under the age of 16; or

(2) the person violates this section after having been previously convicted of violating this section, sections 609.342 to 609.3451, or a statute from another state in conformity with any of those sections.

Sec. 32. Minnesota Statutes 1994, section 624.712, subdivision 5, is amended to read:

Subd. 5. [CRIME OF VIOLENCE.] "Crime of violence" includes murder in the first, second, and third degrees, manslaughter in the first and second degrees, aiding suicide, aiding attempted suicide, felony violations of assault in the first, second, third, and fourth degrees, assaults motivated by bias under section 609.2231, subdivision 4, terroristic threats, use of drugs to injure or to facilitate crime, crimes committed for the benefit of a gang, commission of a crime while wearing or possessing a bullet-resistant vest, simple robbery, aggravated robbery, kidnapping, false imprisonment, criminal sexual conduct in the first, second, third, and fourth degrees, theft of a firearm, arson in the first and second degrees, riot, burglary in the first, second, third, and fourth degrees, harassment and stalking, shooting at a public transit vehicle or facility, reckless use of a gun or dangerous weapon, intentionally pointing a gun at or towards a human being, setting a spring gun, and unlawfully owning, possessing, operating a machine gun or short-barreled shotgun, and an attempt to commit any of these offenses, as each of those offenses is defined in chapter 609. "Crime of violence" also includes felony violations of the following: malicious punishment of a child; neglect or endangerment of a child; and chapter 152.

Sec. 33. Minnesota Statutes 1994, section 626.13, is amended to read:

626.13 [SERVICE; PERSONS MAKING.]

A search warrant may in all cases be served anywhere within the issuing judge's county 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, a state patrol trooper, or a conservation officer, the agent, 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. 34. Minnesota Statutes 1994, section 626.861, subdivision 1, is amended to read:

Subdivision 1. [LEVY OF ASSESSMENT.] There is levied a penalty assessment of 15 percent on each fine imposed and collected by the courts of this state for traffic offenses in violation of chapters 168 to 173 or equivalent local ordinances, other than a fine or forfeiture for a violation of a local ordinance or other law relating to the parking of a vehicle. In cases where the defendant is convicted but a fine is not imposed, or execution of the fine is stayed, the court shall impose a penalty assessment of not less than $5 nor more than $10 when the conviction is for a ~~misdemeanor or~~ petty misdemeanor, and shall impose a penalty assessment of not less than ~~$10~~ $25 but not more than $50 when the conviction is for a misdemeanor, gross misdemeanor, or felony. Where multiple offenses are involved, the penalty assessment shall be assessed separately on each offense for which the defendant is sentenced. If imposition or execution of sentence is stayed for all of the multiple offenses, the penalty assessment shall be based upon the most serious offense of which the defendant was convicted. Where the court suspends a portion of a fine, the suspended portion shall not be counted in determining the amount of the penalty assessment unless the offender is ordered to pay the suspended portion of the fine. Suspension of an entire fine shall be treated as a stay of execution for purposes of computing the amount of the penalty assessment.

Sec. 35. Minnesota Statutes 1994, section 628.26, is amended to read:

628.26 [LIMITATIONS.]

(a) Indictments or complaints for murder may be found or made at any time after the death of the person killed.

(b) Indictments or complaints for violation of section 609.42, subdivision 1, clause (1) or (2), shall be found or made and filed in the proper court within six years after the commission of the offense.

(c) Indictments or complaints for violation of sections 609.342 to 609.345 if the victim was under the age of 18 years at the time the offense was committed, shall be found or made and filed in the proper court within ~~seven~~ nine years after the commission of the offense or, if the victim failed to report the offense within this limitation period, within three years after the offense was reported to law enforcement authorities.

(d) Indictments or complaints for violation of sections 609.342 to 609.344 if the victim was 18 years old or older at the time the offense was committed, shall be found or made and filed in the proper court within ~~seven~~ nine years after the commission of the offense.

(e) Indictments or complaints for violation of sections 609.466 and 609.52, subdivision 2, clause (3)(c) shall be found or made and filed in the proper court within six years after the commission of the offense.

(f) Indictments or complaints for violation of section 609.52, subdivision 2, clause (3), items (a) and (b), (4), (15), or (16), 609.631, or 609.821, where the value of the property or services stolen is more than $35,000, shall be found or made and filed in the proper court within five years after the commission of the offense.

(g) Except for violations relating to false material statements, representations or omissions, indictments or complaints for violations of section 609.671 shall be found or made and filed in the proper court within five years after the commission of the offense.

(h) Indictments or complaints for violation of sections 609.561 to 609.563, shall be found or made and filed in the proper court within five years after the commission of the offense.

(i) In all other cases, indictments or complaints shall be found or made and filed in the proper court within three years after the commission of the offense.

(j) The limitations periods contained in this section shall exclude any period of time during which the defendant was not an inhabitant of or usually resident within this state.

(k) The limitations periods contained in this section for an offense shall not include any period during which the alleged offender participated under a written agreement in a pretrial diversion program relating to that offense.

(l) The limitations periods contained in this section shall not include any period of time during which physical evidence relating to the offense was undergoing DNA analysis, as defined in section 299C.155, unless the defendant demonstrates that the prosecuting or law enforcement agency purposefully delayed the DNA analysis process in order to gain an unfair advantage.

Sec. 36. Laws 1993, chapter 146, article 2, section 31, is amended to read:

Sec. 31. [REPEALER.]

~~Section 20, subdivision 3, is repealed June 30, 1997.~~ Minnesota Statutes 1992, section 270B.14, subdivision 12, is repealed June 30, 1995.

Sec. 37. [ELECTRONIC ALCOHOL MONITORING OF DWI OFFENDERS; PILOT PROGRAM.]

Subdivision 1. [DEFINITIONS.] As used in this section, the following terms have the meaning given them in this subdivision.

(a) "Breath analyzer unit" means a device that performs breath alcohol testing and is connected to a remote electronic alcohol monitoring system.

(b) "Remote electronic alcohol monitoring system" means a system that electronically monitors the alcohol concentration of individuals in their homes to ensure compliance with court-ordered conditions of pretrial release, supervised release, or probation.

Subd. 2. [PILOT PROGRAM ESTABLISHED.] In cooperation with the conference of chief judges, the state court administrator, and the commissioner of public safety, the commissioner of corrections shall establish a three-year pilot program to evaluate the effectiveness of using breath

analyzer units to monitor DWI offenders who are ordered to abstain from alcohol use as a condition of pretrial release, supervised release, or probation. The pilot program must include procedures ensuring that violators of this condition of release receive swift consequences for the violation.

The commissioner of corrections shall select at least two judicial districts to participate in the pilot program. Offenders who are ordered to use a breath analyzer unit shall also be ordered to pay the per diem cost of the monitoring unless the offender is indigent. The commissioner of corrections shall reimburse the judicial districts for any costs the districts incur in participating in the program.

After three years, the commissioner of corrections shall evaluate the effectiveness of the program and shall report the results of this evaluation to the conference of chief judges, the state court administrator, the commissioner of public safety, and the chairs of the house of representatives and senate committees having jurisdiction over criminal justice policy and finance.

Sec. 38. [EFFECTIVE DATES.]

Sections 5 and 6 are effective the day following final enactment. Sections 20 and 21 are effective the day following final enactment and apply to crimes committed on or after that date. Section 35 is effective July 1, 1995, and applies to crimes committed on or after that date, and to crimes committed before that date if the limitations period for the offense did not expire before July 1, 1995. Sections 8 to 19, 22, 23, 31, 32, and 34, are effective July 1, 1995, and apply to crimes committed on or after that date. Sections 1 to 4, 7, 24 to 30, 33, 36, and 37, are effective July 1, 1995.

ARTICLE 3

JUVENILE JUSTICE

Section 1. [8.36] [ANNUAL REPORT ON SCHOOL SAFETY.]

On or before January 15 of each year, the attorney general shall prepare a report on safety in secondary and post-secondary schools. The report must include an assessment and evaluation of the impact of existing laws and programs on school safety and antiviolence and include recommendations for changes in law or policy that would increase the safety of schools and curb violence. The report must be submitted to the chairs of the senate and house of representatives committees with jurisdiction over education and crime issues.

Sec. 2. [120.1045] [BACKGROUND CHECK.]

Subdivision 1. [BACKGROUND CHECK REQUIRED.] A school hiring authority shall request a criminal history background check from the superintendent of the bureau of criminal apprehension on all individuals who are offered employment in the school. In order to be eligible for employment, an individual who is offered employment must provide an executed criminal history consent form and a money order or cashier's check payable to the bureau of criminal apprehension for the fee for conducting the criminal history background check. A school may charge a person offered employment an additional fee of up to $2 to cover the school's costs under this section. The superintendent shall perform the background check by retrieving criminal history data maintained in the criminal justice information system computers.

Subd. 2. [CONDITIONAL HIRING; DISCHARGE.] A school hiring authority may hire an individual pending completion of a background check under subdivision 1 but shall notify the individual that the individual's employment may be terminated based on the result of the background check. A school hiring authority is not liable for failing to hire or for terminating an individual's employment based on the result of a background check under this section.

Subd. 3. [EXEMPTION.] The requirements of this section do not apply to hiring authorities of home schools.

Sec. 3. Minnesota Statutes 1994, section 120.14, is amended to read:

120.14 [ATTENDANCE OFFICERS.]

The board of any district may authorize the employment of attendance officers, who shall investigate truancy or nonattendance at school, make complaints, serve notice and process, and attend to the enforcement of all laws and district rules regarding school attendance. When any attendance officer learns of any case of habitual truancy or continued nonattendance of any child required to attend school the officer shall immediately notify the person having control of such child to forthwith send to and keep the child in school. The attendance officer shall also refer a habitual truant child as defined in section 260.015, subdivision 19, and the child's parent or legal guardian to appropriate services and procedures under chapter 260A, if available within the school district. Attendance officers or other designated school officials shall ensure that the notice required by section 260A.03 for a child who is a continuing truant is sent. The officer shall act under the general supervision of the district superintendent.

Sec. 4. [120.1811] [RESIDENTIAL TREATMENT FACILITIES; EDUCATION.]

Subdivision 1. [EDUCATIONAL SCREENING.] Secure and nonsecure residential treatment facilities licensed by the department of human services or the department of corrections shall screen each juvenile who is held in a facility for at least 72 hours, excluding weekends or holidays, using an educational screening tool identified by the department of education, unless the facility determines that the juvenile has a current individual education plan and obtains a copy of it. The department of education shall develop or identify an education screening tool for use in residential facilities. The tool must include a life skills development component.

Subd. 2. [RULEMAKING.] The state board of education may, in consultation with the commissioners of corrections and human services, make or amend rules relating to education programs in residential treatment facilities, if necessary, to implement this section.

Sec. 5. Minnesota Statutes 1994, section 120.73, is amended by adding a subdivision to read:

Subd. 2b. [SCHOOL UNIFORMS.] Notwithstanding section 120.74, a school board may require students to furnish or purchase clothing that constitutes a school uniform if the board has adopted a uniform requirement or program for the student's school. In adopting a uniform requirement, the board shall promote student, staff, parent, and community involvement in the program and account for the financial ability of students to purchase uniforms.

Sec. 6. Minnesota Statutes 1994, section 125.05, is amended by adding a subdivision to read:

Subd. 8. [BACKGROUND CHECKS.] (a) The board of teaching and the state board of education shall request a criminal history background check from the superintendent of the bureau of criminal apprehension on all applicants for initial licenses under their jurisdiction. An application for a license under this section must be accompanied by:

(1) an executed criminal history consent form, including fingerprints; and

(2) a money order or cashier's check payable to the bureau of criminal apprehension for the fee for conducting the criminal history background check.

(b) The superintendent of the bureau of criminal apprehension shall perform the background check required under paragraph (a) by retrieving criminal history data maintained in the criminal justice information system computers and shall also conduct a search of the national criminal records repository, including the criminal justice data communications network. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check. The superintendent shall recover the cost to the bureau of a background check through the fee charged to the applicant under paragraph (a).

(c) The board of teaching or the state board of education may issue a license pending completion of a background check under this subdivision, but shall notify the individual that the individual's license may be revoked based on the result of the background check.

Sec. 7. Minnesota Statutes 1994, section 125.09, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS FOR REVOCATION, SUSPENSION, OR DENIAL.] The board of teaching or the state board of education, whichever has jurisdiction over a teacher's licensure, may, on the written complaint of the school board employing a teacher, ~~or of~~ a teacher

organization, or ~~of~~ any other interested person, which complaint shall specify the nature and character of the charges, refuse to issue, refuse to renew, suspend, or revoke ~~such~~ a teacher's license to teach for any of the following causes:

(1) Immoral character or conduct;

(2) Failure, without justifiable cause, to teach for the term of the teacher's contract;

(3) Gross inefficiency or willful neglect of duty; or

(4) Failure to meet licensure requirements; or

(5) Fraud or misrepresentation in obtaining a license.

For purposes of this subdivision, the board of teaching is delegated the authority to suspend or revoke coaching licenses under the jurisdiction of the state board of education.

Sec. 8. Minnesota Statutes 1994, section 127.20, is amended to read:

127.20 [VIOLATIONS; PENALTIES.]

Any person who fails or refuses to provide for instruction of a child of whom the person has legal custody, and who is required by section 120.101, subdivision 5, to receive instruction, when notified so to do by a truant officer or other official, or any person who induces or attempts to induce any such child unlawfully to be absent from school, or who knowingly harbors or employs, while school is in session, any child unlawfully absent from school, shall be guilty of a misdemeanor ~~and, upon conviction, shall be punished by a fine of not more than $50, or by imprisonment for not more than 30 days~~. ~~All~~ Any fines~~, when~~ collected~~,~~ shall be paid into the county treasury for the benefit of the school district in which the offense is committed.

Sec. 9. Minnesota Statutes 1994, section 127.27, subdivision 10, is amended to read:

Subd. 10. "Suspension" means an action taken by the school administration, under rules promulgated by the school board, prohibiting a pupil from attending school for a period of no more than ~~five~~ ten school days. If a suspension is longer than five days, the suspending administrator must provide the superintendent with a reason for the longer suspension. This definition does not apply to dismissal from school for one school day or less. Each suspension action shall include a readmission plan. The readmission plan shall include, where appropriate, a provision for alternative programs to be implemented upon readmission. Suspension may not be consecutively imposed against the same pupil for the same course of conduct, or incident of misconduct, except where the pupil will create an immediate and substantial danger to surrounding persons or property. In no event shall suspension exceed 15 school days, provided that an alternative program shall be implemented to the extent that suspension exceeds five days.

Sec. 10. [127.282] [EXPULSION FOR POSSESSION OF FIREARM.]

(a) Notwithstanding the time limitation in section 127.27, subdivision 5, a school board must expel for a period of at least one year a pupil who is determined to have brought a firearm to school except the board may modify this expulsion requirement for a pupil on a case-by-case basis. For the purposes of this section, firearm is as defined in United States Code, title 18, section 921.

(b) Notwithstanding chapter 13, a student's expulsion or withdrawal or transfer from a school after an expulsion action is initiated against the student for a weapons violation under paragraph (a) may be disclosed by the school district initiating the expulsion proceeding. Unless the information is otherwise public, the disclosure may be made only to another school district in connection with the possible admission of the student to the other district.

Sec. 11. [127.47] [SCHOOL LOCKER POLICY.]

Subdivision 1. [POLICY.] It is the policy of the state of Minnesota that:

"School lockers are the property of the school district. At no time does the school district relinquish its exclusive control of lockers provided for the convenience of students. Inspection of

the interior of lockers may be conducted by school authorities for any reason at any time, without notice, without student consent, and without a search warrant. The personal possessions of students within a school locker may be searched only when school authorities have a reasonable suspicion that the search will uncover evidence of a violation of law or school rules. As soon as practicable after the search of a student's personal possessions, the school authorities must provide notice of the search to students whose lockers were searched unless disclosure would impede an ongoing investigation by police or school officials."

Subd. 2. [DISSEMINATION.] The locker policy must be disseminated to parents and students in the way that other policies of general application to students are disseminated. A copy of the policy must be provided to a student the first time after the policy is effective that the student is given the use of a locker.

Sec. 12. [127.48] [POLICY TO REFER FIREARMS POSSESSOR.]

Each school board must have a policy requiring the appropriate school official to, as soon as practicable, refer to the criminal justice or juvenile delinquency system, as appropriate, any pupil who brings a firearm to school unlawfully.

Sec. 13. Minnesota Statutes 1994, section 171.04, subdivision 1, is amended to read:

Subdivision 1. [PERSONS NOT ELIGIBLE.] The department shall not issue a driver's license hereunder:

(1) To any person who is under the age of 16 years; to any person under 18 years unless such person shall have successfully completed a course in driver education, including both classroom and behind-the-wheel instruction, approved by the state board of education for courses offered through the public schools, or, in the case of a course offered by a private, commercial driver education school or institute, by the department of public safety; except when such person has completed a course of driver education in another state or has a previously issued valid license from another state or country; nor to any person under 18 years unless the application of license is approved by either parent when both reside in the same household as the minor applicant, otherwise the parent or spouse of the parent having custody or with whom the minor is living in the event there is no court order for custody, or guardian having the custody of such minor, or in the event a person under the age of 18 has no living father, mother or guardian, the license shall not be issued to such person unless the application therefor is approved by the person's employer. Driver education courses offered in any public school shall be open for enrollment to persons between the ages of 15 and 18 years residing in the school district or attending school therein. Any public school offering driver education courses may charge an enrollment fee for the driver education course which shall not exceed the actual cost thereof to the public school and the school district. The approval required herein shall contain a verification of the age of the applicant;

(2) To any person whose license has been suspended during the period of suspension except that a suspended license may be reinstated during the period of suspension upon the licensee furnishing proof of financial responsibility in the same manner as provided in the Minnesota no-fault automobile insurance act;

(3) To any person whose license has been revoked except upon furnishing proof of financial responsibility in the same manner as provided in the Minnesota no-fault automobile insurance act and if otherwise qualified;

(4) To any person who is a drug dependent person as defined in section 254A.02, subdivision 5;

(5) To any person who has been adjudged legally incompetent by reason of mental illness, mental deficiency, or inebriation, and has not been restored to capacity, unless the department is satisfied that such person is competent to operate a motor vehicle with safety to persons or property;

(6) To any person who is required by this chapter to take an examination, unless such person shall have successfully passed such examination;

(7) To any person who is required under the provisions of the Minnesota no-fault automobile insurance act of this state to deposit proof of financial responsibility and who has not deposited such proof;

(8) To any person when the commissioner has good cause to believe that the operation of a motor vehicle on the highways by such person would be inimical to public safety or welfare;

(9) To any person when, in the opinion of the commissioner, such person is afflicted with or suffering from such physical or mental disability or disease as will affect such person in a manner to prevent the person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways; nor to a person who is unable to read and understand official signs regulating, warning, and directing traffic;

(10) To a child for whom a court has ordered denial of driving privileges under section 260.191, subdivision 1, or 260.195, subdivision 3a, until the period of denial is completed; or

(11) To any person whose license has been canceled, during the period of cancellation.

Sec. 14. Minnesota Statutes 1994, section 242.31, subdivision 1, is amended to read:

Subdivision 1. Whenever a person who has been committed to the custody of the commissioner of corrections upon conviction of a crime following certification ~~to district court~~ under the provisions of section 260.125 is finally discharged by order of the commissioner, that discharge shall restore the person to all civil rights and, if so ordered by the commissioner of corrections, also shall have the effect of setting aside the conviction, nullifying it and purging the person of it. The commissioner shall file a copy of the order with the district court of the county in which the conviction occurred; upon receipt, the court shall order the conviction set aside. An order setting aside a conviction for a crime of violence as defined in section 624.712, subdivision 5, must provide that the person is not entitled to ship, transport, possess, or receive a firearm until ten years have elapsed since the order was entered and during that time the person was not convicted of any other crime of violence. A person whose conviction was set aside under this section and who thereafter has received a relief of disability under United States Code, title 18, section 925, shall not be subject to the restrictions of this subdivision.

Sec. 15. Minnesota Statutes 1994, section 260.015, subdivision 21, is amended to read:

Subd. 21. [JUVENILE PETTY OFFENDER; JUVENILE PETTY OFFENSE.] (a) "Juvenile petty offense" includes a juvenile alcohol offense, a juvenile controlled substance offense, a violation of section 609.685, or a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult.

(b) "Juvenile petty offense" also includes an offense, other than a violation of section 609.224, 609.324, 609.563, 609.576, or 617.23, that would be a misdemeanor if committed by an adult if:

(1) the child has not been found to be a juvenile petty offender on more than two prior occasions for a misdemeanor-level offense;

(2) the child has not previously been found to be delinquent for a misdemeanor, gross misdemeanor, or felony offense; or

(3) the county attorney designates the child on the petition as a juvenile petty offender, notwithstanding the child's prior record of misdemeanor-level juvenile petty offenses.

(c) A child who commits a juvenile petty offense is a "juvenile petty offender."

Sec. 16. [260.042] [ORIENTATION AND EDUCATIONAL PROGRAM.]

The court shall make an orientation and educational program available for juveniles and their families in accordance with the program established, if any, by the supreme court.

Sec. 17. Minnesota Statutes 1994, section 260.115, subdivision 1, is amended to read:

Subdivision 1. [TRANSFERS REQUIRED.] Except where a juvenile court has certified an alleged violation ~~to district court~~ in accordance with the provisions of section 260.125, the child is alleged to have committed murder in the first degree after becoming 16 years of age, or a court has original jurisdiction of a child who has committed an adult court traffic offense, as defined in

section 260.193, subdivision 1, clause (c), a court other than a juvenile court shall immediately transfer to the juvenile court of the county the case of a minor who appears before the court on a charge of violating any state or local law or ordinance and who is under 18 years of age or who was under 18 years of age at the time of the commission of the alleged offense.

Sec. 18. Minnesota Statutes 1994, section 260.125, is amended to read:

260.125 [CERTIFICATION ~~TO DISTRICT COURT~~.]

Subdivision 1. When a child is alleged to have committed, after becoming 14 years of age, an offense that would be a felony if committed by an adult, the juvenile court may enter an order certifying the proceeding ~~to the district court~~ for action ~~under the criminal laws~~ under the laws and court procedures controlling adult criminal violations.

Subd. 2. [ORDER OF CERTIFICATION; REQUIREMENTS.] Except as provided in subdivision 3a or 3b, the juvenile court may order a certification ~~to district court~~ only if:

(1) a petition has been filed in accordance with the provisions of section 260.131;

(2) a motion for certification has been filed by the prosecuting authority;

(3) notice has been given in accordance with the provisions of sections 260.135 and 260.141;

(4) a hearing has been held in accordance with the provisions of section 260.155 within 30 days of the filing of the certification motion, unless good cause is shown by the prosecution or the child as to why the hearing should not be held within this period in which case the hearing shall be held within 90 days of the filing of the motion;

(5) the court finds that there is probable cause, as defined by the rules of criminal procedure promulgated pursuant to section 480.059, to believe the child committed the offense alleged by delinquency petition; and

(6) the court finds either:

(i) that the presumption of certification created by subdivision 2a applies and the child has not rebutted the presumption by clear and convincing evidence demonstrating that retaining the proceeding in the juvenile court serves public safety; or

(ii) that the presumption of certification does not apply and the prosecuting authority has demonstrated by clear and convincing evidence that retaining the proceeding in the juvenile court does not serve public safety. If the court finds that the prosecutor has not demonstrated by clear and convincing evidence that retaining the proceeding in juvenile court does not serve public safety, the court shall retain the proceeding in juvenile court.

Subd. 2a. [PRESUMPTION OF CERTIFICATION.] It is presumed that a proceeding involving an offense committed by a child will be certified ~~to district court~~ if:

(1) the child was 16 or 17 years old at the time of the offense; and

(2) the delinquency petition alleges that the child committed an offense that would result in a presumptive commitment to prison under the sentencing guidelines and applicable statutes, or that the child committed any felony offense while using, whether by brandishing, displaying, threatening with, or otherwise employing, a firearm.

If the court determines that probable cause exists to believe the child committed the alleged offense, the burden is on the child to rebut this presumption by demonstrating by clear and convincing evidence that retaining the proceeding in the juvenile court serves public safety. If the court finds that the child has not rebutted the presumption by clear and convincing evidence, the court shall certify the ~~child to district court~~ proceeding.

Subd. 2b. [PUBLIC SAFETY.] In determining whether the public safety is served by certifying ~~a child to district court~~ the matter, the court shall consider the following factors:

(1) the seriousness of the alleged offense in terms of community protection, including the

existence of any aggravating factors recognized by the sentencing guidelines, the use of a firearm, and the impact on any victim;

(2) the culpability of the child in committing the alleged offense, including the level of the child's participation in planning and carrying out the offense and the existence of any mitigating factors recognized by the sentencing guidelines;

(3) the child's prior record of delinquency;

(4) the child's programming history, including the child's past willingness to participate meaningfully in available programming;

(5) the adequacy of the punishment or programming available in the juvenile justice system; and

(6) the dispositional options available for the child.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense and the child's prior record of delinquency than to the other factors listed in this subdivision.

Subd. 3a. [PRIOR CERTIFICATION; EXCEPTION.] Notwithstanding the provisions of subdivisions 2, 2a, and 2b, the court shall order a certification in any felony case if the prosecutor shows that the child has been previously prosecuted on a felony charge by an order of certification issued pursuant to either a hearing held under subdivision 2 or pursuant to the waiver of the right to such a hearing, other than a prior certification in the same case.

This subdivision only applies if the child is convicted of the offense or offenses for which the child was prosecuted pursuant to the order of certification or of a lesser-included offense which is a felony.

This subdivision does not apply to juvenile offenders who are subject to criminal court jurisdiction under section 609.055.

Subd. 3b. [ADULT CHARGED WITH JUVENILE OFFENSE.] The juvenile court has jurisdiction to hold a certification hearing on motion of the prosecuting authority to certify the matter ~~to district court~~ if:

(1) an adult is alleged to have committed an offense before the adult's 18th birthday; and

(2) a petition is filed under section 260.131 before expiration of the time for filing under section 628.26.

The court may not certify the matter ~~to district court~~ under this subdivision if the adult demonstrates that the delay was purposefully caused by the state in order to gain an unfair advantage.

Subd. 4. [EFFECT OF ORDER.] When the juvenile court enters an order certifying an alleged violation ~~to district court~~, the prosecuting authority shall proceed with the case as if the jurisdiction of the juvenile court had never attached.

Subd. 5. [WRITTEN FINDINGS; OPTIONS.] The court shall decide whether to order certification ~~to district court~~ within 15 days after the certification hearing was completed, unless additional time is needed, in which case the court may extend the period up to another 15 days. If the juvenile court orders certification, and the presumption described in subdivision 2a does not apply, the order shall contain in writing, findings of fact and conclusions of law as to why public safety is not served by retaining the proceeding in the juvenile court. If the juvenile court, after a hearing conducted pursuant to subdivision 2, decides not to order certification ~~to district court~~, the decision shall contain, in writing, findings of fact and conclusions of law as to why certification is not ordered. If the juvenile court decides not to order certification in a case in which the presumption described in subdivision 2a applies, the court shall designate the proceeding an extended jurisdiction juvenile prosecution and include in its decision written findings of fact and conclusions of law as to why the retention of the proceeding in juvenile court serves public safety,

with specific reference to the factors listed in subdivision 2b. If the court decides not to order certification in a case in which the presumption described in subdivision 2a does not apply, the court may designate the proceeding an extended jurisdiction juvenile prosecution, pursuant to the hearing process described in section 260.126, subdivision 2.

Subd. 6. [FIRST-DEGREE MURDER.] When a motion for certification has been filed in a case in which the petition alleges that the child committed murder in the first degree, the prosecuting authority shall present the case to the grand jury for consideration of indictment under chapter 628 within 14 days after the petition was filed.

Subd. 7. [INAPPLICABILITY TO CERTAIN OFFENDERS.] This section does not apply to a child excluded from the definition of delinquent child under section 260.015, subdivision 5, paragraph (b).

Sec. 19. Minnesota Statutes 1994, section 260.126, subdivision 5, is amended to read:

Subd. 5. [EXECUTION OF ADULT SENTENCE.] When it appears that a person convicted as an extended jurisdiction juvenile has violated the conditions of the stayed sentence, or is alleged to have committed a new offense, the court may, without notice, revoke the stay and probation and direct that the offender be taken into immediate custody. The court shall notify the offender in writing of the reasons alleged to exist for revocation of the stay of execution of the adult sentence. If the offender challenges the reasons, the court shall hold a summary hearing on the issue at which the offender is entitled to be heard and represented by counsel. After the hearing, if the court finds that reasons exist to revoke the stay of execution of sentence, the court shall treat the offender as an adult and order any of the adult sanctions authorized by section 609.14, subdivision 3. If the offender was convicted of an offense described in subdivision 1, clause (2), and the court finds that reasons exist to revoke the stay, the court must order execution of the previously imposed sentence unless the court makes written findings regarding the mitigating factors that justify continuing the stay. Upon revocation, the offender's extended jurisdiction status is terminated and juvenile court jurisdiction is terminated. The ongoing jurisdiction for any adult sanction, other than commitment to the commissioner of corrections, is with the adult court.

Sec. 20. Minnesota Statutes 1994, section 260.131, is amended by adding a subdivision to read:

Subd. 1b. [CHILD IN NEED OF PROTECTION OR SERVICES; HABITUAL TRUANT.] If there is a school attendance review board or county attorney mediation program operating in the child's school district, a petition alleging that a child is in need of protection or services as a habitual truant under section 260.015, subdivision 2a, clause (12), may not be filed until the applicable procedures under section 260A.06 or 260A.07 have been exhausted.

Sec. 21. Minnesota Statutes 1994, section 260.131, subdivision 4, is amended to read:

Subd. 4. [DELINQUENCY PETITION; EXTENDED JURISDICTION JUVENILE.] When a prosecutor files a delinquency petition alleging that a child committed a felony offense for which there is a presumptive commitment to prison according to the sentencing guidelines and applicable statutes or in which the child used a firearm, after reaching the age of 16 years, the prosecutor shall indicate in the petition whether the prosecutor designates the proceeding an extended jurisdiction juvenile prosecution. When a prosecutor files a delinquency petition alleging that a child aged 14 to 17 years committed a felony offense, the prosecutor may request that the court designate the proceeding an extended jurisdiction juvenile prosecution.

Sec. 22. Minnesota Statutes 1994, section 260.132, subdivision 1, is amended to read:

Subdivision 1. [NOTICE.] When a peace officer, or attendance officer in the case of a habitual truant, has probable cause to believe that a child:

(1) is in need of protection or services under section 260.015, subdivision 2a, clause (11) or (12);

(2) is a juvenile petty offender; or

(3) has committed a delinquent act that would be a petty misdemeanor or misdemeanor if committed by an adult;

the officer may issue a notice to the child to appear in juvenile court in the county in which the child is found or in the county of the child's residence or, in the case of a juvenile petty offense, or a petty misdemeanor or misdemeanor delinquent act, the county in which the offense was committed. If there is a school attendance review board or county attorney mediation program operating in the child's school district, a notice to appear in juvenile court for a habitual truant may not be issued until the applicable procedures under section 260A.06 or 260A.07 have been exhausted. The officer shall file a copy of the notice to appear with the juvenile court of the appropriate county. If a child fails to appear in response to the notice, the court may issue a summons notifying the child of the nature of the offense alleged and the time and place set for the hearing. If the peace officer finds it necessary to take the child into custody, sections 260.165 and 260.171 shall apply.

Sec. 23. Minnesota Statutes 1994, section 260.132, is amended by adding a subdivision to read:

Subd. 3a. [NO RIGHT TO COUNSEL AT PUBLIC EXPENSE.] A child alleged to be a juvenile petty offender may be represented by counsel, but does not have a right to appointment of a public defender or other counsel at public expense.

Sec. 24. Minnesota Statutes 1994, section 260.132, subdivision 4, is amended to read:

Subd. 4. [TRUANT.] When a peace officer or probation officer has probable cause to believe that a child is currently under age 16 and absent from school without lawful excuse, the officer may transport the child to the child's home and deliver the child to the custody of the child's parent or guardian, transport the child to the child's school of enrollment and deliver the child to the custody of a school superintendent or teacher or transport the child to a truancy service center under section 260A.04, subdivision 3. ~~For purposes of this subdivision, a truancy service center is a facility that receives truant students from peace officers or probation officers and takes appropriate action including one or more of the following:~~

~~(1) assessing the truant's attendance situation;~~

~~(2) assisting in coordinating intervention efforts where appropriate;~~

~~(3) contacting the parents or legal guardian of the truant and releasing the truant to the custody of the parent or guardian; and~~

~~(4) facilitating the truant's earliest possible return to school.~~

Sec. 25. Minnesota Statutes 1994, section 260.155, subdivision 2, is amended to read:

Subd. 2. [APPOINTMENT OF COUNSEL.] (a) The child, parent, guardian or custodian ~~have~~ has the right to effective assistance of counsel in connection with a proceeding in juvenile court unless the child is charged with a juvenile petty offense as defined in section 260.015, subdivision 21. ~~Before a child who is charged by delinquency petition with a misdemeanor offense waives the right to counsel or enters a plea, the child shall consult in person with counsel who shall provide a full and intelligible explanation of the child's rights.~~ The court shall appoint counsel, or stand-by counsel if the child waives the right to counsel, for a child who is:

(1) charged by delinquency petition with a gross misdemeanor or felony offense; or

(2) the subject of a delinquency proceeding in which out-of-home placement has been proposed.

(b) If they desire counsel but are unable to employ it, the court shall appoint counsel to represent the child or the parents or guardian in any ~~other~~ case in which it feels that such an appointment is desirable, except a juvenile petty offense as defined in section 260.015, subdivision 21.

Sec. 26. Minnesota Statutes 1994, section 260.161, subdivision 3, is amended to read:

Subd. 3. [PEACE OFFICER RECORDS OF CHILDREN.] (a) Except for records relating to an offense where proceedings are public under section 260.155, subdivision 1, peace officers' records of children who are or may be delinquent or who may be engaged in criminal acts shall be kept

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

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

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

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

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

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

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

(2) the agency has probable cause to believe that the juvenile has committed an offense described in subdivision 1b, paragraph (a), clauses (1) to (3), that would be a crime if committed by an adult, regardless of whether the victim is a student or staff member of the school.

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

(f) In any county in which the county attorney operates or authorizes the operation of a juvenile

prepetition or pretrial diversion program, a law enforcement agency or county attorney's office may provide the juvenile diversion program with data concerning a juvenile who is a participant in or is being considered for participation in the program.

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

Sec. 27. [260.1735] [EXTENSION OF DETENTION PERIOD.]

Before July 1, 1997, and pursuant to a request from an eight-day temporary holdover facility, as defined in section 241.0221, the commissioner of corrections, or the commissioner's designee, may grant a one-time extension per child to the eight-day limit on detention under this chapter. This extension may allow such a facility to detain a child for up to 30 days including weekends and holidays. Upon the expiration of the extension, the child may not be transferred to another eight-day temporary holdover facility. The commissioner shall develop criteria for granting extensions under this section. These criteria must ensure that the child be transferred to a long-term juvenile detention facility as soon as such a transfer is possible. Nothing in this section changes the requirements in section 260.172 regarding the necessity of detention hearings to determine whether continued detention of the child is proper.

Sec. 28. Minnesota Statutes 1994, section 260.181, subdivision 4, is amended to read:

Subd. 4. [TERMINATION OF JURISDICTION.] (a) The court may dismiss the petition or otherwise terminate its jurisdiction on its own motion or on the motion or petition of any interested party at any time. Unless terminated by the court, and except as otherwise provided in this subdivision, the jurisdiction of the court shall continue until the individual becomes 19 years of age if the court determines it is in the best interest of the individual to do so. Court jurisdiction under section 260.015, subdivision 2a, clause (12), may not continue past the child's 17th birthday.

(b) The jurisdiction of the court over an extended jurisdiction juvenile, with respect to the offense for which the individual was convicted as an extended jurisdiction juvenile, extends until the offender becomes 21 years of age, unless the court terminates jurisdiction before that date.

(c) The juvenile court has jurisdiction to designate the proceeding an extended jurisdiction juvenile prosecution, to hold a certification hearing, or to conduct a trial, receive a plea, or impose a disposition under section 260.126, subdivision 4, if:

(1) an adult is alleged to have committed an offense before the adult's 18th birthday; and

(2) a petition is filed under section 260.131 before expiration of the time for filing under section 628.26 and before the adult's 21st birthday.

The juvenile court lacks jurisdiction under this paragraph if the adult demonstrates that the delay was purposefully caused by the state in order to gain an unfair advantage.

(d) The district court has original and exclusive jurisdiction over a proceeding:

(1) that involves an adult who is alleged to have committed an offense before the adult's 18th birthday; and

(2) in which a criminal complaint is filed before expiration of the time for filing under section 628.26 and after the adult's 21st birthday.

The juvenile court retains jurisdiction if the adult demonstrates that the delay in filing a criminal complaint was purposefully caused by the state in order to gain an unfair advantage.

(e) The juvenile court has jurisdiction over a person who has been adjudicated delinquent until the person's 21st birthday if the person fails to appear at any juvenile court hearing or fails to appear at or absconds from any placement under a juvenile court order. The juvenile court has jurisdiction over a convicted extended jurisdiction juvenile who fails to appear at any juvenile court hearing or fails to appear at or absconds from any placement under section 260.126,

subdivision 4. The juvenile court lacks jurisdiction under this paragraph if the adult demonstrates that the delay was purposefully caused by the state in order to gain an unfair advantage.

Sec. 29. Minnesota Statutes 1994, section 260.185, is amended by adding a subdivision to read:

Subd. 1b. [COMMITMENT TO SECURE FACILITY; LENGTH OF STAY; TRANSFERS.] An adjudicated juvenile may not be placed in a licensed juvenile secure treatment facility unless the placement is approved by the juvenile court. However, the program administrator may determine the juvenile's length of stay in the secure portion of the facility. The administrator shall notify the court of any movement of juveniles from secure portions of facilities. However, the court may, in its discretion, order that the juveniles be moved back to secure portions of the facility.

Sec. 30. Minnesota Statutes 1994, section 260.185, is amended by adding a subdivision to read:

Subd. 1c. [PLACEMENT OF JUVENILES IN SECURE FACILITIES; REQUIREMENTS.] Before a postadjudication placement of a juvenile in a secure treatment facility either inside or outside the state, the court may:

(1) consider whether the juvenile has been adjudicated for a felony offense against the person or that in addition to the current adjudication, the juvenile has failed to appear in court on one or more occasions or has run away from home on one or more occasions;

(2) conduct a subjective assessment to determine whether the child is a danger to self or others or would abscond from a nonsecure facility or if the child's health or welfare would be endangered if not placed in a secure facility;

(3) conduct a culturally appropriate psychological evaluation which includes a functional assessment of anger and abuse issues; and

(4) conduct an educational and physical assessment of the juvenile.

In determining whether to order secure placement, the court shall consider the necessity of:

(1) protecting the public;

(2) protecting program residents and staff; and

(3) preventing juveniles with histories of absconding from leaving treatment programs.

Sec. 31. Minnesota Statutes 1994, section 260.191, subdivision 1, is amended to read:

Subdivision 1. [DISPOSITIONS.] (a) If the court finds that the child is in need of protection or services or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:

(1) place the child under the protective supervision of the local social services agency or child-placing agency in the child's own home under conditions prescribed by the court directed to the correction of the child's need for protection or services;

(2) transfer legal custody to one of the following:

(i) a child-placing agency; or

(ii) the local social services agency.

In placing a child whose custody has been transferred under this paragraph, the agencies shall follow the order of preference stated in section 260.181, subdivision 3;

(3) if the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails or is unable to provide this treatment or care, the court may order it provided. The court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. If the court's

order for mental health treatment is based on a diagnosis made by a treatment professional, the court may order that the diagnosing professional not provide the treatment to the child if it finds that such an order is in the child's best interests; or

(4) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under supervision the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

(1) counsel the child or the child's parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court, including reasonable rules for the child's conduct and the conduct of the parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child; or with the consent of the commissioner of corrections, place the child in a group foster care facility which is under the commissioner's management and supervision;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(4) require the child to pay a fine of up to $100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

(7) if the court believes that it is in the best interests of the child and of public safety that the child's driver's license or instruction permit be canceled, the court may ~~recommend to~~ order the commissioner of public safety ~~that~~ to cancel the child's license ~~be canceled~~ or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner ~~is authorized to~~, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, ~~recommend to~~ order the commissioner of public safety ~~that~~ to allow the child ~~be authorized~~ to apply for a ~~new~~ license or permit, and the commissioner ~~may~~ shall so authorize; ~~or~~

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child were previously dealt with by a school attendance review board or county attorney mediation program under section 260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

Sec. 32. Minnesota Statutes 1994, section 260.193, subdivision 4, is amended to read:

Subd. 4. [ORIGINAL JURISDICTION; JUVENILE COURT.] The juvenile court shall have original jurisdiction ~~if the child is alleged to have committed both major and adult court traffic offenses in the same behavioral incident~~ over:

(1) all juveniles age 15 and under alleged to have committed any traffic offense; and

(2) 16- and 17-year-olds alleged to have committed any major traffic offense, except that the adult court has original jurisdiction over:

(i) petty traffic misdemeanors not a part of the same behavioral incident of a misdemeanor being handled in juvenile court; and

(ii) violations of sections 169.121 (drivers under the influence of alcohol or controlled substance) and 169.129 (aggravated driving while intoxicated), and any other misdemeanor or gross misdemeanor level traffic violations committed as part of the same behavioral incident of a violation of section 169.121 or 169.129.

Sec. 33. Minnesota Statutes 1994, section 260.195, is amended by adding a subdivision to read:

Subd. 2a. [NO RIGHT TO COUNSEL AT PUBLIC EXPENSE.] A child alleged to be a juvenile petty offender may be represented by counsel, but does not have a right to appointment of a public defender or other counsel at public expense.

Sec. 34. Minnesota Statutes 1994, section 260.195, subdivision 3, is amended to read:

Subd. 3. [DISPOSITIONS.] If the juvenile court finds that a child is a petty offender, the court may:

(a) require the child to pay a fine of up to $100;

(b) require the child to participate in a community service project;

(c) require the child to participate in a drug awareness program;

(d) place the child on probation for up to six months;

(e) order the child to undergo a chemical dependency evaluation and if warranted by this evaluation, order participation by the child in an ~~inpatient or~~ outpatient chemical dependency treatment program; ~~or~~

(f) order the child to make restitution to the victim; or

(g) perform any other activities or participate in any other outpatient treatment programs deemed appropriate by the court.

In all cases where the juvenile court finds that a child has purchased or attempted to purchase an alcoholic beverage in violation of section 340A.503, if the child has a driver's license or permit to drive, and if the child used a driver's license, permit or Minnesota identification card to purchase or attempt to purchase the alcoholic beverage, the court shall forward its finding in the case and the child's driver's license or permit to the commissioner of public safety. Upon receipt, the commissioner shall suspend the child's license or permit for a period of 90 days.

None of the dispositional alternatives described in clauses (a) to ~~(e)~~ (f) shall be imposed by the court in a manner which would cause an undue hardship upon the child.

Sec. 35. Minnesota Statutes 1994, section 260.215, subdivision 1, is amended to read:

Subdivision 1. [CERTAIN VIOLATIONS NOT CRIMES.] A violation of a state or local law or ordinance by a child before becoming 18 years of age is not a crime unless the juvenile court:

(1) certifies the matter ~~to the district court~~ in accordance with the provisions of section 260.125;

(2) transfers the matter to a court in accordance with the provisions of section 260.193; or

(3) convicts the child as an extended jurisdiction juvenile and subsequently executes the adult sentence under section 260.126, subdivision 5.

Sec. 36. Minnesota Statutes 1994, section 260.291, subdivision 1, is amended to read:

Subdivision 1. [PERSONS ENTITLED TO APPEAL; PROCEDURE.] (a) An appeal may be taken by the aggrieved person from a final order of the juvenile court affecting a substantial right of the aggrieved person, including but not limited to an order adjudging a child to be in need of protection or services, neglected and in foster care, delinquent, or a juvenile traffic offender. The appeal shall be taken within 30 days of the filing of the appealable order. The court administrator shall notify the person having legal custody of the minor of the appeal. Failure to notify the person having legal custody of the minor shall not affect the jurisdiction of the appellate court. The order of the juvenile court shall stand, pending the determination of the appeal, but the reviewing court may in its discretion and upon application stay the order.

(b) An appeal may be taken by an aggrieved person from an order of the juvenile court on the issue of certification of a ~~child to district court~~ matter for prosecution under the laws and court procedures controlling adult criminal violations. Certification appeals shall be expedited as provided by applicable rules.

Sec. 37. [260A.01] [TRUANCY PROGRAMS AND SERVICES.]

The programs in this chapter are designed to provide a continuum of intervention and services to support families and children in keeping children in school and combating truancy and educational neglect. School districts, county attorneys, and law enforcement may establish the programs and coordinate them with other community-based truancy services in order to provide the necessary and most effective intervention for children and their families. This continuum of intervention and services involves progressively intrusive intervention, beginning with strong service-oriented efforts at the school and community level and involving the court's authority only when necessary.

Sec. 38. [260A.02] [DEFINITIONS.]

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

Subd. 2. [BOARD.] "Board" means a school attendance review board created under section 260A.05.

Subd. 3. [CONTINUING TRUANT.] "Continuing truant" means a child who is subject to the compulsory instruction requirements of section 120.101 and is absent from instruction in a school, as defined in section 120.05, without valid excuse within a single school year for:

(1) three days if the child is in elementary school; or

(2) three or more class periods on three days if the child is in middle school, junior high school, or high school.

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.

Nothing in this section shall prevent a school district from notifying a truant child's parent or legal guardian of the child's truancy or otherwise addressing a child's attendance problems prior to the child becoming a continuing truant.

Sec. 39. [260A.03] [NOTICE TO PARENT OR GUARDIAN WHEN CHILD IS A CONTINUING TRUANT.]

Upon a child's initial classification as a continuing truant, the school attendance officer or other designated school official shall notify the child's parent or legal guardian, by first-class mail or other reasonable means, of the following:

(1) that the child is truant;

(2) that the parent or guardian should notify the school if there is a valid excuse for the child's absences;

(3) that the parent or guardian is obligated to compel the attendance of the child at school pursuant to section 120.101 and parents or guardians who fail to meet this obligation may be subject to prosecution under section 127.20;

(4) that this notification serves as the notification required by section 127.20;

(5) that alternative educational programs and services may be available in the district;

(6) that the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the child's truancy;

(7) that if the child continues to be truant, the parent and child may be subject to juvenile court proceedings under chapter 260;

(8) that if the child is subject to juvenile court proceedings, the child may be subject to suspension, restriction, or delay of the child's driving privilege pursuant to section 260.191; and

(9) that it is recommended that the parent or guardian accompany the child to school and attend classes with the child for one day.

Sec. 40. [260A.04] [COMMUNITY-BASED TRUANCY PROJECTS AND SERVICE CENTERS.]

Subdivision 1. [ESTABLISHMENT.] (a) Community-based truancy projects and service centers may be established to:

(1) provide for identification of students with school attendance problems;

(2) facilitate the provision of services geared to address the underlying issues that are contributing to a student's truant behavior; and

(3) provide facilities to receive truant students from peace officers and probation officers.

(b) Truancy projects and service centers may provide any of these services and shall provide for referral of children and families to other appropriate programs and services.

Subd. 2. [COMMUNITY-BASED ACTION PROJECTS.] Schools, community agencies, law enforcement, parent associations, and other interested groups may cooperate to provide coordinated intervention, prevention, and educational services for truant students and their families. Services may include:

(1) assessment for underlying issues that are contributing to the child's truant behavior;

(2) referral to other community-based services for the child and family, such as individual or family counseling, educational testing, psychological evaluations, tutoring, mentoring, and mediation;

(3) transition services to integrate the child back into school and to help the child succeed once there;

(4) culturally sensitive programming and staffing; and

(5) increased school response, including in-school suspension, better attendance monitoring and enforcement, after-school study programs, and in-service training for teachers and staff.

Subd. 3. [TRUANCY SERVICE CENTERS.] (a) Truancy service centers may be established

as facilities to receive truant students from peace officers and probation officers and provide other appropriate services. A truancy service center may:

(1) assess a truant student's attendance situation, including enrollment status, verification of truancy, and school attendance history;

(2) assist in coordinating intervention efforts where appropriate, including checking with juvenile probation and children and family services to determine whether an active case is pending and facilitating transfer to an appropriate facility, if indicated; and evaluating the need for and making referral to a health clinic, chemical dependency treatment, protective services, social or recreational programs, or other school or community-based services and programs described in subdivision 2;

(3) contact the parents or legal guardian of the truant student and release the truant student to the custody of the parents, guardian, or other suitable person; and

(4) facilitate the student's earliest possible return to school.

(b) Truancy service centers may not accept:

(1) juveniles taken into custody for violations of law that would be crimes if committed by adults;

(2) intoxicated juveniles;

(3) ill or injured juveniles; or

(4) juveniles older than mandatory school attendance age.

(c) Truancy service centers may expand their service capability in order to receive curfew violators and take appropriate action, such as coordination of intervention efforts, contacting parents, and developing strategies to ensure that parents assume responsibility for their children's curfew violations.

Sec. 41. [260A.05] [SCHOOL ATTENDANCE REVIEW BOARDS.]

Subdivision 1. [ESTABLISHMENT.] A school district may establish one or more school attendance review boards to exercise the powers and duties in this section. The school district board shall appoint the members of the school attendance review board and designate the schools within the board's jurisdiction. Members of a school attendance review board may include:

(1) the superintendent of the school district or the superintendent's designee;

(2) a principal and one or more other school officials from within the district;

(3) parent representatives;

(4) representatives from community agencies that provide services for truant students and their families;

(5) a juvenile probation officer;

(6) school counselors and attendance officers; and

(7) law enforcement officers.

Subd. 2. [GENERAL POWERS AND DUTIES.] A school attendance review board shall prepare an annual plan to promote interagency and community cooperation and to reduce duplication of services for students with school attendance problems. The plan shall include a description of truancy procedures and services currently in operation within the board's jurisdiction, including the programs and services under section 260A.04. A board may provide consultant services to, and coordinate activities of, truancy programs and services.

Subd. 3. [OVERSIGHT OF TRUANT STUDENTS.] A school attendance review board shall oversee referrals of truant students and provide appropriate intervention and services under section

260A.06. The board shall establish procedures for documenting student attendance and verifying actions and interventions with respect to truant students and their families.

Sec. 42. [260A.06] [REFERRAL OF TRUANT STUDENTS TO SCHOOL ATTENDANCE REVIEW BOARD.]

Subdivision 1. [REFERRAL; NOTICE.] An attendance officer or other school official may refer a student who is a continuing truant to the school attendance review board. The person making the referral shall provide a written notice by first class mail or other reasonable means to the student and the student's parent or legal guardian. The notice must include the name and address of the board to which the student has been referred and the reason for the referral and indicate that the student, parent or legal guardian, and the referring person will meet with the board to determine a proper disposition of the referral.

Subd. 2. [MEETING; COMMUNITY SERVICES.] The school attendance review board shall schedule the meeting described in subdivision 1 and provide notice of the meeting by first class mail or other reasonable means to the student, parent or guardian, and referring person. If the board determines that available community services may resolve the attendance problems of the truant student, the board shall refer the student or the student's parent or guardian to participate in the community services. The board may develop an agreement with the student and parent or guardian that specifies the actions to be taken. The board shall inform the student and parent or guardian that failure to comply with any agreement or to participate in appropriate community services will result in a referral to the county attorney under subdivision 3. The board may require the student or parent or guardian to provide evidence of participation in available community services or compliance with any agreement.

Subd. 3. [REFERRAL TO COUNTY ATTORNEY; OTHER APPROPRIATE ACTION.] If the school attendance review board determines that available community services cannot resolve the attendance problems of the truant student or if the student or the parent or guardian has failed to comply with any referrals or agreements under subdivision 2 or to otherwise cooperate with the board, the board may:

(1) refer the matter to the county attorney under section 260A.07, if the county attorney has elected to participate in the truancy mediation program; or

(2) if the county attorney has not elected to participate in the truancy mediation program, refer the matter for appropriate legal action against the child or the child's parent or guardian under chapter 260 or section 127.20.

Sec. 43. [260A.07] [COUNTY ATTORNEY TRUANCY MEDIATION PROGRAM.]

Subdivision 1. [ESTABLISHMENT; REFERRALS.] A county attorney may establish a truancy mediation program for the purpose of resolving truancy problems without court action. If a student is in a school district that has established a school attendance review board, the student may be referred to the county attorney under section 260A.06, subdivision 3. If the student's school district has not established a board, the student may be referred to the county attorney by the school district if the student continues to be truant after the parent or guardian has been sent or conveyed the notice under section 260A.03.

Subd. 2. [MEETING; NOTICE.] The county attorney may request the parent or legal guardian and the child referred under subdivision 1 to attend a meeting to discuss the possible legal consequences of the minor's truancy. The notice of the meeting must be served personally or by certified mail at least five days before the meeting on each person required to attend the meeting. The notice must include:

(1) the name and address of the person to whom the notice is directed;

(2) the date, time, and place of the meeting;

(3) the name of the minor classified as a truant;

(4) the basis for the referral to the county attorney;

(5) a warning that a criminal complaint may be filed against the parents or guardians pursuant to section 127.20 for failure to compel the attendance of the minor at school or that action may be taken in juvenile court; and

(6) a statement that the meeting is voluntary.

Sec. 44. [299A.326] [YOUTH NEIGHBORHOOD CENTERS; PILOT PROJECTS ESTABLISHED.]

Subdivision 1. [ESTABLISHMENT; REQUIREMENTS.] The commissioner of public safety may establish up to three pilot projects at neighborhood centers serving youths between the ages of 11 to 21. The centers may offer recreational activities, social services, meals, job skills and career services, and provide referrals for youths to other available services outside the centers. The commissioner may consult with other appropriate agencies and, to the extent possible, use existing resources and staff in creating the programs. The commissioner shall ensure that the programs, if offered, are adequately staffed by specially trained personnel and outreach street workers. Each center may integrate community volunteers into the program's activities and services and cooperate with local law enforcement agencies. The centers must be open during hours convenient to youths including evenings, weekends, and extended summer hours. However, there may not be any conflicts with truancy laws. Each center must have a plan for evaluation designed to measure the program's effectiveness in aiding youths.

Subd. 2. [ADVISORY BOARD.] The commissioner shall establish an advisory board to help develop plans and programs for the youth centers established in subdivision 1. The commissioner shall encourage both youths and their families to participate on the board.

Sec. 45. Minnesota Statutes 1994, section 364.09, is amended to read:

364.09 [EXCEPTIONS.]

(a) This chapter does not apply to the licensing process for peace officers; to law enforcement agencies as defined in section 626.84, subdivision 1, paragraph (h); to fire protection agencies; to eligibility for a private detective or protective agent license; to eligibility for a family day care license, a family foster care license, or a home care provider license; to eligibility for school bus driver endorsements; or to eligibility for special transportation service endorsements. This chapter also shall not apply ~~to eligibility for a license issued or renewed by the board of teaching or state board of education or~~ to eligibility for juvenile corrections employment, where the offense involved child physical or sexual abuse or criminal sexual conduct.

(b) This chapter does not apply to a school district or to eligibility for a license issued or renewed by the board of teaching or the state board of education.

(c) Nothing in this section precludes the Minnesota police and peace officers training board or the state fire marshal from recommending policies set forth in this chapter to the attorney general for adoption in the attorney general's discretion to apply to law enforcement or fire protection agencies.

Sec. 46. Minnesota Statutes 1994, section 466.03, is amended by adding a subdivision to read:

Subd. 18. [SCHOOL BUILDING SECURITY.] Any claim based on injury arising out of a decision by a school or school district to obtain a fire code variance for purposes of school building security, if the decision was made in good faith and in accordance with applicable law governing variances.

Sec. 47. Minnesota Statutes 1994, section 609.055, subdivision 2, is amended to read:

Subd. 2. [ADULT PROSECUTION.] (a) Except as otherwise provided in paragraph (b), children of the age of 14 years or over but under 18 years may be prosecuted for a felony offense if the alleged violation is duly certified ~~to the district court~~ for prosecution under the laws and court procedures controlling adult criminal violations or may be designated an extended jurisdiction juvenile in accordance with the provisions of chapter 260. A child who is 16 years of age or older but under 18 years of age is capable of committing a crime and may be prosecuted for a felony if:

(1) the child has been previously certified ~~to the district court~~ on a felony charge pursuant to a hearing under section 260.125, subdivision 2, or pursuant to the waiver of the right to such a hearing, or prosecuted pursuant to this subdivision; and

(2) the child was convicted of the felony offense or offenses for which the child was prosecuted or of a lesser included felony offense.

(b) A child who is alleged to have committed murder in the first degree after becoming 16 years of age is capable of committing a crime and may be prosecuted for the felony. This paragraph does not apply to a child alleged to have committed attempted murder in the first degree after becoming 16 years of age.

Sec. 48. Minnesota Statutes 1994, section 609.605, subdivision 4, is amended to read:

Subd. 4. [TRESPASSES ON SCHOOL PROPERTY.] (a) It is a misdemeanor for a person to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless the person:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(b) It is a gross misdemeanor for a group of three or more persons to enter or be found in a public or nonpublic elementary, middle, or secondary school building unless one of the persons:

(1) is an enrolled student in, a parent or guardian of an enrolled student in, or an employee of the school or school district;

(2) has permission or an invitation from a school official to be in the building;

(3) is attending a school event, class, or meeting to which the person, the public, or a student's family is invited; or

(4) has reported the person's presence in the school building in the manner required for visitors to the school.

(c) It is a misdemeanor for a person to enter or be found on school property within six months after being told by the school principal or the principal's designee to leave the property and not to return, unless the principal or the principal's designee has given the person permission to return to the property. As used in this paragraph, "school property" has the meaning given in section 152.01, subdivision 14a, clauses (1) and (3).

~~(c)~~ (d) A school principal or a school employee designated by the school principal to maintain order on school property, who has reasonable cause to believe that a person is violating this subdivision may detain the person in a reasonable manner for a reasonable period of time pending the arrival of a peace officer. A school principal or designated school employee is not civilly or criminally liable for any action authorized under this paragraph if the person's action is based on reasonable cause.

~~(d)~~ (e) A peace officer may arrest a person without a warrant if the officer has probable cause to believe the person violated this subdivision within the preceding four hours. The arrest may be made even though the violation did not occur in the peace officer's presence.

Sec. 49. Minnesota Statutes 1994, section 641.14, is amended to read:

641.14 [JAILS; SEPARATION OF PRISONERS.]

The sheriff of each county is responsible for the operation and condition of the jail. If construction of the jail permits, the sheriff shall maintain strict separation of prisoners to the extent that separation is consistent with prisoners' security, safety, health, and welfare. The sheriff shall not keep in the same room or section of the jail:

(1) a minor under 18 years old and a prisoner who is 18 years old or older, unless:

(i) the minor has been committed to the commissioner of corrections under section 609.105 ~~or~~;

(ii) the minor has been referred for adult prosecution and the prosecuting authority has filed a notice of intent to prosecute the matter for which the minor is being held under section 260.125; or

(iii) the minor is 16 or 17 years old and has been indicted for murder in the first degree; ~~and~~

(2) a female prisoner and a male prisoner; and

(3) a minor under 18 years old and an extended jurisdiction juvenile 18 years old or older who is alleged to have violated the conditions of the stay of execution.

Sec. 50. [AMENDMENTS TO RULES DIRECTED.]

The commissioners of corrections and human services shall jointly amend their licensing rules to:

(1) allow residential facilities to admit 18- and 19-year-old extended jurisdiction juveniles;

(2) require licensed facilities to develop policies and procedures for appropriate programming and housing separation of residents according to age; and

(3) allow the commissioners the authority to approve the policies and procedures authorized by clause (2) for the facilities over which they have licensing authority.

Sec. 51. [COMMISSIONERS TO ADOPT RULES REGARDING SECURE TREATMENT FACILITIES.]

The commissioners of corrections and human services shall jointly adopt licensing rules requiring all facilities to develop operating policies and procedures for the continued use of secure treatment placement. These policies and procedures must include timelines for the review of individual cases to determine the continuing need for secure placement and criteria for movement of juveniles to less restrictive parts of the facilities.

Sec. 52. [EDUCATIONAL PROGRAM FOR JUVENILE COURT PROCESS.]

The supreme court is requested to establish, by January 1, 1997, an educational program explaining the juvenile court system for use in juvenile courts under Minnesota Statutes, section 260.042. The program may include information on court protocol and process. The court, in developing the program, may invite input from juveniles and their families and may consult with attorneys, judges, representatives of communities of color, and agencies and organizations with expertise in the area of juvenile justice.

The court, in conjunction with these individuals and organizations, may develop materials such as videos and handbooks to be used in the program and may direct that all professionals involved in the juvenile justice system assume responsibility for the program's implementation.

Sec. 53. [WORK GROUP CREATED.]

The commissioner of human services shall convene a work group to develop a mechanism for including child maltreatment reports in the criminal history background checks that are required to be performed on school employee and teacher license applicants under Minnesota Statutes, sections 120.1045 and 125.05, subdivision 8. The work group also shall consider the data privacy issues raised by including these reports in the background checks and any other related issues.

The work group shall include representatives of the state board of education, the board of teaching, the school boards association, the commissioner of education, and the superintendent of

the bureau of criminal apprehension. The work group shall report its findings and recommendations to the legislature by January 15, 1996.

Sec. 54. [COMMISSIONER OF CORRECTIONS; GRANTS TO COUNTIES FOR JUVENILE PROGRAMMING.]

The commissioner of corrections shall provide grants to counties to provide a comprehensive continuum of care to juveniles at high risk to become extended jurisdiction juveniles or who are extended jurisdiction juveniles under the county's jurisdiction.

Counties may apply to the commissioner for grants in a manner specified by the commissioner but must identify the following in writing:

(1) the amount of money currently being spent by the county for juvenile programming;

(2) what gaps currently exist in providing a comprehensive continuum of care to juveniles within the county;

(3) what specific steps will be taken and what specific changes will be made to existing programming to reduce the juvenile reoffense rate;

(4) what new programming will be provided to fill the gaps identified in clause (2) and how it will lower the juvenile reoffense rate;

(5) how the new programming and services will address the culturally specific needs of juvenile offenders of color; and

(6) how the new programming and services will address the needs of female juvenile offenders.

Counties that receive grants under this section shall inform the commissioner by October 15, 1996, about the use of the grant money and their experiences with the new programs and services funded by the grants. The commissioner shall evaluate the grant program based on the information the commissioner receives from counties and on any other information the commissioner has and shall forward findings and recommendations to the chairs of the senate crime prevention finance division and the house judiciary finance committee by January 15, 1997.

For purposes of this section, a comprehensive continuum of care may include:

(1) secondary prevention programs or services that minimize the effect of characteristics which identify individuals as members of high-risk groups;

(2) tertiary prevention programs or services that are provided after violence or antisocial conduct has occurred and which are designed to prevent its recurrence;

(3) programs or services that are treatment focused and offer an opportunity for rehabilitation;

(4) punishment of juveniles, as provided by applicable law, including long-term secure postadjudication placement; and

(5) transition programs or services designed to reintegrate juveniles discharged from residential programs into the community.

The commissioner shall encourage nongovernmental, community-based services and programs to apply for grants under this section. None of the money may be used to pay for current programs and services or for county attorney preadjudicated juvenile diversion programs.

Sec. 55. [YOUTH PLACEMENT PROFILE STUDY.]

The commissioner of corrections shall solicit proposals from juvenile justice research agencies to study the profiles of juveniles placed at Red Wing and Sauk Centre. By August 1, 1995, the commissioner shall contract to have the study conducted. The agency selected to perform the study shall use a validated risk-assessment instrument that determines the level of risk a juvenile presents based on the seriousness of the offense and past delinquency history and assesses the juvenile's treatment needs. The study must specifically examine the type of offender placed in the

facilities, make recommendations on whether current placement policy makes optimal use of the facilities, and, if necessary, recommend changes in placement policies. By February 15, 1996, the commissioner shall report to the chairs of the senate crime prevention and house judiciary committees on the results of the study.

Sec. 56. [TASK FORCE ON JUVENILE FACILITY ALTERNATIVES.]

Subdivision 1. [TASK FORCE ESTABLISHED.] A task force is established to study how services are provided to juveniles in residential facilities. The task force shall study various residential juvenile offender programs, both public and private. The task force shall develop plans addressing alternative methods by which the services, programs, and responsibilities for the class of juvenile offenders currently sent to the department of corrections facilities at Red Wing and Sauk Centre may be provided.

Subd. 2. [REPORT REQUIRED.] The task force shall report its findings and recommendations to the chairs of the senate crime prevention and house of representatives judiciary committees by February 15, 1996. The report must include an analysis of the programmatic and demographic differences with special emphasis on those methods and programs which have demonstrated rates of success. The report must also outline how the programs, services, control, and supervision of juvenile offenders served by the state facilities at Red Wing and Sauk Centre could be delivered in ways that have the potential of reducing the reoffense rates. The report must also include the cost-effectiveness and feasibility of options, including private contracts for programs and services or local government delivery of services and programs, the delivery of new and creative programs and services to these juveniles by the state, or any combination which has the potential of reducing the rate of reoffending among this group of juvenile offenders.

Subd. 3. [POSSIBLE PROGRAM PHASE OUT.] If the task force recommends the phasing out of juvenile offender programs at Red Wing or Sauk Centre, or both, then the task force shall also recommend alternative programming and locations for serving this class of juveniles and recommend alternative cost-effective uses for the facilities. The question of the future use of either the Red Wing or Sauk Centre facility is reserved until the 1996 legislative session has considered the report of the task force.

Subd. 4. [MEMBERSHIP.] By July 1, 1995, the speaker of the house of representatives and majority leader of the senate shall appoint individuals who have demonstrated experience in the juvenile justice field and who are representatives or designees of the following to serve as members of the task force:

(1) the commissioner of corrections;

(2) a public defender;

(3) a prosecutor;

(4) two juvenile corrections specialists from nonpublic service providers;

(5) a juvenile court judge;

(6) a community corrections county;

(7) a noncommunity corrections county;

(8) two public members, at least one of whom is a parent of a child who was a client in the juvenile justice system;

(9) an educator; and

(10) one staff member from each facility, one of whom represents the unionized employees selected by the exclusive representative of that facility.

In addition, at least one majority and one minority member of the senate and one majority and one minority member of the house of representatives shall serve on the task force. After consultation with the commissioner of corrections, the legislative members of the task force shall select its chair.

Sec. 57. [PLAN FOR TRACKING JUVENILE REOFFENSE RATE; REPORT.]

The criminal and juvenile justice information policy group, in cooperation with the supreme court, the commissioner of corrections, and the superintendent of the bureau of criminal apprehension, shall develop a plan for obtaining and compiling the names of juvenile offenders and for tracking and reporting juvenile reoffense rates. This plan must examine the initial analysis and design work done by the supreme court under Laws 1994, chapter 576, section 67, subdivision 8, to determine a timetable for implementing the plan and whether additional technology will be necessary. By January 15, 1996, the criminal and juvenile justice information policy group shall report to the chairs of the senate crime prevention and house judiciary committees on the plan.

Sec. 58. [INSTITUTE FOR CHILD AND ADOLESCENT SEXUAL HEALTH.]

Subdivision 1. [EXPANDED PROJECTS.] The Institute for Child and Adolescent Sexual Health shall continue to provide intervention services for children aged 8 to 10 who are exhibiting sexually aggressive behavior and who are not currently receiving any treatment. The institute shall establish at least one pilot project to develop and implement an earlier intervention strategies program for younger children identified as high risk to become sex offenders.

Subd. 2. [REPORT.] The Institute for Child and Adolescent Sexual Health shall report to the chairs of the senate crime prevention and house of representatives judiciary committees before March 1, 1996, on the status and preliminary findings of the pilot project.

Sec. 59. [RAMSEY COUNTY; JUVENILE VIOLENCE PREVENTION AND ENFORCEMENT UNIT; MEMBERS; DUTIES.]

The county of Ramsey may establish a pilot project that creates a juvenile violence prevention and enforcement unit consisting of one prosecutor, one investigating officer, one legal assistant, and one victim/witness coordinator.

The juvenile violence prevention and enforcement unit shall:

(1) target, investigate, and prosecute juveniles who commit crimes using dangerous weapons, as defined in Minnesota Statutes, section 609.02, subdivision 6;

(2) identify, track, investigate, and prosecute persons who furnish dangerous weapons to juveniles;

(3) work closely with other members of the criminal justice system, including other local jurisdictions, the Bureau of Alcohol, Tobacco, and Firearms of the United States Treasury Department, and out-of-state agencies involved in investigating and prosecuting juvenile violence; and

(4) develop a collaborative relationship with neighborhoods and communities that are involved with the juvenile violence prevention problem.

Sec. 60. [SECURE AND NONSECURE RESIDENTIAL TREATMENT FACILITIES.]

Subdivision 1. [RULES REQUIRED; COMMITTEE ESTABLISHED.] The commissioners of corrections and human services shall jointly adopt licensing and programming rules for the secure and nonsecure residential treatment facilities that they license and shall establish an advisory committee to develop these rules. The committee shall develop consistent general licensing requirements for juvenile residential care, enabling facilities to provide appropriate services to juveniles with single or multiple problems. The rules shall establish program standards with an independent auditing process by July 1997.

Subd. 2. [STANDARDS.] The standards to be developed in the rules must require:

(1) standards for the management of the program including:

(i) a board of directors or advisory committee for each facility which represents the interests, concerns, and needs of the clients and community being served;

(ii) appropriate grievance and appeal procedures for clients and families; and

(iii) use of an ongoing internal program evaluation and quality assurance effort at each facility to monitor program effectiveness and guide the improvement of services provided, evaluate client and family satisfaction with each facilities' services, and collect demographic information on clients served and outcome measures relative to the success of services; and

(2) standards for programming including:

(i) specific identifiable criteria for admission and discharge;

(ii) written measurable goals for each client;

(iii) development of a no-eject policy by which youths are discharged based on successful completion of individual goals and not automatically discharged for behavioral transgressions;

(iv) individual plans for transitional services that involve youths, their families, and community resources to accomplish community integration and family reunification where appropriate;

(v) cultural sensitivity, including the provision of interpreters and English language skill development to meet the needs of the facilities' population;

(vi) use of staff who reflect the ethnicity of the clients served, wherever possible;

(vii) provision of staff training in cultural sensitivity and disability awareness;

(viii) capability to respond to persons with disabilities; and

(ix) uniform education programs that provide for year-round instruction; and

(3) a program audit procedure which requires regular unbiased program audits and reviews to determine if the facilities continue to meet the standards established in statute and rule and the needs of the clients and community.

Subd. 3. [MEMBERSHIP.] The commissioners of corrections and human services or their designee shall serve as co-chairs of the rulemaking committee. The co-chairs shall invite individuals who have demonstrated experience in the juvenile justice field to serve on the committee; including, but not limited to, representatives or designees of the departments of corrections, human services, and education, the private sector, and other juvenile facility stakeholders. The commissioners shall ensure that family members of juveniles, representatives of communities of color, and members of advocacy groups serve on the rulemaking committee and shall schedule committee meetings at times and places that ensure representation by these individuals.

Subd. 4. [TIME LINES.] By December 1, 1996, the rulemaking committee shall submit draft rule parts which address the program standards, evaluation, and auditing standards and procedures to the chairs of the senate crime prevention and house of representatives judiciary committee for review. By July 31, 1997, the licensing and programming rulemaking process shall be completed.

Subd. 5. [LICENSING.] The commissioners of corrections and human services may not license facilities that fail to meet programming standards after they are adopted.

Sec. 61. [STUDY OF SECURE TREATMENT FACILITIES.]

The commissioner of corrections, in consultation with the commissioner of human services, shall conduct a study on the use of secure treatment facilities for juveniles in the state and shall submit a written report to the governor and the legislature by January 15, 1997. The report must contain the commissioners' findings, along with demographic data and recommendations concerning the use of admission criteria.

Sec. 62. [CRIME PREVENTION; TARGETED EARLY INTERVENTION.]

Subdivision 1. [ESTABLISHMENT.] The commissioner of public safety in cooperation with the commissioners of education, human services, and corrections, shall establish a demonstration project to address the needs of children under the age of ten whose behaviors indicate that they are at high risk of future delinquency. The project will be designed to develop standards and model programming for targeted early intervention to prevent crime and delinquency.

Subd. 2. [PROGRAM REQUIREMENTS.] Counties eligible for grants under this section shall develop projects which operate out of the office of the county attorney or the local social services agency and include:

(1) a provision for joint service delivery involving schools, law enforcement, social services, county attorney, and community corrections to address multiple needs of children and the family, demonstrate improved methods of service delivery, and prevent delinquent behavior;

(2) identification of children at risk that can be made from existing target populations including, but not limited to, delinquents under age ten, elementary truants, and children under age five receiving mental health services due to their violent behavior; police, schools, and community agencies may also identify children at risk;

(3) demonstration of standards and model programming including, but not limited to, model case planning, correlation of at-risk behaviors and factors to correct those behaviors, clear identification and use of factors which are predictive of delinquency, indices of child well-being, success measures tied to child well-being, time frames for achievement of success measures, a plan for progressively intrusive intervention, and use of juvenile court intervention and criminal court intervention; and

(4) a comprehensive review of funding and other sources available to children under this demonstration project in order to identify fiscal incentives and disincentives to successful service delivery.

Subd. 3. [REPORT.] The commissioner of public safety, at the end of the project, shall report findings and recommendations to the legislature on the standards and model programming developed under the demonstration project to guide the design of targeted early intervention services to prevent crime and delinquency.

Sec. 63. [TRUANCY REDUCTION GRANT PILOT PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] A truancy reduction grant pilot program is established to help school districts, county attorneys, and law enforcement officials work collaboratively to improve school attendance and to reduce truancy.

Subd. 2. [EXPECTED OUTCOMES.] Grant recipients shall use the funds for programs designed to assist truant students and their families in resolving attendance problems without court intervention. Recipient programs must be designed to reduce truancy and educational neglect, and improve school attendance rates, by:

(1) providing early intervention and a continuum of intervention;

(2) supporting parental involvement and responsibility in solving attendance problems;

(3) working with students, families, school personnel, and community resources to provide appropriate services that address the underlying causes of truancy; and

(4) providing a speedy and effective alternative to juvenile court intervention in truancy cases.

Subd. 3. [GRANT ELIGIBILITY, APPLICATIONS, AND AWARDS.] A county attorney, together with a school district or group of school districts and law enforcement, may apply for a truancy reduction grant. The commissioner of public safety, in collaboration with the commissioner of education, shall prescribe the form and manner of applications by July 1, 1995, and shall award grants to applicants likely to meet the outcomes in subdivision 2. At least two grants must be awarded: one to a county in the seven-county metropolitan area and one to a county outside the metropolitan area. Grants must be awarded for the implementation of programs in the 1995-1996 school year. At minimum, each applicant group must have a plan for implementing an early intervention truancy program at the school district or building level, as well as a county attorney truancy mediation program under Minnesota Statutes, section 260A.07.

Subd. 4. [EVALUATION.] The attorney general shall make a preliminary report on the effectiveness of the pilot programs as part of its 1996 annual report under Minnesota Statutes, section 8.36, and a final report as part of its 1997 annual report under that section.

Sec. 64. [REPEALER.]

Minnesota Statutes 1994, section 126.25, is repealed.

Laws 1994, chapter 576, section 1, is repealed.

Section 1 is repealed effective August 1, 1997.

Sec. 65. [EFFECTIVE DATE.]

Sections 2 and 6 are effective on January 1, 1996. Section 11 is effective beginning with the 1995-1996 school year. Sections 16, 50 to 53, and 55 to 57 are effective the day following final enactment. Sections 3, 7 to 10, 13 to 15, 17 to 25, 28 to 36, 38, 39, 41 to 43, 47 to 49, 60, and 61 are effective on July 1, 1995, and apply to acts committed on or after that date. The remaining sections of this article are effective on July 1, 1995.

ARTICLE 4

LAW ENFORCEMENT AND SAFETY

Section 1. Minnesota Statutes 1994, section 3.732, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section and section 3.736 the terms defined in this section have the meanings given them.

(1) "State" includes each of the departments, boards, agencies, commissions, courts, and officers in the executive, legislative, and judicial branches of the state of Minnesota and includes but is not limited to the housing finance agency, the higher education coordinating board, the higher education facilities authority, the health technology advisory committee, the armory building commission, the zoological board, the iron range resources and rehabilitation board, the state agricultural society, the University of Minnesota, state universities, community colleges, state hospitals, and state penal institutions. It does not include a city, town, county, school district, or other local governmental body corporate and politic.

(2) "Employee of the state" means all present or former officers, members, directors, or employees of the state, members of the Minnesota national guard, members of a bomb disposal unit approved by the commissioner of public safety and employed by a municipality defined in section 466.01 when engaged in the disposal or neutralization of bombs or other similar hazardous explosives, as defined in section 299C.063, outside the jurisdiction of the municipality but within the state, or persons acting on behalf of the state in an official capacity, temporarily or permanently, with or without compensation. It does not include either an independent contractor or members of the Minnesota national guard while engaged in training or duty under United States Code, title 10, or title 32, section 316, 502, 503, 504, or 505, as amended through December 31, 1983. Notwithstanding sections 43A.02 and 611.263, for purposes of this section and section 3.736 only, "employee of the state" includes a district public defender or assistant district public defender in the second or fourth judicial district and a member of the health technology advisory committee.

(3) "Scope of office or employment" means that the employee was acting on behalf of the state in the performance of duties or tasks lawfully assigned by competent authority.

(4) "Judicial branch" has the meaning given in section 43A.02, subdivision 25.

Sec. 2. Minnesota Statutes 1994, section 176.192, is amended to read:

176.192 [BOMB DISPOSAL UNIT EMPLOYEES.]

For purposes of this chapter, a member of a bomb disposal unit approved by the commissioner of public safety and employed by a municipality defined in section 466.01, is considered ~~a state~~ an employee of the department of public safety solely for the purposes of this chapter when disposing of or neutralizing bombs or other similar hazardous explosives, as defined in section 299C.063, for another municipality or otherwise outside the jurisdiction of the employer-municipality but within the state.

Sec. 3. Minnesota Statutes 1994, section 243.166, is amended to read:

243.166 [REGISTRATION OF PREDATORY OFFENDERS.]

Subdivision 1. [REGISTRATION REQUIRED.] (a) A person shall register under this section if:

(1) the person was charged with or petitioned for a felony violation of or attempt to violate any of the following, and convicted of or adjudicated delinquent for that offense or of another offense arising out of the same set of circumstances:

(i) murder under section 609.185, clause (2);

(ii) kidnapping under section 609.25, involving a minor victim; or

(iii) criminal sexual conduct under section 609.342; 609.343; 609.344; or 609.345; or

(2) the person was convicted of a predatory crime as defined in section 609.1352, and the offender was sentenced as a patterned sex offender or the court found on its own motion or that of the prosecutor that the crime was part of a predatory pattern of behavior that had criminal sexual conduct as its goal; or

(3) the person was convicted of or adjudicated delinquent for violating a law of the United States similar to the offenses described in clause (1) or (2).

(b) A person also shall register under this section if:

(1) the person was convicted of or adjudicated delinquent in another state for an offense that would be a violation of a law described in paragraph (a) if committed in this state;

(2) the person enters and remains in this state for 30 days or longer; and

(3) ten years have not elapsed since the person was released from confinement or, if the person was not confined, since the person was convicted of or adjudicated delinquent for the offense that triggers registration.

Subd. 2. [NOTICE.] When a person who is required to register under ~~this section~~ subdivision 1, paragraph (a), is sentenced or becomes subject to a juvenile court disposition order, the court shall tell the person of the duty to register under this section. The court shall require the person to read and sign a form stating that the duty of the person to register under this section has been explained. If a person required to register under ~~this section~~ subdivision 1, paragraph (a), was not notified by the court of the registration requirement at the time of sentencing or disposition, the assigned corrections agent shall notify the person of the requirements of this section.

Subd. 3. [REGISTRATION PROCEDURE.] (a) ~~The~~ A person required to register under this section shall register with the corrections agent as soon as the agent is assigned to the person. If the person does not have an assigned corrections agent or is unable to locate the assigned corrections agent, the person shall register with the law enforcement agency that has jurisdiction in the area of the person's residence.

(b) At least five days before the person changes residence, including changing residence to another state, the person shall give written notice of the address of the new residence to the ~~current or last~~ assigned corrections agent or to the law enforcement authority with which the person currently is registered. An offender is deemed to change residence when the offender remains at a new address for longer than three days and evinces an intent to take up residence there. The corrections agent or law enforcement authority shall, within two business days after receipt of this information, forward it to the bureau of criminal apprehension.

Subd. 4. [CONTENTS OF REGISTRATION.] (a) The registration provided to the corrections agent or law enforcement authority, must consist of a statement in writing signed by the person, giving information required by the bureau of criminal apprehension, ~~and~~ a fingerprint card, and photograph of the person ~~if these have not already been obtained in connection with the offense that triggers registration~~ taken at the time of the person's release from incarceration or, if the person was not incarcerated, at the time the person initially registered under this section.

(b) Within three days, the corrections agent or law enforcement authority shall forward the statement, fingerprint card, and photograph to the bureau of criminal apprehension. The bureau shall ascertain whether the person has registered with the law enforcement authority where the person resides. If the person has not registered with the law enforcement authority, the bureau shall send one copy to ~~the appropriate law enforcement authority that will have jurisdiction where the person will reside on release or discharge~~ that authority.

Subd. 5. [CRIMINAL PENALTY.] A person required to register under this section who knowingly violates any of its provisions or intentionally provides false information to a corrections agent, law enforcement authority, or the bureau of criminal apprehension is guilty of a gross misdemeanor. A person convicted of or adjudicated delinquent for violating this section who previously has been convicted under this section is guilty of a felony. A violation of this section may be prosecuted either where the person resides or where the person was last assigned to a Minnesota corrections agent.

Subd. 6. [REGISTRATION PERIOD.] (a) Notwithstanding the provisions of section 609.165, subdivision 1, a person required to register under this section shall continue to comply with this section until ten years have elapsed since the person ~~was initially assigned to a corrections agent~~ initially registered in connection with the offense, or until the probation, supervised release, or conditional release period expires, whichever occurs later. For a person required to register under this section who is committed under section 253B.185, the ten-year registration period does not include the period of commitment.

(b) If a person required to register under this section fails to register following a change in residence, the commissioner of public safety may require the person to continue to register for an additional period of five years.

Subd. 7. [USE OF INFORMATION.] The information provided under this section is private data on individuals under section 13.01, subdivision 12. The information may be used only for law enforcement purposes.

Subd. 8. [LAW ENFORCEMENT AUTHORITY.] For purposes of this section, a law enforcement authority means, with respect to a home rule charter or statutory city, the chief of police, and with respect to an unincorporated area, the sheriff of the county.

Subd. 9. [OFFENDERS FROM OTHER STATES.] When the state accepts an offender from another state under a reciprocal agreement under the interstate compact authorized by section 243.16 or under any authorized interstate agreement, the acceptance is conditional on the offender agreeing to register under this section when the offender is living in Minnesota.

Sec. 4. Minnesota Statutes 1994, section 299A.35, subdivision 1, is amended to read:

Subdivision 1. [PROGRAMS.] The commissioner shall, in consultation with the chemical abuse and violence prevention council, administer a grant program to fund community-based programs that are designed to enhance the community's sense of personal security and to assist the community in its crime control efforts. Examples of qualifying programs include, but are not limited to, the following:

(1) programs to provide security systems for residential buildings serving low-income persons, elderly persons, and persons who have physical or mental disabilities;

(2) community-based programs designed to discourage young people from involvement in unlawful drug or street gang activities;

(3) neighborhood block clubs and innovative community-based crime watch programs;

(4) community-based programs designed to enrich the educational, cultural, or recreational opportunities of at-risk elementary or secondary school age youth, including programs designed to keep at-risk youth from dropping out of school and encourage school dropouts to return to school;

(5) support services for a municipal curfew enforcement program including, but not limited to, rent for drop-off centers, staff, supplies, equipment, and the referral of children who may be abused or neglected;

(6) community-based programs designed to intervene with juvenile offenders who are identified as likely to engage in repeated criminal activity in the future unless intervention is undertaken;

(7) community-based collaboratives that coordinate five or more programs designed to enrich the educational, cultural, or recreational opportunities of at-risk elementary or secondary school age youth, including programs designed to keep at-risk youth from dropping out of school and to encourage school dropouts to return to school;

(8) programs that are proven successful at increasing the rate of graduation from secondary school and the rate of post-secondary education attendance for high-risk students; ~~and~~

(9) community-based programs that provide services to homeless youth; and

(10) other community-based crime prevention programs that are innovative and encourage substantial involvement by members of the community served by the program.

Sec. 5. Minnesota Statutes 1994, section 299A.51, subdivision 2, is amended to read:

Subd. 2. [WORKERS' COMPENSATION.] During operations authorized under section 299A.50, members of a regional hazardous materials response team operating outside their geographic jurisdiction are considered ~~state~~ employees of the department of public safety for purposes of chapter 176.

Sec. 6. [299A.61] [CRIMINAL ALERT NETWORK.]

The commissioner of public safety, in cooperation with the commissioner of administration, shall develop and maintain an integrated criminal alert network to facilitate the communication of crime prevention information by electronic means among state agencies, law enforcement officials, and the private sector. The network shall disseminate data regarding the commission of crimes, including information on missing and endangered children, and attempt to reduce theft and other crime by the use of electronic transmission of information.

Sec. 7. [299C.063] [BOMB DISPOSAL EXPENSE REIMBURSEMENT.]

Subdivision 1. [DEFINITIONS.] The terms used in this section have the meanings given them in this subdivision:

(a) "Bomb disposal unit" means a commissioner-approved unit consisting of persons who are trained and equipped to dispose of or neutralize bombs or other similar hazardous explosives and who are employed by a municipality.

(b) "Commissioner" means the commissioner of public safety.

(c) "Municipality" has the meaning given it in section 466.01.

(d) "Hazardous explosives" means explosives as defined in section 299F.72, subdivision 2, explosive devices and incendiary devices as defined in section 609.668, subdivision 1, and all materials subject to regulation under United States Code, title 18, chapter 40.

Subd. 2. [EXPENSE REIMBURSEMENT.] The commissioner may reimburse bomb disposal units for reasonable expenses incurred to dispose of or neutralize bombs or other similar hazardous explosives for their employer-municipality or for another municipality outside the jurisdiction of the employer-municipality but within the state. Reimbursement is limited to the extent of appropriated funds.

Subd. 3. [AGREEMENTS.] The commissioner may enter into contracts or agreements with bomb disposal units to implement and administer this section.

Sec. 8. Minnesota Statutes 1994, section 299C.065, subdivision 3, is amended to read:

Subd. 3. [INVESTIGATION REPORT.] A report shall be made to the commissioner at the conclusion of an investigation for which a grant was made under subdivision 1 stating: (1) the number of persons arrested, (2) the nature of charges filed against them, (3) the nature and value

of controlled substances or contraband purchased or seized, (4) the amount of money paid to informants during the investigation, and (5) a separate accounting of the amount of money spent for expenses, other than "buy money", of bureau and local law enforcement personnel during the investigation. The commissioner shall prepare and submit to the chairs of the committees in the senate and house of representatives with jurisdiction over criminal justice policy by January 1 of each even-numbered year a report of investigations receiving grants under subdivision 1.

Sec. 9. Minnesota Statutes 1994, section 299C.065, subdivision 3a, is amended to read:

Subd. 3a. [ACCOUNTING REPORT.] The head of a law enforcement agency that receives a grant under subdivision 1a shall file a report with the commissioner at the conclusion of the case detailing the specific purposes for which the money was spent. The commissioner shall prepare and submit to the chairs of the committees in the senate and house of representatives with jurisdiction over criminal justice policy by January 1 of each even-numbered year a summary report of witness assistance services provided under this section.

Sec. 10. Minnesota Statutes 1994, section 299C.10, subdivision 1, is amended to read:

Subdivision 1. [LAW ENFORCEMENT DUTY.] (a) It is hereby made the duty of the sheriffs of the respective counties and of the police officers in cities of the first, second, and third classes, under the direction of the chiefs of police in such cities, to take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, and such other identification data as may be requested or required by the superintendent of the bureau; of all persons arrested for a felony, gross misdemeanor, of all juveniles committing felonies as distinguished from those committed by adult offenders, of all persons reasonably believed by the arresting officer to be fugitives from justice, of all persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes, and within 24 hours thereafter to forward such fingerprint records and other identification data on such forms and in such manner as may be prescribed by the superintendent of the bureau of criminal apprehension.

(b) Effective August 1, 1997, the identification reporting requirements shall also apply to persons committing misdemeanor offenses, including violent and enhanceable crimes, and juveniles committing gross misdemeanors.

Sec. 11. Minnesota Statutes 1994, section 299C.10, is amended by adding a subdivision to read:

Subd. 4. [FEE FOR BACKGROUND CHECK; ACCOUNT; APPROPRIATION.] The superintendent shall collect a fee in an amount to cover the expense for each background check provided for a purpose not directly related to the criminal justice system or required by section 624.7131, 624.7132, or 624.714. The proceeds of the fee must be deposited in a special account. Until July 1, 1997, money in the account is appropriated to the commissioner to maintain and improve the quality of the criminal record system in Minnesota.

Sec. 12. Minnesota Statutes 1994, section 299C.62, subdivision 4, is amended to read:

Subd. 4. [RESPONSE OF BUREAU.] The superintendent shall respond to a background check request within a reasonable time after receiving the signed, written document described in subdivision 2. ~~The superintendent's response shall be limited to a statement that the background check crime information contained in the document is or is not complete and accurate.~~ The superintendent shall provide the children's service provider with a copy of the applicant's criminal record or a statement that the applicant is not the subject of a criminal history record at the bureau. It is the responsibility of the service provider to determine if the applicant qualifies as an employee or volunteer under this section.

Sec. 13. [CITATION.]

Minnesota Statutes, sections 299C.67 to 299C.71 may be cited as the "Kari Koskinen manager background check act."

Sec. 14. [299C.67] [DEFINITIONS.]

Subdivision 1. [TERMS.] The definitions in this section apply to sections 299C.67 to 299C.71.

Subd. 2. [BACKGROUND CHECK CRIME.] "Background check crime" means:

(a)(1) a felony violation of section 609.185 (first degree murder); 609.19 (second degree murder); 609.20 (first degree manslaughter); 609.221 (first degree assault); 609.222 (second degree assault); 609.223 (third degree assault); 609.25 (kidnapping); 609.342 (first degree criminal sexual conduct); 609.343 (second degree criminal sexual conduct); 609.344 (third degree criminal sexual conduct); 609.345 (fourth degree criminal sexual conduct); 609.561 (first degree arson); or 609.749 (harassment and stalking);

(2) an attempt to commit a crime in clause (1); or

(3) a conviction for a crime in another jurisdiction that would be a violation under clause (1) or an attempt under clause (1) in this state; or

(b)(1) a felony violation of section 609.195 (third degree murder); 609.205 (second degree manslaughter); 609.21 (criminal vehicular homicide and injury); 609.2231 (fourth degree assault); 609.224 (fifth degree assault); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.255 (false imprisonment); 609.52 (theft); 609.582, subdivision 1 or 2 (burglary); 609.713 (terroristic threats); or a nonfelony violation of section 609.749 (harassment and stalking);

(2) an attempt to commit a crime in clause (1); or

(3) a conviction for a crime in another jurisdiction that would be a violation under clause (1) or an attempt under clause (1) in this state.

Subd. 3. [CJIS.] "CJIS" means the Minnesota criminal justice information system.

Subd. 4. [MANAGER.] "Manager" means an individual who is hired or is applying to be hired by an owner and who has or would have the means, within the scope of the individual's duties, to enter tenants' dwelling units. "Manager" does not include a person who is hired on a casual basis and not in the ongoing course of the business of the owner.

Subd. 5. [OWNER.] "Owner" has the meaning given in section 566.18, subdivision 3. However, "owner" does not include a person who owns, operates, or is in control of a health care facility or a home health agency licensed by the commissioner of health or human services under chapter 144, 144A, or 245A.

Subd. 6. [SUPERINTENDENT.] "Superintendent" means the superintendent of the bureau of criminal apprehension.

Subd. 7. [TENANT.] "Tenant" has the meaning given in section 566.18, subdivision 2.

Sec. 15. [299C.68] [BACKGROUND CHECKS ON MANAGERS.]

Subdivision 1. [WHEN REQUIRED.] Before hiring a manager, an owner shall request the superintendent to conduct a background check under this section. An owner may employ a manager after requesting a background check under this section before receipt of the background check report, provided that the owner complies with section 299C.69. An owner may request a background check for a currently employed manager under this section. By July 1, 1996, an owner shall request the superintendent to conduct a background check under this section for managers hired before July 1, 1995, who are currently employed.

Subd. 2. [PROCEDURES.] The superintendent shall develop procedures to enable an owner to request a background check to determine whether a manager is the subject of a reported conviction for a background check crime. The superintendent shall perform the background check by retrieving and reviewing data on background check crimes maintained in the CJIS computers. If the manager has resided in Minnesota for less than five years or upon request of the owner, the superintendent shall also conduct a search of the national criminal records repository, including the criminal justice data communications network. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check. The superintendent shall recover the cost of a background check through a fee charged to the owner.

Subd. 3. [FORM.] The superintendent shall develop a standardized form to be used for requesting a background check, which must include:

(1) a notification to the manager that the owner will request the superintendent to perform a background check under this section;

(2) a notification to the manager of the manager's rights under subdivision 4; and

(3) a signed consent by the manager to conduct the background check.

If the manager has resided in Minnesota for less than five years, or if the owner is requesting a search of the national criminal records repository, the form must be accompanied by the fingerprints of the manager on whom the background check is to be performed.

Subd. 4. [MANAGER'S RIGHTS.] (a) The owner shall notify the manager of the manager's rights under paragraph (b).

(b) A manager who is the subject of a background check request has the following rights:

(1) the right to be informed that the owner will request a background check on the manager to determine whether the manager has been convicted of a crime specified in section 299C.67, subdivision 2;

(2) the right to be informed by the owner of the superintendent's response to the background check and to obtain from the owner a copy of the background check report;

(3) the right to obtain from the superintendent any record that forms the basis for the report;

(4) the right to challenge the accuracy and completeness of information contained in the report or record under section 13.04, subdivision 4; and

(5) the right to be informed by the owner if the manager's application to be employed by the owner or to continue as an employee has been denied because of the result of the background check.

Subd. 5. [RESPONSE OF BUREAU.] The superintendent shall respond to a background check request within a reasonable time not to exceed ten working days after receiving the signed form under subdivision 3. If a search is being done of the national criminal records repository and that portion of the background check is not completed, the superintendent shall notify the owner that the background check is not complete and shall provide that portion of the background check to the owner as soon as it is available. The superintendent's response must indicate whether the manager has ever been convicted of a background check crime and, if so, a description of the crime, date and jurisdiction of conviction, and date of discharge of the sentence.

Subd. 6. [EQUIVALENT BACKGROUND CHECK.] (a) An owner may satisfy the requirements of this section by obtaining a background check from a private business or a local law enforcement agency rather than the superintendent if the scope of the background check provided by the private business or local law enforcement agency is at least as broad as that of a background check performed by the superintendent and the response to the background check request occurs within a reasonable time not to exceed ten working days after receiving the signed form described in subdivision 3. Local law enforcement agencies may access the criminal justice data network to perform the background check.

(b) A private business or local law enforcement agency providing a background check under this section must use a notification form similar to the form described in subdivision 3, except that the notification form must indicate that the background check will be performed by the private business or local law enforcement agency using records of the superintendent and other data sources.

Sec. 16. [299C.69] [OWNER DUTIES IF MANAGER CONVICTED OF BACKGROUND CHECK CRIME.]

(a) If the superintendent's response indicates that the manager has been convicted of a

background check crime defined in section 299C.67, subdivision 2, paragraph (a), the owner may not hire the manager or, if the manager was hired pending completion of the background check, shall terminate the manager's employment. Except as provided in paragraph (c), if an owner otherwise knows that a manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (a), the owner shall terminate the manager's employment.

(b) If the superintendent's response indicates that the manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (b), the owner may not hire the manager unless more than ten years have elapsed since the date of discharge of the sentence. If the manager was hired pending completion of the background check, the owner shall terminate the manager's employment unless more than ten years have elapsed since the date of discharge of the sentence. Except as provided in paragraph (c), if an owner otherwise knows that a manager has been convicted of a background check crime defined in section 299C.67, subdivision 2, paragraph (b), the owner shall terminate the manager's employment unless more than ten years have elapsed since the date of discharge of the sentence.

(c) If an owner knows that a manager hired before July 1, 1995, was convicted of a background check crime for an offense committed before July 1, 1995, the owner may continue to employ the manager. However, the owner shall notify all tenants and prospective tenants whose dwelling units would be accessible to the manager of the crime for which the manager has been convicted and of the right of a current tenant to terminate the tenancy under this paragraph, if the manager was convicted of a background check crime defined in:

(1) section 299C.67, subdivision 2, paragraph (a); or

(2) section 299C.67, subdivision 2, paragraph (b), unless more than ten years have elapsed since the sentence was discharged.

Notwithstanding a lease provision to the contrary, a current tenant who receives a notice under this paragraph may terminate the tenancy within 60 days of receipt of the notice by giving the owner at least 14 days' advance notice of the termination date.

(d) The owner shall notify the manager of any action taken under this subdivision.

(e) If an owner is required to terminate a manager's employment under paragraph (a) or (b), or terminates a manager's employment in lieu of notifying tenants under paragraph (c), the owner is not liable under any law, contract, or agreement, including liability for unemployment compensation claims, for terminating the manager's employment in accordance with this section. Notwithstanding a lease or agreement governing termination of the tenancy, if the manager whose employment is terminated is also a tenant, the owner may terminate the tenancy immediately upon giving notice to the manager. An unlawful detainer action to enforce the termination of the tenancy must be treated as a priority writ under sections 566.05, 566.07, 566.09, subdivision 1, 566.16, subdivision 2, and 566.17, subdivision 1a.

Sec. 17. [299C.70] [PENALTY.]

An owner who knowingly fails to comply with the requirements of section 299C.68 or 299C.69 is guilty of a petty misdemeanor.

Sec. 18. [299C.71] [BUREAU OF CRIMINAL APPREHENSION IMMUNITY.]

The bureau of criminal apprehension is immune from any civil or criminal liability that might otherwise arise under section 299C.68, based on the accuracy or completeness of records it receives from the Federal Bureau of Investigation, if the bureau acts in good faith.

Sec. 19. Minnesota Statutes 1994, section 388.24, subdivision 4, is amended to read:

Subd. 4. [REPORTING OF DATA TO CRIMINAL JUSTICE INFORMATION SYSTEM (CJIS).] Effective August 1, 1997, every county attorney who establishes a diversion program under this section shall report the following information to the bureau of criminal apprehension:

(1) the name and date of birth of each diversion program participant and any other identifying information the superintendent considers necessary;

(2) the date on which the individual began to participate in the diversion program;

(3) the date on which the individual is expected to complete the diversion program;

(4) the date on which the individual successfully completed the diversion program, where applicable; and

(5) the date on which the individual was removed from the diversion program for failure to successfully complete the individual's goals, where applicable.

The superintendent shall cause the information described in this subdivision to be entered into and maintained in the criminal history file of the Minnesota criminal justice information system.

Sec. 20. Minnesota Statutes 1994, section 401.065, subdivision 3a, is amended to read:

Subd. 3a. [REPORTING OF DATA TO CRIMINAL JUSTICE INFORMATION SYSTEM (CJIS).] (a) Every county attorney who establishes a diversion program under this section shall report the following information to the bureau of criminal apprehension:

(1) the name and date of birth of each diversion program participant and any other identifying information the superintendent considers necessary;

(2) the date on which the individual began to participate in the diversion program;

(3) the date on which the individual is expected to complete the diversion program;

(4) the date on which the individual successfully completed the diversion program, where applicable; and

(5) the date on which the individual was removed from the diversion program for failure to successfully complete the individual's goals, where applicable.

The superintendent shall cause the information described in this subdivision to be entered into and maintained in the criminal history file of the Minnesota criminal justice information system.

(b) Effective August 1, 1997, the reporting requirements of this subdivision shall apply to misdemeanor offenses.

Sec. 21. [504.183] [TENANT'S RIGHT TO PRIVACY.]

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

(a) "Building" has the meaning given in section 566.18, subdivision 7.

(b) "Landlord" means the owner as defined in section 566.18, subdivision 3, the owner's agent, or other person acting under the owner's direction and control.

(c) "Tenant" has the meaning given in section 566.18, subdivision 2.

Subd. 2. [ENTRY BY LANDLORD.] Except as provided in subdivision 4, a landlord may enter the premises rented by a tenant only for a reasonable business purpose and after making a good faith effort to give the tenant reasonable notice under the circumstances of the intent to enter. A tenant may not waive and the landlord may not require the tenant to waive the tenant's right to prior notice of entry under this section as a condition of entering into or maintaining the lease.

Subd. 3. [REASONABLE PURPOSE.] For purposes of subdivision 2, a reasonable business purpose includes, but is not limited to:

(1) showing the unit to prospective tenants during the notice period before the lease terminates or after the current tenant has given notice to move to the owner or owner's agent;

(2) showing the unit to a prospective buyer or to an insurance representative;

(3) performing maintenance work;

(4) allowing inspections by state, county, or city officials charged in the enforcement of health, housing, building, fire prevention, or housing maintenance codes;

(5) the tenant is causing a disturbance within the unit;

(6) the landlord has a reasonable belief that the tenant is violating the lease within the tenant's unit;

(7) the landlord has a reasonable belief that the unit is being occupied by an individual without a legal right to occupy it; or

(8) the tenant has vacated the unit.

Subd. 4. [EXCEPTION TO NOTICE REQUIREMENT.] Notwithstanding subdivision 2, a landlord may enter the premises rented by a tenant to inspect or take appropriate action without prior notice to the tenant if the landlord reasonably suspects that:

(1) immediate entry is necessary to prevent injury to persons or property because of conditions relating to maintenance, building security, or law enforcement;

(2) immediate entry is necessary to determine a tenant's safety; or

(3) immediate entry is necessary in order to comply with local ordinances regarding unlawful activity occurring within the tenant's premises.

Subd. 5. [ENTRY WITHOUT TENANT'S PRESENCE.] If the landlord enters when the tenant is not present and prior notice has not been given, the landlord shall disclose the entry by placing a written disclosure of the entry in a conspicuous place in the premises.

Subd. 6. [PENALTY.] If a landlord substantially violates subdivision 2, the tenant is entitled to a penalty which may include a rent reduction up to full rescission of the lease, recovery of any damage deposit less any amount retained under section 504.20, and up to a $100 civil penalty for each violation. If a landlord violates subdivision 5, the tenant is entitled to up to a $100 civil penalty for each violation. A tenant shall follow the procedures in sections 566.18 to 566.33 to enforce the provisions of this section.

Subd. 7. [EXEMPTION.] This section does not apply to tenants and landlords of manufactured home parks as defined in section 327C.01.

Sec. 22. [609.5051] [CRIMINAL ALERT NETWORK; DISSEMINATION OF FALSE OR MISLEADING INFORMATION PROHIBITED.]

Whoever uses the criminal alert network under section 299A.61 to disseminate information regarding the commission of a crime knowing that it is false or misleading, is guilty of a misdemeanor.

Sec. 23. Minnesota Statutes 1994, section 624.22, is amended to read:

624.22 [~~PUBLIC DISPLAYS OF~~ FIREWORKS ~~BY MUNICIPALITIES EXCEPTED~~ DISPLAYS; PERMIT; OPERATOR CERTIFICATION.]

Subdivision 1. [GENERAL REQUIREMENTS; PERMIT; INVESTIGATION; FEE.] (a) Sections 624.20 to 624.25 shall not prohibit the supervised ~~public displays~~ display of fireworks by ~~cities, fair associations, amusement parks, and other organizations.~~ a statutory or home rule charter city, fair association, amusement park, or other organization, except ~~when such~~ that:

(1) a fireworks display may be conducted only when supervised by an operator certified by the state fire marshal; and

(2) a fireworks display ~~is~~ must either be given by a municipality or fair association within its own limits, ~~no display shall be given unless~~ or by any other organization, whether public or private, only after a permit ~~therefor~~ for the display has first been secured.

(b) Every application for such a permit shall be made in writing to the municipal clerk at least

15 days in advance of the date of the display and shall list the name of an operator who (1) is certified by the state fire marshal and (2) will supervise the display. The application shall be promptly referred to the chief of the fire department who shall make an investigation to determine whether the operator of the display is competent and is certified by the state fire marshal, and whether the display is of such a character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. The fire chief shall report the results of this investigation to the clerk. If the fire chief reports that the operator is certified, that in the chief's opinion the operator is competent, and that the fireworks display as planned will conform to the safety ~~requirements, including the rules~~ guidelines of the state fire marshal ~~hereinafter~~ provided for in paragraph (e), the clerk shall issue a permit for the display when the applicant pays a permit fee ~~of $2~~.

(c) When the supervised ~~public~~ fireworks display for which a permit is sought is to be held outside the limits of an incorporated municipality, the application shall be made to the county auditor and the duties imposed by ~~such~~ sections 624.20 to 624.25 upon the clerk of the municipality shall be performed in such case by the county auditor. The duties imposed on the fire chief of the municipality by ~~such~~ sections 624.20 to 624.25 shall be performed in such case by the county sheriff.

(d) After such permit shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit so granted shall be transferable.

(e) By January 1, 1996, the state fire marshal shall adopt and disseminate to political subdivisions reasonable ~~rules not inconsistent with the provisions of such~~ guidelines on fireworks display safety, which are exempt from chapter 14, that are consistent with sections 624.20 to 624.25 and the most recent editions of the Minnesota Uniform Fire Code and the National Fire Protection Association Standards, to insure that fireworks displays are given safely. In the guidelines, the state fire marshal shall allow political subdivisions to exempt the use of relatively safe fireworks for theatrical special effects, ceremonial occasions, and other limited purposes, as determined by the state fire marshal.

Subd. 2. [OPERATOR CERTIFICATION REQUIREMENTS.] (a) An applicant to be a supervising operator of a fireworks display shall meet the requirements of this subdivision before the applicant is certified by the state fire marshal.

(b) An applicant must be at least 21 years old.

(c) An applicant must have completed a written examination, administered or approved by the state fire marshal, and achieved a passing score of at least 70 percent. The state fire marshal must be satisfied that achieving a passing score on the examination satisfactorily demonstrates the applicant's knowledge of statutes, codes, and nationally recognized standards concerning safe practices for the discharge and display of fireworks.

(d) An applicant shall apply in writing to the state fire marshal by completing and signing an application form provided by the state fire marshal.

(e) An applicant shall submit evidence of experience, which must include active participation as an assistant or operator in the performance of at least five fireworks displays, at least one of which must have occurred in the current or preceding year.

Subd. 3. [CERTIFICATION APPLICATION; FEE.] An applicant shall submit a completed initial application form including references and evidence of experience and successful completion of the written examination. Applicants shall pay a certification fee of $100 to the state fire marshal division of the department of public safety. The state fire marshal shall review the application and send to the applicant written confirmation or denial of certification within 30 days of receipt of the application. Certification is valid for a period of four years from the date of issuance.

Subd. 4. [CLASSIFICATION.] When an applicant has met the requirements of subdivisions 2 and 3, the state fire marshal shall certify and classify the operator for supervising proximate audience displays, including indoor fireworks displays, for supervising traditional outdoor fireworks displays, or for supervising both types of displays, based on the operator's documented experience.

Subd. 5. [RESPONSIBILITIES OF OPERATOR.] The operator is responsible for ensuring the fireworks display is organized and operated in accordance with the state fire marshal's guidelines described in subdivision 1.

Subd. 6. [REPORTS.] (a) The certified operator shall submit a written report to the state fire marshal within ten days following a fireworks display conducted by the operator if any of the following occurred:

(1) an injury to any person resulting from the display of fireworks;

(2) a fire or damage to property resulting from the display of fireworks; or

(3) an unsafe or defective pyrotechnic product or equipment was used or observed.

(b) The certified operator shall submit a written report to the state fire marshal within 30 days following any other fireworks displays supervised by the operator.

(c) The state fire marshal may require other information from operators relating to fireworks displays.

Subd. 7. [OPERATOR CERTIFICATION RENEWAL.] An applicant shall submit a completed renewal application form prepared and provided by the state fire marshal, which must include at least the dates, locations, and authorities issuing the permits for at least three fireworks displays participated in or supervised by the applicant and conducted during the past four years. An applicant shall pay a certification renewal fee of $100 to the state fire marshal division of the department of public safety. The state fire marshal shall review the application and send to the applicant written confirmation or denial of certification renewal within 30 days of receipt of the application. Certification is valid for a period of four years from the date of issuance.

Subd. 8. [SUSPENSION, REVOCATION, OR REFUSAL TO RENEW CERTIFICATION.] The state fire marshal may suspend, revoke, or refuse to renew certification of an operator if the operator has:

(1) submitted a fraudulent application;

(2) caused or permitted a fire or safety hazard to exist or occur during the storage, transportation, handling, preparation, or use of fireworks;

(3) conducted a display of fireworks without receipt of a permit required by the state or a political subdivision;

(4) conducted a display of fireworks with assistants who were not at least 18 years of age, properly instructed, and continually supervised; or

(5) otherwise failed to comply with any federal or state law or regulation, or the guidelines, relating to fireworks.

Subd. 9. [DATABASE.] The commissioner of public safety shall maintain a database of the information required under this section for purposes of (1) law enforcement, (2) investigative inquiries made under subdivision 1, and (3) the accumulation and statistical analysis of information relative to fireworks displays.

Sec. 24. Minnesota Statutes 1994, section 626.841, is amended to read:

626.841 [BOARD; MEMBERS.]

The board of peace officer standards and training shall be composed of the following 15 members:

(a) Two members to be appointed by the governor from among the county sheriffs in Minnesota;

(b) Four members to be appointed by the governor from among peace officers in Minnesota municipalities, at least two of whom shall be chiefs of police;

(c) Two members to be appointed by the governor from among peace officers, at least one of whom shall be a member of the Minnesota state patrol association;

(d) The superintendent of the Minnesota bureau of criminal apprehension or a designee;

(e) Two members appointed by the governor ~~experienced in law enforcement at a local, state, or federal level~~ from among peace officers, or former peace officers, who are ~~not~~ currently employed ~~as~~ on a full-time basis in a professional peace ~~officers~~ officer education program;

(f) Two members to be appointed by the governor, one member to be appointed from among administrators of Minnesota colleges or universities that offer professional peace officer education, and one member to be appointed from among the elected city officials in statutory or home rule charter cities of under 5,000 population outside the metropolitan area, as defined in section 473.121, subdivision 2;

(g) Two members appointed by the governor from among the general public.

A chair shall be appointed by the governor from among the members. In making appointments the governor shall strive to achieve representation from among the geographic areas of the state.

Sec. 25. 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. 26. [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. 27. [626.8555] [PEACE OFFICER EDUCATION PROGRAMS.]

Metropolitan State University and Minneapolis Community College, in consultation with the board of peace officer standards and training and state and local law enforcement agencies in the seven-county metropolitan area, shall provide core law enforcement courses in an accelerated time period. The schools shall grant priority admission to students who have a bona fide offer of employment from a Minnesota law enforcement agency. These courses shall be available at the beginning of the 1995-1996 academic year and are contingent on sufficient program enrollment.

The board, Metropolitan State University, and Minneapolis Community College shall evaluate the accelerated law enforcement education program and report their findings to the 1997 legislature.

Sec. 28. [TRAINING COMMITTEE MEMBERSHIP.]

At least one person shall be appointed to the peace officer standards and training board's training committee from among higher education representatives of Minnesota colleges or universities that offer professional peace officer education.

Sec. 29. [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 summary, statistical information on peace officers alleged to have violated Minnesota Statutes, sections 609.224, subdivision 1; 518B.01, subdivision 14; 609.748, subdivision 6; or 609.749. This information must include a brief description of the facts of each incident, and a brief description of the final disposition of the case, including any disciplinary action taken or referrals made to mental health professionals. The information compiled by the board shall not include the names of the individual officers involved in the incidents.

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 the information described in subdivision 1. Information provided to the board from which individual peace officers could be identified is classified as private data on individuals.

Sec. 30. [PROFESSIONAL CONDUCT OF PEACE OFFICERS.]

Subdivision 1. [MODEL POLICY TO BE DEVELOPED.] By March 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, whether or not there has been a conviction for a violation of that section. 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 July 1, 1996, 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.

Subd. 3. [REPORT ON ALLEGED MISCONDUCT.] A chief law enforcement officer shall report annually to the board summary data regarding the investigation and disposition of cases involving alleged misconduct, indicating the total number of investigations, the total number by each subject matter, the number dismissed as unfounded, and the number dismissed on grounds that the allegation was unsubstantiated.

Sec. 31. [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 March 1, 1996.

Sec. 32. [CHILD ABUSE HELPLINE.]

Subdivision 1. [PLAN.] The commissioner of human services, in consultation with the commissioner of public safety, shall develop a plan for an integrated statewide toll-free 24-hour telephone helpline to provide consultative services to parents, family members, law enforcement personnel, and social service professionals regarding the physical and sexual abuse of children. The plan must:

(1) identify methods for implementing the telephone helpline;

(2) identify existing services regarding child abuse provided by state and local governmental agencies, nonprofit organizations, and others;

(3) consider strategies to coordinate existing services into an integrated telephone helpline;

(4) consider the practicality of retraining and redirecting existing professionals to staff the telephone helpline on a 24-hour basis;

(5) determine what new services, if any, would be required for the telephone helpline;

(6) determine the costs of implementing the telephone helpline and ways to reduce costs through coordination of existing services; and

(7) determine methods of marketing and advertisement to make the general public aware of the telephone helpline.

Subd. 2. [PILOT PROJECT.] In conjunction with the planning process under subdivision 1, the commissioner of human services shall implement at least two pilot project telephone helplines. One of the pilots must be in the seven-county metropolitan area and one must be in greater Minnesota.

Subd. 3. [REPORT.] The commissioner of human services shall report to the legislature by January 15, 1996, concerning the details of the plan and the status of the pilot projects.

Subd. 4. [COORDINATOR.] The commissioner of human services may hire a person to coordinate and implement the requirements of this section.

Sec. 33. [DATA ACCESS ON INTERNET.]

The criminal justice information policy group shall develop a plan for providing databases containing private or confidential data to law enforcement agencies on the Internet with appropriate security provisions.

Sec. 34. [CRIMINAL AND JUVENILE INFORMATION POLICY GROUP REPORT.]

By January 15, 1996, the criminal and juvenile information policy group shall report to the chairs of the senate crime prevention committee and house of representatives judiciary committee on recommendations for additional offenses to be subject to identification reporting requirements of Minnesota Statutes, section 299C.10, subdivision 1, and on processes for expungement, correction of inaccurate records, destruction of records, and other matters relating to the privacy interests of individuals as they relate to the development of the juvenile criminal history system, the statewide misdemeanor system, and the tracking system for domestic abuse orders for protection.

Sec. 35. [COMMUNITY NOTIFICATION WORK GROUP.]

(a) A 15-member work group is created to study issues relating to laws and proposed legislation authorizing community notification of information about convicted sex offenders, including offenders who have been or are about to be released from incarceration and offenders who have been sentenced to stayed prison sentences.

(b) The work group consists of three members of the senate appointed by the chair of the committee on crime prevention and three members of the house of representatives appointed by the chair of the committee on judiciary. Legislative membership from each body shall consist of two members of the majority caucus and one member of the minority caucus. The work group also consists of the commissioner of corrections or the commissioner's designee, the attorney general or the attorney general's designee, and of the following additional members approved by the legislative membership:

(1) one sheriff nominated by the Minnesota sheriffs association;

(2) one chief of police nominated by the Minnesota chiefs of police association;

(3) one county attorney nominated by the county attorneys association;

(4) one defense attorney nominated by the state public defender;

(5) one sex offender treatment professional nominated by the commissioner of human services;

(6) the crime victim ombudsman or a representative of sexual assault victims nominated by the ombudsman; and

(7) one member of the public appointed by the chairs of the senate crime prevention committee and the house judiciary committee.

Members of the work group should represent a cross-section of regions within the state. The work group shall select a chair from among its membership.

The chairs of the senate crime prevention committee and the house judiciary committee may authorize alternate legislative members to attend sessions of the work group when an appointed legislative member is unable to attend.

(c) The work group shall be convened no later than August 1, 1995, and shall study the implementation of community notification laws in other states, the positive and negative aspects of community notification laws, the costs of implementing the laws, the social and constitutional issues raised by the laws, and any anticipated federal requirements concerning community notification.

(d) The work group shall report its findings and recommendations to the chairs of the house judiciary committee and the senate crime prevention committee by January 31, 1996.

Sec. 36. [EFFECTIVE DATES.]

(a) Section 23, subdivision 1, paragraph (e); and subdivision 2 are effective the day following final enactment. The remaining provisions of section 23 are effective January 1, 1996.

(b) Section 3 is effective July 1, 1995, and applies to persons who are released from prison on or after that date, or who are under supervision as of that date, or who enter this state on or after that date. Section 3, subdivision 5 is effective July 1, 1995, and applies to crimes committed on or after that date.

(c) Section 21 is effective for oral and written leases entered into or renewed on or after July 1, 1995.

(d) Sections 24, 27, and 28 are effective July 1, 1995, and apply to appointments made and contracts entered into on or after that date.

(e) Section 22 is effective July 1, 1995, and applies to crimes committed on or after that date.

(f) Sections 29 to 31, and 33 to 35 are effective the day following final enactment.

(g) The remaining sections in this article are effective July 1, 1995.

ARTICLE 5

CORRECTIONS

Section 1. [16B.181] [PURCHASES FROM CORRECTIONS INDUSTRIES.]

(a) The commissioner, in consultation with the commissioner of corrections, shall prepare a list of products and services that are available for purchase from department of corrections industries. After publication of the product and service list by the commissioner, state agencies and institutions shall purchase the listed products and services from department of corrections industries if the products and services are equivalent in price and quality to products and services available from other sources unless the commissioner of corrections certifies that the correctional institutions cannot provide them at a price within five percent of the fair market price for comparable level of quality and within a reasonable delivery time. In determining the fair market price, the commissioner of administration shall use competitive bidding or consider open market bid prices in previous years for similar products and services, plus inflationary increases.

(b) The commissioner of administration shall ensure that state agency specifications are not unduly restrictive as to prevent corrections industries from providing products or services that meet the needs of the purchasing department, institution, or agency.

(c) The commissioners of administration and corrections shall appoint a joint task force to explore additional methods that support the philosophy of providing a substantial market opportunity to correctional industries that maximizes inmate work opportunities. The task force shall develop a plan and prepare a set of criteria with which to evaluate the effectiveness of the recommendations and initiatives in the plan.

Sec. 2. Minnesota Statutes 1994, section 171.29, subdivision 2, is amended to read:

Subd. 2. [FEES, ALLOCATION.] (a) A person whose driver's license has been revoked as provided in subdivision 1, except under section 169.121 or 169.123, shall pay a $30 fee before the driver's license is reinstated.

(b) A person whose driver's license has been revoked as provided in subdivision 1 under section 169.121 or 169.123 shall pay a $250 fee plus a $10 surcharge before the driver's license is reinstated. The $250 fee is to be credited as follows:

(1) Twenty percent shall be credited to the trunk highway fund.

(2) Fifty-five percent shall be credited to the general fund.

(3) Eight percent shall be credited to a separate account to be known as the bureau of criminal apprehension account. Money in this account may be appropriated to the commissioner of public safety and the appropriated amount shall be apportioned 80 percent for laboratory costs and 20 percent for carrying out the provisions of section 299C.065.

(4) Twelve percent shall be credited to a separate account to be known as the alcohol-impaired driver education account. Money in the account may be appropriated to the commissioner of education for programs in elementary and secondary schools.

(5) Five percent shall be credited to a separate account to be known as the traumatic brain injury and spinal cord injury account. $100,000 is annually appropriated from the account to the commissioner of human services for traumatic brain injury case management services. The remaining money in the account is annually appropriated to the commissioner of health to establish and maintain the traumatic brain injury and spinal cord injury registry created in section 144.662 and to reimburse the commissioner of economic security for the reasonable cost of services provided under section 268A.03, clause (o).

(c) The $10 surcharge shall be credited to a separate account to be known as the remote electronic alcohol monitoring pilot program account. Up to $250,000 is annually appropriated from this account to the commissioner of corrections for a remote electronic alcohol monitoring pilot program. The unencumbered balance remaining in the first year of the biennium does not cancel but is available for the second year.

Sec. 3. [243.211] [COPAYMENTS FOR HEALTH SERVICES.]

Any inmate of an adult correctional facility under the control of the commissioner of corrections shall incur copayment and coinsurance obligations for health care services received in the amounts established for adult enrollees of the MinnesotaCare program established under section 256.9353, subdivision 7, to the extent the inmate has available funds.

Sec. 4. Minnesota Statutes 1994, section 243.23, subdivision 3, is amended to read:

Subd. 3. [EXCEPTIONS.] Notwithstanding sections 241.26, subdivision 5, and 243.24, subdivision 1, the commissioner may ~~promulgate rules for the disbursement of~~ make deductions from funds earned under subdivision 1, or other funds in an inmate account, and section 243.88, subdivision 2. The commissioner shall ~~first~~ make deductions for the following expenses in the following order of priority:

(1) federal and state taxes;

(2) repayment of advances;

(3) gate money as provided in section 243.24; ~~and, where applicable, mandatory savings as provided by United States Code, title 18, section 1761, as amended. The commissioner's rules may then provide for disbursements to be made in the following order of priority:~~

~~(1) for the~~

(4) support of families and dependent relatives of the respective inmates;

~~(2) for the~~

(5) payment of court-ordered restitution;

~~(3) for~~

(6) room and board or other costs of confinement;

(7) medical expenses incurred under section 243.211;

(8) payment of fees and costs in a civil action commenced by an inmate;

(9) payment of fines, surcharges, or other fees assessed or ordered by a court;

~~(4) for~~

(10) contribution to ~~any programs established by law to aid victims of crime~~ the crime victims reparations board created under section 611A.55, provided that the contribution shall not be more than 20 percent of an inmate's gross wages;

~~(5) for~~

(11) the payment of restitution to the commissioner ordered by prison disciplinary hearing officers for damage to property caused by an inmate's conduct; and

~~(6) for the~~

(12) discharge of any legal obligations arising out of litigation under this subdivision.

The commissioner may authorize the payment of court-ordered restitution from an inmate's wages when the restitution was ordered by the court as a sanction for the conviction of an offense which is not the offense of commitment, including offenses which occurred prior to the offense for which the inmate was committed to the commissioner. An inmate of an adult correctional facility under the control of the commissioner is subject to actions for the enforcement of support obligations and reimbursement of any public assistance rendered the dependent family and relatives. The commissioner may conditionally release an inmate who is a party to an action under this subdivision and provide for the inmate's detention in a local detention facility convenient to the place of the hearing when the inmate is not engaged in preparation and defense.

Sec. 5. Minnesota Statutes 1994, section 243.88, is amended by adding a subdivision to read:

Subd. 5. [DEDUCTIONS.] Notwithstanding any other law to the contrary, any compensation paid to inmates under this section is subject to section 243.23, subdivisions 2 and 3, and rules of the commissioner of corrections.

Sec. 6. Minnesota Statutes 1994, section 641.15, subdivision 2, is amended to read:

Subd. 2. [MEDICAL AID.] Except as provided in section 466.101, the county board shall pay the costs of medical services provided to prisoners. The county is entitled to reimbursement from the prisoner for payment of medical bills to the extent that the prisoner to whom the medical aid was provided has the ability to pay the bills. If the prisoner does not have the ability to pay the prisoner's entire medical bill, the prisoner shall, at a minimum, incur copayment and coinsurance obligations for health care services received in the amounts established for adult enrollees of the MinnesotaCare program established under section 256.9353, subdivision 7, to the extent the prisoner has available funds. If there is a disagreement between the county and a prisoner concerning the prisoner's ability to pay, the court with jurisdiction over the defendant shall determine the extent, if any, of the prisoner's ability to pay for the medical services. If a prisoner is covered by health or medical insurance or other health plan when medical services are provided, the county providing the medical services has a right of subrogation to be reimbursed by the insurance carrier for all sums spent by it for medical services to the prisoner that are covered by the policy of insurance or health plan, in accordance with the benefits, limitations, exclusions, provider restrictions, and other provisions of the policy or health plan. The county may maintain an action to enforce this subrogation right. The county does not have a right of subrogation against the medical assistance program or the general assistance medical care program.

Sec. 7. Laws 1994, chapter 643, section 79, subdivision 1, is amended to read:

Subdivision 1. [GRANTS AUTHORIZED.] The commissioner of corrections shall make grants to Hennepin county, Ramsey county, or groups of counties, excluding counties in the joint powers

board operating the northwestern Minnesota juvenile training center for grants made in 1994 or 1995, for up to 75 percent of the construction cost of secure juvenile detention and treatment facilities. The commissioner shall ensure that grants are distributed so that facilities are available for both male and female juveniles, and that the needs of very young offenders can be met. The commissioner shall also require that programming in the facilities be culturally specific and sensitive. To the extent possible, grants should be made for facilities or living units of 15 beds or fewer. No more than one grant shall be made in each judicial district. However, grant proposals may include more than one site, and funds may be authorized to each county in which a site is contained.

Sec. 8. Laws 1994, chapter 643, section 79, subdivision 3, is amended to read:

Subd. 3. [ELIGIBILITY.] Applicants must include a cooperative plan for the secure detention and treatment of juveniles among the applicant counties. The cooperative plan must identify the location of facilities. Facilities must be located within ~~15~~ 20 miles of a permanent chambers within the judicial district, as specified in section 2.722, or at the site of an existing county home facility, as authorized in section 260.094, or at the site of an existing detention home, as authorized in section 260.101.

Sec. 9. Laws 1994, chapter 643, section 79, subdivision 4, is amended to read:

Subd. 4. [ALLOCATION FORMULA.] (a) The commissioner must determine the amount available for grants for counties in each judicial district under this subdivision.

(b) Five percent of the money appropriated for these grants shall be allocated for the counties in each judicial district for a mileage distribution allowance in proportion to the percent each county's surface area comprises of the total surface area of the state. Ninety-five percent of the money appropriated for these grants shall be allocated for the counties in each judicial district using the formula in section 401.10.

(c) The amount allocated for all counties within a judicial district shall be totaled to determine the amount available for ~~a grant~~ grants within that judicial district. Amounts attributable to a county which the commissioner has authorized to cooperate in a grant with a county or counties in an adjacent judicial district shall be reallocated to that judicial district.

Sec. 10. [INTERSTATE COMPACT FOR SUPERVISION OF PAROLEES AND PROBATIONERS; DATA COLLECTION.]

Subdivision 1. [DATA COLLECTION REQUIRED.] The commissioner of corrections shall collect, maintain, and analyze background and recidivism data on all individuals received by or sent from Minnesota under Minnesota Statutes, section 243.16, the interstate compact for the supervision of parolees and probationers.

Subd. 2. [SCOPE OF DATA.] (a) The data collected shall include:

(1) the number of individuals the commissioner is requested to receive from each state, the number of individuals which the commissioner agrees to receive from each state, and the basis of the commissioner's decision to receive or reject an individual; and

(2) the number of individuals the commissioner requests each state to receive, the number of individuals each state agrees to receive, and the basis of the commissioner's decision to request another state to receive an individual.

(b) For each individual transferred or received by the commissioner, the commissioner shall collect the following data:

(1) the initial and ongoing costs incurred by Minnesota resulting from the individual's transfer;

(2) the amount of money Minnesota receives from the sending state to reimburse Minnesota for these costs;

(3) the individual's criminal record;

(4) whether the individual violates the terms of probation or parole; and

(5) if the individual violates the terms of probation or parole and commits a new offense in Minnesota, whether the individual is arrested, convicted, incarcerated in Minnesota, or returned to the sending state.

Subd. 3. [REPORTS.] The commissioner of corrections shall collect the data required under subdivision 2 for all years beginning in 1990. The commissioner shall report to the legislature by February 15, 1996, the data collected for years 1990 to 1995. The commissioner shall report data collected for each subsequent year to the legislature by January 15 of each odd-numbered year.

Sec. 11. [CORRECTIONAL FACILITY AUTHORIZED.]

The commissioner of corrections may establish an adult correctional facility for geriatric and medical care at the Ah Gwah Ching facility or at another suitable facility operated by the commissioner of human services. The commissioner of corrections is authorized to enter into negotiations and contracts with the department of human services to establish the facility.

Sec. 12. [CORRECTIONAL FACILITY AUTHORIZED.]

The commissioner of corrections may establish a minimum security adult correctional facility for men at Camp Ripley. The commissioner is authorized to enter into negotiations and contracts with appropriate parties to establish the facility.

Sec. 13. [EFFECTIVE DATES.]

(a) Section 4, clause (10), is effective the day following final enactment.

(b) Sections 3; 4, clause (7); and 6, are effective July 1, 1996.

(c) The remaining provisions of this article are effective July 1, 1995.

ARTICLE 6

COURTS

Section 1. Minnesota Statutes 1994, section 2.722, subdivision 1, is amended to read:

Subdivision 1. [DESCRIPTION.] Effective July 1, 1959, the state is divided into ten judicial districts composed of the following named counties, respectively, in each of which districts judges shall be chosen as hereinafter specified:

1. Goodhue, Dakota, Carver, Le Sueur, McLeod, Scott, and Sibley; 28 judges; and four permanent chambers shall be maintained in Red Wing, Hastings, Shakopee, and Glencoe and one other shall be maintained at the place designated by the chief judge of the district;

2. Ramsey; 24 judges;

3. Wabasha, Winona, Houston, Rice, Olmsted, Dodge, Steele, Waseca, Freeborn, Mower, and Fillmore; 22 judges; and permanent chambers shall be maintained in Faribault, Albert Lea, Austin, Rochester, and Winona;

4. Hennepin; 57 judges;

5. Blue Earth, Watonwan, Lyon, Redwood, Brown, Nicollet, Lincoln, Cottonwood, Murray, Nobles, Pipestone, Rock, Faribault, Martin, and Jackson; 17 judges; and permanent chambers shall be maintained in Marshall, Windom, Fairmont, New Ulm, and Mankato;

6. Carlton, St. Louis, Lake, and Cook; 15 judges;

7. Benton, Douglas, Mille Lacs, Morrison, Otter Tail, Stearns, Todd, Clay, Becker, and Wadena; 22 judges; and permanent chambers shall be maintained in Moorhead, Fergus Falls, Little Falls, and St. Cloud;

8. Chippewa, Kandiyohi, Lac qui Parle, Meeker, Renville, Swift, Yellow Medicine, Big Stone,

Grant, Pope, Stevens, Traverse, and Wilkin; 11 judges; and permanent chambers shall be maintained in Morris, Montevideo, and Willmar;

9. Norman, Polk, Marshall, Kittson, Red Lake, Roseau, Mahnomen, Pennington, Aitkin, Itasca, Crow Wing, Hubbard, Beltrami, Lake of the Woods, Clearwater, Cass and Koochiching; 20 judges; and permanent chambers shall be maintained in Crookston, Thief River Falls, Bemidji, Brainerd, Grand Rapids, and International Falls;

10. Anoka, Isanti, Wright, Sherburne, Kanabec, Pine, Chisago, and Washington; ~~34~~ 35 judges; and permanent chambers shall be maintained in Anoka, Stillwater, and other places designated by the chief judge of the district.

Sec. 2. Minnesota Statutes 1994, section 2.722, is amended by adding a subdivision to read:

Subd. 4a. [REFEREE VACANCY; CONVERSION TO JUDGESHIP.] When a referee of the district court dies, resigns, retires, or is voluntarily removed from the position, the chief judge of the district shall notify the supreme court and may petition to request that the position be converted to a judgeship. The supreme court shall determine within 90 days of the petition whether to order the position abolished or convert the position to a judgeship in the affected or another judicial district. The supreme court shall certify any judicial vacancy to the governor, who shall fill it in the manner provided by law. The conversion of a referee position to a judgeship under this subdivision shall not reduce the total number of judges and referees hearing cases in the family and juvenile courts.

Sec. 3. Minnesota Statutes 1994, section 179A.03, subdivision 7, is amended to read:

Subd. 7. [ESSENTIAL EMPLOYEE.] "Essential employee" means firefighters, peace officers subject to licensure under sections 626.84 to 626.855, guards at correctional facilities, confidential employees, supervisory employees, assistant county attorneys, principals, and assistant principals. However, for state employees, "essential employee" means all employees in law enforcement, health care professionals, correctional guards, professional engineering, and supervisory collective bargaining units, irrespective of severance, and no other employees. For University of Minnesota employees, "essential employee" means all employees in law enforcement, nursing professional and supervisory units, irrespective of severance, and no other employees. "Firefighters" means salaried employees of a fire department whose duties include, directly or indirectly, controlling, extinguishing, preventing, detecting, or investigating fires.

Sec. 4. [243.241] [CIVIL ACTION MONEY DAMAGES.]

Money damages recovered in a civil action by an inmate confined in a state correctional facility or released from a state correctional facility under section 244.065 or 244.07 shall be deposited in the inmate's inmate account and disbursed according to the priorities in section 243.23, subdivision 3.

Sec. 5. [244.035] [SANCTIONS RELATED TO LITIGATION.]

The commissioner shall develop disciplinary sanctions to provide infraction penalties for an inmate who submits a frivolous or malicious claim as determined under section 563.02, subdivision 3, or who is determined by the court to have testified falsely or to have submitted false evidence to a court. Infraction penalties may include loss of privileges, punitive segregation, loss of good time, or adding discipline confinement time.

Sec. 6. Minnesota Statutes 1994, section 260.155, subdivision 4, is amended to read:

Subd. 4. [GUARDIAN AD LITEM.] (a) The court shall appoint a guardian ad litem to protect the interests of the minor when it appears, at any stage of the proceedings, that the minor is without a parent or guardian, or that the minor's parent is a minor or incompetent, or that the parent or guardian is indifferent or hostile to the minor's interests, and in every proceeding alleging a child's need for protection or services under section 260.015, subdivision 2a, clauses (1) to (10). In any other case the court may appoint a guardian ad litem to protect the interests of the minor when the court feels that such an appointment is desirable. The court shall appoint the guardian ad litem on its own motion or in the manner provided for the appointment of a guardian ad litem in the district court.

(b) A guardian ad litem shall carry out the following responsibilities:

(1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

(2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

(c) The court may waive the appointment of a guardian ad litem pursuant to clause (a), whenever counsel has been appointed pursuant to subdivision 2 or is retained otherwise, and the court is satisfied that the interests of the minor are protected.

~~(c)~~ (d) In appointing a guardian ad litem pursuant to clause (a), the court shall not appoint the party, or any agent or employee thereof, filing a petition pursuant to section 260.131.

~~(d)~~ (e) The following factors shall be considered when appointing a guardian ad litem in a case involving an Indian or minority child:

(1) whether a person is available who is the same racial or ethnic heritage as the child or, if that is not possible;

(2) whether a person is available who knows and appreciates the child's racial or ethnic heritage.

Sec. 7. Minnesota Statutes 1994, section 271.06, subdivision 4, is amended to read:

Subd. 4. [APPEAL FEE.] At the time of filing the notice of appeal the appellant shall pay to the court administrator of the tax court an appeal fee ~~of $50~~ equal to the fee provided for civil actions in the district court under section 357.021, subdivision 2, clause (1); ~~provided,~~ except that no appeal fee shall be required of the commissioner of revenue, the attorney general, the state or any of its political subdivisions. In small claims division, the appeal fee shall be ~~$5~~ $25. The provisions of chapter 563, providing for proceedings in forma pauperis, shall also apply for appeals to the tax court.

Sec. 8. Minnesota Statutes 1994, section 357.021, subdivision 2, is amended to read:

Subd. 2. [FEE AMOUNTS.] The fees to be charged and collected by the court administrator shall be as follows:

(1) In every civil action or proceeding in said court, including any case arising under the tax laws of the state that could be transferred or appealed to the tax court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of $122.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of $122.

The party requesting a trial by jury shall pay $75.

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the

entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under chapter 103E, except the provisions therein as to appeals.

(2) Certified copy of any instrument from a civil or criminal proceeding, $10, and $5 for an uncertified copy.

(3) Issuing a subpoena, $3 for each name.

(4) Issuing an execution and filing the return thereof; issuing a writ of attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, or other writs not specifically mentioned, $10.

(5) Issuing a transcript of judgment, or for filing and docketing a transcript of judgment from another court, $7.50.

(6) Filing and entering a satisfaction of judgment, partial satisfaction, or assignment of judgment, $5.

(7) Certificate as to existence or nonexistence of judgments docketed, $5 for each name certified to.

(8) Filing and indexing trade name; or recording basic science certificate; or recording certificate of physicians, osteopaths, chiropractors, veterinarians, or optometrists, $5.

(9) For the filing of each partial, final, or annual account in all trusteeships, $10.

(10) For the deposit of a will, $5.

(11) For recording notary commission, $25, of which, notwithstanding subdivision 1a, paragraph (b), $20 must be forwarded to the state treasurer to be deposited in the state treasury and credited to the general fund.

(12) When a defendant pleads guilty to or is sentenced for a petty misdemeanor other than a parking violation, the defendant shall pay a fee of $11.

(13) Filing a motion or response to a motion for modification of child support, a fee fixed by rule or order of the supreme court.

(14) All other services required by law for which no fee is provided, such fee as compares favorably with those herein provided, or such as may be fixed by rule or order of the court.

The fees in clauses (3) and (4) need not be paid by a public authority or the party the public authority represents.

Sec. 9. Minnesota Statutes 1994, section 481.01, is amended to read:

481.01 [BOARD OF LAW EXAMINERS; EXAMINATIONS; ALTERNATIVE DISPUTE FEES.]

The supreme court shall, by rule from time to time, prescribe the qualifications of all applicants for admission to practice law in this state, and shall appoint a board of law examiners, which shall be charged with the administration of ~~such~~ the rules and with the examination of all applicants for admission to practice law. The board shall consist of not less than three, nor more than seven, attorneys at law, who shall be appointed each for the term of three years and until a successor qualifies. The supreme court may fill any vacancy in the board for the unexpired term and in its discretion may remove any member ~~thereof~~ of it. The board shall have a seal and shall keep a record of its proceedings, of all applications for admission to practice, and of persons admitted to practice upon its recommendation. At least two times a year the board shall hold examinations and report the result ~~thereof~~ of them, with its recommendations, to the supreme court. Upon consideration of ~~such~~ the report, the supreme court shall enter an order in the case of each person examined, directing the board to reject or to issue to the person a certificate of admission to practice. The board shall have such officers as may, from time to time, be prescribed and designated by the supreme court. The fee for examination shall be fixed, from time to time, by the supreme court, but shall not exceed $50. ~~Such fees~~ This fee, and any other fees which may be received pursuant to ~~such~~ any rules ~~as~~ the supreme court ~~may promulgate~~ promulgates governing

the practice of law and court-related alternative dispute resolution practices shall be paid to the state treasurer and shall constitute a special fund in the state treasury. The moneys in ~~such~~ this fund are appropriated annually to the supreme court for the payment of compensation and expenses of the members of the board of law examiners and for otherwise regulating the practice of law. The moneys in ~~such~~ the fund shall never cancel. Payments ~~therefrom~~ from it shall be made by the state treasurer, upon warrants of the commissioner of finance issued upon vouchers signed by one of the justices of the supreme court. The members of the board shall have ~~such~~ compensation and ~~such~~ allowances for expenses as may, from time to time, be fixed by the supreme court.

Sec. 10. Minnesota Statutes 1994, section 518.165, is amended by adding a subdivision to read:

Subd. 2a. [RESPONSIBILITIES OF GUARDIAN AD LITEM.] A guardian ad litem shall carry out the following responsibilities:

(1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

(2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

Sec. 11. Minnesota Statutes 1994, section 563.01, subdivision 3, is amended to read:

Subd. 3. Any court of the state of Minnesota or any political subdivision thereof may authorize the commencement or defense of any civil action, or appeal therein, without prepayment of fees, costs and security for costs by a natural person who makes affidavit stating (a) the nature of the action, defense or appeal, (b) a belief that affiant is entitled to redress, and (c) that affiant is financially unable to pay the fees, costs and security for costs.

Upon a finding by the court that the action is not of a frivolous nature, the court shall allow the person to proceed in forma pauperis if the affidavit is substantially in the language required by this subdivision and is not found by the court to be untrue. Persons meeting the requirements of this subdivision include, but are not limited to, a person who is receiving public assistance, who is represented by an attorney on behalf of a civil legal services program or a volunteer attorney program based on indigency, or who has an annual income not greater than 125 percent of the poverty line established under United States Code, title 42, section 9902(2), except as otherwise provided by section 563.02.

Sec. 12. [563.02] [INMATE LIABILITY FOR FEES AND COSTS.]

Subdivision 1. [DEFINITION.] For purposes of this section, "inmate" means a person who is not represented by counsel, who has been convicted of a felony, who is committed to the custody of the commissioner of corrections, and is:

(1) confined in a state correctional facility; or

(2) released from a state correctional facility under section 244.065 or 244.07.

Subd. 2. [INMATE REQUEST TO PROCEED IN FORMA PAUPERIS.] (a) An inmate who wishes to commence a civil action by proceeding in forma pauperis must meet the following requirements, in addition to the requirements of section 563.01, subdivision 3:

(1) exhaust the inmate complaint procedure developed under the commissioner of corrections policy and procedure before commencing a civil action against the department, and state in the application to proceed in forma pauperis that the inmate has done so; and

(2) include the following information in an affidavit submitted under section 563.01:

(i) a statement that the inmate's claim is not substantially similar to a previous claim brought by the inmate against the same party, arising from the same operative facts, and in which there was an action that operated as an adjudication on the merits;

(ii) complete information on the inmate's identity, the nature and amount of the inmate's income, spouse's income, if available to the inmate, real property owned by the inmate, and the inmate's bank accounts, debts, monthly expenses, and number of dependents; and

(iii) the most recent monthly statement provided by the commissioner of corrections showing the balance in the inmate's inmate account.

The inmate shall also attach a written authorization for the court to obtain at any time during pendency of the present action, without further authorization from the inmate, a current statement of the inmate's inmate account balance, if needed to determine eligibility to proceed with bringing a civil action in forma pauperis. An inmate who has no funds in an inmate account satisfies the requirement of section 563.01, subdivision 3, clause (c).

(b) An inmate who seeks to proceed as a plaintiff in forma pauperis must file with the court the complaint in the action and the affidavit under this section before serving the complaint on an opposing party.

(c) An inmate who has funds in an inmate account may only proceed as a plaintiff in a civil action by paying the lesser of:

(1) the applicable court filing fee; or

(2) 50 percent of the balance shown in the inmate's account according to the statement filed with the court under this subdivision, consistent with the requirements of section 243.23, subdivision 3.

If an inmate elects to proceed under this paragraph, the court shall notify the commissioner of corrections to withdraw from the inmate's account the amount required under this section and forward the amount to the court administrator in the county where the action was commenced. The court shall also notify the commissioner of corrections of the amount of the filing fee remaining unpaid. The commissioner shall continue making withdrawals from the inmate's account and forwarding the amounts withdrawn to the court administrator, at intervals as the applicable funds in the inmate's account equal at least $10, until the entire filing fee and any costs have been paid in full.

Subd. 3. [DISMISSAL OF ACTION.] (a) The court may, as provided by this subdivision, dismiss, in whole or in part, an action in which an affidavit has been filed under section 563.01 by an inmate seeking to proceed as a plaintiff. The action shall be dismissed without prejudice on a finding that the allegation of financial inability to pay fees, costs, and security for costs is false. The action shall be dismissed with prejudice if it is frivolous or malicious. In determining whether an action is frivolous or malicious, the court may consider whether:

(1) the claim has no arguable basis in law or fact; or

(2) the claim is substantially similar to a previous claim that was brought against the same party, arises from the same operative facts, and in which there was an action that operated as an adjudication on the merits.

An order dismissing the action or specific claims asserted in the action may be entered before or after service of process, and with or without holding a hearing.

If the court dismisses a specific claim in the action, it shall designate any issue and defendant on which the action is to proceed without the payment of fees and costs. An order under this subdivision is not subject to interlocutory appeal.

(b) To determine whether the allegation of financial inability to pay fees, costs, and security for costs is false or whether the claim is frivolous or malicious, the court may:

(1) request the commissioner of corrections to file a report under oath responding to the issues described in paragraph (a), clause (1) or (2);

(2) order the commissioner of corrections to furnish information on the balance in the inmate's inmate account, if authorized by the inmate under subdivision 2; or

(3) hold a hearing at the correctional facility where the inmate is confined on the issue of whether the allegation of financial inability to pay is false, or whether the claim is frivolous or malicious.

Subd. 4. [DEFENSE WITHOUT FEES OR COSTS.] A natural person who is named as a defendant in a civil action brought by an inmate may appear and defend the action, including any appeal in the action, without prepayment of the filing fee. If the action is dismissed under rule 12 or 56 of the rules of civil procedure, the inmate is liable for the person's fees and costs, including reasonable attorney fees. In all other instances, the defendant shall pay the defendant's filing fee at the conclusion of the action or when ordered by the court.

Sec. 13. Minnesota Statutes 1994, section 609.748, subdivision 3a, is amended to read:

Subd. 3a. [FILING FEE ~~WAIVED~~; COST OF SERVICE.] The filing fees for a restraining order under this section are waived for the petitioner if the petition alleges acts that would constitute a violation of section 609.749, subdivision 2 or 3. The court administrator and the sheriff of any county in this state shall perform their duties relating to service of process without charge to the petitioner. The court shall direct payment of the reasonable costs of service of process if served by a private process server when the sheriff is unavailable or if service is made by publication~~, without requiring the petitioner to make application under section 563.01~~. The court may direct a respondent to pay to the court administrator the petitioner's filing fees and reasonable costs of service of process if the court determines that the respondent has the ability to pay the petitioner's fees and costs.

Sec. 14. Minnesota Statutes 1994, section 611.27, subdivision 4, is amended to read:

Subd. 4. [COUNTY PORTION OF COSTS.] That portion of subdivision 1 directing counties to pay the costs of public defense service shall not be in effect between January 1, 1995, and July 1, ~~1995~~ 1997. This subdivision only relates to costs associated with felony, gross misdemeanor, juvenile, and misdemeanor public defense services. Notwithstanding the provisions of this subdivision, in the first, fifth, seventh, ninth, and tenth judicial districts, the cost of juvenile and misdemeanor public defense services for cases opened prior to January 1, 1995, shall remain the responsibility of the respective counties in those districts, even though the cost of these services may occur after January 1, 1995.

Sec. 15. [611A.08] [BARRING PERPETRATORS OF CRIMES FROM RECOVERING FOR INJURIES SUSTAINED DURING CRIMINAL CONDUCT.]

Subdivision 1. [DEFINITIONS.] As used in this section:

(1) "perpetrator" means a person who has engaged in criminal conduct and includes a person convicted of a crime;

(2) "victim" means a person who was the object of another's criminal conduct and includes a person at the scene of an emergency who gives reasonable assistance to another person who is exposed to or has suffered grave physical harm;

(3) "course of criminal conduct" includes the acts or omissions of a victim in resisting criminal conduct; and

(4) "convicted" includes a finding of guilt, whether or not the adjudication of guilt is stayed or executed, an unwithdrawn judicial admission of guilt or guilty plea, a no contest plea, a judgment of conviction, an adjudication as a delinquent child, an admission to a juvenile delinquency petition, or a disposition as an extended jurisdiction juvenile.

Subd. 2. [PERPETRATOR'S ASSUMPTION OF THE RISK.] A perpetrator assumes the risk of loss, injury, or death resulting from or arising out of a course of criminal conduct involving a violent crime, as defined in this section, engaged in by the perpetrator or an accomplice, as defined in section 609.05, and the crime victim is immune from and not liable for any civil damages as a result of acts or omissions of the victim if the victim used reasonable force as authorized in sections 609.06 or 609.065.

Subd. 3. [EVIDENCE.] Notwithstanding other evidence which the victim may adduce relating to the perpetrator's conviction of the violent crime involving the parties to the civil action, a certified copy of: a guilty plea; a court judgment of guilt; a court record of conviction as specified in sections 599.24, 599.25, or 609.041; an adjudication as a delinquent child; or a disposition as an extended jurisdiction juvenile pursuant to section 260.126 is conclusive proof of the perpetrator's assumption of the risk.

Subd. 4. [ATTORNEY'S FEES TO VICTIM.] If the perpetrator does not prevail in a civil action that is subject to this section, the court may award reasonable expenses, including attorney's fees and disbursements, to the victim.

Subd. 5. [STAY OF CIVIL ACTION.] Except to the extent needed to preserve evidence, any civil action in which the defense set forth in subdivision 1 or 2 is raised shall be stayed by the court on the motion of the defendant during the pendency of any criminal action against the plaintiff based on the alleged violent crime.

Subd. 6. [VIOLENT CRIME; DEFINITION.] For purposes of this section, "violent crime" means an offense named in sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.342; 609.343; 609.344; 609.345; 609.561; 609.562; 609.563; and 609.582, or an attempt to commit any of these offenses. "Violent crime" includes crimes in other states or jurisdictions which would have been within the definition set forth in this subdivision if they had been committed in this state.

Sec. 16. [REPORT.]

The state court administrator shall report to the chairs of the judiciary committees in the house of representatives and the senate by February 15, 1996, on the implementation of the 1995 report of the legislative auditor on guardians ad litem. The report shall address revision of the guidelines and adoption of rules to deal with:

(1) guardian ad litem selection, training, evaluation, and removal;

(2) distinguishing the roles of guardians ad litem and custody investigators;

(3) developing procedures for guardians ad litem to work with parents who have an order for protection;

(4) requiring judges to write more detailed appointment orders defining their expectations of the guardian ad litem role;

(5) ascertaining and communicating to the court the wishes of the child regarding matters before the court;

(6) standards for contact between the guardian ad litem and the child, specifying when limited or no contact with the child may be appropriate;

(7) developing a procedure for bringing complaints against a guardian ad litem; and

(8) specifying selection criteria, responsibilities, and necessary training for a guardian ad litem program coordinator.

The report shall also describe how the supreme court will educate parents, judges, attorneys, and other professionals about the purpose and role of guardians ad litem.

In addressing the revision of the guidelines and adoption of rules, the supreme court is requested to consult with interest groups, advocacy groups, and the public.

Sec. 17. Laws 1993, chapter 255, section 1, subdivision 1, is amended to read:

Section 1. [NONFELONY ENFORCEMENT ADVISORY COMMITTEE.]

Subdivision 1. [DUTIES.] The nonfelony enforcement advisory committee shall study current enforcement and prosecution of all nonfelony offenses under Minnesota law. The committee shall evaluate the effect of prosecutorial jurisdiction over misdemeanor and gross misdemeanor crimes against the person on effective law enforcement and public safety. The committee shall analyze the relative penalty levels for nonfelony crimes against the person ~~and~~, low-level felony property crimes, and crimes for which there are both felony and nonfelony penalties. The committee shall recommend any necessary changes in Minnesota law to achieve the following goals:

(1) proportionality of penalties for gross misdemeanors, misdemeanors, and petty misdemeanors;

(2) effective enforcement and prosecution of these offenses; and

(3) efficient use of the resources of the criminal justice system.

Sec. 18. Laws 1993, chapter 255, section 1, subdivision 4, is amended to read:

Subd. 4. [REPORT.] By ~~October 1, 1995~~ January 15, 1997, the committee shall report its findings and recommendations for revisions in Minnesota law to the chairs of the senate committee on crime prevention and the house committee on judiciary.

Sec. 19. Laws 1993, chapter 255, section 2, is amended to read:

Sec. 2. [REPEALER.]

Section 1 is repealed effective ~~October 15, 1995~~ December 30, 1996.

Sec. 20. [EFFECTIVE DATES.]

(a) Sections 16 to 19 are effective the day following final enactment.

(b) Section 1 is effective September 1, 1995.

(c) Sections 7 and 8 are effective July 1, 1995, for filings on and after that date.

(d) Section 4 is effective July 1, 1995, and applies to causes of action arising on or after that date.

(e) Sections 12 and 15 are effective July 1, 1995, and apply to actions filed on or after that date.

(f) The remaining provisions of this article are effective July 1, 1995.

ARTICLE 7

CRIME VICTIMS

Section 1. [257.81] [TRAINING FOR INTERVIEWERS OF MALTREATED CHILDREN; COMMISSIONER OF HUMAN SERVICES DUTIES.]

The commissioner of human services shall develop training programs designed to provide specialized interviewer training to persons who interview allegedly maltreated children. The training must include information on interviewing adolescents and address the best methods of so doing. All training shall be presented within a child development model framework and include information on working with children of color and children with special needs. To accomplish this objective, the commissioner shall:

(1) establish criteria for adequately trained interviewers;

(2) determine the number of trained interviewers and evaluate the extent of the need for interviewer training;

(3) offer forums and tuition to county professionals for specialized interviewer training where the need exists; and

(4) encourage counties to assess local needs and assist counties in making interviewer training available to meet those needs.

Sec. 2. Minnesota Statutes 1994, section 299C.065, subdivision 1a, is amended to read:

Subd. 1a. [WITNESS AND VICTIM PROTECTION FUND.] A witness and victim protection fund is created under the administration of the commissioner of public safety. The commissioner may make grants to local officials to provide for the relocation or other protection of a victim, witness, or potential witness who is involved in a criminal prosecution and who the commissioner has reason to believe is or is likely to be the target of a violent crime or a violation of section 609.498 or 609.713, in connection with that prosecution. The awarding of grants under this subdivision is not limited to the crimes and investigations described in subdivision 1. The commissioner may award grants for any of the following actions in connection with the protection of a witness or victim under this subdivision:

(1) to provide suitable documents to enable the person to establish a new identity or otherwise protect the person;

(2) to provide housing for the person;

(3) to provide for the transportation of household furniture and other personal property to the person's new residence;

(4) to provide the person with a payment to meet basic living expenses for a time period the commissioner deems necessary;

(5) to assist the person in obtaining employment; and

(6) to provide other services necessary to assist the person in becoming self-sustaining.

Sec. 3. Minnesota Statutes 1994, section 518B.01, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms shall have the meanings given them:

(a) "Domestic abuse" means the following, if committed against a family or household member by a family or household member:

~~(i)~~ (1) physical harm, bodily injury, or assault~~, or~~;

(2) the infliction of fear of imminent physical harm, bodily injury, or assault~~, between family or household members~~; or

~~(ii)~~ (3) terroristic threats, within the meaning of section 609.713, subdivision 1, or criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, or 609.345~~, committed against a family or household member by a family or household member~~.

(b) "Family or household members" means:

(1) spouses~~,~~ and former spouses~~,~~;

(2) parents and children~~,~~;

(3) persons related by blood~~, and~~;

(4) persons who are presently residing together or who have resided together in the past~~, and~~;

(5) persons who have a child in common regardless of whether they have been married or have lived together at any time. ~~"Family or household member" also includes~~;

(6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and

(7) persons involved in a significant romantic or sexual relationship.

Issuance of an order for protection on ~~this~~ the ground in clause (6) does not affect a determination of paternity under sections 257.51 to 257.74. In determining whether persons are or have been involved in a significant romantic or sexual relationship under clause (7), the court shall consider the length of time of the relationship; type of relationship; frequency of interaction between the parties; and, if the relationship has terminated, length of time since the termination.

Sec. 4. Minnesota Statutes 1994, section 518B.01, subdivision 4, is amended to read:

Subd. 4. [ORDER FOR PROTECTION.] There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(a) A petition for relief under this section may be made by any family or household member personally or by a family or household member, a guardian as defined in section 524.1-201, clause (20), or, if the court finds that it is in the best interests of the minor, by a reputable adult age 25 or older on behalf of minor family or household members. A minor age 16 or older may make a petition on the minor's own behalf against a spouse or former spouse, or a person with whom the minor has a child in common, if the court determines that the minor has sufficient maturity and judgment and that it is in the best interests of the minor.

(b) A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(c) A petition for relief must state whether the petitioner has ever had an order for protection in effect against the respondent.

(d) A petition for relief must state whether there is an existing order for protection in effect under this chapter governing both the parties and whether there is a pending lawsuit, complaint, petition or other action between the parties under chapter 257, 518, 518A, 518B, or 518C. The court administrator shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A subsequent order in a separate action under this chapter may modify only the provision of an existing order that grants relief authorized under subdivision 6, paragraph (a), clause (1). A petition for relief may be granted, regardless of whether there is a pending action between the parties.

~~(d)~~ (e) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

~~(e)~~ (f) The court shall advise a petitioner under paragraph ~~(d)~~ (e) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist with the writing and filing of the motion and affidavit.

~~(f)~~ (g) The court shall advise a petitioner under paragraph ~~(d)~~ (e) of the right to serve the respondent by published notice under subdivision 5, paragraph (b), if the respondent is avoiding personal service by concealment or otherwise, and shall assist with the writing and filing of the affidavit.

~~(g)~~ (h) The court shall advise the petitioner of the right to seek restitution under the petition for relief.

Sec. 5. Minnesota Statutes 1994, section 518B.01, is amended by adding a subdivision to read:

Subd. 6a. [SUBSEQUENT ORDERS AND EXTENSIONS.] Upon application, notice to all parties, and hearing, the court may extend the relief granted in an existing order for protection or, if a petitioner's order for protection is no longer in effect when an application for subsequent relief is made, grant a new order. The court may extend the terms of an existing order or, if an order is no longer in effect, grant a new order upon a showing that:

(1) the respondent has violated a prior or existing order for protection;

(2) the petitioner is reasonably in fear of physical harm from the respondent; or

(3) the respondent has engaged in acts of harassment or stalking within the meaning of section 609.749, subdivision 2.

A petitioner does not need to show that physical harm is imminent to obtain an extension or a subsequent order under this subdivision.

Sec. 6. Minnesota Statutes 1994, section 518B.01, subdivision 8, is amended to read:

Subd. 8. [SERVICE; ALTERNATE SERVICE; PUBLICATION.] (a) The petition and any order issued under this section shall be served on the respondent personally.

(b) When service is made out of this state and in the United States, it may be proved by the affidavit of the person making the service. When service is made outside the United States, it may be proved by the affidavit of the person making the service, taken before and certified by any United States minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in the other country, including all deputies or other representatives of the officer authorized to perform their duties; or before an office authorized to administer an oath with the certificate of an officer of a court of record of the country in which the affidavit is taken as to the identity and authority of the officer taking the affidavit.

(c) If personal service cannot be made, the court may order service of the petition and any order issued under this section by alternate means, or by publication, which publication must be made as in other actions. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. ~~Also, the court may require the petitioner to make efforts to locate the respondent by telephone calls to appropriate persons.~~ Service shall be deemed complete ~~21~~ 14 days after mailing or ~~21~~ 14 days after court-ordered publication.

Sec. 7. Minnesota Statutes 1994, section 518B.01, subdivision 14, is amended to read:

Subd. 14. [VIOLATION OF AN ORDER FOR PROTECTION.] (a) Whenever an order for protection is granted pursuant to this section, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor. Upon conviction, the defendant must be sentenced to a minimum of three days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. If the court stays imposition or execution of the jail sentence and the defendant refuses or fails to comply with the court's treatment order, the court must impose and execute the stayed jail sentence. A person is guilty of a gross misdemeanor who violates this paragraph during the time period between a previous conviction under this paragraph; sections 609.221 to 609.224; 609.713, subdivision 1 or 3; 609.748, subdivision 6; 609.749; or a similar law of another state and the end of the five years following discharge from sentence for that conviction. Upon conviction, the defendant must be sentenced to a minimum of ten days imprisonment and must be ordered to participate in counseling or other appropriate programs selected by the court. Notwithstanding section 609.135, the court must impose and execute the minimum sentence provided in this paragraph for gross misdemeanor convictions.

(b) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to this section restraining the person or excluding the person from the residence or the petitioner's place of employment, even if the violation of the order did not take place in the presence of the peace

officer, if the existence of the order can be verified by the officer. The person shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

(c) A violation of an order for protection shall also constitute contempt of court and be subject to the penalties therefor.

(d) If the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner's residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record. The court may require a bond sufficient to deter the respondent from committing further violations of the order for protection, considering the financial resources of the respondent, and not to exceed $10,000. If the respondent refuses to comply with an order to acknowledge the obligation or post a bond under this paragraph, the court shall commit the respondent to the county jail during the term of the order for protection or until the respondent complies with the order under this paragraph. The warrant must state the cause of commitment, with the sum and time for which any bond is required. If an order is issued under this paragraph, the court may order the costs of the contempt action, or any part of them, to be paid by the respondent. An order under this paragraph is appealable.

(e) Upon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted pursuant to this section, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court and punished therefor. The hearing may be held by the court in any county in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation. The court also shall refer the violation of the order for protection to the appropriate prosecuting authority for possible prosecution under paragraph (a).

(f) If it is alleged that the respondent has violated an order for protection issued under subdivision 6 and the court finds that the order has expired between the time of the alleged violation and the court's hearing on the violation, the court may grant a new order for protection under subdivision 6 based solely on the respondent's alleged violation of the prior order, to be effective until the hearing on the alleged violation of the prior order. If the court finds that the respondent has violated the prior order, the relief granted in the new order for protection shall be extended for a fixed period, not to exceed one year, except when the court determines a longer fixed period is appropriate.

(g) The admittance into petitioner's dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.

A peace officer is not liable under section 609.43, clause (1), for a failure to perform a duty required by paragraph (b).

Sec. 8. Minnesota Statutes 1994, section 611A.01, is amended to read:

611A.01 [DEFINITIONS.]

For the purposes of sections 611A.01 to ~~611A.04 and~~ 611A.06:

(a) "Crime" means conduct that is prohibited by local ordinance and results in bodily harm to an individual; or conduct that is included within the definition of "crime" in section 609.02, subdivision 1, or would be included within that definition but for the fact that (i) the person engaging in the conduct lacked capacity to commit the crime under the laws of this state, or (ii) the act was alleged or found to have been committed by a juvenile;

(b) "Victim" means a natural person who incurs loss or harm as a result of a crime, including a good faith effort to prevent a crime, and for purposes of sections 611A.04 and 611A.045, also includes a corporation that incurs loss or harm as a result of a crime. If the victim is a natural person and is deceased, "victim" means the deceased's surviving spouse or next of kin; and

(c) "Juvenile" has the same meaning as given to the term "child" in section 260.015, subdivision 2.

Sec. 9. Minnesota Statutes 1994, section 611A.04, subdivision 1, is amended to read:

Subdivision 1. [REQUEST; DECISION.] (a) A victim of a crime has the right to receive restitution as part of the disposition of a criminal charge or juvenile delinquency proceeding against the offender if the offender is convicted or found delinquent. The court, or a person or agency designated by the court, shall request information from the victim to determine the amount of restitution owed. The court or its designee shall obtain the information from the victim in affidavit form or by other competent evidence. Information submitted relating to restitution must describe the items or elements of loss, itemize the total dollar amounts of restitution claimed, and specify the reasons justifying these amounts, if restitution is in the form of money or property. A request for restitution may include, but is not limited to, any out-of-pocket losses resulting from the crime, including medical and therapy costs, replacement of wages and services, expenses incurred to return a child who was a victim of a crime under section 609.26 to the child's parents or lawful custodian, and funeral expenses. An actual or prospective civil action involving the alleged crime shall not be used by the court as a basis to deny a victim's right to obtain court-ordered restitution under this section. In order to be considered at the sentencing or dispositional hearing, all information regarding restitution must be received by the court administrator of the appropriate court at least three business days before the sentencing or dispositional hearing. The court administrator shall provide copies of this request to the prosecutor and the offender or the offender's attorney at least 24 hours before the sentencing or dispositional hearing. The issue of restitution may be reserved or the sentencing or dispositional hearing or hearing on the restitution request may be continued if the victim's affidavit or other competent evidence submitted by the victim is not received in time. At the sentencing or dispositional hearing, the court shall give the offender an opportunity to respond to specific items of restitution and their dollar amounts in accordance with the procedures established in section 611A.045, subdivision 3.

(b) The court may amend or issue an order of restitution after the sentencing or dispositional hearing if:

(1) the offender is on probation, committed to the commissioner of corrections, or on supervised release;

(2) information regarding restitution was submitted as required under paragraph (a); and

(3) the true extent of the victim's loss was not known at the time of the sentencing or dispositional hearing, or hearing on the restitution request.

If the court holds a hearing on the restitution request, the court must notify the offender, the offender's attorney, the victim, and the prosecutor at least five business days before the hearing. The court's restitution decision is governed by this section and section 611A.045.

(c) The court shall grant or deny restitution or partial restitution and shall state on the record its reasons for its decision on restitution if information relating to restitution has been presented. If the court grants partial restitution it shall also specify the full amount of restitution that may be docketed as a civil judgment under subdivision 3. The court may not require that the victim waive or otherwise forfeit any rights or causes of action as a condition of granting restitution or partial restitution. In the case of a defendant who is on probation, the court may not refuse to enforce an order for restitution solely on the grounds that the order has been docketed as a civil judgment.

Sec. 10. Minnesota Statutes 1994, section 611A.19, subdivision 1, is amended to read:

Subdivision 1. [TESTING ON REQUEST OF VICTIM.] (a) Upon the request or with the consent of the victim, the prosecutor shall make a motion in camera and the sentencing court ~~may~~ shall issue an order requiring ~~a person~~ an adult convicted of ~~a violent crime, as defined in section 609.152,~~ or a juvenile adjudicated delinquent for violating section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), ~~or~~ 609.345 (criminal sexual conduct in the fourth degree), or any other violent crime, as defined in section 609.152, to submit to testing to determine the presence of human immunodeficiency virus (HIV) antibody if:

(1) the ~~prosecutor moves for the test order in camera~~ crime involved sexual penetration, however slight, as defined in section 609.341, subdivision 12; or

(2) ~~the victim requests the test; and~~

~~(3) evidence exists that the broken skin or mucous membrane of the victim was exposed to or had contact with the offender's semen or blood during commission of the crime in a manner which has been demonstrated epidemiologically to transmit the HIV virus~~ evidence exists that the broken skin or mucous membrane of the victim was exposed to or had contact with the offender's semen or blood during the commission of the crime in a manner which has been demonstrated epidemiologically to transmit the human immunodeficiency virus (HIV).

(b) ~~If~~ When the court ~~grants the prosecutor's motion~~ orders an offender to submit to testing under paragraph (a), the court shall order that the test be performed by an appropriate health professional who is trained to provide the counseling described in section 144.763, and that no reference to the test, the motion requesting the test, the test order, or the test results may appear in the criminal record or be maintained in any record of the court or court services.

Sec. 11. Minnesota Statutes 1994, section 611A.31, subdivision 2, is amended to read:

Subd. 2. "Battered woman" means a woman who is being or has been victimized by domestic abuse as defined in section 518B.01, subdivision 2~~, except that "family or household members" includes persons with whom the woman has had a continuing relationship~~.

Sec. 12. Minnesota Statutes 1994, section 611A.53, subdivision 2, is amended to read:

Subd. 2. No reparations shall be awarded to a claimant otherwise eligible if:

(a) the crime was not reported to the police within 30 days of its occurrence or, if it could not reasonably have been reported within that period, within 30 days of the time when a report could reasonably have been made. A victim of criminal sexual conduct in the first, second, third, or fourth degree who does not report the crime within 30 days of its occurrence is deemed to have been unable to have reported it within that period;

(b) the victim or claimant failed or refused to cooperate fully with the police and other law enforcement officials;

(c) the victim or claimant was the offender or an accomplice of the offender or an award to the claimant would unjustly benefit the offender or an accomplice;

(d) the victim or claimant was in the act of committing a crime at the time the injury occurred;

(e) no claim was filed with the board within two years of victim's injury or death; except that (1) if the claimant was unable to file a claim within that period, then the claim can be made within two years of the time when a claim could have been filed; and (2) if the victim's injury or death was not reasonably discoverable within two years of the injury or death, then the claim can be made within two years of the time when the injury or death is reasonably discoverable. The following circumstances do not render a claimant unable to file a claim for the purposes of this clause: (1) lack of knowledge of the existence of the Minnesota crime victims reparations act, (2) the failure of a law enforcement agency to provide information or assistance to a potential claimant under section 611A.66, (3) the incompetency of the claimant if the claimant's affairs were being managed during that period by a guardian, guardian ad litem, conservator, authorized agent, or parent, or (4) the fact that the claimant is not of the age of majority; or

(f) the claim is less than $50.

The limitations contained in clauses (a) and (e) do not apply to victims of domestic child abuse as defined in section 260.015, subdivision 24. In those cases the two-year limitation period commences running with the report of the crime to the police~~; provided that no claim as a result of loss due to domestic child abuse may be paid when the claimant is 21 years of age or older at the time the claim is filed~~.

Sec. 13. [611A.612] [CRIME VICTIMS ACCOUNT.]

A crime victim account is established as a special account in the state treasury. Amounts collected by the state under section 611A.61 or paid to the crime victims reparations board under section 611A.04, subdivision 1a, shall be credited to this account. Money credited to this account is annually appropriated to the department of public safety for use for crime victim reparations under sections 611A.51 to 611A.67.

Sec. 14. [611A.675] [FUND FOR EMERGENCY NEEDS OF CRIME VICTIMS.]

Subdivision 1. [GRANTS AUTHORIZED.] The crime victims reparations board shall make grants to local law enforcement agencies for the purpose of providing emergency assistance to victims. As used in this section, "emergency assistance" includes but is not limited to:

(1) replacement of necessary property that was lost, damaged, or stolen as a result of the crime;

(2) purchase and installation of necessary home security devices; and

(3) transportation to locations related to the victim's needs as a victim, such as medical facilities and facilities of the criminal justice system.

Subd. 2. [APPLICATION FOR GRANTS.] A county sheriff or the chief administrative officer of a municipal police department may apply to the board for a grant for any of the purposes described in subdivision 1 or for any other emergency assistance purpose approved by the board. The application must be on forms and pursuant to procedures developed by the board. The application must describe the type or types of intended emergency assistance, estimate the amount of money required, and include any other information deemed necessary by the board.

Subd. 3. [REPORTING BY LOCAL AGENCIES REQUIRED.] A county sheriff or chief administrative officer of a municipal police department who receives a grant under this section shall report all expenditures to the board on a quarterly basis. The sheriff or chief administrative officer shall also file an annual report with the board itemizing the expenditures made during the preceding year, the purpose of those expenditures, and the ultimate disposition, if any, of each assisted victim's criminal case.

Subd. 4. [REPORT TO LEGISLATURE.] On or before February 1, 1997, the board shall report to the chairs of the senate crime prevention and house of representatives judiciary committees on the implementation, use, and administration of the grant program created under this section.

Sec. 15. Minnesota Statutes 1994, section 611A.71, subdivision 7, is amended to read:

Subd. 7. [EXPIRATION.] The council expires on June 30, ~~1995~~ 1997.

Sec. 16. Minnesota Statutes 1994, section 611A.73, subdivision 3, is amended to read:

Subd. 3. [ELEMENTS OF THE CRIMINAL JUSTICE SYSTEM.] "Elements of the criminal justice system" refers to ~~county~~ prosecuting attorneys and members of their staff; peace officers; probation and corrections officers; city, state, and county officials involved in the criminal justice system; and does not include the judiciary.

Sec. 17. Minnesota Statutes 1994, section 611A.74, is amended to read:

611A.74 [CRIME VICTIM OMBUDSMAN; CREATION.]

Subdivision 1. [CREATION.] The office of crime victim ombudsman for Minnesota is created. The ombudsman shall be appointed by the commissioner of public safety with the advice of the advisory council, and shall serve in the unclassified service at the pleasure of the commissioner. No person may serve as ombudsman while holding any other public office. The ombudsman is directly accountable to the commissioner of public safety and shall have the authority to investigate decisions, acts, and other matters of the criminal justice system so as to promote the highest attainable standards of competence, efficiency, and justice for crime victims in the criminal justice system.

Subd. 2. [DUTIES.] The crime victim ombudsman may investigate complaints concerning

possible violation of the rights of crime victims or witnesses provided under this chapter, the delivery of victim services by victim assistance programs, the administration of the crime victims reparations act, and other complaints of mistreatment by elements of the criminal justice system or victim assistance programs. The ombudsman shall act as a liaison, when the ombudsman deems necessary, between agencies, either in the criminal justice system or in victim assistance programs, and victims and witnesses. The ombudsman may be concerned with activities that strengthen procedures and practices which lessen the risk that objectionable administrative acts will occur. The ombudsman must be made available through the use of a toll free telephone number and shall answer questions concerning the criminal justice system and victim services put to the ombudsman by victims and witnesses in accordance with the ombudsman's knowledge of the facts or law, unless the information is otherwise restricted. The ombudsman shall establish a procedure for referral to the crime victim crisis centers, the crime victims reparations board, and other victim assistance programs when services are requested by crime victims or deemed necessary by the ombudsman.

The ombudsman's files are confidential data as defined in section 13.02, subdivision 3, during the course of an investigation or while the files are active. Upon completion of the investigation or when the files are placed on inactive status, they are private data on individuals as defined in section 13.02, subdivision 12.

Subd. 3. [POWERS.] The crime victim ombudsman has those powers necessary to carry out the duties set out in subdivision 1, including:

(a) The ombudsman may investigate, with or without a complaint, any action of an element of the criminal justice system or a victim assistance program included in subdivision 2.

(b) The ombudsman may request and shall be given access to information ~~pertaining to a complaint~~ and assistance the ombudsman considers necessary for the discharge of responsibilities. The ombudsman may inspect, examine, and be provided copies of records and documents of all elements of the criminal justice system and victim assistance programs. The ombudsman may request and shall be given access to police reports pertaining to juveniles and juvenile delinquency petitions, notwithstanding section 260.161. Any information received by the ombudsman retains its data classification under chapter 13 while in the ombudsman's possession. Juvenile records obtained under this subdivision may not be released to any person.

(c) The ombudsman may prescribe the methods by which complaints are to be made, received, and acted upon; may determine the scope and manner of investigations to be made; and subject to the requirements of sections 611A.72 to 611A.74, may determine the form, frequency, and distribution of ombudsman conclusions, recommendations, and proposals.

(d) After completing investigation of a complaint, the ombudsman shall inform in writing the complainant, the investigated person or entity, and other appropriate authorities~~, including the attorney general,~~ of the action taken. If the complaint involved the conduct of an element of the criminal justice system in relation to a criminal or civil proceeding, the ombudsman's findings shall be forwarded to the court in which the proceeding occurred.

(e) Before announcing a conclusion or recommendation that expressly or impliedly criticizes an administrative agency or any person, the ombudsman shall consult with that agency or person.

Subd. 4. [NO COMPELLED TESTIMONY.] Neither the ombudsman nor any member of the ombudsman's staff may be compelled to testify or produce evidence in any ~~court~~ judicial or administrative proceeding with respect to matters involving the exercise of official duties except as may be necessary to enforce the provisions of this section.

Subd. 5. [RECOMMENDATIONS.] (a) On finding a complaint valid after duly considering the complaint and whatever material the ombudsman deems pertinent, the ombudsman may recommend action to the appropriate authority.

(b) If the ombudsman makes a recommendation to an appropriate authority for action, the authority shall, within a reasonable time period, but not more than 30 days, inform the ombudsman about the action taken or the reasons for not complying with the recommendation.

(c) The ombudsman may publish conclusions and suggestions by transmitting them to the governor, the legislature or any of its committees, the press, and others who may be concerned. When publishing an opinion adverse to an administrative agency, the ombudsman shall include any statement the administrative agency may have made to the ombudsman by way of explaining its past difficulties or its present rejection of the ombudsman's proposals.

Subd. 6. [REPORTS.] In addition to whatever reports the ombudsman may make from time to time, the ombudsman shall biennially report to the legislature and to the governor concerning the exercise of ombudsman functions during the preceding biennium. The biennial report is due on or before the beginning of the legislative session following the end of the biennium.

Sec. 18. Minnesota Statutes 1994, section 629.341, subdivision 1, is amended to read:

Subdivision 1. [ARREST.] Notwithstanding section 629.34 or any other law or rule, a peace officer may arrest a person anywhere without a warrant, including at the person's residence, if the peace officer has probable cause to believe that within the preceding 12 hours the person ~~within the preceding four hours has assaulted, threatened with a dangerous weapon, or placed in fear of immediate bodily harm the person's spouse, former spouse, other person with whom the person resides or has formerly resided, or other person with whom the person has a child or an unborn child in common, regardless of whether they have been married or have lived together at any time~~ has committed domestic abuse, as defined in section 518B.01, subdivision 2. The arrest may be made even though the assault did not take place in the presence of the peace officer.

Sec. 19. Minnesota Statutes 1994, section 629.715, subdivision 1, is amended to read:

Subdivision 1. [JUDICIAL REVIEW; RELEASE.] (a) When a person is arrested for a crime against the person, the judge before whom the arrested person is taken shall review the facts surrounding the arrest and detention. If the person was arrested or detained for committing a crime of violence, as defined in section 629.725, the prosecutor or other appropriate person shall present relevant information involving the victim or the victim's family's account of the alleged crime to the judge to be considered in determining the arrested person's release. The arrested person must be ordered released pending trial or hearing on the person's personal recognizance or on an order to appear or upon the execution of an unsecured bond in a specified amount unless the judge determines that release (1) will be inimical to public safety, (2) will create a threat of bodily harm to the arrested person, the victim of the alleged crime, or another, or (3) will not reasonably assure the appearance of the arrested person at subsequent proceedings.

(b) If the judge determines release under paragraph (a) is not advisable, the judge may impose any conditions of release that will reasonably assure the appearance of the person for subsequent proceedings, or will protect the victim of the alleged crime, or may fix the amount of money bail without other conditions upon which the arrested person may obtain release.

Sec. 20. Minnesota Statutes 1994, section 629.72, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION; ALLOWING DETENTION IN LIEU OF CITATION; RELEASE.] (a) For purposes of this section, "domestic abuse" has the meaning given in section 518B.01, subdivision 2.

(b) Notwithstanding any other law or rule, an arresting officer may not issue a citation in lieu of arrest and detention to an individual charged with harassment or charged with ~~assaulting the individual's spouse or other individual with whom the charged person resides~~ domestic abuse.

(c) Notwithstanding any other law or rule, an individual who is arrested on a charge of harassing any person or of ~~assaulting the individual's spouse or other person with whom the individual resides~~ domestic abuse must be brought to the police station or county jail. The officer in charge of the police station or the county sheriff in charge of the jail shall issue a citation in lieu of continued detention unless it reasonably appears to the officer or sheriff that detention is necessary to prevent bodily harm to the arrested person or another, or there is a substantial likelihood the arrested person will fail to respond to a citation.

(d) If the arrested person is not issued a citation by the officer in charge of the police station or the county sheriff, the arrested person must be brought before the nearest available judge of the

district court in the county in which the alleged harassment or ~~assault~~ domestic abuse took place without unnecessary delay as provided by court rule.

Sec. 21. Minnesota Statutes 1994, section 629.72, subdivision 2, is amended to read:

Subd. 2. [JUDICIAL REVIEW; RELEASE; BAIL.] (a) The judge before whom the arrested person is brought shall review the facts surrounding the arrest and detention. The arrested person must be ordered released pending trial or hearing on the person's personal recognizance or on an order to appear or upon the execution of an unsecured bond in a specified amount unless the judge determines that release (1) will be inimical to public safety, (2) will create a threat of bodily harm to the arrested person, the victim of the alleged harassment or ~~assault~~ domestic abuse, or another, or (3) will not reasonably assure the appearance of the arrested person at subsequent proceedings.

(b) If the judge determines release is not advisable, the judge may impose any conditions of release that will reasonably assure the appearance of the person for subsequent proceedings, or will protect the victim of the alleged harassment or ~~assault~~ domestic abuse, or may fix the amount of money bail without other conditions upon which the arrested person may obtain release. If conditions of release are imposed, the judge shall issue a written order for conditional release. The court administrator shall immediately distribute a copy of the order for conditional release to the agency having custody of the arrested person and shall provide the agency having custody of the arrested person with any available information on the location of the victim in a manner that protects the victim's safety. Either the court or its designee or the agency having custody of the arrested person shall serve upon the defendant a copy of the order. Failure to serve the arrested person with a copy of the order for conditional release does not invalidate the conditions of release.

(c) If the judge imposes as a condition of release a requirement that the person have no contact with the victim of the alleged harassment or ~~assault~~ domestic abuse, the judge may also, on its own motion or that of the prosecutor or on request of the victim, issue an ex parte temporary restraining order under section 609.748, subdivision 4, or an ex parte temporary order for protection under section 518B.01, subdivision 7. Notwithstanding section 518B.01, subdivision 7, paragraph (b), or 609.748, subdivision 4, paragraph (c), the temporary order is effective until the defendant is convicted or acquitted, or the charge is dismissed, provided that upon request the defendant is entitled to a full hearing on the restraining order under section 609.748, subdivision 5, or on the order for protection under section 518B.01. The hearing must be held within seven days of the defendant's request.

Sec. 22. Minnesota Statutes 1994, section 629.72, subdivision 6, is amended to read:

Subd. 6. [NOTICE TO VICTIM REGARDING RELEASE OF ARRESTED PERSON.] (a) Immediately after issuance of a citation in lieu of continued detention under subdivision 1, or the entry of an order for release under subdivision 2, but before the arrested person is released, the agency having custody of the arrested person or its designee must make a reasonable and good faith effort to inform orally the alleged victim of:

(1) the conditions of release, if any;

(2) the time of release;

(3) the time, date, and place of the next scheduled court appearance of the arrested person and the victim's right to be present at the court appearance; and

(4) if the arrested person is charged with domestic ~~assault~~ abuse, the location and telephone number of the area battered women's shelter as designated by the department of corrections.

(b) As soon as practicable after an order for conditional release is entered, the agency having custody of the arrested person or its designee must personally deliver or mail to the alleged victim a copy of the written order and written notice of the information in clauses (2) and (3).

Sec. 23. [629.725] [NOTICE TO CRIME VICTIM REGARDING BAIL HEARING OF ARRESTED OR DETAINED PERSON.]

When a person arrested or a juvenile detained for a crime of violence or an attempted crime of

violence is scheduled to be reviewed under section 629.715 for release from pretrial detention, the court shall make a reasonable and good faith effort to notify the victim of the alleged crime. If the victim is incapacitated or deceased, notice must be given to the victim's family. If the victim is a minor, notice must be given to the victim's parent or guardian. The notification must include:

(1) the date and approximate time of the review;

(2) the location where the review will occur;

(3) the name and telephone number of a person that can be contacted for additional information; and

(4) a statement that the victim and the victim's family may attend the review.

As used in this section, "crime of violence" has the meaning given it in section 624.712, subdivision 5, and also includes gross misdemeanor violations of section 609.224, and nonfelony violations of sections 518B.01, 609.2231, 609.3451, 609.748, and 609.749.

Sec. 24. [629.735] [NOTICE TO LOCAL LAW ENFORCEMENT AGENCY REGARDING RELEASE OF ARRESTED OR DETAINED PERSON.]

When a person arrested or a juvenile detained for a crime of violence or an attempted crime of violence is about to be released from pretrial detention, the agency having custody of the arrested or detained person or its designee shall make a reasonable and good faith effort before release to inform any local law enforcement agencies known to be involved in the case, if different from the agency having custody, of the following matters:

(1) the conditions of release, if any;

(2) the time of release; and

(3) the time, date, and place of the next scheduled court appearance of the arrested or detained person.

Sec. 25. [INSTRUCTION TO REVISOR.]

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B every time it occurs and insert a reference to section 611A.68.

Column A	Column B
611A.51	611A.67
611A.52	611A.67
611A.66	611A.67
611A.68	611A.67

Sec. 26. [REPEALER.]

Minnesota Statutes 1994, section 611A.61, subdivision 3, is repealed.

Sec. 27. [EFFECTIVE DATES.]

Section 10 is effective the day following final enactment. The remaining provisions of this article are effective July 1, 1995."

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money for the judicial branch, public safety, public defense, corrections, and related purposes; providing for the implementation of, clarifying, and modifying certain criminal and juvenile provisions; providing for the implementation of, clarifying, and modifying certain penalty provisions; increasing the number of judges; establishing and expanding pilot programs, grant programs, task forces, committees, and studies; directing that rules be adopted and amended; providing for the implementation of, clarifying, and modifying certain provisions regarding truancy and school safety; providing penalties; amending Minnesota Statutes 1994, sections 2.722,

subdivision 1, and by adding a subdivision; 3.732, subdivision 1; 16A.285; 120.14; 120.73, by adding a subdivision; 125.05, by adding a subdivision; 125.09, subdivision 1; 127.20; 127.27, subdivision 10; 145A.05, subdivision 7a; 152.18, subdivision 1; 171.04, subdivision 1; 171.29, subdivision 2; 176.192; 179A.03, subdivision 7; 242.31, subdivision 1; 243.166; 243.23, subdivision 3; 243.51, subdivisions 1 and 3; 243.88, by adding a subdivision; 260.015, subdivision 21; 260.115, subdivision 1; 260.125; 260.126, subdivision 5; 260.131, subdivision 4, and by adding a subdivision; 260.132, subdivisions 1, 4, and by adding a subdivision; 260.155, subdivisions 2 and 4; 260.161, subdivision 3; 260.181, subdivision 4; 260.185, by adding subdivisions; 260.191, subdivision 1; 260.193, subdivision 4; 260.195, subdivision 3, and by adding a subdivision; 260.215, subdivision 1; 260.291, subdivision 1; 271.06, subdivision 4; 299A.35, subdivision 1; 299A.38, subdivision 2; 299A.44; 299A.51, subdivision 2; 299C.065, subdivisions 1a, 3, and 3a; 299C.10, subdivision 1, and by adding a subdivision; 299C.62, subdivision 4; 357.021, subdivision 2; 364.09; 388.24, subdivision 4; 401.065, subdivision 3a; 466.03, by adding a subdivision; 480.30; 481.01; 494.03; 518.165, by adding a subdivision; 518B.01, subdivisions 2, 4, 8, 14, and by adding a subdivision; 563.01, subdivision 3; 609.055, subdivision 2; 609.101, subdivisions 1, 2, and 3; 609.135, by adding a subdivision; 609.1352, subdivisions 3, 5, and by adding a subdivision; 609.152, subdivision 1; 609.19; 609.341, subdivision 11; 609.3451, subdivision 1; 609.485, subdivisions 2 and 4; 609.605, subdivision 4; 609.746, subdivision 1; 609.748, subdivision 3a; 609.749, subdivision 5; 611.17; 611.20, subdivision 3, and by adding subdivisions; 611.27, subdivision 4; 611.35, subdivision 1; 611A.01; 611A.04, subdivision 1; 611A.19, subdivision 1; 611A.31, subdivision 2; 611A.53, subdivision 2; 611A.71, subdivision 7; 611A.73, subdivision 3; 611A.74; 617.23; 624.22; 624.712, subdivision 5; 626.13; 626.841; 626.843, subdivision 1; 626.861, subdivisions 1 and 4; 628.26; 629.341, subdivision 1; 629.715, subdivision 1; 629.72, subdivisions 1, 2, and 6; 641.14; and 641.15, subdivision 2; Laws 1993, chapter 146, article 2, section 31; Laws 1993, chapter 255, sections 1, subdivisions 1 and 4; and 2; and Laws 1994, chapter 643, section 79, subdivisions 1, 3, and 4; proposing coding for new law in Minnesota Statutes, chapters 8; 16B; 120; 127; 243; 244; 257; 260; 299A; 299C; 388; 504; 563; 609; 611A; 626; and 629; proposing coding for new law as Minnesota Statutes, chapter 260A; repealing Minnesota Statutes 1994, sections 126.25; and 611A.61, subdivision 3; Laws 1994, chapter 576, section 1."

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

House Conferees: (Signed) Mary Murphy, Wesley J. "Wes" Skoglund, Thomas Pugh, Dave Bishop, Doug Swenson

Senate Conferees: (Signed) Tracy L. Beckman, Allan H. Spear, Gary W. Laidig, Thomas M. Neuville

SUSPENSION OF RULES

Mr. Moe, R.D. moved that Joint Rule 2.03 be suspended as it relates to the Conference Committee Report on H.F. No. 1700. The motion prevailed.

Mr. Beckman moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1700 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1700 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 53 and nays 10, as follows:

Those who voted in the affirmative were:

Anderson	Bertram	Day	Hottinger	Johnston
Beckman	Betzold	Dille	Johnson, D.E.	Kleis
Belanger	Chandler	Finn	Johnson, D.J.	Knutson
Berglin	Cohen	Flynn	Johnson, J.B.	Kramer

Krentz	Limmer	Olson	Riveness	Stevens
Kroening	Moe, R.D.	Ourada	Runbeck	Stumpf
Laidig	Morse	Pariseau	Sams	Terwilliger
Langseth	Murphy	Piper	Samuelson	Vickerman
Larson	Neuville	Pogemiller	Scheevel	Wiener
Lesewski	Novak	Ranum	Solon	
Lessard	Oliver	Reichgott Junge	Spear	

Those who voted in the negative were:

Berg	Hanson	Kiscaden	Merriam	Pappas
Frederickson	Janezich	Marty	Metzen	Robertson

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 512 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 512

A bill for an act relating to human services; licensing; administrative hearings; vulnerable adults reporting act; imposing criminal penalties; appropriating money; amending Minnesota Statutes 1994, sections 13.46, subdivision 4; 13.82, subdivision 10, and by adding subdivisions; 13.88; 13.99, subdivision 113; 144.4172, subdivision 8; 144.651, subdivisions 14 and 21; 144A.103, subdivision 1; 144A.612; 144B.13; 148B.68, subdivision 1; 214.10, subdivision 2a; 245A.04, subdivisions 3 and 3b; 253B.02, subdivision 4a; 256.045, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, and by adding a subdivision; 256E.03, subdivision 2; 256E.081, subdivision 4; 268.09, subdivision 1; 325F.692, subdivision 2; 525.703, subdivision 3; 609.224, subdivision 2; 609.268, subdivisions 1 and 2; 609.72, by adding a subdivision; 609.7495, subdivision 1; 626.556, subdivision 12; 626.557, subdivisions 1, 3, 3a, 4, 5, 6, 7, 8, 9, 10, 14, 16, 17, 18, and by adding subdivisions; and 631.40, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 144; 609; and 626; repealing Minnesota Statutes 1994, section 626.557, subdivisions 2, 10a, 11, 11a, 12, 13, 15, and 19.

May 18, 1995

The Honorable Allan H. Spear
President of the Senate

The Honorable Irv Anderson
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 512, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 512 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

VULNERABLE ADULTS ACT AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) ~~Except as defined in subdivision 2, paragraph (d), clause (1),~~ Verbal or physical aggression

occurring between patients, residents, or clients of a facility, or self-abusive behavior ~~of~~ by these persons does not constitute ~~"abuse" for the purposes of subdivision 3~~ abuse unless ~~it~~ the behavior causes serious harm. The operator of the facility or a designee shall record incidents of aggression and self-abusive behavior ~~in a manner that facilitates periodic~~ to facilitate review by licensing agencies and county and local welfare agencies.

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

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

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

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

Subd. 4. [~~REPORT~~ REPORTING.] A ~~person required to report under subdivision 3~~ mandated reporter shall immediately make an oral report ~~immediately by telephone or otherwise. A person required to report under subdivision 3 shall also make a report as soon as possible in writing to the appropriate police department, the county sheriff, local welfare agency, or appropriate licensing agency. The written report shall~~ to the common entry point. Use of a telecommunications device for the deaf or other similar device shall be considered an oral report. The common entry point may not require written reports. To the extent possible, the report must be of sufficient content to identify the vulnerable adult, the ~~caretaker~~ caregiver, the nature and extent of the suspected ~~abuse or neglect~~ maltreatment, any evidence of previous ~~abuse or neglect~~ maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected ~~abuse or neglect~~ maltreatment. ~~Written reports received by a police department or a county sheriff shall be forwarded immediately to the local welfare agency. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department shall be forwarded immediately to the local police department or the county sheriff and the appropriate licensing agency or agencies.~~ A mandated reporter may disclose not public data, as defined in section 13.02, and medical records under section 144.335, to the extent necessary to comply with this subdivision.

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

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

(b) A facility with an internal reporting procedure that receives an internal report by a mandated reporter shall give the mandated reporter a written notice stating whether the facility has reported the incident to the common entry point. The written notice must be provided within two working days and in a manner that protects the confidentiality of the reporter.

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

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

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

Subd. 5. [IMMUNITY; ~~FROM LIABILITY~~ PROTECTION FOR REPORTERS.] (a) A person

~~making a voluntary or mandated report under subdivision 3 or participating in an investigation under this section is immune from any civil or criminal liability that otherwise might result from the person's actions, if the person is acting in good faith~~ who makes a good faith report is immune from any civil or criminal liability that might otherwise result from making the report, or from participating in the investigation, or for failure to comply fully with the reporting obligation under section 609.234 or 626.557, subdivision 7.

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

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

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

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

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

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

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

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

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

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

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

Subd. 9. [~~MANDATORY REPORTING TO A MEDICAL EXAMINER OR CORONER~~ THE COMMON ENTRY POINT.] ~~A person required to report under the provisions of subdivision 3 who has reasonable cause to believe that a vulnerable adult has died as a direct or indirect result of abuse or neglect shall report that information to the appropriate medical examiner or coroner in addition to the local welfare agency, police department, or county sheriff or appropriate licensing agency or agencies. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff, the local welfare agency, and, if applicable, each licensing agency. A person or agency that receives a report under this subdivision concerning a vulnerable adult who was receiving services or treatment for mental illness, mental retardation or a related condition, chemical dependency, or emotional disturbance from an agency, facility, or program as defined in section 245.91, shall also report the information and findings to the ombudsman established under sections 245.91 to 245.97.~~

(a) Each county board shall designate a common entry point for reports of suspected maltreatment. Two or more county boards may jointly designate a single common entry point.

The common entry point is the unit responsible for receiving the report of suspected maltreatment under this section.

(b) The common entry point must be available 24 hours per day to take calls from reporters of suspected maltreatment.

The common entry point shall use a standard intake form that includes:

(1) the time and date of the report;

(2) the name, address, and telephone number of the person reporting;

(3) the time, date, and location of the incident;

(4) the names of the persons involved, including but not limited to, perpetrators, alleged victims, and witnesses;

(5) whether there was a risk of imminent danger to the alleged victim;

(6) a description of the suspected maltreatment;

(7) the disability, if any, of the alleged victim;

(8) the relationship of the alleged perpetrator to the alleged victim;

(9) whether a facility was involved and, if so, which agency licenses the facility;

(10) any action taken by the common entry point;

(11) whether law enforcement has been notified;

(12) whether the reporter wishes to receive notification of the initial and final reports; and

(13) if the report is from a facility with an internal reporting procedure, the name, mailing address, and telephone number of the person who initiated the report internally.

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

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 9b. [RESPONSE TO REPORTS.] Law enforcement is the primary agency to conduct investigations of any incident in which there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in subdivision 12b, paragraph (g). County adult protection shall initiate a response immediately. Each lead agency shall complete the investigative process for reports within its jurisdiction. Any other lead agency, county, adult protective agency, licensed facility, or law enforcement agency shall cooperate and may assist another agency upon request within the limits of its resources and expertise and shall exchange data to the extent authorized in subdivision 12b, paragraph (g). The lead agency shall obtain the results of any investigation conducted by law enforcement officials. The lead agency has the right to enter facilities and inspect and copy records as part of investigations. The lead agency has access to not public data, as defined in section 13.02, and medical records under section 144.335, that are maintained by facilities to the extent necessary to conduct its investigation. Each lead agency shall develop guidelines for prioritizing reports for investigation.

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

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

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

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

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

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

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

(d) The lead agency shall complete its final disposition within 60 calendar days. If the lead agency is unable to complete its final disposition within 60 calendar days, the lead agency shall notify the following persons provided that the notification will not endanger the vulnerable adult or hamper the investigation: (1) the vulnerable adult or the vulnerable adult's legal guardian, when known, if the lead agency knows them to be aware of the investigation and (2) the facility, where

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

(e) Within ten calendar days of completing the final disposition, the lead agency shall provide a copy of the public investigation memorandum under subdivision 12b, paragraph (b), clause (1), when required to be completed under this section, to the following persons: (1) the vulnerable adult, or the vulnerable adult's legal guardian, if known unless the lead agency knows that the notification would endanger the well-being of the vulnerable adult; (2) the reporter, if the reporter requested notification when making the report, provided this notification would not endanger the well-being of the vulnerable adult; (3) the alleged perpetrator, if known; (4) the facility; and (5) the ombudsman for older Minnesotans, or the ombudsman for mental health and mental retardation, as appropriate.

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

(g) The lead agency shall routinely provide investigation memoranda for substantiated reports to the appropriate licensing boards. These reports must include the names of substantiated perpetrators. The lead agency may not provide investigative memoranda for inconclusive or false reports to the appropriate licensing boards unless the lead agency's investigation gives reason to believe that there may have been a violation of the applicable professional practice laws. If the investigation memorandum is provided to a licensing board, the subject of the investigation memorandum shall be notified and receive a summary of the investigative findings.

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

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

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

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

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

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

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

Subd. 9e. [EDUCATION REQUIREMENTS.] (a) The commissioners of health, human services, and public safety shall cooperate in the development of a joint program for education of lead agency investigators in the appropriate techniques for investigation of complaints of maltreatment. This program must be developed by July 1, 1996. The program must include but

need not be limited to the following areas: (1) information collection and preservation; (2) analysis of facts; (3) levels of evidence; (4) conclusions based on evidence; (5) interviewing skills, including specialized training to interview people with unique needs; (6) report writing; (7) coordination and referral to other necessary agencies such as law enforcement and judicial agencies; (8) human relations and cultural diversity; (9) the dynamics of adult abuse and neglect within family systems and the appropriate methods for interviewing relatives in the course of the assessment or investigation; (10) the protective social services that are available to protect alleged victims from further abuse, neglect, or financial exploitation; (11) the methods by which lead agency investigators and law enforcement workers cooperate in conducting assessments and investigations in order to avoid duplication of efforts; and (12) data practices laws and procedures, including provisions for sharing data.

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

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

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

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

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

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

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

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

(b) ~~If the report indicates, or if the local welfare agency finds that the suspected abuse or neglect occurred at a facility, or while the vulnerable adult was or should have been under the care of or receiving services from a facility, or that the suspected abuse or neglect involved a person licensed by a licensing agency to provide care or services, the local welfare agency shall~~

~~immediately notify each appropriate licensing agency, and provide each licensing agency with a copy of the report and of its investigative findings.~~ County social service agencies may enter facilities and inspect and copy records as part of an investigation. The county social service agency has access to not public data, as defined in section 13.02, and medical records under section 144.335, that are maintained by facilities to the extent necessary to conduct its investigation. The inquiry is not limited to the written records of the facility, but may include every other available source of information.

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

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

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

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

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

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

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

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

Subd. 12b. [DATA MANAGEMENT.] (a) [COUNTY DATA.] In performing any of the duties of this section as a lead agency, the county social service agency shall maintain appropriate records. Data collected by the county social service agency under this section are welfare data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services are private data on individuals, as defined in section 13.02. The identity of the reporter may only be disclosed as provided in paragraph (c).

Data maintained by the common entry point are confidential data on individuals or protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the common entry point shall destroy data three calendar years after date of receipt.

(b) [LEAD AGENCY DATA.] The commissioner of health and the commissioner of human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. During an investigation by the commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic data as defined in section 13.02. Upon completion of the investigation, the data are classified as provided in clauses (1) to (3) and paragraph (c).

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

(i) the name of the facility investigated;

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

(iii) pertinent information obtained from medical or other records reviewed;

(iv) the identity of the investigator;

(v) a summary of the investigation's findings;

(vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;

(vii) a statement of any action taken by the facility;

(viii) a statement of any action taken by the lead agency; and

(ix) when a lead agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

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

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

(i) the name of the vulnerable adult;

(ii) the identity of the individual alleged to be the perpetrator;

(iii) the identity of the individual substantiated as the perpetrator; and

(iv) the identity of all individuals interviewed as part of the investigation.

(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

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

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

(1) data from reports determined to be false, two years after the finding was made;

(2) data from reports determined to be inconclusive, four years after the finding was made;

(3) data from reports determined to be substantiated, seven years after the finding was made; and

(4) data from reports which were not investigated by a lead agency and for which there is no final disposition, two years from the date of the report.

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

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

(g) [EXCHANGE OF INFORMATION.] Lead agencies, prosecuting authorities, and law enforcement agencies may exchange not public data, as defined in section 13.02, if the agency or authority requesting the data determines that the data are pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section.

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

(i) [NOTIFICATION OF OTHER AFFECTED PARTIES.] A lead agency may notify other affected parties and their authorized representative if the agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility.

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

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

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

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

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

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

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

~~(c) The commissioner of human services shall promulgate rules as necessary to implement the requirements of subdivision 10.~~

(c) By December 31, 1995, the commissioners of health, human services, and public safety shall develop criteria for the design of a statewide database utilizing data collected on the common intake form of the common entry point. The statewide database must be accessible to all entities

required to conduct investigations under this section, and must be accessible to ombudsman and advocacy programs.

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

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

Subd. 17. [RETALIATION PROHIBITED.] (a) A facility or person shall not retaliate against any person who reports in good faith suspected ~~abuse or neglect~~ maltreatment pursuant to this section, or against a vulnerable adult with respect to whom a report is made, because of the report.

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

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

(1) Discharge or transfer from the facility;

(2) Discharge from or termination of employment;

(3) Demotion or reduction in remuneration for services;

(4) Restriction or prohibition of access to the facility or its residents; or

(5) Any restriction of rights set forth in section 144.651.

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

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

Sec. 22. [626.5572] [DEFINITIONS.]

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

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

(a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of:

(1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224;

(2) the use of drugs to injure or facilitate crime as defined in section 609.235;

(3) the solicitation, inducement, and promotion of prostitution as defined in section 609.322; and

(4) criminal sexual conduct in the first through fifth degrees as defined in sections 609.342 to 609.3451.

A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction.

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

(1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult;

(2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening;

(3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult; and

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

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

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

(e) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C or 252A, or section 253B.03 or 525.539 to 525.6199, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation. This paragraph does not enlarge or diminish rights otherwise held under law by:

(1) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(2) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct.

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

(g) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:

(1) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(2) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or section 253B.03, or 525.539 to 525.6199, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult, or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; or

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

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in sexual contact with: (i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; or

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 23. [626.5573] [NEGLIGENCE ACTIONS.]

A violation of sections 626.557 to 626.5572 shall be admissible as evidence of negligence, but shall not be considered negligence per se.

Sec. 24. [REPEALER.]

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

Sec. 25. [EFFECTIVE DATE.]

Sections 15 and 19 are effective July 1, 1995. Sections 1 to 14, 16 to 18, and 20 to 24 are effective October 1, 1995.

ARTICLE 2

CRIMINAL PENALTIES

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

Subd. 2. [GROSS MISDEMEANOR.] (a) Whoever violates the provisions of subdivision 1 against the same victim during the time period between a previous conviction under this section, sections 609.221 to 609.2231, 609.342 to 609.345, or 609.713, or any similar law of another state, and the end of the five years following discharge from sentence for that conviction, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both. Whoever violates the provisions of subdivision 1 against a family or household member as defined in section 518B.01, subdivision 2, during the time period between a previous conviction under this section or sections 609.221 to 609.2231, 609.342 to 609.345, or 609.713 against a family or household member, and the end of the five years following discharge from sentence for that conviction is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(b) Whoever violates the provisions of subdivision 1 within two years of a previous conviction under this section or sections 609.221 to 609.2231 or 609.713 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

(c) A caregiver, as defined in section 609.232, who is an individual and who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Sec. 2. [609.232] [CRIMES AGAINST VULNERABLE ADULTS; DEFINITIONS.]

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

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

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

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

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

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

(1) a fiduciary obligation recognized elsewhere in law, including pertinent regulations;

(2) a contractual obligation; or

(3) documented consent by a competent person.

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

(1) abuse under section 609.2325;

(2) neglect under section 609.233; or

(3) financial exploitation under section 609.2335.

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

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

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

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

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

(1) is a resident inpatient of a facility;

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

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

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

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

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

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

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

This paragraph does not apply to therapeutic conduct.

(b) A caregiver, facility staff person, or person providing services in a facility who engages in

sexual contact or penetration, as defined in section 609.341, under circumstances other than those described in sections 609.342 to 609.345, with a resident, patient, or client of the facility is guilty of criminal abuse and may be sentenced as provided in subdivision 3.

Subd. 2. [EXEMPTIONS.] For the purposes of this section, a vulnerable adult is not abused for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or section 253B.03, or 525.539 to 525.6199, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct;

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

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with: (i) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

Subd. 3. [PENALTIES.] (a) A person who violates subdivision 1, paragraph (a), clause (1), may be sentenced as follows:

(1) if the act results in the death of a vulnerable adult, imprisonment for not more than 15 years or payment of a fine of not more than $30,000, or both;

(2) if the act results in great bodily harm, imprisonment for not more than ten years or payment of a fine of not more than $20,000, or both;

(3) if the act results in substantial bodily harm or the risk of death, imprisonment for not more than five years or payment of a fine of not more than $10,000, or both; or

(4) in other cases, imprisonment for not more than one year or payment of a fine of not more than $3,000, or both.

(b) A person who violates subdivision 1, paragraph (a), clause (2), or paragraph (b), may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Sec. 4. [609.233] [CRIMINAL NEGLECT.]

Subdivision 1. [CRIME.] A caregiver or operator who intentionally neglects a vulnerable adult or knowingly permits conditions to exist that result in the abuse or neglect of a vulnerable adult is guilty of a gross misdemeanor. For purposes of this section, "abuse" has the meaning given in section 626.5572, subdivision 2, and "neglect" means a failure to provide a vulnerable adult with necessary food, clothing, shelter, health care, or supervision.

Subd. 2. [EXEMPTIONS.] A vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the

vulnerable adult under sections 144.651, 144A.44, 253B.03, or 525.539 to 525.6199, or chapter 145B, 145C, or 252A, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct;

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

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with: (i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

Sec. 5. [609.2335] [FINANCIAL EXPLOITATION OF A VULNERABLE ADULT.]

Subdivision 1. [CRIME.] Whoever does any of the following acts commits the crime of financial exploitation:

(1) in breach of a fiduciary obligation recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section 144.6501 intentionally fails to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct, or supervision for the vulnerable adult; or

(2) in the absence of legal authority:

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

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

Subd. 2. [DEFENSES.] Nothing in this section requires a facility or caregiver to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.

Subd. 3. [CRIMINAL PENALTIES.] A person who violates subdivision 1, clause (1) or (2), item (i), may be sentenced as provided in section 609.52, subdivision 3. A person who violates subdivision 1, clause (2), item (ii), may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Sec. 6. [609.234] [FAILURE TO REPORT.]

Subdivision 1. [CRIME.] Any mandated reporter who is required to report under section 626.557, who knows or has reason to believe that a vulnerable adult is being or has been maltreated, as defined in section 626.5572, subdivision 15, and who does any of the following is guilty of a misdemeanor:

(1) intentionally fails to make a report;

(2) knowingly provides information which is false, deceptive, or misleading; or

(3) intentionally fails to provide all of the material circumstances surrounding the incident which are known to the reporter when the report is made.

Subd. 2. [INCREASED PENALTY.] It is a gross misdemeanor for a person who is mandated to report under section 626.557, who knows or has reason to believe that a vulnerable adult is being or has been maltreated, as defined in section 626.5572, subdivision 15, to intentionally fail to make a report if:

(1) the person knows the maltreatment caused or contributed to the death or great bodily harm of a vulnerable adult; and

(2) the failure to report causes or contributes to the death or great bodily harm of a vulnerable adult or protects the mandated reporter's interests.

Sec. 7. Minnesota Statutes 1994, section 609.72, is amended by adding a subdivision to read:

Subd. 3. [CAREGIVER; PENALTY FOR DISORDERLY CONDUCT.] A caregiver, as defined in section 609.232, who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than $3,000, or both.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective October 1, 1995, and apply to crimes committed on or after that date.

ARTICLE 3

OTHER LAWS AFFECTING VULNERABLE ADULTS

Section 1. Minnesota Statutes 1994, section 13.82, is amended by adding a subdivision to read:

Subd. 5c. [VULNERABLE ADULT IDENTITY DATA.] Active or inactive investigative data that identify a victim of vulnerable adult maltreatment under section 626.557 are private data on individuals. Active or inactive investigative data that identify a reporter of vulnerable adult maltreatment under section 626.557 are private data on individuals.

Sec. 2. Minnesota Statutes 1994, section 13.82, is amended by adding a subdivision to read:

Subd. 5d. [INACTIVE VULNERABLE ADULT MALTREATMENT DATA.] Investigative data that becomes inactive under subdivision 5, paragraph (a) or (b), and that relate to the alleged maltreatment of a vulnerable adult by a caregiver or facility are private data on individuals.

Sec. 3. Minnesota Statutes 1994, section 13.82, subdivision 10, is amended to read:

Subd. 10. [PROTECTION OF IDENTITIES.] A law enforcement agency or a law enforcement dispatching agency working under direction of a law enforcement agency may withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

(a) when access to the data would reveal the identity of an undercover law enforcement officer;

(b) when access to the data would reveal the identity of a victim of criminal sexual conduct or of a violation of section 617.246, subdivision 2;

(c) when access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant;

(d) when access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, and the agency reasonably determines that revealing the identity of the victim or witness would threaten the personal safety or property of the individual;

(e) when access to the data would reveal the identity of a deceased person whose body was unlawfully removed from a cemetery in which it was interred;

(f) when access to the data would reveal the identity of a person who placed a call to a 911 system or the identity or telephone number of a service subscriber whose phone is used to place a call to the 911 system and: (1) the agency determines that revealing the identity may threaten the personal safety or property of any person; or (2) the object of the call is to receive help in a mental health emergency. For the purposes of this paragraph, a voice recording of a call placed to the 911 system is deemed to reveal the identity of the caller; ~~or~~

(g) when access to the data would reveal the identity of a juvenile witness and the agency reasonably determines that the subject matter of the investigation justifies protecting the identity of the witness; or

(h) when access to the data would reveal the identity of a mandated reporter under sections 626.556 and 626.557.

Data concerning individuals whose identities are protected by this subdivision are private data about those individuals. Law enforcement agencies shall establish procedures to acquire the data and make the decisions necessary to protect the identity of individuals described in clauses (d) and (g).

Sec. 4. [144.057] [BACKGROUND STUDIES ON LICENSEES.]

Subdivision 1. [BACKGROUND STUDIES REQUIRED.] The commissioner of health shall contract with the commissioner of human services to conduct background studies of individuals providing services which have direct contact, as defined under section 245A.04, subdivision 3, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; residential care homes licensed under chapter 144B, and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.031. If a facility or program is licensed by the department of human services and subject to the background study provisions of chapter 245A and is also licensed by the department of health, the department of human services is solely responsible for the background studies of individuals in the jointly licensed programs.

Subd. 2. [RESPONSIBILITIES OF THE DEPARTMENT OF HUMAN SERVICES.] The department of human services shall conduct the background studies required by subdivision 1 in compliance with the provisions of chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. For the purpose of this section, the term "residential program" shall include all facilities described in subdivision 1. The department of human services shall provide necessary forms and instructions, shall conduct the necessary background studies of individuals, and shall provide notification of the results of the studies to the facilities, individuals, and the commissioner of health. Individuals shall be disqualified under the provisions of chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. If an individual is disqualified, the department of human services shall notify the facility and the individual and shall inform the individual of the right to request a reconsideration of the disqualification by submitting the request to the department of health.

Subd. 3. [RECONSIDERATIONS.] The commissioner of health shall review and decide reconsideration requests in accordance with the procedures and criteria contained in chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. The commissioner's decision shall be provided to the individual and to the department of human services. The commissioner's decision to grant or deny a reconsideration of disqualification is the final administrative agency action.

Subd. 4. [RESPONSIBILITIES OF FACILITIES.] Facilities described in subdivision 1 shall be responsible for cooperating with the departments in implementing the provisions of this section. The responsibilities imposed on applicants and licensees under chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090 shall apply to these facilities. The provision of section 245A.04, subdivision 3, paragraph (d) shall apply to applicants, licensees, or an individual's refusal to cooperate with the completion of the background studies.

Sec. 5. Minnesota Statutes 1994, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [STUDY OF THE APPLICANT.] (a) Before the commissioner issues a license, the

commissioner shall conduct a study of the individuals specified in clauses (1) to ~~(4)~~ (5) according to rules of the commissioner. The applicant, license holder, the bureau of criminal apprehension, the commissioner of health and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about abuse or neglect of adults in licensed programs substantiated under section 626.557 and the maltreatment of minors in licensed programs substantiated under section 626.556. The individuals to be studied shall include:

(1) the applicant;

(2) persons over the age of 13 living in the household where the licensed program will be provided;

(3) current employees or contractors of the applicant who will have direct contact with persons served by the program; ~~and~~

(4) volunteers who have direct contact with persons served by the program to provide program services, if the contact is not directly supervised by the individuals listed in clause (1) or (3); and

(5) any person who, as an individual or as a member of an organization, exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, and 256B.0625, subdivision 19.

The juvenile courts shall also help with the study by giving the commissioner existing juvenile court records on individuals described in clause (2) relating to delinquency proceedings held within either the five years immediately preceding the application or the five years immediately preceding the individual's 18th birthday, whichever time period is longer. The commissioner shall destroy juvenile records obtained pursuant to this subdivision when the subject of the records reaches age 23.

For purposes of this subdivision, "direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by a program. For purposes of this subdivision, "directly supervised" means an individual listed in clause (1) ~~or~~, (3), or (5) is within sight or hearing of a volunteer to the extent that the individual listed in clause (1) ~~or~~, (3), or (5) is capable at all times of intervening to protect the health and safety of the persons served by the program who have direct contact with the volunteer.

A study of an individual in clauses (1) to ~~(4)~~ (5) shall be conducted at least upon application for initial license and reapplication for a license. The commissioner is not required to conduct a study of an individual at the time of reapplication for a license, other than a family day care or foster care license, if (i) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder; (ii) the individual has been continuously affiliated with the license holder since the last study was conducted; and (iii) the procedure described in paragraph (b) has been implemented and was in effect continuously since the last study was conducted. No applicant, license holder, or individual who is the subject of the study shall pay any fees required to conduct the study.

(b) If an individual who is affiliated with a program or facility regulated by the department of human services or department of health is convicted of a crime constituting a disqualification under Minnesota Rules, parts 9543.3000 to 9543.3090, the probation officer or corrections agent shall notify the commissioner of the conviction. The commissioner, in consultation with the commissioner of corrections, shall develop forms and information necessary to implement this paragraph and shall provide the forms and information to the commissioner of corrections for distribution to local probation officers and corrections agents. The commissioner shall inform individuals subject to a background study that criminal convictions for disqualifying crimes will be reported to the commissioner by the corrections system. A probation officer, corrections agent, or corrections agency is not civilly or criminally liable for disclosing or failing to disclose the information required by this paragraph. This paragraph does not apply to family day care and foster care programs.

~~(b)~~ (c) The individual who is the subject of the study must provide the applicant or license holder with sufficient information to ensure an accurate study including the individual's first,

middle, and last name; home address, city, county, and state of residence; zip code; sex; date of birth; and driver's license number. The applicant or license holder shall provide this information about an individual in paragraph (a), clauses (1) to ~~(4)~~ (5), on forms prescribed by the commissioner. The commissioner may request additional information of the individual, which shall be optional for the individual to provide, such as the individual's social security number or race.

~~(c)~~ (d) Except for child foster care, adult foster care, and family day care homes, a study must include information from the county agency's record of substantiated abuse or neglect of adults in licensed programs, and the maltreatment of minors in licensed programs, information from juvenile courts as required in paragraph (a) for persons listed in paragraph (a), clause (2), and information from the bureau of criminal apprehension. For child foster care, adult foster care, and family day care homes, the study must include information from the county agency's record of substantiated abuse or neglect of adults, and the maltreatment of minors, information from juvenile courts as required in paragraph (a) for persons listed in paragraph (a), clause (2), and information from the bureau of criminal apprehension. The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, the commissioner of health, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or a national criminal record repository if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual listed in paragraph (a), clauses (1) to ~~(4)~~ (5).

~~(d)~~ (e) An applicant's or license holder's failure or refusal to cooperate with the commissioner is reasonable cause to deny an application or immediately suspend, suspend, or revoke a license. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended, suspended, or revoked.

~~(e)~~ (f) The commissioner shall not consider an application to be complete until all of the information required to be provided under this subdivision has been received.

~~(f)~~ (g) No person in paragraph (a), clause (1), (2), (3), ~~or~~ (4), or (5) who is disqualified as a result of this section may be retained by the agency in a position involving direct contact with persons served by the program.

~~(g)~~ (h) Termination of persons in paragraph (a), clause (1), (2), (3), ~~or~~ (4), or (5) made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.

~~(h)~~ (i) The commissioner may establish records to fulfill the requirements of this section.

~~(i)~~ (j) The commissioner may not disqualify an individual subject to a study under this section because that person has, or has had, a mental illness as defined in section 245.462, subdivision 20.

~~(j)~~ (k) An individual who is subject to an applicant background study under this section and whose disqualification in connection with a license would be subject to the limitations on reconsideration set forth in subdivision 3b, paragraph (c), shall be disqualified for conviction of the crimes specified in the manner specified in subdivision 3b, paragraph (c). The commissioner of human services shall amend Minnesota Rules, part 9543.3070, to conform to this section.

(l) An individual must be disqualified if it has been determined that the individual failed to make required reports under sections 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (1) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (2) the maltreatment was recurring or serious as defined in Minnesota Rules, part 9543.3020, subpart 10.

(m) An individual subject to disqualification under this subdivision has the applicable rights in subdivision 3a, 3b, or 3c.

Sec. 6. Minnesota Statutes 1994, section 256.045, subdivision 1, is amended to read:

Subdivision 1. [POWERS OF THE STATE AGENCY.] The commissioner of human services

may appoint one or more state human services referees to conduct hearings and recommend orders in accordance with subdivisions 3, 3a, 3b, 4a, and 5. Human services referees designated pursuant to this section may administer oaths and shall be under the control and supervision of the commissioner of human services and shall not be a part of the office of administrative hearings established pursuant to sections 14.48 to 14.56.

Sec. 7. Minnesota Statutes 1994, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance or a program of social services granted by the state agency or a county agency under sections 252.32, 256.031 to 256.036, and 256.72 to 256.879, chapters 256B, 256D, 256E, 261, or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; ~~or;~~ (2) any patient or relative aggrieved by an order of the commissioner under section 252.27~~, or~~; (3) a party aggrieved by a ruling of a prepaid health plan~~,~~; or (4) any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557. Individuals and organizations specified in this section may contest ~~that~~ the specified action ~~or~~, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action ~~or~~, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4) is the only administrative appeal to the final lead agency disposition specifically, including a challenge to the accuracy and completeness of data under section 13.04.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section.

An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan developed under section 256E.081, subdivision 3, if the county agency has met the requirements in section 256E.081.

Sec. 8. Minnesota Statutes 1994, section 256.045, is amended by adding a subdivision to read:

Subd. 3b. [STANDARD OF EVIDENCE FOR MALTREATMENT HEARINGS.] The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under section 626.557.

The state human services referee shall recommend an order to the commissioner of health or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapter 245A and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's findings as to whether maltreatment occurred is conclusive.

Sec. 9. Minnesota Statutes 1994, section 256.045, subdivision 4, is amended to read:

Subd. 4. [CONDUCT OF HEARINGS.] (a) All hearings held pursuant to subdivision 3, 3a, 3b, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. County agencies shall install equipment necessary to conduct telephone hearings. A state human services referee may schedule a telephone conference hearing when the distance or time required to travel to the county agency offices will cause a delay in the issuance of an order, or to

promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, ~~or~~ former recipient, person, or facility contesting maltreatment objects. The hearing shall not be held earlier than five days after filing of the required notice with the county or state agency. The state human services referee shall notify all interested persons of the time, date, and location of the hearing at least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, ~~or~~ former recipient, person, or facility contesting maltreatment shall have the opportunity to examine the contents of the case file and all documents and records to be used by the county agency at the hearing at a reasonable time before the date of the hearing and during the hearing. In cases alleging discharge for maltreatment, either party may subpoena the private data relating to the investigation memorandum prepared by the lead agency under section 626.557, provided the name of the reporter may not be disclosed.

(b) The private data must be subject to a protective order which prohibits its disclosure for any other purpose outside the hearing provided for in this section without prior order of the district court. Disclosure without court order is punishable by a sentence of not more than 90 days imprisonment or a fine of not more than $700, or both. These restrictions on the use of private data do not prohibit access to the data under section 13.03, subdivision 6. Upon request, the county agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal, except in appeals brought under subdivision 3b. All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3.

Sec. 10. Minnesota Statutes 1994, section 256.045, subdivision 5, is amended to read:

Subd. 5. [ORDERS OF THE COMMISSIONER OF HUMAN SERVICES.] This subdivision does not apply to appeals under subdivision 3b. A state human services referee shall conduct a hearing on the appeal and shall recommend an order to the commissioner of human services. The recommended order must be based on all relevant evidence and must not be limited to a review of the propriety of the state or county agency's action. A referee may take official notice of adjudicative facts. The commissioner of human services may accept the recommended order of a state human services referee and issue the order to the county agency and the applicant, recipient, former recipient, or prepaid health plan. The commissioner on refusing to accept the recommended order of the state human services referee, shall notify the county agency and the applicant, recipient, former recipient, or prepaid health plan of that fact and shall state reasons therefor and shall allow each party ten days' time to submit additional written argument on the matter. After the expiration of the ten-day period, the commissioner shall issue an order on the matter to the county agency and the applicant, recipient, former recipient, or prepaid health plan.

A party aggrieved by an order of the commissioner may appeal under subdivision 7, or request reconsideration by the commissioner within 30 days after the date the commissioner issues the order. The commissioner may reconsider an order upon request of any party or on the commissioner's own motion. A request for reconsideration does not stay implementation of the commissioner's order. Upon reconsideration, the commissioner may issue an amended order or an order affirming the original order.

Any order of the commissioner issued under this subdivision shall be conclusive upon the parties unless appeal is taken in the manner provided by subdivision 7. Any order of the commissioner is binding on the parties and must be implemented by the state agency or a county agency until the order is reversed by the district court, or unless the commissioner or a district court orders monthly assistance or aid or services paid or provided under subdivision 10.

Except for a prepaid health plan, a vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing or seek judicial review of an order issued under this section.

Sec. 11. Minnesota Statutes 1994, section 256.045, subdivision 6, is amended to read:

Subd. 6. [ADDITIONAL POWERS OF THE COMMISSIONER; SUBPOENAS.] (a) The commissioner of human services, or the commissioner of health for matters within the commissioner's jurisdiction under subdivision 3b, may initiate a review of any action or decision of a county agency and direct that the matter be presented to a state human services referee for a hearing held under subdivision 3, 3a, 3b, or 4a. In all matters dealing with human services committed by law to the discretion of the county agency, the commissioner's judgment may be substituted for that of the county agency. The commissioner may order an independent examination when appropriate.

(b) Any party to a hearing held pursuant to subdivision 3, 3a, 3b, or 4a may request that the commissioner issue a subpoena to compel the attendance of witnesses at the hearing. The issuance, service, and enforcement of subpoenas under this subdivision is governed by section 357.22 and the Minnesota Rules of Civil Procedure.

(c) The commissioner may issue a temporary order staying a proposed demission by a residential facility licensed under chapter 245A while an appeal by a recipient under subdivision 3 is pending or for the period of time necessary for the county agency to implement the commissioner's order.

Sec. 12. Minnesota Statutes 1994, section 256.045, subdivision 7, is amended to read:

Subd. 7. [JUDICIAL REVIEW.] Any party who is aggrieved by an order of the commissioner of human services, or the commissioner of health in appeals within the commissioner's jurisdiction under subdivision 3b, may appeal the order to the district court of the county responsible for furnishing assistance, or, in appeals under subdivision 3b, the county where the maltreatment occurred, by serving a written copy of a notice of appeal upon the commissioner and any adverse party of record within 30 days after the date the commissioner issued the order, the amended order, or order affirming the original order, and by filing the original notice and proof of service with the court administrator of the district court. Service may be made personally or by mail; service by mail is complete upon mailing; no filing fee shall be required by the court administrator in appeals taken pursuant to this subdivision, with the exception of appeals taken under subdivision 3b. The commissioner may elect to become a party to the proceedings in the district court. Except for appeals under subdivision 3b, any party may demand that the commissioner furnish all parties to the proceedings with a copy of the decision, and a transcript of any testimony, evidence, or other supporting papers from the hearing held before the human services referee, by serving a written demand upon the commissioner within 30 days after service of the notice of appeal. Any party aggrieved by the failure of an adverse party to obey an order issued by the commissioner under subdivision 5 may compel performance according to the order in the manner prescribed in sections 586.01 to 586.12.

Sec. 13. Minnesota Statutes 1994, section 256.045, subdivision 8, is amended to read:

Subd. 8. [HEARING.] Any party may obtain a hearing at a special term of the district court by serving a written notice of the time and place of the hearing at least ten days prior to the date of the hearing. Except for appeals under subdivision 3b, the court may consider the matter in or out of chambers, and shall take no new or additional evidence unless it determines that such evidence is necessary for a more equitable disposition of the appeal.

Sec. 14. Minnesota Statutes 1994, section 256.045, subdivision 9, is amended to read:

Subd. 9. [APPEAL.] Any party aggrieved by the order of the district court may appeal the order as in other civil cases. Except for appeals under subdivision 3b, no costs or disbursements shall be taxed against any party nor shall any filing fee or bond be required of any party.

Sec. 15. Minnesota Statutes 1994, section 268.09, subdivision 1, is amended to read:

Subdivision 1. [DISQUALIFYING CONDITIONS.] An individual separated from any employment under paragraph (a), (b), or (d) shall be disqualified for waiting week credit and benefits. For separations under paragraphs (a) and (b), the disqualification shall continue until four calendar weeks have elapsed following the individual's separation and the individual has earned eight times the individual's weekly benefit amount in insured work.

(a) [VOLUNTARY LEAVE.] The individual voluntarily and without good cause attributable to the employer discontinued employment with such employer. For the purpose of this paragraph, a separation from employment by reason of its temporary nature or for inability to pass a test or for inability to meet performance standards necessary for continuation of employment shall not be deemed voluntary.

A separation shall be for good cause attributable to the employer if it occurs as a consequence of sexual harassment. Sexual harassment means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other conduct or communication of a sexual nature when: (1) the employee's submission to such conduct or communication is made a term or condition of the employment, (2) the employee's submission to or rejection of such conduct or communication is the basis for decisions affecting employment, or (3) such conduct or communication has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment and the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

(b) [DISCHARGE FOR MISCONDUCT.] The individual was discharged for misconduct, not amounting to gross misconduct connected with work or for misconduct which interferes with and adversely affects employment.

(c) [EXCEPTIONS TO DISQUALIFICATION.] An individual shall not be disqualified under paragraphs (a) and (b) under any of the following conditions:

(1) the individual voluntarily discontinued employment to accept employment offering substantially better conditions or substantially higher wages or both;

(2) the individual is separated from employment due to personal, serious illness provided that such individual has made reasonable efforts to retain employment.

An individual who is separated from employment due to the individual's illness of chemical dependency which has been professionally diagnosed or for which the individual has voluntarily submitted to treatment and who fails to make consistent efforts to maintain the treatment the individual knows or has been professionally advised is necessary to control that illness has not made reasonable efforts to retain employment.

(3) the individual accepts work from a base period employer which involves a change in location of work so that said work would not have been deemed to be suitable work under the provisions of subdivision 2 and within a period of 13 weeks from the commencement of said work voluntarily discontinues employment due to reasons which would have caused the work to be unsuitable under the provision of said subdivision 2;

(4) the individual left employment because of reaching mandatory retirement age and was 65 years of age or older;

(5) the individual is terminated by the employer because the individual gave notice of intention to terminate employment within 30 days. This exception shall be effective only through the calendar week which includes the date of intended termination, provided that this exception shall not result in the payment of benefits for any week for which the individual receives the individual's normal wage or salary which is equal to or greater than the weekly benefit amount;

(6) the individual is separated from employment due to the completion of an apprenticeship program, or segment thereof, approved pursuant to chapter 178;

(7) the individual voluntarily leaves part-time employment with a base period employer while continuing full-time employment if the individual attempted to return to part-time employment after being separated from the full-time employment, and if substantially the same part-time employment with the base period employer was not available for the individual;

(8) the individual is separated from employment based solely on a provision in a collective bargaining agreement by which an individual has vested discretionary authority in another to act on behalf of the individual;

(9) except as provided in paragraph (d), separations from part-time employment will not be disqualifying when the claim is based on sufficient full-time employment to establish a valid claim from which the claimant has been separated for nondisqualifying reasons; or

(10) the individual accepts employment which represents a substantial departure from the individual's customary occupation and experience and would not be deemed suitable work as defined under subdivision 2, paragraphs (a) and (b), and within a period of 30 days from the commencement of that work voluntarily discontinues the employment due to reasons which would have caused the work to be unsuitable under the provisions of subdivision 2 or, if in commission sales, because of a failure to earn gross commissions averaging an amount equal to or in excess of the individual's weekly benefit amount. Other provisions notwithstanding, applying this provision precludes the use of these wage credits to clear a disqualification.

(d) [DISCHARGE FOR GROSS MISCONDUCT.] The individual was discharged for gross misconduct connected with work or gross misconduct which interferes with and adversely affects the individual's employment. For a separation under this clause, the commissioner shall impose a total disqualification for the benefit year and cancel all of the wage credits from the last employer from whom the individual was discharged for gross misconduct connected with work.

For the purpose of this paragraph "gross misconduct" is defined as misconduct involving assault and battery or the malicious destruction of property or arson or sabotage or embezzlement or any other act, including theft, the commission of which amounts to a felony or gross misdemeanor. For an employee of a ~~health care~~ facility, as defined in section 626.5572, gross misconduct also includes misconduct involving an act of patient or resident abuse, financial exploitation, or recurring or serious neglect, as defined in section ~~626.557, subdivision 2, clause (d)~~ 626.5572 and applicable rules.

If an individual is convicted of a felony or gross misdemeanor for the same act or acts of misconduct for which the individual was discharged, the misconduct is conclusively presumed to be gross misconduct if it was connected with the individual's work.

(e) [LIMITED OR NO CHARGE OF BENEFITS.] Benefits paid subsequent to an individual's separation under any of the foregoing paragraphs, excepting paragraphs (c)(3), (c)(5), and (c)(8), shall not be used as a factor in determining the future contribution rate of the employer from whose employment such individual separated.

Benefits paid subsequent to an individual's failure to accept an offer of suitable reemployment or to accept reemployment which offered substantially the same or better hourly wages and conditions of work as were previously provided by that employer, but was deemed unsuitable under subdivision 2, shall not be used as a factor in determining the future contribution rate of the employer whose offer of reemployment was not accepted or whose offer of reemployment was refused solely due to the distance of the available work from the individual's residence, the individual's own serious illness, the individual's other employment at the time of the offer, or if the individual is in training with the approval of the commissioner.

Benefits paid by another state as a result of Minnesota transferring wage credits under the federally required combined wage agreement shall not be directly charged to either the taxpaying or reimbursing employer.

(f) [ACTS OR OMISSIONS.] An individual who was employed by an employer shall not be disqualified for benefits under this subdivision for any acts or omissions occurring after separation from employment with the employer.

(g) [DISCIPLINARY SUSPENSIONS.] An individual shall be disqualified for waiting week credit and benefits for the duration of any disciplinary suspension of 30 days or less resulting from the individual's own misconduct. Disciplinary suspensions of more than 30 days shall constitute a discharge from employment.

Sec. 16. Minnesota Statutes 1994, section 631.40, is amended by adding a subdivision to read:

Subd. 3. [DEPARTMENT OF HUMAN SERVICES AND HEALTH LICENSEES.] When a person who is affiliated with a program or facility governed by the department of human services

or department of health is convicted of a disqualifying crime, the probation officer or corrections agent shall notify the commissioner of the conviction, as provided in section 245A.04, subdivision 3, paragraph (b).

Sec. 17. [REPORT.]

By January 15, 1997, the commissioner of human services shall report to the legislature on the implementation of the process for reporting convictions under Minnesota Statutes, section 245A.04, subdivision 3, paragraph (b). The report must include an analysis of any reduction in the cost of performing background studies resulting from implementing the process and any recommendations for modification of the fee increases in article 4, section 22, based on a reduction in costs.

Sec. 18. [APPLICATION.]

The provision of section 7 that eliminates certain challenges to the accuracy and completeness of data under Minnesota Statutes, section 13.04, does not apply if the individual initiated a challenge under Minnesota Statutes, section 13.04, before the effective date of section 7.

Sec. 19. [EFFECTIVE DATE.]

Sections 1 to 18 are effective October 1, 1995.

ARTICLE 4

CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 1994, section 13.46, subdivision 4, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

Sec. 2. Minnesota Statutes 1994, section 13.88, is amended to read:

13.88 [COMMUNITY DISPUTE RESOLUTION CENTER DATA.]

The guidelines shall provide that all files relating to a case in a community dispute resolution program are to be classified as private data on individuals, pursuant to section 13.02, subdivision 12, with the following exceptions:

(1) When a party to the case has been formally charged with a criminal offense, the data are to be classified as public data on individuals, pursuant to section 13.02, subdivision 15.

(2) Data relating to suspected neglect or physical or sexual abuse of children or maltreatment of vulnerable adults are to be subject to the reporting requirements of sections 626.556 and 626.557.

Sec. 3. Minnesota Statutes 1994, section 13.99, subdivision 113, is amended to read:

Subd. 113. [VULNERABLE ADULT REPORT RECORDS.] Data contained in vulnerable adult report records are classified under section 626.557, subdivision ~~12~~ 12b.

Sec. 4. Minnesota Statutes 1994, section 144.4172, subdivision 8, is amended to read:

Subd. 8. [HEALTH THREAT TO OTHERS.] "Health threat to others" means that a carrier demonstrates an inability or unwillingness to act in such a manner as to not place others at risk of exposure to infection that causes serious illness, serious disability, or death. It includes one or more of the following:

(1) with respect to an indirectly transmitted communicable disease:

(a) behavior by a carrier which has been demonstrated epidemiologically to transmit or which evidences a careless disregard for the transmission of the disease to others; or

(b) a substantial likelihood that a carrier will transmit a communicable disease to others as is evidenced by a carrier's past behavior, or by statements of a carrier that are credible indicators of a carrier's intention.

(2) With respect to a directly transmitted communicable disease:

(a) repeated behavior by a carrier which has been demonstrated epidemiologically to transmit or which evidences a careless disregard for the transmission of the disease to others;

(b) a substantial likelihood that a carrier will repeatedly transmit a communicable disease to others as is evidenced by a carrier's past behavior, or by statements of a carrier that are credible indicators of a carrier's intention;

(c) affirmative misrepresentation by a carrier of the carrier's status prior to engaging in any behavior which has been demonstrated epidemiologically to transmit the disease; or

(d) the activities referenced in clause (1) if the person whom the carrier places at risk is: (i) a minor, (ii) of diminished capacity by reason of mood altering chemicals, including alcohol, (iii) has been diagnosed as having significantly subaverage intellectual functioning, (iv) has an organic disorder of the brain or a psychiatric disorder of thought, mood, perception, orientation, or memory which substantially impairs judgment, behavior, reasoning, or understanding; (v) adjudicated as an incompetent; or (vi) a vulnerable adult as defined in section ~~626.557~~ 626.5572.

(3) Violation by a carrier of any part of a court order issued pursuant to this chapter.

Sec. 5. Minnesota Statutes 1994, section 144.651, subdivision 14, is amended to read:

Subd. 14. [FREEDOM FROM ~~ABUSE~~ MALTREATMENT.] Patients and residents shall be free from ~~mental and physical abuse~~ maltreatment as defined in the Vulnerable Adults Protection Act. ~~"Abuse" means any act which constitutes assault, sexual exploitation, or criminal sexual~~ "Maltreatment" means conduct ~~as~~ described in section ~~626.557, subdivision 2d~~ 626.5572, subdivision 15, or the intentional and nontherapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce mental or emotional distress. Every patient and resident shall also be free from nontherapeutic chemical and physical restraints, except in fully documented emergencies, or as authorized in writing after examination by a patient's or resident's physician for a specified and limited period of time, and only when necessary to protect the resident from self-injury or injury to others.

Sec. 6. Minnesota Statutes 1994, section 144.651, subdivision 21, is amended to read:

Subd. 21. [COMMUNICATION PRIVACY.] Patients and residents may associate and communicate privately with persons of their choice and enter and, except as provided by the Minnesota Commitment Act, leave the facility as they choose. Patients and residents shall have access, at their expense, to writing instruments, stationery, and postage. Personal mail shall be sent without interference and received unopened unless medically or programmatically contraindicated and documented by the physician in the medical record. There shall be access to a telephone where patients and residents can make and receive calls as well as speak privately. Facilities which are unable to provide a private area shall make reasonable arrangements to accommodate the privacy of patients' or residents' calls. Upon admission to a facility, a patient or resident, or the patient's or resident's legal guardian or conservator, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility, to callers or visitors who may seek to communicate with the patient or resident. This disclosure option must be made available in all cases where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors. To the extent possible, the legal guardian or conservator of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility. This right is limited where medically inadvisable, as documented by the attending physician in a patient's or resident's care record. Where programmatically limited by a facility abuse prevention plan pursuant to section 626.557, subdivision 14, ~~clause 2~~ paragraph (b), this right shall also be limited accordingly.

Sec. 7. Minnesota Statutes 1994, section 144A.103, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section, "abuse" and "neglect" have the meanings given in section ~~626.557, subdivision 2, paragraphs (d) and (e)~~ 626.5572, subdivisions 2 and 17.

Sec. 8. Minnesota Statutes 1994, section 144B.13, is amended to read:

144B.13 [FREEDOM FROM ~~ABUSE AND NEGLECT~~ MALTREATMENT.]

Residents shall be free from ~~abuse and neglect~~ maltreatment as defined in section ~~626.557, subdivision 2~~ 626.5572, subdivision 15. The commissioner shall by rule develop procedures for the reporting of alleged incidents of ~~abuse or neglect~~ maltreatment in residential care homes. The office of health facility complaints shall investigate reports of alleged ~~abuse or neglect~~ maltreatment according to sections 144A.51 to 144A.54.

Sec. 9. Minnesota Statutes 1994, section 148B.68, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED CONDUCT.] The commissioner may impose disciplinary

action as described in section 148B.69 against any unlicensed mental health practitioner. The following conduct is prohibited and is grounds for disciplinary action:

(a) Conviction of a crime, including a finding or verdict of guilt, an admission of guilt, or a no contest plea, in any court in Minnesota or any other jurisdiction in the United States, reasonably related to the provision of mental health services. Conviction, as used in this subdivision, includes a conviction of an offense which, if committed in this state, would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered.

(b) Conviction of crimes against persons. For purposes of this chapter, a crime against a person means violations of the following: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; 609.23; 609.231; 609.2325; 609.233; 609.2335; 609.235; 609.24; 609.245; 609.25; 609.255; 609.26, subdivision 1, clause (1) or (2); 609.265; 609.342; 609.343; 609.344; 609.345; 609.365; 609.498, subdivision 1; 609.50, clause (1); 609.561; 609.562; ~~and~~ 609.595; and 609.72, subdivision 3.

(c) Failure to comply with the self-reporting requirements of section 148B.63, subdivision 6.

(d) Engaging in sexual contact with a client or former client as defined in section 148A.01, or engaging in contact that may be reasonably interpreted by a client as sexual, or engaging in any verbal behavior that is seductive or sexually demeaning to the patient, or engaging in sexual exploitation of a client or former client.

(e) Advertising that is false, fraudulent, deceptive, or misleading.

(f) Conduct likely to deceive, defraud, or harm the public; or demonstrating a willful or careless disregard for the health, welfare, or safety of a client; or any other practice that may create unnecessary danger to any client's life, health, or safety, in any of which cases, proof of actual injury need not be established.

(g) Adjudication as mentally incompetent, or as a person who is dangerous to self, or adjudication pursuant to chapter 253B, as chemically dependent, mentally ill, mentally retarded, mentally ill and dangerous to the public, or as a sexual psychopathic personality or sexually dangerous person.

(h) Inability to provide mental health services with reasonable safety to clients.

(i) The habitual overindulgence in the use of or the dependence on intoxicating liquors.

(j) Improper or unauthorized personal or other use of any legend drugs as defined in chapter 151, any chemicals as defined in chapter 151, or any controlled substance as defined in chapter 152.

(k) Revealing a communication from, or relating to, a client except when otherwise required or permitted by law.

(l) Failure to comply with a client's request made under section 144.335, or to furnish a client record or report required by law.

(m) Splitting fees or promising to pay a portion of a fee to any other professional other than for services rendered by the other professional to the client.

(n) Engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws.

(o) Failure to make reports as required by section 148B.63, or cooperate with an investigation of the office.

(p) Obtaining money, property, or services from a client, other than reasonable fees for services provided to the client, through the use of undue influence, harassment, duress, deception, or fraud.

(q) Undertaking or continuing a professional relationship with a client in which the objectivity of the professional would be impaired.

(r) Failure to provide the client with a copy of the client bill of rights or violation of any provision of the client bill of rights.

(s) Violating any order issued by the commissioner.

(t) Failure to comply with sections 148B.60 to 148B.71, and the rules adopted under those sections.

(u) Failure to comply with any additional disciplinary grounds established by the commissioner by rule.

Sec. 10. Minnesota Statutes 1994, section 214.10, subdivision 2a, is amended to read:

Subd. 2a. [PROCEEDINGS.] A board shall initiate proceedings to suspend or revoke a license or shall refuse to renew a license of a person licensed by the board who is convicted in a court of competent jurisdiction of violating sections 609.224, subdivision 2, paragraph (c), 609.23, 609.231, 609.2325, 609.233, 609.2335, 609.234, 609.465, 609.466, 609.52, or ~~626.557~~ 609.72, subdivision 3.

Sec. 11. Minnesota Statutes 1994, section 245A.04, subdivision 3b, is amended to read:

Subd. 3b. [RECONSIDERATION OF DISQUALIFICATION.] (a) Within 30 days after receiving notice of disqualification under subdivision 3a, the individual who is the subject of the study may request reconsideration of the notice of disqualification. The individual must submit the request for reconsideration to the commissioner in writing. The individual must present information to show that:

(1) the information the commissioner relied upon is incorrect; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant or license holder.

(b) The commissioner may set aside the disqualification if the commissioner finds that the information the commissioner relied upon is incorrect or the individual does not pose a risk of harm to any person served by the applicant or license holder. The commissioner shall review the consequences of the event or events that could lead to disqualification, whether there is more than one disqualifying event, the vulnerability of the victim at the time of the event, the time elapsed without a repeat of the same or similar event, and documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event. In reviewing a disqualification, the commissioner shall give preeminent weight to the safety of each person to be served by the license holder or applicant over the interests of the license holder or applicant.

(c) Unless the information the commissioner relied on in disqualifying an individual is incorrect, the commissioner may not set aside the disqualification of an individual in connection with a license to provide family day care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home if:

(1) less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has been convicted of a violation of any offense listed in section 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), 609.21 (criminal vehicular homicide), 609.215 (aiding suicide or aiding attempted suicide), 609.221 to 609.2231 (felony violations of assault in the first, second, third, or fourth degree), 609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.561 or 609.562 (arson in the first or second degree), 609.71 (riot), 609.582 (burglary in the first or second degree), 609.66 (reckless use of a gun or dangerous weapon or intentionally pointing a gun at or towards a human being), 609.665 (setting a spring gun), 609.67 (unlawfully owning, possessing, or operating a machine gun), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult), 609.228 (great bodily harm caused by distribution of drugs), 609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients), 609.2325

(criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult), 609.2335 (financial exploitation of a vulnerable adult), 609.265 (abduction), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), 609.378 (neglect or endangerment of a child), 609.377 (a gross misdemeanor offense of malicious punishment of a child), 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state, the elements of which are substantially similar to the elements of any of the foregoing offenses;

(2) regardless of how much time has passed since the discharge of the sentence imposed for the offense, the individual was convicted of a violation of any offense listed in sections 609.185 to 609.195 (murder in the first, second, or third degree), 609.2661 to 609.2663 (murder of an unborn child in the first, second, or third degree), 609.377 (a felony offense of malicious punishment of a child), 609.322 (soliciting, inducement, or promotion of prostitution), 609.323 (receiving profit derived from prostitution), 609.342 to 609.345 (criminal sexual conduct in the first, second, third, or fourth degree), 609.352 (solicitation of children to engage in sexual conduct), 617.246 (use of minors in a sexual performance), 617.247 (possession of pictorial representations of a minor), 609.365 (incest), or an offense in any other state, the elements of which are substantially similar to any of the foregoing offenses;

(3) within the seven years preceding the study, the individual committed an act that constitutes maltreatment of a child under section 626.556, subdivision 10e, and that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(4) within the seven years preceding the study, the individual was determined under section 626.557 to be the perpetrator of a substantiated incident of abuse of a vulnerable adult that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

In the case of any ground for disqualification under clauses (1) to (4), if the act was committed by an individual other than the applicant or license holder residing in the applicant's or license holder's home, the applicant or license holder may seek reconsideration when the individual who committed the act no longer resides in the home.

The disqualification periods provided under clauses (1), (3), and (4) are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure because the license holder or applicant poses a risk of harm to a person served by that individual after the minimum disqualification period has passed.

(d) The commissioner shall respond in writing to all reconsideration requests within 15 working days after receiving the request for reconsideration. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing of the decision.

(e) Except as provided in subdivision 3c, the commissioner's decision to grant or deny a reconsideration of disqualification under this subdivision, or to set aside or uphold the results of the study under subdivision 3, is the final administrative agency action.

Sec. 12. Minnesota Statutes 1994, section 253B.02, subdivision 4a, is amended to read:

Subd. 4a. [CRIME AGAINST THE PERSON.] "Crime against the person" means a violation of or attempt to violate any of the following provisions: sections 609.185; 609.19; 609.195; 609.20; 609.205; 609.21; 609.215; 609.221; 609.222; 609.223; 609.224; 609.23; 609.231; 609.2325; 609.233; 609.2335; 609.235; 609.24; 609.245; 609.25; 609.255; 609.265; 609.27, subdivision 1, clause (1) or (2); 609.28 if violence or threats of violence were used; 609.322, subdivision 1, clause (2); 609.342; 609.343; 609.344; 609.345; 609.365; 609.498, subdivision 1; 609.50, clause (1); 609.561; 609.562; ~~and~~ 609.595; and 609.72, subdivision 3.

Sec. 13. Minnesota Statutes 1994, section 256E.03, subdivision 2, is amended to read:

Subd. 2. (a) "Community social services" means services provided or arranged for by county boards to fulfill the responsibilities prescribed in section 256E.08, subdivision 1, to the following groups of persons:

(1) families with children under age 18, who are experiencing child dependency, neglect or abuse, and also pregnant adolescents, adolescent parents under the age of 18, and their children;

(2) persons who are under the guardianship of the commissioner of human services as dependent and neglected wards;

(3) adults who are in need of protection and vulnerable as defined in section ~~626.557~~ 626.5572;

(4) persons age 60 and over who are experiencing difficulty living independently and are unable to provide for their own needs;

(5) emotionally disturbed children and adolescents, chronically and acutely mentally ill persons who are unable to provide for their own needs or to independently engage in ordinary community activities;

(6) persons with mental retardation as defined in section 252A.02, subdivision 2, or with related conditions as defined in section 252.27, subdivision 1a, who are unable to provide for their own needs or to independently engage in ordinary community activities;

(7) drug dependent and intoxicated persons as defined in section 254A.02, subdivisions 5 and 7, and persons at risk of harm to self or others due to the ingestion of alcohol or other drugs;

(8) parents whose income is at or below 70 percent of the state median income and who are in need of child care services in order to secure or retain employment or to obtain the training or education necessary to secure employment; and

(9) other groups of persons who, in the judgment of the county board, are in need of social services.

(b) Except as provided in section 256E.08, subdivision 5, community social services do not include public assistance programs known as aid to families with dependent children, Minnesota supplemental aid, medical assistance, general assistance, general assistance medical care, or community health services authorized by sections 145A.09 to 145A.13.

Sec. 14. Minnesota Statutes 1994, section 256E.081, subdivision 4, is amended to read:

Subd. 4. [DENIAL, REDUCTION, OR TERMINATION OF SERVICES.] (a) Before a county denies, reduces, or terminates services to an individual due to fiscal limitations, the county must meet the requirements in subdivisions 2 and 3, and document in the person's individual service plan:

(1) the person's service needs;

(2) the alternatives considered for meeting the person's service needs; and

(3) the actions that will be taken to prevent abuse or neglect as defined in sections 626.556, subdivision 2, paragraphs (a), (c), (d), and (k); and ~~626.557, subdivision 2, paragraphs (d) and (e)~~ maltreatment as defined in section 626.5572, subdivision 15.

(b) The county must notify the individual and the individual's guardian in writing of the reason for the denial, reduction, or termination of services and of the individual's right to an appeal under section 256.045.

(c) The county must inform the individual and the individual's guardian in writing that the county will, upon request, meet to discuss alternatives and amend the individual service plan before services are terminated or reduced.

Sec. 15. Minnesota Statutes 1994, section 325F.692, subdivision 2, is amended to read:

Subd. 2. [UNAUTHORIZED INFORMATION SERVICE CHARGES; LIABILITY.] A

telephone service subscriber is not responsible for information service charges for calls made by minors or ~~other~~ vulnerable adults as defined in section ~~626.557, subdivision 2, paragraph (b)~~ 626.5572, subdivision 2, unless expressly authorized by the subscriber or spouse.

Sec. 16. Minnesota Statutes 1994, section 525.703, subdivision 3, is amended to read:

Subd. 3. [GUARDIAN OR CONSERVATOR.] (a) When the court determines that a guardian or conservator of the person or the estate has rendered necessary services or has incurred necessary expenses for the benefit of the ward or conservatee, the court may order reimbursement or reasonable compensation to be paid from the estate of the ward or conservatee or from the county having jurisdiction over the guardianship or conservatorship if the ward or conservatee is indigent. The court may not deny an award of fees solely because the ward or conservatee is a recipient of medical assistance. In determining reasonable compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the board of county commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or conservatee. If these services are provided by a public or private agency, the county may contract on a fee for service basis with that agency.

(b) The court shall order reimbursement or reasonable compensation if the guardian or conservator requests payment and the guardian or conservator was nominated by the court or by the county adult protection unit because no suitable relative or other person was available to provide guardianship or conservatorship services necessary to prevent ~~abuse or neglect~~ maltreatment of a vulnerable adult, as defined in section ~~626.557~~ 626.5572, subdivision 15. In determining reasonable compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the board of county commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or conservatee. If these services are provided by a public or private agency, the county may contract on a fee for service basis with that agency.

(c) When a county employee serves as a guardian or conservator as part of employment duties, the court shall order reasonable compensation if the guardian or conservator performs necessary services that are not compensated by the county. The court may order reimbursement to the county from the ward's or conservatee's estate for reasonable compensation paid by the county for services rendered by a guardian or conservator who is a county employee but only if the county shows that after a diligent effort it was unable to arrange for an independent guardian or conservator.

Sec. 17. Minnesota Statutes 1994, section 609.268, subdivision 1, is amended to read:

Subdivision 1. [DEATH OF AN UNBORN CHILD.] Whoever, in the commission of a felony or in a violation of section 609.224, 609.23, ~~or~~ 609.231, 609.2325, or 609.233, causes the death of an unborn child is guilty of a felony and may be sentenced to imprisonment for not more than 15 years or to payment of a fine not more than $30,000, or both. As used in this subdivision, "felony" does not include a violation of sections 609.185 to 609.21, 609.221 to 609.2231, or 609.2661 to 609.2665.

Sec. 18. Minnesota Statutes 1994, section 609.268, subdivision 2, is amended to read:

Subd. 2. [INJURY TO AN UNBORN CHILD.] Whoever, in the commission of a felony or in a violation of section 609.23 ~~or~~, 609.231, 609.2325 or 609.233, causes great or substantial bodily harm to an unborn child who is subsequently born alive, is guilty of a felony and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both. As used in this subdivision, "felony" does not include a violation of sections 609.21, 609.221 to 609.2231, or 609.267 to 609.2672.

Sec. 19. Minnesota Statutes 1994, section 609.7495, subdivision 1, is amended to read:

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

(a) "Facility" means any of the following:

(1) a hospital or other health institution licensed under sections 144.50 to 144.56;

(2) a medical facility as defined in section 144.561;

(3) an agency, clinic, or office operated under the direction of or under contract with the commissioner of health or a community health board, as defined in section 145A.02;

(4) a facility providing counseling regarding options for medical services or recovery from an addiction;

(5) a facility providing emergency shelter services for battered women, as defined in section 611A.31, subdivision 3, or a facility providing transitional housing for battered women and their children;

(6) a residential care home or home as defined in section 144B.01, subdivision 5;

(7) a facility as defined in section 626.556, subdivision 2, paragraph (f);

(8) a facility as defined in section ~~626.557, subdivision 2, paragraph (a)~~ 626.5572, subdivision 6, where the services described in that paragraph are provided;

(9) a place to or from which ambulance service, as defined in section 144.801, is provided or sought to be provided; and

(10) a hospice program licensed under section 144A.48.

(b) "Aggrieved party" means a person whose access to or egress from a facility is obstructed in violation of subdivision 2, or the facility.

Sec. 20. Minnesota Statutes 1994, section 626.556, subdivision 12, is amended to read:

Subd. 12. [DUTIES OF FACILITY OPERATORS.] Any operator, employee, or volunteer worker at any facility who intentionally neglects, physically abuses, or sexually abuses any child in the care of that facility may be charged with a violation of section 609.255, 609.377, or 609.378. Any operator of a facility who knowingly permits conditions to exist which result in neglect, physical abuse, or sexual abuse of a child in the care of that facility may be charged with a violation of section ~~609.23 or~~ 609.378.

Sec. 21. [FEE INCREASE.]

To implement the requirements of the vulnerable adults act under Minnesota Statutes, section 626.557, the department of health shall increase licensing fees as follows:

(a) Licensing fees shall be increased above the level set by Laws 1995, chapter 207, article 9, section 4, if enacted, as follows: (1) nursing home, boarding care home and supervised living facility fees shall be increased by $20 per bed; (2) accredited hospital fees shall be increased to $3,015, the 1994 licensure fee; (3) nonaccredited hospital fees shall be increased to a $2,000 base fee and $100 per bed, the 1994 licensure fee; and (4) fees for outpatient surgical centers shall be increased by 25 percent to $646.

(b) Licensing fees for home care agencies as specified in the home care licensure rules shall be increased by 25 percent.

(c) Licensing fees for board and lodging establishments that are registered to provide supportive or health supervision services under Minnesota Statutes, section 157.031, shall be increased by $5 per bed.

Sec. 22. [REPEALER.]

Minnesota Statutes 1994, section 144A.612, is repealed.

Sec. 23. [EFFECTIVE DATE.]

Sections 1 to 20 and 22 are effective October 1, 1995.

Section 21 is effective July 1, 1995.

ARTICLE 5

APPROPRIATIONS

Section 1. [APPROPRIATION.]

Subdivision 1. The sums set forth in this section are appropriated from the state government special revenue fund to the agencies named in this section to implement articles 1 and 3 and is available for the fiscal year ending June 30 in the years indicated.

	1996	1997
Subd. 2. COMMISSIONER OF HEALTH	$1,043,000	$1,088,000
Subd. 3. COMMISSIONER OF HUMAN SERVICES	445,000	445,000
Subd. 4. ATTORNEY GENERAL	20,000	20,000
Subd. 5. COMMISSIONER OF PUBLIC SAFETY	14,000	7,000 "

Delete the title and insert:

"A bill for an act relating to human services; licensing; administrative hearings; vulnerable adults reporting act; imposing criminal penalties; increasing licensing fees for certain facilities; requiring reports of convictions to the commissioner in certain instances; requiring a report to the legislature; appropriating money; amending Minnesota Statutes 1994, sections 13.46, subdivision 4; 13.82, subdivision 10, and by adding subdivisions; 13.88; 13.99, subdivision 113; 144.4172, subdivision 8; 144.651, subdivisions 14 and 21; 144A.103, subdivision 1; 144B.13; 148B.68, subdivision 1; 214.10, subdivision 2a; 245A.04, subdivisions 3 and 3b; 253B.02, subdivision 4a; 256.045, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, and by adding a subdivision; 256E.03, subdivision 2; 256E.081, subdivision 4; 268.09, subdivision 1; 325F.692, subdivision 2; 525.703, subdivision 3; 609.224, subdivision 2; 609.268, subdivisions 1 and 2; 609.72, by adding a subdivision; 609.7495, subdivision 1; 626.556, subdivision 12; 626.557, subdivisions 1, 3, 3a, 4, 5, 6, 7, 8, 9, 10, 14, 16, 17, 18, and by adding subdivisions; and 631.40, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 144; 609; and 626; repealing Minnesota Statutes 1994, sections 144A.612; and 626.557, subdivisions 2, 10a, 11, 11a, 12, 13, 15, and 19."

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

Senate Conferees: (Signed) Allan H. Spear, Don Betzold, Sheila M. Kiscaden

House Conferees: (Signed) Lee Greenfield, Jim Farrell, Tim Pawlenty

Mr. Spear moved that the foregoing recommendations and Conference Committee Report on S.F. No. 512 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 512 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Chandler	Hanson	Kiscaden	Larson
Beckman	Cohen	Hottinger	Kleis	Lesewski
Belanger	Day	Janezich	Knutson	Lessard
Berg	Dille	Johnson, D.E.	Kramer	Limmer
Berglin	Finn	Johnson, D.J.	Krentz	Marty
Bertram	Flynn	Johnson, J.B.	Kroening	Merriam
Betzold	Frederickson	Johnston	Laidig	Metzen

Moe, R.D.	Olson	Ranum	Samuelson	Terwilliger
Morse	Ourada	Reichgott Junge	Scheevel	Vickerman
Murphy	Pappas	Riveness	Solon	Wiener
Neuville	Pariseau	Robertson	Spear	
Novak	Piper	Runbeck	Stevens	
Oliver	Pogemiller	Sams	Stumpf	

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

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1040:

H.F. No. 1040: A bill for an act relating to retirement; providing various benefit increases and related modifications; requiring collateralization and investment authority statement; amending Minnesota Statutes 1994, sections 3A.02, subdivision 5; 124.916, subdivision 3; 136.90; 352.01, subdivision 13; 352B.01, subdivision 2; 352B.02, subdivision 1a; 352B.08, subdivision 2; 352B.10, subdivision 1; 353.65, subdivision 7; 353.651, subdivision 4; 354.445; 354.66, subdivision 4; 354A.094, subdivision 4; 354A.12, subdivisions 1, 2, and by adding a subdivision; 354A.27, subdivision 1, and by adding subdivisions; 354A.31, subdivision 4, and by adding subdivisions; 354B.05, subdivisions 2 and 3; 354B.07, subdivisions 1 and 2; 354B.08, subdivision 2; 356.219, subdivision 2; 356.30, subdivision 1; 356.611; 356A.06, by adding subdivisions; 422A.05, by adding a subdivision; 422A.09, subdivision 2; and 422A.101, subdivision 1a; Laws 1994, chapter 499, section 2; proposing coding for new law in Minnesota Statutes, chapters 125; and 356; repealing Minnesota Statutes 1994, sections 3A.10, subdivision 2; 352.021, subdivision 5; and 354A.27, subdivisions 2, 3, and 4; Laws 1971, chapter 127, section 1, as amended.

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

Kahn; Jefferson; Johnson, R.; Bertram and Smith have been appointed as such committee on the part of the House.

House File No. 1040 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 19, 1995

Mr. Morse moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1040, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 1040: Messrs. Morse, Riveness, Pogemiller, Stevens and Terwilliger.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Stumpf moved that the following members be excused for a Conference Committee on H.F. No. 787 at various times during the day:

Messrs. Stumpf, Dille, Bertram, Stevens and Finn. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mses. Hanson and Olson introduced--

S.F. No. 1744: A bill for an act relating to family law; child support; providing for consideration of other children in setting or modifying a child support order; making the existence of other children a ground for modification of child support; amending Minnesota Statutes 1994, sections 518.551, subdivision 5; and 518.64, subdivision 2.

Referred to the Committee on Judiciary.

Messrs. Finn, Hottinger, Spear and Knutson introduced--

S.F. No. 1745: A bill for an act relating to wills; enacting the uniform statutory will act; proposing coding for new law as Minnesota Statutes, chapter 524A.

Referred to the Committee on Judiciary.

Messrs. Ourada, Kleis and Kramer introduced--

S.F. No. 1746: A bill for an act relating to the legislature; requiring rules of procedure to ensure equal representation; proposing an amendment to the Minnesota Constitution, article IV, section 7.

Referred to the Committee on Rules and Administration.

Mr. Finn introduced--

S.F. No. 1747: A bill for an act relating to commerce; establishing trust accounts for certain funds received by contractors or subcontractors for construction labor, services, or materials; amending Minnesota Statutes 1994, section 514.07.

Referred to the Committee on Judiciary.

Mr. Betzold introduced--

S.F. No. 1748: A bill for an act relating to real estate; making permanent the provision authorizing companies and agents to execute certificates of release of mortgage; repealing Laws 1994, chapter 447, section 2.

Referred to the Committee on Judiciary.

Ms. Runbeck, Messrs. Metzen, Oliver, Solon and Ms. Lesewski introduced--

S.F. No. 1749: A bill for an act relating to commerce; providing for economic impact statements on bills that regulate the activities of businesses in this state; proposing coding for new law in Minnesota Statutes, chapter 3.

Referred to the Committee on Commerce and Consumer Protection.

Messrs. Lessard and Dille introduced--

S.F. No. 1750: A bill for an act relating to public utilities; repealing a requirement that the public utilities commission determines certain environmental costs; repealing Minnesota Statutes 1994, section 216B.2422, subdivision 3.

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

MEMBERS EXCUSED

Mr. Price was excused from the Session of today. Mr. Sams was excused from the Session of today from 11:25 a.m. to 2:45 p.m. Mr Riveness was excused from the Session of today from 12:30 to 1:30 p.m. Mr. Lessard was excused form the Session of today from 1:00 to 1:30 p.m. Mr. Cohen was excused from the Session of today from 7:20 to 10:33 p.m. Ms. Ranum was excused from the Session of today from 7:30 to 7:40 p.m. Ms. Pappas was excused from the Session of today from 11:00 a.m. to 3:15 p.m. Mses. Wiener and Johnson, J.B. were excused from the Session of today from 10:00 to 10:30 p.m. Mr. Kelly was excused from the Session of today at 10:50 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 9:00 a.m., Monday, May 22, 1995. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate