STATE OF MINNESOTA

Journal of the Senate

SEVENTY-NINTH LEGISLATURE

ONE HUNDRED NINTH DAY

St. Paul, Minnesota, Friday, March 29, 1996

The Senate met at 10:00 a.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Bishop Mark Hanson.

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

March 27, 1996

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. 2342, 2275, 2471, 1981 and 2503.

Warmest regards,
Arne H. Carlson, Governor

March 27, 1996

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 1996 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 1996	Date Filed 1996
2342		377	11:15 a.m. March 27	March 27
2275		380	11:17 a.m. March 27	March 27
2471		382	11:27 a.m. March 27	March 27
1981		384	11:30 a.m. March 27	March 27
2503		385	11:32 a.m. March 27	March 27
	2841	386	11:35 a.m. March 27	March 27
	2163	387	11:35 a.m. March 27	March 27
	2385	388	11:45 a.m. March 27	March 27
2857		390	10:58 a.m. March 27	March 27

Sincerely,
Joan Anderson Growe
Secretary of State

March 28, 1996

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. 1996.

Warmest regards,
Arne H. Carlson, Governor

March 28, 1996

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 1996 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 1996	Date Filed 1996
	697	389	10:06 a.m. March 28	March 28
1996		391	10:20 a.m. March 28	March 28
	2127	392	10:08 a.m. March 28	March 28
	2298	394	10:15 a.m. March 28	March 28

Sincerely,
Joan Anderson Growe
Secretary of State

March 28, 1996

The Honorable Allan H. Spear
President of the Senate

Dear Sir:

It is my pleasure to enclose herewith the names of all notary commissions in the State of Minnesota issued between January 1, 1993 and December 31, 1995.

Pursuant to the provisions of Article V, Section 3, of the Minnesota Constitution, I hereby appoint these individuals as notaries public and hereby request the advice and consent of the Senate in those appointments.

Warmest regards,
Arne H. Carlson, Governor

Mr. Moe, R.D. moved that the appointments of notaries public be laid on the table. The motion prevailed.

March 28, 1996

The Honorable Allan H. Spear
President of the Senate

Dear President Spear:

I have vetoed and am returning Chapter 383, Senate File 2194, a bill that would change the method of allocation of wastewater charges.

It is unfortunate that the conference committee removed a critical provision requiring the Metropolitan Council to exercise discipline regarding the accumulation of cash-flow fund balances. Statute already requires this discipline of school districts and local units of government, and this provision should have remained in the bill.

In addition to this problem, the bill strips local units of government of their ability to specify sewer access charges within their jurisdiction. Instead of rates being set by a locally elected body, the power to determine charges is unilaterally granted to the Metropolitan Council.

Warmest regards,
Arne H. Carlson, Governor

Mr. Moe, R.D. moved that S.F. No. 2194 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, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 317: A bill for an act relating to cities; permitting cities to close certain unlawful businesses; proposing coding for new law in Minnesota Statutes, chapter 415.

Senate File No. 317 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 28, 1996

CONCURRENCE AND REPASSAGE

Mr. Betzold moved that the Senate concur in the amendments by the House to S.F. No. 317 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 317 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

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

S.F. No. 2381: A bill for an act relating to telecommunications; regulating intrastate interLATA telecommunications services; proposing coding for new law in Minnesota Statutes, chapter 237.

Senate File No. 2381 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 28, 1996

Mr. Johnson, D.J. moved that the Senate do not concur in the amendments by the House to S.F.

No. 2381, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

MOTIONS AND RESOLUTIONS

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

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bill was read the first time and referred to the committee indicated.

Ms. Berglin introduced--

S.F. No. 2887: A bill for an act relating to special transportation services; requiring the metropolitan council and the commissioner of human services to establish a task force on service coordination.

Referred to the Committee on Transportation and Public Transit.

MOTIONS AND RESOLUTIONS - CONTINUED

Messrs. Moe, R.D.; Johnson, D.E. and Janezich introduced--

Senate Resolution No. 131: A Senate resolution creating a task force on major league professional sports.

Referred to the Committee on Rules and Administration.

S.F. No. 1915 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1915

A bill for an act relating to commerce; changing the enforcement authority to the commissioner; providing continuing education and reporting requirements for certain licenses; regulating inspections of cosmetology salons and schools; regulating disclosures of information and data; regulating securities registrations and exemptions; regulating franchise registrations and definitions; modifying the definition of an aggrieved person for purposes of the real estate recovery fund; regulating cancellations of membership camping contracts; modifying the bond or insurance requirements for abstractors; regulating residential building contractors; regulating unclaimed properties and notaries public; requiring a study; removing a certain licensing exception; repealing an obsolete provision; regulating the repair of certain consumer goods; modifying agency disclosure requirements in real estate transactions; modifying licensing requirements; amending Minnesota Statutes 1994, sections 45.011, subdivision 1; 45.027, subdivision 7, and by adding subdivisions; 53A.081, subdivision 1; 60K.19, subdivisions 7, 8, and 10; 80A.05, subdivision 1; 80A.06, subdivision 3; 80A.09, by adding a subdivision; 80A.10, subdivision 4; 80A.11, by adding a subdivision; 80A.14, by adding subdivisions; 80A.15, subdivisions 2 and 3; 80C.01, by adding a subdivision; 80C.05, by adding a subdivision; 82.19, subdivision 5; 82.195, subdivision 2; 82.196, subdivisions 1 and 2; 82.197, subdivisions 1, 2, 3, and 4; 82.22, subdivision 13; 82A.11, by adding a subdivision; 82B.19, by adding a subdivision; 155A.08, subdivision 3; 155A.09, subdivision 7; 155A.095; 325F.56, subdivision 2; 326.37, by adding a subdivision; 326.87, by adding a subdivision; 326.91, by adding subdivisions; 326.991; 332.34; 345.41; 345.42; 345.43, by adding a subdivision; 345.515; 359.01, subdivisions 1 and 2; 359.02; and 359.061; Minnesota Statutes 1995 Supplement, sections 16A.6701, subdivision 1;

80A.15, subdivision 1; 82.20, subdivision 15; 82.34, subdivision 7; 83.26, subdivision 2; and 386.66; proposing coding for new law in Minnesota Statutes, chapters 45; and 332; repealing Minnesota Statutes 1994, sections 80A.14, subdivision 8; 326.95, subdivision 4; 326.97, subdivision 3; 326.99; and 345.43, subdivisions 1 and 2; Laws 1994, chapter 447, section 2.

March 28, 1996

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. 1915, 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. 1915 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL ENFORCEMENT

Section 1. Minnesota Statutes 1995 Supplement, section 16A.6701, subdivision 1, is amended to read:

Subdivision 1. [STATE LICENSE AND SERVICE FEES.] For purposes of section 16A.665, subdivision 3, and this section, the term "state license and service fees" means, and refers to, all license fees, service fees, and charges imposed by law and collected by any state officer, agency, or employee, which are listed below or which are defined as departmental earnings under section 16A.1285, subdivision 1, and the use of which is not otherwise restricted by law, and which are not required to be credited or transferred to a fund other than the general fund:

Minnesota Statutes 1994, sections 3.9221; 5.12; 5.14; 5.16; 5A.04; 6.58; 13.03, subdivision 10; 16A.155; 16A.48; 16A.54; 16A.72; 16B.59; 16B.70; 17A.04; 18.51, subdivision 2; 18.53; 18.54; 18C.551; 19.58; 19.64; 27.041, subdivision 2, clauses (d) and (e); 27.07, subdivision 5; 28A.08; 32.071; 32.075; 32.392; 35.71; 35.824; 35.95; 41C.12; 45.027, subdivisions 3 and 6; 46.041, subdivision 1; 46.131, subdivisions 2, 7, 8, 9, and 10; 47.101, subdivision 2; 47.54, subdivisions 1 and 4; 47.62, subdivision 4; 47.65; 48.475, subdivision 1; 48.61, subdivision 7; 48.93; 49.36, subdivision 1; 52.01; 52.203; 53.03, subdivisions 1, 5, and 6; 53.09, subdivision 1; 53A.03; 53A.05, subdivision 1; 53A.081, subdivision 3; 54.294, subdivision 1; 55.04, subdivision 2; 55.095; 56.02; 56.04; 56.10; 59A.03, subdivision 2; 59A.06, subdivision 3; 60A.14, subdivisions 1 and 2; 60A.23, subdivision 8; 60K.19, subdivision 5; 65B.48, subdivision 3; 70A.14, subdivision 4; 72B.04, subdivision 10; 79.251, subdivision 5; 80A.28, subdivisions 1, 2, 3, 4, 5, 6, 7, 7a, 8, and 9; 80C.04, subdivision 1; 80C.07; 80C.08, subdivision 1; 80C.16, subdivisions 2 and 3; 80C.18, subdivision 2; 82.20, subdivision 8 and 9; 82A.04, subdivision 1; 82A.08, subdivision 2; 82A.16, subdivisions 2 and 6; 82B.09, subdivision 1; 83.23, subdivisions 2, 3, and 4; 83.25, subdivisions 1 and 2; 83.26, subdivision 2; 83.30, subdivision 2; 83.31, subdivision 2; 83.38, subdivision 2; 85.052; 85.053; 85.055; 88.79, subdivision 2; 89.035; 89.21; 115.073; 115.77, subdivisions 1 and 2; 116.41, subdivision 2; 116C.69; 116C.712; 116J.9673; 125.08; 136C.04, subdivision 9; 155A.045; 155A.16; 168.27, subdivision 11; 168.33, subdivisions 3 and 7; 168.54; 168.67; 168.705; 168A.152; 168A.29; 169.345; 171.06, subdivision 2a; 171.29, subdivision 2; 176.102; 176.1351; 176.181, subdivision 2a; 177.30; 181A.12; 183.545; 183.57; 184.28; 184.29; 184A.09; 201.091, subdivision 5; 204B.11; 207A.02; 214.06; 216C.261; 221.0355; 239.101; 240.06; 240.07; 240.08; 240.09; 240.10; 246.51; 270.69, subdivision 2; 270A.07; 272.484; 296.06; 296.12; 296.17; 297.04; 297.33; 299C.46; 299C.62; 299K.09; 299K.095; 299L.07; 299M.04; 300.49; 318.02; 323.44, subdivision 3; 325D.415; 326.22; 326.3331; 326.47; 326.50; 326.92, subdivisions 1 and 3; 327.33; 331A.02; 332.15, subdivisions 2 and 3; 332.17; 332.22, subdivision 1; 332.33, subdivisions 3 and 4; 332.54, subdivision 7; 333.055; 333.20; 333.23; 336.9-413; 336A.04; 336A.05; 336A.09; 345.35; 345.43, subdivision ~~1~~ 2a; 345.44; 345.55, subdivision 3; 347.33;

349.151; 349.161; 349.162; 349.163; 349.164; 349.165; 349.166; 349.167; 357.08; 359.01, subdivision 3; 360.018; 360.63; 386.68; and 414.01, subdivision 11; Minnesota Statutes 1994, chapters 154; 216B; 237; 302A; 303; 308A; 317A; 322A; and 322B; Laws 1990, chapter 593; Laws 1993, chapter 254, section 7; and Laws 1994, chapter 573, section 4; Minnesota Rules, parts 1800.0500; 1950.1070; 2100.9300; 7515.0210; and 9545.2000 to 9545.2040.

Sec. 2. Minnesota Statutes 1994, section 45.011, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] As used in chapters 45 to 83, 155A, 309, 332, 345, and 359, and sections 326.83 to 326.98, and 386.61 to 386.78, unless the context indicates otherwise, the terms defined in this section have the meanings given them.

Sec. 3. [45.016] [SERVICE OF ORDERS OR OTHER PAPERS.]

Service of orders or other papers required or permitted to be issued by the commissioner related to the duties and responsibilities entrusted to the commissioner may be by any of the following methods:

(1) personal service consistent with requirements for service of a summons or process under section 303.13 or 543.19, or under rule 4.03 of the Minnesota Rules of Civil Procedure;

(2) first class United States mail, including certified United States mail, or overnight express mail service, postage prepaid and addressed to the party at the party's last known address. Service by United States mail, including certified mail, is complete upon placing the order or other paper in the mail or otherwise delivering the order or other paper to the United States mail service. Service by overnight express mail service is complete upon delivering the order or other document to an authorized agent of the express mail service; or

(3) any other method of service provided under the laws relating to duties and responsibilities entrusted to the commissioner.

Sec. 4. Minnesota Statutes 1994, section 45.027, subdivision 7, is amended to read:

Subd. 7. [ACTIONS AGAINST LICENSEES.] In addition to any other actions authorized by this section, the commissioner may, by order, deny, suspend, or revoke the authority or license of a person subject to the duties and responsibilities entrusted to the commissioner, as described under section 45.011, subdivision 4, or censure that person if the commissioner finds that:

(1) the order is in the public interest; and

(2) the person has violated any law, rule, or order related to the duties and responsibilities entrusted to the commissioner; or

(3) the person has provided false, misleading, or incomplete information to the commissioner or has refused to allow a reasonable inspection of records or premises; or

(4) the person has engaged in an act or practice, whether or not the act or practice directly involves the business for which the person is licensed or authorized, which demonstrates that the applicant or licensee is untrustworthy, financially irresponsible, or otherwise incompetent or unqualified to act under the authority or license granted by the commissioner.

Except for information classified as confidential under sections 60A.03, subdivision 9; 60A.031; 60A.93; and 60D.22, the commissioner may make any data otherwise classified as private or confidential pursuant to this section accessible to an appropriate person or agency if the commissioner determines that the access will aid the law enforcement process, promote public health or safety, or dispel widespread rumor or unrest. If the commissioner determines that private or confidential information should be disclosed, the commissioner shall notify the attorney general as to the information to be disclosed, the purpose of the disclosure, and the need for the disclosure. The attorney general shall review the commissioner's determination. If the attorney general believes that the commissioner's determination does not satisfy the purpose and intent of this provision, the attorney general shall advise the commissioner in writing that the information may not be disclosed. If the attorney general believes the commissioner's determination satisfies the

purpose and intent of this provision, the attorney general shall advise the commissioner in writing, accordingly.

After disclosing information pursuant to this provision, the commissioner shall advise the chairs of the senate and house of representatives judiciary committees of the disclosure and the basis for it.

Sec. 5. Minnesota Statutes 1994, section 45.027, is amended by adding a subdivision to read:

Subd. 12. [CONDITIONS OF RELICENSURE.] A revocation of a license prohibits the licensee from making a new application for a license for at least two years from the effective date of the revocation. The commissioner may, as a condition of reapplication, require the applicant to obtain a bond or comply with additional reasonable conditions of licensure the commissioner considers necessary to protect the public.

Sec. 6. Minnesota Statutes 1994, section 53A.081, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL REPORT.] On or before ~~March 1~~ April 30, a licensee shall file an annual report with the commissioner for the previous calendar year. The report must contain information that the commissioner may reasonably require concerning, and for the purpose of examining, the business and operations of each licensed currency exchange.

Sec. 7. Minnesota Statutes 1994, section 60K.19, subdivision 7, is amended to read:

Subd. 7. [CRITERIA FOR COURSE ACCREDITATION.] (a) The commissioner may accredit a course only to the extent it is designed to impart substantive and procedural knowledge of the insurance field. The burden of demonstrating that the course satisfies this requirement is on the individual or organization seeking accreditation. The commissioner shall approve any educational program approved by Minnesota Continuing Legal Education relating to the insurance field. The commissioner is authorized to establish a procedure for renewal of course accreditation.

(b) The commissioner shall approve or disapprove professional designation examinations that are recommended for approval by the advisory task force. In order for an agent to receive full continuing education credit for a professional designation examination, the agent must pass the examination. An agent may not receive credit for classroom instruction preparing for the professional designation examination and also receive continuing education credit for passing the professional designation examination.

(c) The commissioner may not accredit a course:

(1) that is designed to prepare students for a license examination;

(2) in mechanical office or business skills, including typing, speedreading, use of calculators, or other machines or equipment;

(3) in sales promotion, including meetings held in conjunction with the general business of the licensed agent;

(4) in motivation, the art of selling, psychology, or time management; or

(5) which can be completed by the student at home or outside the classroom without the supervision of an instructor approved by the department of commerce, except that home-study courses may be accredited by the commissioner if the student is a nonresident agent residing in a state which is not contiguous to Minnesota.

Sec. 8. Minnesota Statutes 1994, section 60K.19, subdivision 8, is amended to read:

Subd. 8. [MINIMUM EDUCATION REQUIREMENT.] Each person subject to this section shall complete a minimum of 30 credit hours of courses accredited by the commissioner during each 24-month licensing period after the expiration of his or her initial licensing period. At least 15 of the 30 credit hours must be completed during the first 12 months of the 24-month licensing period. Any person whose initial licensing period extends more than six months shall complete 15

hours of courses accredited by the commissioner during the initial license period. Any person teaching or lecturing at an accredited course qualifies for 1-1/2 times the number of credit hours that would be granted to a person completing the accredited course. No more than 15 credit hours per licensing period may be credited to a person for courses sponsored by, offered by, or affiliated with an insurance company or its agents. ~~Continuing education must be earned no later than September 30 of the renewal year.~~ Courses sponsored by, offered by, or affiliated with an insurance company or agent may restrict its students to agents of the company or agency.

Sec. 9. Minnesota Statutes 1994, section 60K.19, subdivision 10, is amended to read:

Subd. 10. [REPORTING.] (a) After completing the minimum education requirement, each person subject to this section shall file or cause to be filed a compliance report in accordance with the procedures adopted by the commissioner. The compliance report must not claim credit for continuing education not actually completed at the date of filing the report.

(b) An institution offering an accredited course shall comply with the procedure for reporting compliance adopted by the commissioner.

(c) If a person subject to this section completes a nonaccredited course, that person may submit a written report to the advisory committee accompanied by a fee of not more than $10 payable to the state of Minnesota for deposit in the general fund. This report must be accompanied by proof satisfactory to the commissioner that the person has completed the minimum education requirement for the annual period during which the nonaccredited course was completed. Upon the recommendation of the advisory committee that the course satisfies the criteria for course accreditation, the commissioner may approve the nonaccredited course and shall so inform the person. If the nonaccredited course is approved by the commissioner, it may be used to satisfy the minimum education requirement for the person's next annual compliance period.

Sec. 10. Minnesota Statutes 1995 Supplement, section 82.20, subdivision 15, is amended to read:

Subd. 15. [EXEMPTION.] The following persons, when acting as closing agents, are exempt from the requirements of sections 82.19 and 82.24 unless otherwise required in this section or chapter:

(1) a direct employee of a title insurance company authorized to do business in this state, or a direct employee of a title company, or a person who has an agency agreement with a title insurance company or a title company in which the agent agrees to perform closing services on the title insurance company's or title company's behalf and the title insurance company or title company assumes responsibility for the actions of the agent as if the agent were a direct employee of the title insurance company or title company;

(2) a licensed attorney or a direct employee of a licensed attorney;

(3) a licensed real estate broker or salesperson;

(4) a direct employee of a licensed real estate broker if the broker maintains all funds received in connection with the closing services in the broker's trust account; ~~and~~

(5) any bank, trust company, savings association, credit union, industrial loan and thrift company, regulated lender under chapter 56, public utility, or land mortgage or farm loan association organized under the laws of this state or the United States, when engaged in the transaction of businesses within the scope of its corporate powers as provided by law; and

(6) a title insurance company authorized to do business in this state or a title company which is the appointed agent of a title insurance company authorized to do business in this state.

Sec. 11. Minnesota Statutes 1995 Supplement, section 82.34, subdivision 7, is amended to read:

Subd. 7. When any aggrieved person obtains a final judgment in any court of competent jurisdiction regardless of whether the judgment has been discharged by a bankruptcy court against an individual licensed under this chapter, on grounds of fraudulent, deceptive, or dishonest

practices, or conversion of trust funds arising directly out of any transaction when the judgment debtor was licensed and performed acts for which a license is required under this chapter, or performed acts permitted by section 327B.04, subdivision 5, the aggrieved person may, upon the judgment becoming final, and upon termination of all proceedings, including reviews and appeals, file a verified application in the court in which the judgment was entered. The application shall state with specificity the grounds upon which the application seeks to recover from the fund, and request an order directing payment out of the fund of the amount of actual and direct out of pocket loss in the transaction, but excluding any attorney's fees, interest on the loss and on any judgment obtained as a result of the loss, up to the sum of $150,000 of the amount unpaid upon the judgment, provided that nothing in this chapter shall be construed to obligate the fund for more than $150,000 per claimant, per transaction, subject to the limitations set forth in subdivision 14, regardless of the number of persons aggrieved or parcels of real estate involved in the transaction, provided that regardless of the number of claims against a licensee, nothing in this chapter may obligate the fund for more than $250,000 per licensee. An aggrieved person who has a cause of action under section 80A.23 shall first seek recovery as provided in section 80A.05, subdivision 5, before the commissioner may order payment from the recovery fund. For purposes of this section, persons who are joint tenants or tenants in common are deemed to be a single claimant. A copy of the verified application shall be served upon the commissioner and upon the judgment debtor, and a certificate or affidavit of service filed with the court. For the purpose of this section, "aggrieved person" ~~shall~~ does not include a government agency, financial institution, or other entity that purchases, guarantees, or insures a loan secured by real estate, and does not include a licensee unless (1) the licensee is acting in the capacity of principal in the sale of interests in real property owned by the licensee; or (2) the licensee is acting in the capacity of principal in the purchase of interests in real property to be owned by the licensee. Under no circumstances shall a licensee be entitled to payment under this section for the loss of a commission or similar fee.

For the purposes of this section, recovery is limited to transactions where the property involved is intended for the direct personal habitation or commercial use of the buyer.

Except for securities permitted to be sold by a licensee pursuant to section 82.19, subdivision 7, for any action commenced after July 1, 1993, recovery under this section is not available where the buyer's participation is for investment purposes only, and is limited to providing capital to fund the transaction.

Sec. 12. Minnesota Statutes 1995 Supplement, section 83.26, subdivision 2, is amended to read:

Subd. 2. [GENERALLY; TRANSACTIONS.] Unless the method of offer or sale is adopted for the purpose of evasion of sections 83.20 to 83.42, 83.43 and 83.44, the following transactions are exempt from sections 83.23, 83.24, 83.25, 83.28, 83.29, and 83.30:

(a) the offer or sale of an interest in subdivided land by an owner, other than the subdivider, acting as principal in a single or isolated transaction;

(b) the offer or sale of all of the subdivided lands within a subdivision in a single transaction to any person;

(c) the offer or sale of subdivided land pursuant to an order of competent jurisdiction, other than a court of bankruptcy;

(d) the offer or sale of subdivided land consisting of not more than ten separate lots, units, parcels, or interests in the aggregate, provided that no subdivider may make an offer or sale of subdivided land pursuant to this exemption more than once during any period of 12 consecutive months;

(e) the offer or sale of subdivided lands which have been registered under section 83.23, subdivision 2, if there are no more than ten separate lots, units, parcels, or interests remaining to be sold and no material change has occurred in the information on file with the commissioner;

(f) the offer and sale of subdivided land located within the corporate limits of a municipality as defined in section 462.352, subdivision 2, which municipality has adopted subdivision regulations as defined in section 462.352, except those lands described in section 83.20, subdivision 13;

(g) the offer and sale of apartments or condominium units as defined in chapters 515 and 515A, and units in common interest communities as defined in chapter 515B;

(h) the offer and sale of subdivided lands used primarily for agricultural purposes provided each parcel is at least ten acres in size;

(i) the offer or sale of improved lots if:

(1) the subdivider has filed with the commissioner, no later than ten business days prior to the date of the first sale, a written notice of its intention to offer or sell improved lots, which notice shall be accompanied by a fee of $50, together with a copy of the public offering statement accepted by the situs state and the standard purchase agreement which documents are required to be supplied by the subdivider to the purchaser; and

(2) the subdivider deposits all downpayments in an escrow account until all obligations of the subdivider to the purchaser, which are pursuant to the terms of the purchase agreement to be performed prior to the closing, have been performed. The subdivider shall provide the purchaser with a purchase receipt for the downpayment paid, a copy of the escrow agreement and the name, address, and telephone number of the escrow agent. The escrow agent shall be a bank located in Minnesota. All downpayments shall be deposited in the escrow account within two business days after receipt; and

(j) the offer of sale of subdivided lands by a subdivider that has been granted an exemption from registration by the federal Department of Housing and Urban Development under the multiple site subdivision exemption, if the subdivider provides a written notice of the offer of sale to the commissioner before any offers or sale commence.

The written notice must include the name of the subdivision, the county and state in which the subdivision is located, and the number of lots in the subdivision, and a notarized affidavit that all proposed improvements have been completed and the costs of all the improvements have been fully paid, or that the cost of any uncompleted road construction or survey expenses are covered by a bond or escrow account payable to the entities responsible for providing or completing the roads or surveys. The escrow account must be with an independent escrow agent.

The subdivider must also provide to the commissioner a copy of the federal Housing and Urban Development exemption order and the most recent annual confirmation letter which indicates that the order is still in effect.

If the closing services are provided by the subdivider or an affiliate of the subdivider, purchasers must manually initial in the Housing and Urban Development Lot Information Statement both the disclosure on all the liens, reservations, taxes, assessments, easements, and restrictions applicable to the lot purchased and the disclosure on the risks of not obtaining clear title.

The commissioner may, by rule or order, suspend, revoke, or further condition the exemptions contained in clauses (f), (g), (h), (i), and (j), or may require such further information as may be necessary for the protection of purchasers.

The commissioner may by rule or order suspend, revoke, or further condition the exemptions contained in clauses (f), (g), (h), and (i) or may require such further information as may be necessary for the protection of purchasers.

The rulemaking authority in this subdivision does not include emergency rulemaking authority pursuant to chapter 14.

Sec. 13. Minnesota Statutes 1994, section 155A.08, subdivision 3, is amended to read:

Subd. 3. [HEALTH AND SANITARY STANDARDS.] Minimum health and sanitary standards for the operation of a salon shall be established by rule. A salon shall not be located in a room used for residential purposes. If a salon is in the residence of a person practicing cosmetology, the rooms used for the practice of cosmetology shall be completely partitioned off from the living quarters. ~~There shall be an inspection at least annually~~ The salon may be inspected as often as the commissioner considers necessary to affirm compliance.

Sec. 14. Minnesota Statutes 1994, section 155A.09, subdivision 7, is amended to read:

Subd. 7. [INSPECTIONS.] All schools ~~shall~~ may be inspected ~~at least once a year~~ as often as the commissioner considers necessary to affirm compliance. The commissioner shall have the authority to assess the cost of the inspection to the school.

Sec. 15. Minnesota Statutes 1994, section 155A.095, is amended to read:

155A.095 [INSPECTIONS.]

The commissioner is responsible for inspecting salons and schools licensed pursuant to this chapter to assure compliance with the requirements of this chapter. The commissioner shall direct department resources first to the inspection of those licensees who fail to meet the requirements of law, have indicated that they present a greater risk to the public, or have otherwise, in the opinion of the commissioner, demonstrated that they require a greater degree of regulatory attention. ~~In no event shall a salon or school be inspected less often than once each year.~~

Sec. 16. Minnesota Statutes 1994, section 332.34, is amended to read:

332.34 [BOND.]

The commissioner of commerce shall require each collection agency licensee to annually file and maintain in force a corporate surety bond, in a form to be prescribed by, and acceptable to, the commissioner, and in the sum of $20,000. An applicant for a new or renewal license may request that the amount of the bond be reduced to an amount not less than $5,000. This request may be granted upon a showing that the total dollar amount received from debtors by the collection agency in the preceding fiscal year did not exceed $30,000. A collection agency may deposit cash in and with a depository acceptable to the commissioner in an amount and in the manner prescribed and approved by the commissioner in lieu of a bond.

Sec. 17. [332.395] [COMMISSIONER'S POWER OVER INEFFECTIVE LICENSES.]

If a license lapses, is surrendered, withdrawn, terminated, or otherwise becomes ineffective, the commissioner of commerce may do either or both of the following: (1) institute a proceeding under section 45.027 within two years after the license was last effective and enter a revocation or suspension order as of the last date on which the license was in effect; (2) impose a civil penalty as provided for in section 45.027, subdivision 6.

Sec. 18. Minnesota Statutes 1994, section 345.41, is amended to read:

345.41 [REPORT OF ABANDONED PROPERTY.]

(a) Every person holding funds or other property, tangible or intangible, presumed abandoned under sections 345.31 to 345.60 shall report annually to the commissioner with respect to the property as hereinafter provided.

(b) The report shall be verified and shall include:

(1) except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of $100 or more presumed abandoned under sections 345.31 to 345.60;

(2) in case of unclaimed funds of life insurance corporations, the full name of the policyholder, insured or annuitant and that person's last known address according to the life insurance corporation's records;

(3) the nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under $100 each may be reported in aggregate;

(4) the date when the property became payable, demandable or returnable, and the date of the last transaction with the owner with respect to the property; and

(5) other information which the commissioner prescribes by rule as necessary for the administration of sections 345.31 to 345.60.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed a name while holding the property, the holder shall file with the report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations shall be filed before October 1 of each year as of December 31 next preceding. The commissioner may postpone the reporting date upon written request by any person required to file a report.

(e) ~~If the holder of property presumed abandoned under sections 345.31 to 345.60 knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, inform the owner of the steps necessary to prevent abandonment from being presumed.~~ Not more than 120 days before filing the report required by this section, the holder in possession of property abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the presumed owner at that owner's last known address informing the owner that the holder is in possession of property subject to this chapter and advising the owner of the steps necessary to prevent abandonment if:

(1) the holder has in its records an address for the presumed owner that the holder's records do not disclose to be inaccurate;

(2) the claim of the apparent owner is not barred by the statute of limitations; and

(3) the property has a value of $100 or more.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer, and if made by a public corporation, by its chief fiscal officer.

(g) Holders of property described in section 345.32 shall not impose any charges against property which is described in section 345.32, clause (a), (b) or (c).

(h) Any person who has possession of property which the person has reason to believe will be reportable in the future as unclaimed property may, with the permission of the commissioner, report and deliver such property prior to the date required for reporting in accordance with this section.

Sec. 19. Minnesota Statutes 1994, section 345.42, is amended to read:

345.42 [NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY.]

Subdivision 1. ~~On or before April 1 of each year~~ Within the calendar year next following the year in which abandoned property has been paid or delivered to the commissioner, the commissioner shall cause notice to be published at least once but not more than twice in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has a principal place of business within this state.

Subd. 2. The published notice shall be entitled "notice of names of persons appearing to be owners of abandoned property," and shall contain:

(a) the names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified;

(b) a statement ~~that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the commissioner~~ explaining that property of the owner has

been presumed to be abandoned and has been taken into the protective custody of the commissioner; and

(c) a statement that ~~if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within 65 days from the date of the second published notice, the abandoned property will be placed not later than 85 days after such publication date in the custody of the commissioner to whom all further claims must thereafter be directed~~ information about the abandoned property and its return to the apparent owner may be obtained at any time by a person having a legal or beneficial interest in that property by making an inquiry to the commissioner.

The commissioner is not required to publish in such notice any item of less than $100 unless the commissioner deems such publication to be in the public interest.

Subd. 3. ~~On or before April 1 of each year~~ Within the calendar year next following the year in which abandoned property has been paid or delivered to the commissioner, the commissioner may mail a notice to each person having an address listed therein who appears to be entitled to property of the value of $100 or more presumed abandoned under sections 345.31 to 345.60. Said notice shall contain:

(a) a statement that, according to a report filed with the commissioner, property is being held to which the addressee appears entitled;

(b) ~~the name and address of the person holding the property and any necessary information regarding changes of name and address of the holder~~ a statement explaining that property of the owner has been presumed to be abandoned and has been taken into the protective custody of the commissioner; and

(c) a statement that~~, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the commissioner to whom all further claims must be directed~~ information about the abandoned property and its return to the apparent owner may be obtained at any time by a person having a legal or beneficial interest in that property by making an inquiry to the commissioner.

Subd. 4. This section is not applicable to sums payable on traveler's checks or money orders presumed abandoned under section 345.32.

Sec. 20. Minnesota Statutes 1994, section 345.43, is amended by adding a subdivision to read:

Subd. 2a. [HOLDER'S OBLIGATIONS.] At the time of the filing of the report required under section 345.41 and with that report, the holder reporting property presumed abandoned and subject to custody as unclaimed property shall pay or deliver to the commissioner all of the property shown on the report and remaining unclaimed by the apparent owner.

Upon written request showing good cause, the commissioner may postpone the payment or delivery upon the terms or conditions the commissioner considers necessary and appropriate.

The property paid or delivered to the commissioner shall include all interest, dividends, increments, and accretions due, payable, or distributable on the property on November 1, or October 1 for a life insurance company. If payment or delivery is postponed, the property paid or delivered to the commissioner shall include accretions due, payable, or distributable on the day that the property is paid or delivered to the commissioner.

Sec. 21. Minnesota Statutes 1994, section 345.515, is amended to read:

345.515 [AGREEMENTS TO LOCATE REPORTED PROPERTY.]

It is unlawful for a person to seek or receive from another person or contract with a person for a fee or compensation for locating property knowing it to have been reported or paid or delivered to the commissioner pursuant to chapter 345 prior to seven months after the date of ~~delivery of the property by the holder to~~ published notice by the commissioner as required by section ~~345.43~~ 345.42.

No agreement entered into after seven months from the date of ~~delivery of the property by the holder to~~ published notice by the commissioner is valid if a person thereby undertakes to locate property included in a report for a fee or other compensation exceeding ten percent of the value of the recoverable property unless the agreement is in writing and signed by the owner and discloses the nature and value of the property and the name and address of the holder thereof as such facts have been reported. Nothing in this section shall be construed to prevent an owner from asserting at any time that an agreement to locate property is based upon an excessive or unjust consideration.

Sec. 22. Minnesota Statutes 1994, section 359.01, subdivision 1, is amended to read:

Subdivision 1. [RESIDENT NOTARIES.] The governor may appoint and commission as notaries public, by and with the advice and consent of the senate, as many citizens of this state or resident aliens, over the age of 18 years, as the governor considers necessary. The commissioner of commerce shall perform all duties necessary to appoint and commission notaries public under this section on the governor's behalf.

Sec. 23. Minnesota Statutes 1994, section 359.01, subdivision 2, is amended to read:

Subd. 2. [NONRESIDENT NOTARIES.] ~~Notwithstanding the provisions of subdivision 1,~~ The governor ~~may appoint as notary public~~ or the commissioner of commerce, acting on the governor's behalf, by and with the advice and consent of the senate, may appoint as notary public a person who is not a resident of this state if:

(1) the person is a resident of Wisconsin, Iowa, North Dakota, or South Dakota, and of a county that shares a boundary with this state;

(2) the person designates the commissioner as agent for the service of process for all purposes relating to notarial acts and for receipt of all correspondence relating to notarial acts.

Sec. 24. Minnesota Statutes 1994, section 359.02, is amended to read:

359.02 [TERM.]

A notary commissioned under section 359.01 holds office for five years, unless sooner removed by the governor or the district court, or by action of the commissioner. Within 30 days before the expiration of the commission a notary may be reappointed for a new term to commence and to be designated in the new commission as beginning upon the day immediately following the date of the expiration. The reappointment takes effect and is valid although the appointing governor may not be in the office of governor on the effective day.

(a) All notary commissions issued before January 31, 1995, will expire on January 31, 1995.

(b) All notary commissions issued after January 31, 1995, will expire at the end of the licensing period, which will end every fifth year following January 31, 1995.

(c) All notary commissions issued during a licensing period expire at the end of that period as set forth in this section.

Sec. 25. Minnesota Statutes 1994, section 359.061, is amended to read:

359.061 [RECORD OF COMMISSION; CERTIFICATE.]

The commission of every notary shall be recorded in the office of the court administrator of the district court of the notary's county of ~~appointment~~ residence, in a record kept for that purpose. The court administrator, when requested, shall certify to official acts in the manner and for the fees prescribed by statute or court rule.

Sec. 26. [UNCLAIMED PROPERTY STUDY.]

The attorney general, in consultation with the department of commerce, shall study unclaimed property laws and make recommendations to the legislature by December 1, 1996, with respect to legal strategies and improved enforcement tools that the program could implement as a means to

maximize the program's ability to collect and return unclaimed property to its proper owners in Minnesota.

Sec. 27. [REPEALER.]

Minnesota Statutes 1994, section 345.43, subdivisions 1 and 2, are repealed.

Sec. 28. [EFFECTIVE DATES.]

Sections 7, 10 to 12, and 26 are effective the day following final enactment.

ARTICLE 2

SECURITIES

Section 1. Minnesota Statutes 1994, section 45.027, is amended by adding a subdivision to read:

Subd. 7a. [AUTHORIZED DISCLOSURES OF INFORMATION AND DATA.] The commissioner may release and disclose any active or inactive investigative information and data on licensees to any national securities exchange or national securities association registered under the Securities Exchange Act of 1934 when necessary for the requesting agency in initiating, furthering, or completing an investigation.

Sec. 2. Minnesota Statutes 1994, section 80A.05, subdivision 1, is amended to read:

Subdivision 1. A broker-dealer, agent or investment adviser may obtain an initial or renewal license by filing with the commissioner or a designee an application together with a consent to service of process pursuant to section 80A.27, subdivision 7. The application shall be on a form prescribed by the commissioner and shall contain whatever information the commissioner requires concerning such matters as the applicant's form and place of organization, proposed method of doing business and financial condition, the qualifications and experience of the applicant, including, in the case of a broker-dealer or investment adviser, the qualifications and experience of any partner, officer, director or controlling person, any injunction or administrative order or conviction of a misdemeanor involving securities and any conviction of a felony. The commissioner may by order, with respect to any particular application, require the submission of information concerning any other matters which the commissioner determines are relevant to the application. The commissioner may by rule or order require an applicant for an initial license to publish an announcement of the application in one or more specified newspapers published in this state.

If no denial order is in effect, no proceeding is pending under section 80A.07, and all of the requirements of this subdivision and subdivision 3 have been complied with, the licensing becomes effective 30 days after an application is filed. The commissioner may by rule or order specify an earlier effective date, and may by order defer the effective date until 30 days after the filing of any amendment.

An application that is incomplete will be considered withdrawn if no activity occurs with respect to the application for a period of 120 days. Notwithstanding section 80A.28, subdivision 1, paragraph (c), no part of the filing fee shall be returned if a registration statement is withdrawn according to this subdivision.

Sec. 3. Minnesota Statutes 1994, section 80A.06, subdivision 3, is amended to read:

Subd. 3. If the information contained in any document filed with the commissioner is or becomes inaccurate or incomplete in any material respect, the licensee shall ~~promptly~~ within 30 days file a correcting amendment unless notification of the correction has been given under section 80A.04, subdivision 2.

Sec. 4. Minnesota Statutes 1994, section 80A.09, is amended by adding a subdivision to read:

Subd. 5. [WITHDRAWAL.] A registration statement that is incomplete will be considered withdrawn if no activity occurs with respect to the application for a period of 120 days.

Notwithstanding section 80A.28, subdivision 1, paragraph (c), no part of the filing fee shall be returned if a registration statement is withdrawn according to this subdivision.

Sec. 5. Minnesota Statutes 1994, section 80A.10, subdivision 4, is amended to read:

Subd. 4. [WITHDRAWAL.] A registration statement that ~~has been on file with the commissioner for a period of nine months and has not become effective is considered to have been withdrawn. If the registration statement has been amended, the nine-month period must be computed from the date of the latest amendment.~~ is pending effectiveness will be considered withdrawn if no activity occurs with respect to the application for a period of 120 days. Notwithstanding ~~the provisions of~~ section 80A.28, subdivision 1, paragraph (c), no part of the filing fee shall be returned if a registration statement is withdrawn ~~pursuant~~ according to this subdivision.

Sec. 6. Minnesota Statutes 1994, section 80A.11, is amended by adding a subdivision to read:

Subd. 5. [WITHDRAWAL.] A registration statement that is pending effectiveness will be considered withdrawn if no activity occurs with respect to the application for a period of 120 days. Notwithstanding section 80A.28, subdivision 1, paragraph (c), no part of the filing fee shall be returned if a registration statement is withdrawn according to this subdivision.

Sec. 7. Minnesota Statutes 1994, section 80A.14, is amended by adding a subdivision to read:

Subd. 20. [QUALIFIED CHARITY.] "Qualified charity" means an organization that is described in section 501(c)(3) of the Internal Revenue Code and that is not a private foundation as described in section 509 of the Internal Revenue Code.

Sec. 8. Minnesota Statutes 1994, section 80A.14, is amended by adding a subdivision to read:

Subd. 21. [INTERNAL REVENUE CODE.] "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, United States Code, title 26, section 1 et seq.

Sec. 9. Minnesota Statutes 1994, section 80A.14, is amended by adding a subdivision to read:

Subd. 22. [POOLED INCOME FUND.] "Pooled income fund" means a trust that meets the requirements of a pooled income fund as defined in section 642(C)(5) of the Internal Revenue Code, provided that the remainder beneficiary is a qualified charity.

Sec. 10. Minnesota Statutes 1994, section 80A.14, is amended by adding a subdivision to read:

Subd. 23. [CHARITABLE REMAINDER TRUST.] "Charitable remainder trust" means a trust that meets the requirements of either a charitable remainder annuity trust or a charitable remainder unitrust as defined in section 664 of the Internal Revenue Code, provided that the remainder beneficiary is a qualified charity.

Sec. 11. Minnesota Statutes 1994, section 80A.14, is amended by adding a subdivision to read:

Subd. 24. [CHARITABLE LEAD TRUST.] "Charitable lead trust" means a trust that meets the requirements of a charitable lead trust as described in section 170(F)(2) of the Internal Revenue Code, provided that the lead beneficiary is a qualified charity.

Sec. 12. Minnesota Statutes 1994, section 80A.14, is amended by adding a subdivision to read:

Subd. 25. [CHARITABLE GIFT ANNUITY.] "Charitable gift annuity" means an annuity that meets the requirements of a charitable gift annuity as defined in section 501(m)(5) of the Internal Revenue Code.

Sec. 13. Minnesota Statutes 1995 Supplement, section 80A.15, subdivision 1, is amended to read:

Subdivision 1. The following securities are exempted from sections 80A.08 and 80A.16:

(a) Any security, including a revenue obligation, guaranteed by the United States, any state, any

political subdivision of a state or any corporate or other instrumentality of one or more of the foregoing~~; but this exemption shall not include any industrial revenue bond~~. Pursuant to section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984, Public Law Number 98-440, this exemption does not apply to a security that is offered or sold pursuant to section 106(a)(1) or (2) of that act.

(b) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any province, any agency or corporate or other instrumentality of one or more of the foregoing, if the security is recognized as a valid obligation by the issuer or guarantor; but this exemption shall not include any revenue obligation payable solely from payments to be made in respect of property or money used under a lease, sale or loan arrangement by or for a nongovernmental industrial or commercial enterprise.

(c) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution or trust company organized under the laws of any state and subject to regulation in respect of the issuance or guarantee of its securities by a governmental authority of that state.

(d) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings association, or any savings association or similar association organized under the laws of any state and authorized to do business in this state.

(e) Any security issued or guaranteed by any federal credit union or any credit union, or similar association organized and supervised under the laws of this state.

(f) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, the Pacific Stock Exchange, or the Chicago Board Options Exchange; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing. This exemption does not apply to second tier listings on any of the exchanges in this paragraph.

(g) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of the paper which is likewise limited, or any guarantee of the paper or of any renewal which are not advertised for sale to the general public in newspapers or other publications of general circulation or otherwise, or by radio, television or direct mailing.

(h) Any interest in any employee's savings, stock purchase, pension, profit sharing or similar benefit plan, or a self-employed person's retirement plan.

(i) Any security issued or guaranteed by any railroad, other common carrier or public utility which is subject to regulation in respect to the issuance or guarantee of its securities by a governmental authority of the United States.

(j) Any interest in a common trust fund or similar fund maintained by a state bank or trust company organized and operating under the laws of Minnesota, or a national bank wherever located, for the collective investment and reinvestment of funds contributed thereto by the bank or trust company in its capacity as trustee, executor, administrator, or guardian; and any interest in a collective investment fund or similar fund maintained by the bank or trust company, or in a separate account maintained by an insurance company, for the collective investment and reinvestment of funds contributed thereto by the bank, trust company or insurance company in its capacity as trustee or agent, which interest is issued in connection with an employee's savings, pension, profit sharing or similar benefit plan, or a self-employed person's retirement plan.

(k) Any security which meets all of the following conditions:

(1) If the issuer is not organized under the laws of the United States or a state, it has appointed a duly authorized agent in the United States for service of process and has set forth the name and address of the agent in its prospectus;

(2) A class of the issuer's securities is required to be and is registered under section 12 of the Securities Exchange Act of 1934, and has been so registered for the three years immediately preceding the offering date;

(3) Neither the issuer nor a significant subsidiary has had a material default during the last seven years, or for the period of the issuer's existence if less than seven years, in the payment of (i) principal, interest, dividend, or sinking fund installment on preferred stock or indebtedness for borrowed money, or (ii) rentals under leases with terms of three years or more;

(4) The issuer has had consolidated net income, before extraordinary items and the cumulative effect of accounting changes, of at least $1,000,000 in four of its last five fiscal years including its last fiscal year; and if the offering is of interest bearing securities, has had for its last fiscal year, net income, before deduction for income taxes and depreciation, of at least 1-1/2 times the issuer's annual interest expense, giving effect to the proposed offering and the intended use of the proceeds. For the purposes of this clause "last fiscal year" means the most recent year for which audited financial statements are available, provided that such statements cover a fiscal period ended not more than 15 months from the commencement of the offering;

(5) If the offering is of stock or shares other than preferred stock or shares, the securities have voting rights and the rights include (i) the right to have at least as many votes per share, and (ii) the right to vote on at least as many general corporate decisions, as each of the issuer's outstanding classes of stock or shares, except as otherwise required by law; and

(6) If the offering is of stock or shares, other than preferred stock or shares, the securities are owned beneficially or of record, on any date within six months prior to the commencement of the offering, by at least 1,200 persons, and on that date there are at least 750,000 such shares outstanding with an aggregate market value, based on the average bid price for that day, of at least $3,750,000. In connection with the determination of the number of persons who are beneficial owners of the stock or shares of an issuer, the issuer or broker-dealer may rely in good faith for the purposes of this clause upon written information furnished by the record owners.

(l) Any certificate of indebtedness sold or issued for investment, other than a certificate of indebtedness pledged as a security for a loan made contemporaneously therewith, and any savings account or savings deposit issued, by an industrial loan and thrift company.

(m) Any security designated or approved for designation upon notice of issuance on the NASDAQ/National Market System; any other security of the same issuer that is of senior or substantially equal rank; any security called for by subscription rights or warrants so designated or approved; or any warrant or right to purchase or subscribe to any of the securities referred to in this paragraph; provided that the National Market System provides the commissioner with notice of any material change in its designation requirements. The commissioner may revoke this exemption if the commissioner determines that the designation requirements are not enforced or are amended in a manner that lessens protection to investors.

Sec. 14. Minnesota Statutes 1994, section 80A.15, subdivision 2, is amended to read:

Subd. 2. The following transactions are exempted from sections 80A.08 and 80A.16:

(a) Any sales, whether or not effected through a broker-dealer, provided that:

(1) no person shall make more than ten sales of securities of the same issuer pursuant to this exemption, exclusive of sales according to clause (2), during any period of 12 consecutive months; provided further, that in the case of sales by an issuer, except sales of securities registered under the Securities Act of 1933 or exempted by section 3(b) of that act, ~~(1)~~ (i) the seller reasonably believes that all buyers are purchasing for investment, and ~~(2)~~ (ii) the securities are not advertised for sale to the general public in newspapers or other publications of general circulation or otherwise, or by radio, television, electronic means or similar communications media, or through a program of general solicitation by means of mail or telephone.; and

(2) no issuer shall make more than 25 sales of its securities according to this exemption, exclusive of sales pursuant to clause (1), during any period of 12 consecutive months; provided

further, that the issuer meets the conditions in clause (1) and, in addition meets the following additional conditions: (i) files with the commissioner, ten days before a sale according to this clause, a statement of issuer on a form prescribed by the commissioner; and (ii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyers in this state in connection with a sale according to this clause except reasonable and customary commissions paid by the issuer to a broker-dealer licensed under this chapter.

(b) Any nonissuer distribution of an outstanding security if (1) either Moody's, Fitch's, or Standard & Poor's Securities Manuals, or other recognized manuals approved by the commissioner contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than 18 months prior to the date of the sale, and a profit and loss statement for the fiscal year preceding the date of the balance sheet, and (2) the issuer or its predecessor has been in active, continuous business operation for the five-year period next preceding the date of sale, and (3) if the security has a fixed maturity or fixed interest or dividend provision, the issuer has not, within the three preceding fiscal years, defaulted in payment of principal, interest, or dividends on the securities.

(c) The execution of any orders by a licensed broker-dealer for the purchase or sale of any security, pursuant to an unsolicited offer to purchase or sell; provided that the broker-dealer acts as agent for the purchaser or seller, and has no direct material interest in the sale or distribution of the security, receives no commission, profit, or other compensation from any source other than the purchaser and seller and delivers to the purchaser and seller written confirmation of the transaction which clearly itemizes the commission, or other compensation.

(d) Any nonissuer sale of notes or bonds secured by a mortgage lien if the entire mortgage, together with all notes or bonds secured thereby, is sold to a single purchaser at a single sale.

(e) Any judicial sale, exchange, or issuance of securities made pursuant to an order of a court of competent jurisdiction.

(f) The sale, by a pledge holder, of a security pledged in good faith as collateral for a bona fide debt.

(g) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity.

(h) ~~Any sales by an issuer to the number of persons that shall not exceed 25 persons in this state, or 35 persons if the sales are made in compliance with Regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, sections 230.501 to 230.506, (other than those designated in paragraph (a) or (g)), whether or not any of the purchasers is then present in this state, if (1) the issuer reasonably believes that all of the buyers in this state (other than those designated in clause (g)) are purchasing for investment, and (2) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this state (other than those designated in clause (g)), except reasonable and customary commissions paid by the issuer to a broker-dealer licensed under this chapter, and (3) the issuer has, ten days prior to any sale pursuant to this paragraph, supplied the commissioner with a statement of issuer on forms prescribed by the commissioner, containing the following information: (i) the name and address of the issuer, and the date and state of its organization; (ii) the number of units, price per unit, and a description of the securities to be sold; (iii) the amount of commissions to be paid and the persons to whom they will be paid; (iv) the names of all officers, directors and persons owning five percent or more of the equity of the issuer; (v) a brief description of the intended use of proceeds; (vi) a description of all sales of securities made by the issuer within the six-month period next preceding the date of filing; and (vii) a copy of the investment letter, if any, intended to be used in connection with any sale. Sales that are made more than six months before the start of an offering made pursuant to this exemption or are made more than six months after completion of an offering made pursuant to this exemption will not be considered part of the offering, so long as during those six-month periods there are no sales of unregistered securities (other than those made pursuant to paragraph (a) or (g)) by or for the issuer~~

~~that are of the same or similar class as those sold under this exemption. The commissioner may by rule or order as to any security or transaction or any type of security or transaction, withdraw or further condition this exemption, or increase the number of offers and sales permitted, or waive the conditions in clause (1), (2), or (3) with or without the substitution of a limitation or remuneration.~~ An offer or sale of securities by an issuer made in reliance on the exemptions provided by Rule 505 or 506 of Regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, sections 230.501 to 230.508, subject to the conditions and definitions provided by Rules 501 to 503 of Regulation D, if the offer and sale also satisfies the conditions and limitations in clauses (1) to (10).

(1) The exemption under this paragraph is not available for the securities of an issuer if any of the persons described in Rule 252(c) to (f) of Regulation A promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, sections 230.251 to 230.263:

(i) has filed a registration statement that is the subject of a currently effective order entered against the issuer, its officers, directors, general partners, controlling persons, or affiliates, according to any state's law within five years before the filing of the notice required under clause (5), denying effectiveness to, or suspending or revoking the effectiveness of, the registration statement;

(ii) has been convicted, within five years before the filing of the notice required under clause (5), of a felony or misdemeanor in connection with the offer, sale, or purchase of a security or franchise, or a felony involving fraud or deceit, including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud;

(iii) is subject to an effective administrative order or judgment entered by a state securities administrator within five years before the filing of the notice required under clause (5), that prohibits, denies, or revokes the use of an exemption from securities registration, that prohibits the transaction of business by the person as a broker-dealer or agent, or that is based on fraud, deceit, an untrue statement of a material fact, or an omission to state a material fact; or

(iv) is subject to an order, judgment, or decree of a court entered within five years before the filing of the notice required under clause (5), temporarily, preliminarily, or permanently restraining or enjoining the person from engaging in or continuing any conduct or practice in connection with the offer, sale, or purchase of a security, or the making of a false filing with a state.

A disqualification under paragraph (h) involving a broker-dealer or agent is waived if the broker-dealer or agent is or continues to be licensed in the state in which the administrative order or judgment was entered against the person or if the broker-dealer or agent is or continues to be licensed in this state as a broker-dealer or agent after notifying the commissioner of the act or event causing disqualification.

The commissioner may waive a disqualification under paragraph (h) upon a showing of good cause that it is not necessary under the circumstances that use of the exemption be denied.

A disqualification under paragraph (h) may be waived if the state securities administrator or agency of the state that created the basis for disqualification has determined, upon a showing of good cause, that it is not necessary under the circumstances that an exemption from registration of securities under the state's laws be denied.

It is a defense to a violation of paragraph (h) based upon a disqualification if the issuer sustains the burden of proof to establish that the issuer did not know, and in the exercise of reasonable care could not have known, that a disqualification under paragraph (h) existed.

(2) This exemption must not be available to an issuer with respect to a transaction that, although in technical compliance with this exemption, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in paragraph (h).

(3) No commission, finder's fee, or other remuneration shall be paid or given, directly or indirectly, for soliciting a prospective purchaser, unless the recipient is appropriately registered, or exempt from registration, in this state as a broker-dealer.

(4) Nothing in this exemption is intended to or should be in any way construed as relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of the securities law of Minnesota.

(5) The issuer shall file with commissioner a notice on form D as adopted by the Securities and Exchange Commission according to Regulation D, Code of Federal Regulations, title 17, section 230.502. The notice must be filed not later than 15 days after the first sale in this state of securities in an offering under this exemption. Every notice on form D must be manually signed by a person duly authorized by the issuer and must be accompanied by a consent to service of process on a form prescribed by the commissioner.

(6) A failure to comply with a term, condition, or requirement of paragraph (h) will not result in loss of the exemption for an offer or sale to a particular individual or entity if the person relying on the exemption shows that: (i) the failure to comply did not pertain to a term, condition, or requirement directly intended to protect that particular individual or entity, and the failure to comply was insignificant with respect to the offering as a whole; and (ii) a good faith and reasonable attempt was made to comply with all applicable terms, conditions, and requirements of paragraph (h), except that, where an exemption is established only through reliance upon this provision, the failure to comply shall nonetheless constitute a violation of section 80A.08 and be actionable by the commissioner.

(7) The issuer, upon request by the commissioner, shall, within ten days of the request, furnish to the commissioner a copy of any and all information, documents, or materials furnished to investors or offerees in connection with the offer and sale according to paragraph (h).

(8) Neither compliance nor attempted compliance with the exemption provided by paragraph (h), nor the absence of an objection or order by the commissioner with respect to an offer or sale of securities undertaken according to this exemption, shall be considered to be a waiver of a condition of the exemption or considered to be a confirmation by the commissioner of the availability of this exemption.

(9) The commissioner may, by rule or order, increase the number of purchasers or waive any other condition of this exemption.

(10) The determination whether offers and sales made in reliance on the exemption set forth in paragraph (h) shall be integrated with offers and sales according to other paragraphs of this subdivision shall be made according to the integration standard set forth in Rule 502 of Regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, section 230.502. If not subject to integration according to that rule, offers and sales according to paragraph (h) shall not otherwise be integrated with offers and sales according to other exemptions set forth in this subdivision.

(i) Any offer (but not a sale) of a security for which a registration statement has been filed under sections 80A.01 to 80A.31, if no stop order or refusal order is in effect and no public proceeding or examination looking toward an order is pending; and any offer of a security if the sale of the security is or would be exempt under this section. The commissioner may by rule exempt offers (but not sales) of securities for which a registration statement has been filed as the commissioner deems appropriate, consistent with the purposes of sections 80A.01 to 80A.31.

(j) The offer and sale by a cooperative organized under chapter 308A or under the laws of another state, of its securities when the securities are offered and sold only to its members, or when the purchase of the securities is necessary or incidental to establishing membership in the cooperative, or when such securities are issued as patronage dividends. This paragraph applies to a cooperative organized under the laws of another state only if the cooperative has filed with the commissioner a consent to service of process under section 80A.27, subdivision 7, and has, not less than ten days prior to the issuance or delivery, furnished the commissioner with a written general description of the transaction and any other information that the commissioner requires by rule or otherwise.

(l) The issuance and delivery of any securities of one corporation to another corporation or its security holders in connection with a merger, exchange of shares, or transfer of assets whereby the

approval of stockholders of the other corporation is required to be obtained, provided, that the commissioner has been furnished with a general description of the transaction and with other information as the commissioner by rule prescribes not less than ten days prior to the issuance and delivery.

(m) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter or among underwriters.

(n) The distribution by a corporation of its or other securities to its own security holders as a stock dividend or as a dividend from earnings or surplus or as a liquidating distribution; or upon conversion of an outstanding convertible security; or pursuant to a stock split or reverse stock split.

(o) Any offer or sale of securities by an affiliate of the issuer thereof if: (1) a registration statement is in effect with respect to securities of the same class of the issuer and (2) the offer or sale has been exempted from registration by rule or order of the commissioner.

(p) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if: (1) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state; and (2) the commissioner has been furnished with a general description of the transaction and with other information as the commissioner may by rule prescribe no less than ten days prior to the transaction.

(q) Any nonissuer sales of any security, including a revenue obligation, issued by the state of Minnesota or any of its political or governmental subdivisions, municipalities, governmental agencies, or instrumentalities.

(r) Any transaction as to which the commissioner by rule or order finds that registration is not necessary in the public interest and for the protection of investors.

(s) An offer or sale of a security issued in connection with an employee's stock purchase, savings, option, profit sharing, pension, or similar employee benefit plan, if the following conditions are met:

(1) the issuer, its parent corporation or any of its majority-owned subsidiaries offers or sells the security according to a written benefit plan or written contract relating to the compensation of the purchaser; and

(2) the class of securities offered according to the plan or contract, or if an option or right to purchase a security, the class of securities to be issued upon the exercise of the option or right, is registered under section 12 of the Securities Exchange Act of 1934, or is a class of securities with respect to which the issuer files reports according to section 15(d) of the Securities Exchange Act of 1934; or

(3) the issuer fully complies with the provisions of Rule 701 as adopted by the Securities and Exchange Commission, Code of Federal Regulations, title 12, section 230.701.

The issuer shall file not less than ten days before the transaction, a general description of the transaction and any other information that the commissioner requires by rule or otherwise or, if applicable, a Securities and Exchange Form S-8. Annually, within 90 days after the end of the issuer's fiscal year, the issuer shall file a notice as provided with the commissioner.

(t) Any sale of a security of an issuer that is a pooled income fund, a charitable remainder trust, or a charitable lead trust that has a qualified charity as the only charitable beneficiary.

(u) Any sale by a qualified charity of a security that is a charitable gift annuity if the issuer has a net worth, otherwise defined as unrestricted fund balance, of not less than $300,000 and either: (1) has been in continuous operation for not less than three years; or (2) is a successor or affiliate of a qualified charity that has been in continuous operation for not less than three years.

Sec. 15. Minnesota Statutes 1994, section 80A.15, subdivision 3, is amended to read:

Subd. 3. The commissioner may issue an order requiring any person who claims the benefit of an exemption with respect to a specific security or transaction, to show cause why the exemption should not be revoked. The order shall be calculated to give reasonable notice of the time and place for hearing thereon, and shall state the reasons for the entry of the order. The commissioner may by order summarily suspend an exemption pending final determination of any order to show cause. If an exemption is suspended pending final determination of an order to show cause, a hearing on the merits shall be held within 30 days of the issuance of the order of suspension. All hearings shall be conducted in accordance with the provisions of chapter 14. After the hearing, the commissioner shall enter an order making such disposition of the matter as the facts require. If the person claiming the benefit of the exemption fails to appear at a hearing of which the person has been duly notified, such person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the order to show cause, the allegations of which may be deemed to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted pursuant to this subdivision.

A notice filing that is incomplete is considered withdrawn if no activity occurs with respect to the notice filing for a period of 120 days.

Sec. 16. Minnesota Statutes 1994, section 80C.01, is amended by adding a subdivision to read:

Subd. 19. [ASSIST THE PURCHASER IN FINDING LOCATIONS.] "Assist the purchaser in finding locations" means to directly assist the purchaser in finding locations, or to refer the purchaser to any resource which assists in finding locations and is affiliated with the seller through common ownership, common control, a referral fee arrangement, or any other business relationship. "Assist the purchaser in finding locations" does not include providing to the purchaser a written list of resources which assist in finding locations, provided that none of the resources on the list are affiliated with the seller in any way.

Sec. 17. Minnesota Statutes 1994, section 80C.05, is amended by adding a subdivision to read:

Subd. 4. An application for registration that has not become effective will be considered withdrawn if no activity occurs with respect to the application for a period of 120 days.

Sec. 18. [REPEALER.]

Minnesota Statutes 1994, section 80A.14, subdivision 8, is repealed.

ARTICLE 3

REAL ESTATE

Section 1. Minnesota Statutes 1994, section 82.19, subdivision 5, is amended to read:

Subd. 5. [DISCLOSURE REGARDING REPRESENTATION OF PARTIES.] (a) No person licensed pursuant to this chapter or who otherwise acts as a real estate broker or salesperson shall ~~represent any party to a real estate transaction or otherwise act as a real estate broker or salesperson unless that person makes an affirmative written disclosure as to which party that person represents in the transaction. In a residential real property transaction, the disclosure must be made at the first substantive contact between the licensee and the party or potential party to the transaction. The disclosure shall be printed as a separate document, and acknowledged by the signature of the buyer, seller, or customer.~~

~~(b) The disclosure required by this subdivision must be made by the licensee with respect to any residential property transaction:~~

~~(1) when representing the seller, at the signing of a listing agreement;~~

~~(2) when representing the buyer, at the signing of a buyer's broker agreement;~~

~~(3) as to all other parties (potential buyers or sellers) who are not represented by the licensee, before discussion of financial information or the commencement of negotiations, which could affect that party's bargaining position in the transaction.~~

~~A change in the licensee's representation, including dual agency, that makes the initial disclosure required by this paragraph incomplete, misleading, or inaccurate requires that a new disclosure be made at once~~ fail to provide at the first substantive contact with a consumer in a residential real property transaction an agency disclosure form as set forth in section 82.197.

~~(c)~~ (b) The seller may, in the listing agreement, authorize the seller's broker to disburse part of the broker's compensation to other brokers, including the buyer's brokers solely representing the buyer. A broker representing a buyer shall make known to the seller or the seller's agent the fact of the agency relationship before any showing or negotiations are initiated.

Sec. 2. Minnesota Statutes 1994, section 82.195, subdivision 2, is amended to read:

Subd. 2. [CONTENTS.] All listing agreements must be in writing and must include:

(1) a definite expiration date;

(2) a description of the real property involved;

(3) the list price and any terms required by the seller;

(4) the amount of any compensation or commission or the basis for computing the commission;

(5) a clear statement explaining the events or conditions that will entitle a broker to a commission;

(6) information regarding an override clause, if applicable, including a statement to the effect that the override clause will not be effective unless the licensee supplies the seller with a protective list within 72 hours after the expiration of the listing agreement;

(7) the following notice in not less than ten point boldface type immediately preceding any provision of the listing agreement relating to compensation of the licensee:

"NOTICE: THE COMMISSION RATE FOR THE SALE, LEASE, RENTAL, OR MANAGEMENT OF REAL PROPERTY SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL BROKER AND ITS CLIENT.";

(8) ~~if the broker chooses to represent both buyers and sellers in connection with residential property transactions, a~~ for residential property listings, the following "dual agency" disclosure statement:

If a buyer represented by broker wishes to buy your property, a dual agency will be created. This means that broker will represent both you and the buyer(s), and owe the same duties to the buyer(s) that broker owes to you. This conflict of interest will prohibit broker from advocating exclusively on your behalf. Dual agency will limit the level of representation broker can provide. If a dual agency should arise, you will need to agree that confidential information about price, terms, and motivation will still be kept confidential unless you instruct broker in writing to disclose specific information about you. All other information will be shared. Broker cannot act as a dual agent unless both you and the buyer(s) agree to it. By agreeing to a possible dual agency, you will be giving up the right to exclusive representation in an in-house transaction. However, if you should decide not to agree to a possible dual agency, and you want broker to represent you, you may give up the opportunity to sell your property to buyers represented by broker.

Seller's Instructions to Broker

Having read and understood this information about dual agency, seller(s) now instructs broker as follows:

..... Seller(s) will agree to a dual agency representation and will consider offers made by buyers represented by broker.

..... Seller will not agree to a dual agency

representation and will not consider offers made by buyers represented by broker.

.....	.....
Seller	Broker
.....	By:.....
Seller	Salesperson
Date:..... ;	

(9) a notice requiring the seller to indicate in writing whether it is acceptable to the seller to have the licensee arrange for closing services or whether the seller wishes to arrange for others to conduct the closing. The notice must also include the disclosure of any controlled business arrangement, as the term is defined in United States Code, title 12, section 2602, between the licensee and the real estate closing agent through which the licensee proposes to arrange closing services; and

(10) for residential listings, a notice stating that after the expiration of the listing agreement, the seller will not be obligated to pay the licensee a fee or commission if the seller has executed another valid listing agreement pursuant to which the seller is obligated to pay a fee or commission to another licensee for the sale, lease, or exchange of the real property in question. This notice may be used in the listing agreement for any other type of real estate.

Sec. 3. Minnesota Statutes 1994, section 82.196, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS.] Licensees shall obtain a signed buyer's broker agreement from a buyer before performing any acts as a buyer's representative and before a purchase agreement is signed.

Sec. 4. Minnesota Statutes 1994, section 82.196, subdivision 2, is amended to read:

Subd. 2. [CONTENTS.] All buyer's broker agreements must be in writing and must include:

(1) a definite expiration date;

(2) the amount of any compensation or commission, or the basis for computing the commission;

(3) a clear statement explaining the services to be provided to the buyer by the broker, and the events or conditions that will entitle a broker to a commission or other compensation;

(4) a provision for cancellation of the agreement by either party upon terms agreed upon by the parties;

(5) information regarding an override clause, if applicable, including a statement to the effect that the override clause will not be effective unless the licensee supplies the buyer with a protective list within 72 hours after the expiration of the buyer's broker agreement;

(6) the following notice in not less than ten point bold face type immediately preceding any provision of the buyer's broker agreement relating to compensation of the licensee:

"NOTICE: THE COMMISSION RATE FOR THE PURCHASE, LEASE, RENTAL, OR MANAGEMENT OF REAL PROPERTY IS NEGOTIABLE AND SHALL BE DETERMINED BETWEEN EACH INDIVIDUAL BROKER AND ITS CLIENT.";

(7) ~~if the broker chooses to represent both buyers and sellers, a~~ the following "dual agency" disclosure statement:

If you choose to purchase a property listed by broker, a dual agency will be created. This means that broker will represent both you and the seller(s), and owe the same duties to the seller(s) that broker owes to you. This conflict of interest will prohibit broker from advocating exclusively on

your behalf. Dual agency will limit the level of representation broker can provide. If a dual agency should arise, you will need to agree that confidential information about price, terms, and motivation will still be kept confidential unless you instruct broker in writing to disclose specific information about you. All other information will be shared. Broker cannot act as a dual agent unless both you and the seller(s) agree to it. By agreeing to a possible dual agency, you will be giving up the right to exclusive representation in an in-house transaction. However, if you should decide not to agree to a possible dual agency, and you want broker to represent you, you may give up the opportunity to purchase the properties listed by broker.

Buyer's Instructions to Broker

..... Buyer(s) will agree to a dual agency representation and will consider properties listed by broker.

..... Buyer will not agree to a dual agency representation and will not consider properties listed by broker.

....

Buyer Broker

..... By:.....

Buyer Salesperson

Date:..... ; and

(8) for buyer's broker agreements which involve residential real property, a notice stating that after the expiration of the buyer's broker agreement, the buyer will not be obligated to pay the licensee a fee or commission if the buyer has executed another valid buyer's broker agreement pursuant to which the buyer is obligated to pay a fee or commission to another licensee for the purchase, lease, or exchange of real property.

Sec. 5. Minnesota Statutes 1994, section 82.197, subdivision 1, is amended to read:

Subdivision 1. [AGENCY DISCLOSURE.] ~~The listing agreement or a buyer's broker agreement must include a clear and complete explanation of how the broker will represent the interests of the seller or buyer, and, if the broker represents both sellers and buyers, state how that representation would be altered in a dual agency situation, and require the seller or buyer to choose whether to authorize the broker to initiate any transaction which would give rise to dual agency. Disclosure to a customer of a licensee's agency relationship with other parties must be made at a time and in a manner sufficient to protect the customer's bargaining position~~ A real estate broker or salesperson shall provide to a consumer in a residential real property transaction at the first substantive contact with the consumer an agency disclosure form in substantially the form set forth in subdivision 4. The agency disclosure form shall be intended to provide a description of available options for agency and nonagency relationships, and a description of the role of a licensee under each option. The agency disclosure form shall provide a signature line for acknowledgment of receipt by the consumer.

Sec. 6. Minnesota Statutes 1994, section 82.197, subdivision 2, is amended to read:

Subd. 2. [CREATION OF DUAL AGENCY.] If circumstances create a dual agency situation, the broker must make full disclosure to all parties to the transaction as to the change in relationship of the parties to the broker due to dual agency. A broker, having made full disclosure, must obtain the consent of all parties to these circumstances ~~before accepting the dual agency.~~ in residential real property transactions in the purchase agreement in the form set forth below which shall be set off in a boxed format to draw attention to it:

Broker represents both the seller(s) and the buyer(s) of the property involved in this transaction, which creates a dual agency. This means that broker and its salespersons owe fiduciary duties to both seller(s) and buyer(s). Because the parties may have conflicting interests, broker and its salespersons are prohibited from advocating exclusively for either party. Broker cannot act as a

dual agent in this transaction without the consent of both seller(s) and buyer(s). Seller(s) and buyer(s) acknowledge that:

(1) confidential information communicated to broker which regards price, terms, or motivation to buy or sell will remain confidential unless seller(s) or buyer(s) instructs broker in writing to disclose this information. Other information will be shared;

(2) broker and its salespersons will not represent the interests of either party to the detriment of the other; and

(3) within the limits of dual agency, broker and its salespersons will work diligently to facilitate the mechanics of the sale.

With the knowledge and understanding of the explanation above, seller(s) and buyer(s) authorize and instruct broker and its salespersons to act as dual agents in this transaction.

.....	.....
Seller	Buyer
.....	.....
Seller	Buyer
.....	.....
Date	Date

Sec. 7. Minnesota Statutes 1994, section 82.197, subdivision 3, is amended to read:

Subd. 3. [SCOPE AND EFFECT.] Disclosures made in accordance with the requirements for disclosure of agency relationships set forth in this chapter are sufficient to satisfy common law disclosure requirements. In addition, when a principal in the transaction is a licensee or a relative or business associate of the licensee, that fact must be disclosed in writing in addition to any other required disclosures. ~~The commissioner, in consultation with representatives of the real estate industry, consumer groups, the attorney general's office, and any other group deemed appropriate by the commissioner, shall study current required disclosure forms and recommend any additions that may be necessary to ensure that consumers are informed of the various agency relations and how they affect the consumer. The commissioner shall prepare legislation for the 1995 session which incorporates those recommendations.~~

Sec. 8. Minnesota Statutes 1994, section 82.197, subdivision 4, is amended to read:

Subd. 4. [AGENCY DISCLOSURE ~~FORMS~~ FORM.] ~~(a) Disclosures of agency relationships~~ The agency disclosure form shall be ~~made~~ in substantially the form set forth ~~in paragraphs (b) to (e)~~ below:

~~(b) ADDENDUM TO LISTING AGREEMENT~~

~~....(Broker).... will be representing you as your broker in the sale of your property located at ..... This relationship is called an agency. As your agent, ...(Broker).... owes you the duties of loyalty, obedience, disclosure, confidentiality, reasonable care and diligence, and full accounting. However, ...(Broker).... also represents buyers looking for properties. If a buyer represented by ....(Broker).... becomes interested in your property, a dual agency will be created. This means that ....(Broker).... will owe the same duties to the buyer that we owe to you. This conflict of interest will prohibit ....(Broker).... from advocating exclusively on your behalf when attempting to effect the sale of your property. Dual agency will limit the level of representation which ....(Broker).... can provide.~~

~~If a dual agency should arise, you will need to agree that confidential information about price, terms, and motivation will still be kept confidential unless you instruct ....(Broker).... in writing to disclose specific information about you or your property. All other information will be shared. Regardless of whether a dual agency occurs, ...(Broker).... must disclose to the buyer any material facts of which ....(Broker).... is aware that may adversely and significantly affect the buyer's use or~~

enjoyment of the property. In addition, ...(Broker).... must disclose to both parties any information of which ....(Broker).... is aware that a party will not perform in accordance with the terms of the purchase agreement or similar written agreement to convey real estate.

....(Broker).... cannot act as a dual agent unless both you and the buyer agree to the dual agency after it is disclosed to you. By agreeing to a possible dual agency, you will be giving up the right to exclusive representation in an in-house transaction. However, if you should decide not to agree to a possible dual agency, and you want ....(Broker).... to represent you, you may give up the opportunity to sell your property to buyers represented by ....(Broker).....

SELLER'S INSTRUCTIONS TO BROKER

Having read and understood this information about dual agency, you now instruct ....(Broker).... as follows:

.... Seller agrees to dual agency representation and will consider offers made by buyers represented by ....(Broker).....

.... Seller does not agree to dual agency representation and will not consider offers made by buyers represented by ....(Broker).....

....
Seller (Broker)
..... BY:.....
Seller Salesperson
Dated:.....

(c) ADDENDUM TO BUYER REPRESENTATION AGREEMENT

....(Broker).... will be representing you as your broker to assist you in finding and purchasing a property. This relationship is called an agency. As your agent, ...(Broker).... owes you the duties of loyalty, obedience, disclosure, confidentiality, reasonable care and diligence, and full accounting. However, ...(Broker).... also represents sellers by listing their property for sale. If you become interested in a property listed by ....(Broker)...., a dual agency will be created. This means that ....(Broker).... will owe the same duties to the seller that ....(Broker).... owes to you. This conflict of interest will prohibit ....(Broker).... from advocating exclusively on your behalf when attempting to effect the purchase of the property. Dual agency will limit the level of representation ....(Broker).... can provide.

If a dual agency should arise, you will need to agree that confidential information about price, terms, and motivation will still be kept confidential unless you instruct ....(Broker).... in writing to disclose specific information about you. All other information will be shared. Regardless of whether a dual agency occurs, ...(Broker).... must disclose to the buyer any material facts of which ....(Broker).... is aware that may adversely and significantly affect the buyer's use or enjoyment of the property. In addition, ...(Broker).... must disclose to both parties any information of which ....(Broker).... is aware that a party will not perform in accordance with the terms of the purchase agreement or similar written agreement to convey real estate.

....(Broker).... cannot act as a dual agent unless both you and the seller agree to the dual agency after it is disclosed to you. By agreeing to a possible dual agency, you will be giving up the right to exclusive representation in an in-house transaction. However, if you should decide not to agree to a possible dual agency, and you want ....(Broker).... to represent you, you may give up the opportunity to purchase the properties listed by ....(Broker).....

BUYER'S INSTRUCTIONS TO BROKER

Having read and understood this information about dual agency, you now instruct ....(Broker).... as follows:

.... Buyer will agree to a dual agency representation and will consider properties listed by ....(Broker).....

.... Buyer will not agree to a dual agency representation and will not consider properties listed by ....(Broker).....

~~.....~~ ~~.....~~
~~Buyer~~ ~~(Broker)~~
~~.....~~ ~~BY:.....~~
~~Buyer~~ ~~Salesperson~~
~~Dated:.....~~

~~(d) DISCLOSURE TO CUSTOMER~~

~~Before ....(Broker).... begins to assist you in finding and purchasing a property, we must disclose to you that ....(Broker).... will be representing the seller in the transaction.~~

~~....(Broker).... will disclose to you all material facts about the property of which ....(Broker).... is aware, that could adversely and significantly affect your use or enjoyment of the property. ....(Broker).... will also assist you with the mechanics of the transaction.~~

~~When it comes to the price and terms of an offer, ...(Broker).... will ask you to make the decision as to how much to offer for any property and upon what terms and conditions. ....(Broker).... can explain your options to you, but the ultimate decision is yours. ....(Broker).... will attempt to show you properties in the price range and category you desire so that you will have information on which to base your decision.~~

~~....(Broker).... will present to the seller any written offer that you ask ....(Broker).... to present. ....(Broker).... asks you to keep to yourself any information about the price or terms of your offer, or your motivation for making an offer, that you do not want the seller to know. ....(Broker).... would be required, as the seller's agent, to disclose this information to the seller. You should carefully consider sharing any information with ....(Broker).... that you do not want disclosed to the seller.~~

~~.....~~ ~~.....~~
~~Customer~~ ~~(Broker)~~
~~.....~~ ~~BY:.....~~
~~Customer~~ ~~Salesperson~~
~~Dated:.....~~

~~(e) DISCLOSURE TO BUYER AND SELLER AT TIME OF OFFER TO PURCHASE~~

~~....(Broker).... represents the seller at the property located at .....~~

~~....(Broker).... also represents a buyer who offered to purchase the seller's property.~~

~~When ....(Broker).... represents both the buyer and the seller in a transaction, a dual agency is created. This means that ....(Broker).... and its agents owe a fiduciary duty to both buyer and seller. Because buyer and seller may have conflicting interests, ...(Broker).... and its agents are prohibited from advocating exclusively for either party.~~

~~....(Broker).... cannot represent both the buyer and seller in this transaction unless both the buyer and seller agree to this dual agency.~~

~~Buyer and seller acknowledge and agree that:~~

~~1. Confidential information communicated to ....(Broker).... which regards price, terms, or motivation to buy or sell will remain confidential unless buyer or seller instructs ....(Broker).... in writing to disclose this information about the buyer or seller. Other information will be shared.~~

~~2. ....(Broker).... and its salespersons will disclose to buyer all material facts of which they are aware which could adversely and significantly affect the buyer's use or enjoyment of the property or any intended use of the property of which ....(Broker).... or its salespersons are aware (this disclosure is required by law whether or not a dual agency is involved).~~

~~3. ....(Broker).... and its salespersons will disclose to both parties all information of which they~~

~~are aware that either party will not perform in accordance with the terms of the purchase agreement or other written agreement to convey real estate (this disclosure is required by law whether or not a dual agency is involved).~~

~~4. ....(Broker).... and its salespersons will not represent the interests of either party to the detriment of the other.~~

~~5. Within the limits of dual agency, ...(Broker).... and its salespersons will work diligently to facilitate the mechanics of the sale.~~

~~With the knowledge and understanding of the explanation above, buyer and seller authorize and instruct ....(Broker).... and its salespersons to act as dual agents in this transaction.~~

~~.....~~ ~~.....~~
~~Buyer~~ ~~Seller~~
~~.....~~ ~~.....~~
~~Buyer~~ ~~Seller~~
~~Date:.....~~ ~~Date:.....~~

AGENCY RELATIONSHIPS IN REAL ESTATE TRANSACTIONS

Minnesota law requires that early in any relationship, real estate brokers or salespersons discuss with consumers what type of agency representation or relationship they desire.(1) The available options are listed below. This is **not** a contract. **This is an agency disclosure form only. If you desire representation, you must enter into a written contract according to state law** (a listing contract or a buyer representation contract). Until such time as you choose to enter into a written contract for representation or assistance, you will be treated as a customer of the broker or salesperson and not represented by the brokerage. The broker or salesperson would then be acting as a Seller's broker (see paragraph I below), or as a nonagent (see paragraph IV below).

I.

Seller's Broker: A broker who lists a property, or a salesperson who is licensed to the listing broker, represents the Seller and acts on behalf of the Seller. A broker or salesperson working with a Buyer may also act as a subagent of the Seller, in which case the Buyer is the broker's customer and is not represented by that broker. A Seller's broker owes to the Seller the fiduciary duties described below.(2) The broker must also disclose to the Buyer any material facts of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the property. If a broker or salesperson working with a Buyer as a customer is representing the Seller, he or she must act in the Seller(s)' interests and must tell the Seller(s) any information disclosed to him/her. In that case, the Buyer will not be represented and will not receive advice and counsel from the broker or salesperson.

II.

Buyer's Broker: A Buyer may enter into an agreement for the broker or salesperson to represent and act on behalf of the Buyer. The broker may represent the Buyer only, and not the Seller, even if s/he is being paid in whole or in part by the Seller. A Buyer's broker owes to the Buyer the fiduciary duties described below.(2) The broker must disclose to the Buyer any material facts of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the property.

III.

Dual Agency-Broker Representing both Seller and Buyer: Dual agency occurs when one broker or salesperson represents both parties to a transaction, or when two salespersons licensed to the same broker each represent a party to the transaction. Dual agency requires the informed consent of all parties, and means that the broker and salesperson owe the same duties to the Seller and the Buyer. This role limits the level of representation the broker and salespersons can provide, and prohibits them from acting exclusively for either party. In a dual agency, confidential information about price, terms, and motivation for pursuing a transaction

will be kept confidential unless one party instructs the broker or salesperson in writing to disclose specific information about him or her. Other information will be shared. Dual agents may not advocate for one party to the detriment of the other.(3)

Within the limitations described above, dual agents owe to both Seller and Buyer the fiduciary duties described below.(2) Dual agents must disclose to Buyers any material facts of which the broker is aware that could adversely and significantly affect the Buyer's use or enjoyment of the property.

IV.

Nonagent: A broker or salesperson may perform services for either party as a nonagent, if that party signs a nonagency services agreement. As a nonagent the broker or salesperson facilitates the transaction, but does not act on behalf of either party. **THE NONAGENT BROKER OR SALESPERSON DOES NOT OWE ANY PARTY ANY OF THE FIDUCIARY DUTIES LISTED BELOW, UNLESS THOSE DUTIES ARE INCLUDED IN THE WRITTEN NONAGENCY SERVICES AGREEMENT.** The nonagent broker or salesperson owes only those duties required by law or contained in the written nonagency services agreement.

ACKNOWLEDGMENT: I/We acknowledge that I/We have been presented with the above-described options. I/We understand that Buyers who have not signed a Buyer representation contract or nonagency services agreement are not represented by the broker/salesperson and information given to the broker/salesperson will be disclosed to the Seller. I/We understand that written consent is required for a dual agency relationship. This is a disclosure only, NOT a contract for representation.

.....			.....
Seller	**Date**	**Buyer**	**Date**
.....			.....
Seller	**Date**	**Buyer**	**Date**

****

(1) This disclosure is required by law in any transaction involving property occupied or intended to be occupied by one to four families as their residence.

(2) The fiduciary duties mentioned above are listed below and have the following meanings:

Loyalty-broker/salesperson will act only in client(s)' best interest.

Obedience-broker/salesperson will carry out all client(s)' lawful instructions.

Disclosure-broker/salesperson will disclose to client(s) all material facts of which broker/salesperson has knowledge which might reasonably affect the client's rights and interests.

Confidentiality-broker/salesperson will keep client(s)' confidences unless required by law to disclose specific information (such as disclosure of material facts to Buyers).

Reasonable Care-broker/salesperson will use reasonable care in performing duties as an agent.

Accounting-broker/salesperson will account to client(s) for all client(s)' money and property received as agent.

(3) If Seller(s) decides not to agree to a dual agency relationship, Seller(s) may give up the opportunity to sell the property to Buyers represented by the broker/salesperson. If Buyer(s) decides not to agree to a dual agency relationship, Buyer(s) may give up the opportunity to purchase properties listed by the broker.

Sec. 9. Minnesota Statutes 1994, section 82.22, subdivision 13, is amended to read:

Subd. 13. [CONTINUING EDUCATION.] (a) After their first renewal date, all real estate salespersons and all real estate brokers shall be required to successfully complete 30 hours of real

estate continuing education, either as a student or a lecturer, in courses of study approved by the commissioner, during each 24-month license period. At least 15 of the 30 credit hours must be completed during the first 12 months of the 24-month licensing period. Salespersons and brokers whose initial license period extends more than 12 months are required to complete 15 hours of real estate continuing education during the initial license period. ~~All continuing education must be earned no later than May 31 of the renewal year.~~ Those licensees who will receive a 12-month license on July 1, 1995, because of the staggered implementation schedule must complete 15 hours of real estate continuing education as a requirement for renewal on July 1, 1996. Licensees may not claim credit for continuing education not actually completed as of the date their report of continuing education compliance is filed.

(b) The commissioner shall adopt rules defining the standards for course and instructor approval, and may adopt rules for the proper administration of this subdivision.

(c) Any program approved by Minnesota continuing legal education shall be approved by the commissioner of commerce for continuing education for real estate brokers and salespeople if the program or any part thereof relates to real estate.

(d) As part of the continuing education requirements of this section, the commissioner shall require that all real estate brokers and salespersons receive:

(1) at least two hours of training during each license period in courses in laws or regulations on agency representation and disclosure; and

(2) at least two hours of training during each license period in courses in state and federal fair housing laws, regulations, and rules, or other antidiscrimination laws.

Clause (1) does not apply to real estate salespersons and real estate brokers engaged solely in the commercial real estate business who file with the commissioner a verification of this status along with the continuing education report required under paragraph (a).

(e) The commissioner is authorized to establish a procedure for renewal of course accreditation.

Sec. 10. Minnesota Statutes 1994, section 82A.11, is amended by adding a subdivision to read:

Subd. 8. [CANCELLATION BY HEIR.] A membership camping contract that may be transferred by descent or devise must provide that the heir or devisee may cancel the contract. Cancellation of the contract relieves the heir or devisee of any further obligations under the contract.

Sec. 11. Minnesota Statutes 1994, section 82B.19, is amended by adding a subdivision to read:

Subd. 4. [RENEWAL OF ACCREDITATION.] The commissioner is authorized to establish a procedure for renewal of course accreditation.

Sec. 12. Minnesota Statutes 1995 Supplement, section 386.66, is amended to read:

386.66 [BOND OR ABSTRACTER'S LIABILITY INSURANCE POLICY.]

Before a license shall be issued, the applicant shall file with the commissioner ~~a~~ an annual bond or abstracter's liability insurance policy for each license year, to be approved by the commissioner, running to the state of Minnesota in the penal sum of at least $100,000 conditioned for the payment by such abstracter of any damages that may be sustained by or accrue to any person by reason of or on account of any error, deficiency or mistake arising wrongfully or negligently in any abstract, or continuation thereof, or in any certificate showing ownership of, or interest in, or liens upon any lands in the state of Minnesota, whether registered or not, made by and issued by such abstracter, provided however, that the aggregate liability of the surety to all persons under such bond shall in no event exceed the amount of such bond. If the applicant intends to engage in the business of abstracting in any county having more than 200,000 inhabitants, the bond or insurance policy required herein shall be in the penal sum of at least $250,000. Applicants that are title insurance companies regulated by chapter 68A and licensed pursuant to sections 60A.02 and 60A.06, subdivision 1, clause (7), and their employees or those having cash or

securities on deposit with the state of Minnesota in an amount equal to the said bond or insurance policy shall be exempt from furnishing the bond or an insurance policy herein required but shall be liable to the same extent as if a bond or insurance policy has been given and filed. The bond or insurance policy required hereunder shall be written by some surety or other company authorized to do business in this state issuing bonds or abstracter's liability insurance policies and shall be issued for a period of one or more years, and renewed for one ~~or more years~~ year at the date of expiration as principal continues in business. ~~The aggregate liability of such surety on such bond or insurance policy for all damages shall, in no event, exceed the sum of said bond or insurance policy.~~

Sec. 13. [EFFECTIVE DATES.]

Sections 1 to 8 are effective October 1, 1996. Sections 9 and 11 are effective the day following final enactment.

ARTICLE 4

BUILDING CONTRACTORS

Section 1. Minnesota Statutes 1994, section 326.37, is amended by adding a subdivision to read:

Subd. 3. [EXEMPTION.] No license authorized by this section shall be required of any contractor or employee engaged in the work or business of pipe laying outside of buildings if such person is engaged in a business or trade which has traditionally performed such work within the state prior to January 1, 1994.

Sec. 2. Minnesota Statutes 1994, section 326.87, is amended by adding a subdivision to read:

Subd. 4. [RENEWAL OF ACCREDITATION.] The commissioner is authorized to establish a procedure for renewal of course accreditation.

Sec. 3. Minnesota Statutes 1994, section 326.91, is amended by adding a subdivision to read:

Subd. 3. [CERTIFICATE OF EXEMPTION HOLDERS.] For cause shown under subdivision 1 or 2, the commissioner may deny, suspend, or revoke a certificate of exemption issued under section 326.84, subdivision 3, clause (5), in the same manner as a license.

Sec. 4. Minnesota Statutes 1994, section 326.91, is amended by adding a subdivision to read:

Subd. 4. [ACTION AGAINST UNLICENSED PERSONS.] Nothing in this section prevents the commissioner from taking actions, including cease and desist actions, against persons required to be licensed under sections 326.83 to 326.991, based on conduct that would provide grounds for administrative action against a licensee under this section.

Sec. 5. Minnesota Statutes 1994, section 326.991, is amended to read:

326.991 [EXCEPTION.]

Subdivision 1. The license requirement under section 326.84 does not apply to a residential building contractor, residential remodeler, or specialty contractor licensed by the ~~city of St. Paul or the~~ city of Minneapolis and who is performing work within the legal boundaries of ~~one of those municipalities~~ that municipality.

This subdivision expires March 31, 2000.

Subd. 2. The commissioner may contract with the city of Minneapolis ~~and the city of St. Paul~~ to administer this licensing program.

Sec. 6. [REPEALER.]

Minnesota Statutes 1994, sections 326.95, subdivision 4; 326.97, subdivision 3; and 326.99, are repealed.

Sec. 7. [EFFECTIVE DATES.]

Sections 1 to 4 and 6 are effective the day following final enactment.

Section 5 is effective April 1, 1996.

ARTICLE 5

MISCELLANEOUS

Section 1. Minnesota Statutes 1994, section 47.206, subdivision 1, is amended to read:

47.206 [INTEREST RATE OR DISCOUNT POINT AGREEMENTS.]

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Lender" means a person or entity referred to in section 47.20, subdivision 1, a credit union, or a person making a conventional loan as defined under section 47.20, subdivision 2, clause (3), or cooperative apartment loan as defined under section 47.20, subdivision 2, clause (4), except that conventional loans or cooperative apartment loans include any loan or advance of credit in an original principal balance of less than $200,000. "Lender" also means a mortgage broker as defined in paragraph (e).

(b) "Loan" means loans and advances of credit authorized under section 47.20, subdivision 1, clauses (1) to (4), and conventional loans as defined under section 47.20, subdivision 2, clause (3), or cooperative apartment loans as defined under section 47.20, subdivision 2, clause (4), except that conventional loans or cooperative apartment loans also include all loans and advances of credit in an original principal balance of less than $200,000. "Loan" does not include a loan or advance of credit secured by a mortgage upon real property containing more than one residential unit or secured by a security interest in shares of more than one residential unit in a building owned or leased by a cooperative apartment corporation.

(c) "Borrower" means a natural person who has submitted an application for a loan to a lender.

(d) "Interest rate or discount point agreement" or "agreement" means a contract between a lender and a borrower under which the lender agrees, subject to the lender's underwriting and approval requirements, to make a loan at a specified interest rate or number of discount points, or both, and the borrower agrees to make a loan on those terms. The term also includes an offer by a lender that is accepted by a borrower under which the lender promises to guarantee or lock in an interest rate or number of discount points, or both, for a specific period of time.

(e) "Mortgage broker" includes:

(1) a person who negotiates mortgage loans as described in section 82.17, subdivision 4, clause (b), if the person does not qualify for the exception set forth in section 82.18, clause (o);

(2) the employees of the person; or

(3) any person or firm which holds itself out to the public as a mortgage broker, regardless of whether the person or firm holds a limited broker's license pursuant to section 82.20, subdivision 13.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on the day following final enactment."

Delete the title and insert:

"A bill for an act relating to commerce; changing the enforcement authority of the commissioner; providing continuing education and reporting requirements for certain licenses; regulating inspections of cosmetology salons and schools; regulating disclosures of information and data; regulating securities registrations and exemptions; regulating franchise registrations and definitions; regulating cancellations of membership camping contracts; modifying the bond or

insurance requirements for abstractors; regulating residential building contractors; regulating certain real estate disclosures; regulating unclaimed properties and notaries public; removing a certain licensing exception; repealing an obsolete provision; amending Minnesota Statutes 1994, sections 45.011, subdivision 1; 45.027, subdivision 7, and by adding subdivisions; 47.206, subdivision 1; 53A.081, subdivision 1; 60K.19, subdivisions 7, 8, and 10; 80A.05, subdivision 1; 80A.06, subdivision 3; 80A.09, by adding a subdivision; 80A.10, subdivision 4; 80A.11, by adding a subdivision; 80A.14, by adding subdivisions; 80A.15, subdivisions 2 and 3; 80C.01, by adding a subdivision; 80C.05, by adding a subdivision; 82.19, subdivision 5; 82.195, subdivision 2; 82.196, subdivisions 1 and 2; 82.197, subdivisions 1, 2, 3, and 4; 82.22, subdivision 13; 82A.11, by adding a subdivision; 82B.19, by adding a subdivision; 155A.08, subdivision 3; 155A.09, subdivision 7; 155A.095; 326.37, by adding a subdivision; 326.87, by adding a subdivision; 326.91, by adding subdivisions; 326.991; 332.34; 345.41; 345.42; 345.43, by adding a subdivision; 345.515; 359.01, subdivisions 1 and 2; 359.02; and 359.061; Minnesota Statutes 1995 Supplement, sections 16A.6701, subdivision 1; 80A.15, subdivision 1; 82.20, subdivision 15; 82.34, subdivision 7; 83.26, subdivision 2; and 386.66; proposing coding for new law in Minnesota Statutes, chapters 45; and 332; repealing Minnesota Statutes 1994, sections 80A.14, subdivision 8; 326.95, subdivision 4; 326.97, subdivision 3; 326.99; and 345.43, subdivisions 1 and 2."

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

Senate Conferees: (Signed) Edward C. Oliver, Leonard R. Price, James P. Metzen

House Conferees: (Signed) Matt Entenza, Robert Leighton, Ron Abrams

Mr. Oliver moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1915 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. 1915 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 50 and nays 9, as follows:

Those who voted in the affirmative were:

Beckman	Janezich	Kroening	Oliver	Riveness
Belanger	Johnson, D.E.	Larson	Olson	Robertson
Berg	Johnson, D.J.	Lesewski	Ourada	Runbeck
Berglin	Johnson, J.B.	Lessard	Pappas	Sams
Cohen	Johnston	Metzen	Pariseau	Scheevel
Day	Kiscaden	Moe, R.D.	Piper	Stevens
Dille	Kleis	Mondale	Pogemiller	Stumpf
Fischbach	Knutson	Morse	Price	Terwilliger
Frederickson	Kramer	Murphy	Ranum	Vickerman
Hottinger	Krentz	Neuville	Reichgott Junge	Wiener

Those who voted in the negative were:

Anderson	Chandler	Hanson	Merriam	Samuelson
Betzold	Flynn	Marty	Novak	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 2101 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 2101: A bill for an act relating to elections; allowing mail balloting in certain elections in additional cities and towns; amending Minnesota Statutes 1994, section 204B.45, subdivision 1.

Mr. Stumpf moved that the amendment made to H.F. No. 2101 by the Committee on Rules and Administration in the report adopted March 20, 1996, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

Mrs. Pariseau moved to amend H.F. No. 2101 as follows:

Page 1, line 10, delete "1,000" and insert "600"

CALL OF THE SENATE

Mr. Stumpf imposed a call of the Senate for the balance of the proceedings on H.F. No. 2101. 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 24 and nays 35, as follows:

Those who voted in the affirmative were:

Belanger	Frederickson	Kramer	Oliver	Runbeck
Berg	Johnson, D.E.	Larson	Olson	Scheevel
Day	Johnston	Lesewski	Ourada	Stevens
Dille	Kleis	Limmer	Pariseau	Terwilliger
Fischbach	Knutson	Neuville	Robertson	

Those who voted in the negative were:

Anderson	Hanson	Langseth	Murphy	Riveness
Beckman	Hottinger	Lessard	Novak	Sams
Berglin	Janezich	Marty	Piper	Samuelson
Betzold	Johnson, D.J.	Merriam	Pogemiller	Solon
Chandler	Johnson, J.B.	Metzen	Price	Stumpf
Cohen	Krentz	Moe, R.D.	Ranum	Vickerman
Flynn	Kroening	Morse	Reichgott Junge	Wiener

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

H.F. No. 2101 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

Mr. Stumpf moved that those not voting be excused from voting. The motion prevailed.

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

Those who voted in the affirmative were:

Anderson	Hottinger	Langseth	Murphy	Riveness
Beckman	Janezich	Marty	Novak	Robertson
Berglin	Johnson, D.J.	Merriam	Pappas	Sams
Betzold	Johnson, J.B.	Metzen	Piper	Samuelson
Chandler	Kiscaden	Moe, R.D.	Pogemiller	Solon
Cohen	Krentz	Mondale	Price	Stumpf
Flynn	Kroening	Morse	Ranum	Wiener

Those who voted in the negative were:

Belanger	Dille	Hanson	Kleis	Laidig
Berg	Fischbach	Johnson, D.E.	Knutson	Larson
Day	Frederickson	Johnston	Kramer	Lesewski

Lessard	Oliver	Pariseau	Scheevel	Vickerman
Limmer	Olson	Reichgott Junge	Stevens	
Neuville	Ourada	Runbeck	Terwilliger	

So the bill passed and its title was agreed to.

RECESS

Ms. Flynn 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:

S.F. No. 2381: Messrs. Johnson, D.J.; Novak and Ms. Runbeck.

Ms. Flynn moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

CONFIRMATION

Mr. Betzold moved that the appointments of notaries public, received March 29, 1996, be taken from the table. The motion prevailed.

Mr. Betzold moved that the Senate do now consent to and confirm the appointments of the notaries public. The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Stumpf moved that the report from the Committee on Education, reported March 28, 1996, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Stumpf moved that the foregoing report be now adopted. The motion prevailed.

Mr. Stumpf moved that in accordance with the report from the Committee on Education, reported March 28, 1996, the Senate, having given its advice, do now consent to and confirm the appointment of:

MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY

James Miller, 707 Mount Curve Blvd., St. Paul, Ramsey County, effective January 7, 1996, for a term expiring on the first Monday in January, 2000.

Mollie Thibodeau, 407 Wallace Ave., Duluth, St. Louis County, effective January 7, 1996, for a term expiring on the first Monday in January, 2000.

The motion prevailed. So the appointments were confirmed.

CONFIRMATION

Mr. Stumpf moved that the report from the Committee on Education, reported March 28, 1996, pertaining to appointments, be taken from the table. The motion prevailed.

Mr. Stumpf moved that the foregoing report be now adopted. The motion prevailed.

Mr. Stumpf moved that in accordance with the report from the Committee on Education, reported March 28, 1996, the Senate, having given its advice, do now consent to and confirm the appointment of:

BOARD OF TRUSTEES OF THE MINNESOTA STATE COLLEGES AND UNIVERSITIES

William A. Smoley, 9 Oakhill Ct. N., Sartell, Stearns County, effective October 3, 1995, for a term expiring on June 30, 1998.

The motion prevailed. So the appointment was confirmed.

MOTIONS AND RESOLUTIONS - CONTINUED

RECONSIDERATION

Mr. Moe, R.D. moved that the vote whereby H.F. No. 2204 failed to pass the Senate on March 28, 1996, be now reconsidered. The motion prevailed. So the vote was reconsidered.

H.F. No. 2204: A bill for an act relating to civil actions; creating a nuisance action by individuals and neighborhood organizations; proposing coding for new law in Minnesota Statutes, chapter 617.

RECONSIDERATION

Having voted on the prevailing side, Ms. Anderson moved that the vote whereby the Conference Committee Report on H.F. No. 2204 was adopted on March 28, 1996, be now reconsidered. The motion prevailed. So the vote was reconsidered.

Ms. Anderson moved that the recommendations and Conference Committee Report on H.F. No. 2204 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration. The motion prevailed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 1:30 p.m. The motion prevailed.

The hour of 1:30 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.

MOTIONS AND RESOLUTIONS - CONTINUED

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

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 1956.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 29, 1996

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. 2381: A bill for an act relating to telecommunications; regulating intrastate interLATA telecommunications services; proposing coding for new law in Minnesota Statutes, chapter 237.

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

Jennings, Anderson, R. and Holsten.

Senate File No. 2381 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 29, 1996

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. 302, and repassed said bill in accordance with the report of the Committee, so adopted.

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.

Senate File No. 302 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 29, 1996

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. 3052, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 3052 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 29, 1996

CONFERENCE COMMITTEE REPORT ON H.F. NO. 3052

A bill for an act relating to insurance; clarifying that existing law prohibits insurers from terminating agents as a result of contacts with any branch of government; amending Minnesota Statutes 1994, section 72A.20, subdivision 20.

March 27, 1996

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. 3052, 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. 3052 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 72A.20, subdivision 20, is amended to read:

Subd. 20. [CONTACT WITH ~~DEPARTMENT~~ GOVERNMENT.] An insurance company may not terminate or otherwise penalize an insurance agent solely because the agent contacted any government department or agency regarding a problem that the agent or an insured may be having with an insurance company. For purposes of this section, "government department or agency" includes the executive, legislative, and judicial branches of government as stated in article III of the Constitution.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is a clarification of the legislature's intent in originally enacting Minnesota Statutes, section 72A.20, subdivision 20, and section 1 is therefore effective retroactively to May 18, 1989, which was the effective date of that statute as originally enacted."

Delete the title and insert:

"A bill for an act relating to insurance; clarifying that existing law prohibits insurers from terminating agents as a result of contacts with any branch of government; amending Minnesota Statutes 1994, section 72A.20, subdivision 20."

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

House Conferees: (Signed) Don Ostrom, John Dorn, Gregory M. Davids

Senate Conferees: (Signed) John C. Hottinger, James P. Metzen, William V. Belanger, Jr.

Mr. Hottinger moved that the foregoing recommendations and Conference Committee Report on H.F. No. 3052 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. 3052 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Flynn	Kleis	Limmer	Oliver
Belanger	Frederickson	Knutson	Marty	Olson
Berg	Hanson	Kramer	Merriam	Ourada
Berglin	Hottinger	Krentz	Metzen	Pappas
Betzold	Janezich	Kroening	Moe, R.D.	Pariseau
Chandler	Johnson, D.E.	Laidig	Mondale	Piper
Cohen	Johnson, D.J.	Langseth	Morse	Pogemiller
Day	Johnston	Larson	Murphy	Price
Dille	Kelly	Lesewski	Neuville	Ranum
Fischbach	Kiscaden	Lessard	Novak	Reichgott Junge

Riveness	Samuelson	Solon	Stevens	Vickerman
Robertson	Scheevel	Spear	Terwilliger	Wiener
Sams				

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2190, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2190 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 29, 1996

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2190

A bill for an act relating to health; providing for the cancellation of recodification efforts; repealing Laws 1994, chapter 625, article 5, section 5, as amended.

March 27, 1996

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. 2190, 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. 2190 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1994, section 62A.65, subdivision 3, is amended to read:

Subd. 3. [PREMIUM RATE RESTRICTIONS.] No individual health plan may be offered, sold, issued, or renewed to a Minnesota resident unless the premium rate charged is determined in accordance with the following requirements:

(a) Premium rates must be no more than 25 percent above and no more than 25 percent below the index rate charged to individuals for the same or similar coverage, adjusted pro rata for rating periods of less than one year. The premium variations permitted by this paragraph must be based only upon health status, claims experience, and occupation. For purposes of this paragraph, health status includes refraining from tobacco use or other actuarially valid lifestyle factors associated with good health, provided that the lifestyle factor and its effect upon premium rates have been determined by the commissioner to be actuarially valid and have been approved by the commissioner. Variations permitted under this paragraph must not be based upon age or applied differently at different ages. This paragraph does not prohibit use of a constant percentage adjustment for factors permitted to be used under this paragraph.

(b) Premium rates may vary based upon the ages of covered persons only as provided in this paragraph and paragraph (i). In addition to the variation permitted under paragraph (a), each health carrier may use an additional premium variation based upon age of up to plus or minus 50 percent of the index rate.

(c) A health carrier may request approval by the commissioner to establish no more than three geographic regions and to establish separate index rates for each region, provided that the index rates do not vary between any two regions by more than 20 percent. Health carriers that do not do business in the Minneapolis/St. Paul metropolitan area may request approval for no more than two geographic regions, and clauses (2) and (3) do not apply to approval of requests made by those health carriers. The commissioner may grant approval if the following conditions are met:

(1) the geographic regions must be applied uniformly by the health carrier;

(2) one geographic region must be based on the Minneapolis/St. Paul metropolitan area;

(3) for each geographic region that is rural, the index rate for that region must not exceed the index rate for the Minneapolis/St. Paul metropolitan area; and

(4) the health carrier provides actuarial justification acceptable to the commissioner for the proposed geographic variations in index rates, establishing that the variations are based upon differences in the cost to the health carrier of providing coverage.

(d) Health carriers may use rate cells and must file with the commissioner the rate cells they use. Rate cells must be based upon the number of adults or children covered under the policy and may reflect the availability of Medicare coverage. The rates for different rate cells must not in any way reflect generalized differences in expected costs between principal insureds and their spouses.

(e) In developing its index rates and premiums for a health plan, a health carrier shall take into account only the following factors:

(1) actuarially valid differences in rating factors permitted under paragraphs (a) and (b); and

(2) actuarially valid geographic variations if approved by the commissioner as provided in paragraph (c).

(f) All premium variations must be justified in initial rate filings and upon request of the commissioner in rate revision filings. All rate variations are subject to approval by the commissioner.

(g) The loss ratio must comply with the section 62A.021 requirements for individual health plans.

(h) The rates must not be approved, unless the commissioner has determined that the rates are reasonable. In determining reasonableness, the commissioner shall consider the growth rates applied under section 62J.04, subdivision 1, paragraph (b), to the calendar year or years that the proposed premium rate would be in effect, actuarially valid changes in risks associated with the enrollee populations, and actuarially valid changes as a result of statutory changes in Laws 1992, chapter 549.

(i) Separate premium rates for coverage of a child may, at the option of the health carrier and with the approval of the commissioner, be below the rates that would otherwise be permitted under paragraph (b). Those separate rates are not considered for purposes of determining the index rate. The maximum age of a child eligible for these separate rates may be any age selected by the health carrier and approved by the commissioner.

Sec. 2. Minnesota Statutes 1995 Supplement, section 62A.65, subdivision 5, is amended to read:

Subd. 5. [PORTABILITY OF COVERAGE.] (a) No individual health plan may be offered, sold, issued, or with respect to children age 18 or under renewed, to a Minnesota resident that contains a preexisting condition limitation, preexisting condition exclusion, or exclusionary rider, unless the limitation or exclusion is permitted under this subdivision, provided that, except for children age 18 or under, underwriting restrictions may be retained on individual contracts that are issued without evidence of insurability as a replacement for prior individual coverage that was sold before May 17, 1993. The individual may be subjected to an 18-month preexisting condition limitation, unless the individual has maintained continuous coverage as defined in section 62L.02.

The individual must not be subjected to an exclusionary rider. An individual who has maintained continuous coverage may be subjected to a one-time preexisting condition limitation of up to 12 months, with credit for time covered under qualifying coverage as defined in section 62L.02, at the time that the individual first is covered under an individual health plan by any health carrier. Credit must be given for all qualifying coverage with respect to all preexisting conditions, regardless of whether the conditions were preexisting with respect to any previous qualifying coverage. The individual must not be subjected to an exclusionary rider. Thereafter, the individual must not be subject to any preexisting condition limitation, preexisting condition exclusion, or exclusionary rider under an individual health plan by any health carrier, except an unexpired portion of a limitation under prior coverage, so long as the individual maintains continuous coverage as defined in section 62L.02. For purposes of the 12-month and 18-month preexisting condition limitations referred to in this paragraph, "preexisting condition" has the meaning given in section 62L.02, subdivision 23.

(b) A health carrier must offer an individual health plan to any individual previously covered under a group health plan issued by that health carrier, regardless of the size of the group, so long as the individual maintained continuous coverage as defined in section 62L.02. The offer must not be subject to underwriting, except as permitted under this paragraph. A health plan issued under this paragraph must be a qualified plan as defined in section 62E.02 and must not contain any preexisting condition limitation, preexisting condition exclusion, or exclusionary rider, except for any unexpired limitation or exclusion under the previous coverage. The individual health plan must cover pregnancy on the same basis as any other covered illness under the individual health plan. The initial premium rate for the individual health plan must comply with subdivision 3. The premium rate upon renewal must comply with subdivision 2. In no event shall the premium rate exceed 90 percent of the premium charged for comparable individual coverage by the Minnesota comprehensive health association, and the premium rate must be less than that amount if necessary to otherwise comply with this section. An individual health plan offered under this paragraph to a person satisfies the health carrier's obligation to offer conversion coverage under section 62E.16, with respect to that person. Coverage issued under this paragraph must provide that it cannot be canceled or nonrenewed as a result of the health carrier's subsequent decision to leave the individual, small employer, or other group market. Section 72A.20, subdivision 28, applies to this paragraph.

Sec. 3. Minnesota Statutes 1995 Supplement, section 62J.042, subdivision 4, is amended to read:

Subd. 4. [MONITORING AND ENFORCEMENT.] Health care providers shall submit to the commissioner of health, in the form and at the times required by the commissioner, all information the commissioner determines to be necessary to implement and enforce this section. The commissioner shall regularly audit all health clinics employing or contracting with over 100 physicians. The commissioner shall also audit, at times and in a manner that does not interfere with delivery of patient care, a sample of smaller clinics and other health care providers. Providers that exceed revenue limits based on two-year average revenue data shall be required by the commissioner to pay back the amount exceeding the revenue limits during the following calendar year.

Pharmacists may adjust their revenue figures for increases in drug product costs that are set by the manufacturer. The commissioner shall consult with pharmacy groups, including pharmacies, wholesalers, drug manufacturers, health plans, and other interested parties, to determine the methodology for measuring and implementing the interim growth limits while taking into account the adjustments for drug product costs.

The commissioner shall monitor providers meeting the growth limits based on their current fees on an annual basis. The fee charged for each service must be based on a weighted average across 12 months and compared to the weighted average for the previous 12-month period. The percentage increase in the average fee from 1993 to 1994, and from 1994 to 1995, from 1995 to 1996, and from 1996 to 1997 is subject to the growth limits established under section 62J.04, subdivision 1, paragraph (b). ~~The percentage increase in the average fee from 1995 to 1996, and from 1996 to 1997 is subject to the change in the regional consumer price index for urban consumers for the previous year published in the State Register in January of the year that the~~

~~growth limit is in effect.~~ The audit process may include a review of the provider's monthly fee schedule, and a random claims analysis for the provider during different parts of the year to monitor variations in fees. The commissioner shall require providers that exceed growth limits, based on annual fees, to pay back during the following calendar year the amount of fees received exceeding the limit.

The commissioner shall notify each provider that has exceeded its revenue or fee limit, at least 30 days before taking action, and shall provide each provider with ten days to provide an explanation for exceeding the revenue or fee limit. The commissioner shall review the explanation and may change a determination if the commissioner determines the explanation to be valid.

The commissioner may approve a different repayment schedule for a health care provider that takes into account the provider's financial condition.

A provider may appeal the commissioner's order to pay back the amount exceeding the revenue or fee limit by mailing a written notice of appeal to the commissioner within 30 days after the commissioner's order was mailed. The contested case and judicial review provisions of chapter 14 apply to the appeal. The provider shall pay the amount specified by the commissioner either to the commissioner or into an escrow account until final resolution of the appeal. Notwithstanding sections 3.762 to 3.765, each party is responsible for its own fees and expenses, including attorneys fees, for the appeal. Any amount required to be paid back under this section shall be deposited in the health care access fund.

Sec. 4. Minnesota Statutes 1994, section 62J.25, is amended to read:

62J.25 [MANDATORY MEDICARE ASSIGNMENT.]

(a) Effective January 1, 1993, a health care provider ~~authorized to participate in the Medicare program~~ shall not charge to or collect from a Medicare beneficiary who is a Minnesota resident any amount in excess of 115 percent of the Medicare-approved amount for any Medicare-covered service provided.

(b) Effective January 1, 1994, a health care provider ~~authorized to participate in the Medicare program~~ shall not charge to or collect from a Medicare beneficiary who is a Minnesota resident any amount in excess of 110 percent of the Medicare-approved amount for any Medicare-covered service provided.

(c) Effective January 1, 1995, a health care provider ~~authorized to participate in the Medicare program~~ shall not charge to or collect from a Medicare beneficiary who is a Minnesota resident any amount in excess of 105 percent of the Medicare-approved amount for any Medicare-covered service provided.

(d) Effective January 1, 1996, a health care provider ~~authorized to participate in the Medicare program~~ shall not charge to or collect from a Medicare beneficiary who is a Minnesota resident any amount in excess of the Medicare-approved amount for any Medicare-covered service provided.

(e) This section does not apply to ambulance services as defined in section 144.801, subdivision 4.

Sec. 5. Minnesota Statutes 1995 Supplement, section 62L.045, subdivision 1, is amended to read:

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

(a) "Association" means:

(1) an association as defined in section 60A.02;

(2) a group or organization of political subdivisions;

(3) ~~an educational cooperative service unit~~ a service cooperative created under section ~~123.58~~ 123.582; or

(4) a joint self-insurance pool authorized under section 471.617, subdivision 2.

(b) "Qualified association" means an association, as defined in this subdivision, that:

(1) is registered with the commissioner of commerce;

(2) provides health plan coverage through a health carrier that participates in the small employer market in this state, other than through associations, to the extent that the association purchases health plan coverage rather than self-insures;

(3) has and adheres to membership and participation criteria and health ~~plan~~ coverage eligibility criteria that are not designed to disproportionately include or attract small employers that are likely to have low costs of health coverage or to disproportionately exclude or repel small employers that are likely to have high costs of health coverage; and

(4) permits any small employer that meets its membership, participation, and eligibility criteria to become a member and to obtain health ~~plan~~ coverage through the association.

Sec. 6. Minnesota Statutes 1994, section 62L.09, subdivision 3, is amended to read:

Subd. 3. [REENTRY PROHIBITION.] (a) Except as provided in paragraph (b), a health carrier that ceases to do business in the small employer market after July 1, 1993, is prohibited from writing new business in the small employer market in this state for a period of five years from the date of notice to the commissioner. This subdivision applies to any health maintenance organization that ceases to do business in the small employer market in one service area with respect to that service area only. Nothing in this subdivision prohibits an affiliated health maintenance organization from continuing to do business in the small employer market in that same service area.

(b) The commissioner of commerce or the commissioner of health may permit a health carrier that ceases to do business in the small employer market in this state after July 1, 1993, to begin writing new business in the small employer market if:

(1) since the carrier ceased doing business in the small employer market, legislative action has occurred that has significantly changed the effect on the carrier of its decision to cease doing business in the small employer market; and

(2) the commissioner deems it appropriate.

Sec. 7. Minnesota Statutes 1995 Supplement, section 62L.12, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] (a) A health carrier may sell, issue, or renew individual conversion policies to eligible employees otherwise eligible for conversion coverage under section 62D.104 as a result of leaving a health maintenance organization's service area.

(b) A health carrier may sell, issue, or renew individual conversion policies to eligible employees otherwise eligible for conversion coverage as a result of the expiration of any continuation of group coverage required under sections 62A.146, 62A.17, 62A.21, 62C.142, 62D.101, and 62D.105.

(c) A health carrier may sell, issue, or renew conversion policies under section 62A.65, subdivision 5, paragraph (b), or 62E.16 to eligible employees.

(d) A health carrier may sell, issue, or renew individual continuation policies to eligible employees as required.

(e) A health carrier may sell, issue, or renew individual health plans if the coverage is appropriate due to an unexpired preexisting condition limitation or exclusion applicable to the person under the employer's group health plan or due to the person's need for health care services not covered under the employer's group health plan.

(f) A health carrier may sell, issue, or renew an individual health plan, if the individual has elected to buy the individual health plan not as part of a general plan to substitute individual health plans for a group health plan nor as a result of any violation of subdivision 3 or 4.

(g) Nothing in this subdivision relieves a health carrier of any obligation to provide continuation or conversion coverage otherwise required under federal or state law.

(h) Nothing in this chapter restricts the offer, sale, issuance, or renewal of coverage issued as a supplement to Medicare under sections 62A.31 to 62A.44, or policies or contracts that supplement Medicare issued by health maintenance organizations, or those contracts governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395 et. seq., as amended.

(i) Nothing in this chapter restricts the offer, sale, issuance, or renewal of individual health plans necessary to comply with a court order.

(j) For purposes of this subdivision, "conversion policy" or "conversion coverage" includes coverage described in section 62A.65, subdivision 5, paragraph (b).

Sec. 8. Minnesota Statutes 1994, section 62L.14, subdivision 7, is amended to read:

Subd. 7. [COMPENSATION.] Public directors may be reimbursed by the association for reasonable and necessary expenses incurred by them in performing their duties as directors~~, but shall not otherwise be compensated by the association for their services~~ and may be compensated by the association at a rate of up to $55 per day spent on authorized association activities.

Sec. 9. Minnesota Statutes 1995 Supplement, section 62M.09, subdivision 5, is amended to read:

Subd. 5. [WRITTEN CLINICAL CRITERIA.] A utilization review organization's decisions must be supported by written clinical criteria and review procedures ~~in compliance with section 62M.07, paragraph (c)~~. Clinical criteria and review procedures must be established with appropriate involvement from actively practicing physicians. A utilization review organization must use written clinical criteria, as required, for determining the appropriateness of the certification request. The utilization review organization must have a procedure for ensuring, at a minimum, the annual evaluation and updating of the written criteria based on sound clinical principles.

Sec. 10. Minnesota Statutes 1995 Supplement, section 62N.076, subdivision 3, is amended to read:

Subd. 3. [PERMITTED INVESTMENT.] (a) An integrated service network ~~shall make investments~~ may invest only in securities or property designated by law as permitted for domestic life insurance companies~~; this restriction includes compliance~~. Except as provided in paragraph (b), an integrated service network must comply with percentage limitations that apply to domestic life insurance companies. ~~A~~

(b) An integrated service network may~~, however,~~ invest in real estate, including leasehold improvements, for the convenience and accommodation of its operations, including the home office, branch offices, medical facilities, and field operations, in excess of the percentage permitted for a domestic life insurance company~~, but not to~~. The investment in real estate described in this paragraph may exceed 25 percent of ~~its~~ the integrated service network's total admitted assets only if:

(1) the total of real estate assets and assets described in section 62D.044, clause (17), does not exceed the total combined percentage limitations allowed under this paragraph and section 62D.044, clause (17); or

(2) the commissioner determines that the percentage is insufficient to provide convenient accommodation of the network's business.

Sec. 11. Minnesota Statutes 1995 Supplement, section 62N.077, subdivision 2, is amended to read:

Subd. 2. [SECURITY FOR GUARANTEE.] (a) If the guaranteeing organization is regulated for solvency by the commissioner of commerce or health, the guarantee must be treated as a liability for purposes of solvency regulation of the guaranteeing organization. If the guaranteeing organization becomes insolvent, a claim by the network on the guarantee must be at least of equal priority with claims of enrollees or other policy holders of the insolvent guaranteeing organization.

(b) If the guaranteeing organization is not regulated for solvency by the commissioner of commerce or health, the organization must maintain assets~~, except if, when calculated in combination with the assets described in section 62D.044, clause (17), the total of those assets and the real estate assets described in this subdivision do not exceed the total combined percent limitations allowable under this section and section 62D.044, clause (17), or except if permitted by the commissioner upon a finding that the percentage of the integrated service network's admitted assets is insufficient to provide convenient accommodation of the network's business acceptable to the commissioner,~~ with a market value at least equal to the amount of the guarantee, in a custodial or other controlled account on terms acceptable to the commissioner of health.

Sec. 12. Minnesota Statutes 1994, section 62N.25, subdivision 5, is amended to read:

Subd. 5. [BENEFITS.] Community integrated service networks must offer the health maintenance organization benefit set, as defined in chapter 62D, and other laws applicable to entities regulated under chapter 62D~~, except that the community integrated service network may impose a deductible, not to exceed $1,000 per person per year, provided that out-of-pocket expenses on covered services do not exceed $3,000 per person or $5,000 per family per year. The deductible must not apply to preventive health services as described in Minnesota Rules, part 4685.0801, subpart 8~~. Community networks and chemical dependency facilities under contract with a community network shall use the assessment criteria in Minnesota Rules, parts 9530.6600 to 9530.6660, when assessing enrollees for chemical dependency treatment.

Sec. 13. Minnesota Statutes 1995 Supplement, section 62Q.01, subdivision 3, is amended to read:

Subd. 3. [HEALTH PLAN.] "Health plan" means a health plan as defined in section 62A.011; or a policy, contract, or certificate issued by a community integrated service network~~;~~ or by an integrated service network.

Sec. 14. Minnesota Statutes 1995 Supplement, section 256.9354, subdivision 5, is amended to read:

Subd. 5. [ADDITION OF SINGLE ADULTS AND HOUSEHOLDS WITH NO CHILDREN.] (a) Beginning October 1, 1994, the definition of "eligible persons" is expanded to include all individuals and households with no children who have gross family incomes that are equal to or less than 125 percent of the federal poverty guidelines and who are not eligible for medical assistance without a spenddown under chapter 256B.

(b) ~~After October 1, 1995~~ Beginning July 1, 1996, the commissioner of human services ~~may~~ shall expand the definition of "eligible persons" to include all individuals and households with no children who have gross family incomes that are equal to or less than ~~135~~ 150 percent of federal poverty guidelines and are not eligible for medical assistance without a spenddown under chapter 256B. This expansion ~~may~~ must occur ~~only if~~ unless the commissioner certifies that the financial management requirements of section 256.9352, subdivision 3, ~~can~~ cannot be met.

(c) ~~The commissioners of health and human services, in consultation with the legislative commission on health care access, shall make preliminary recommendations to the legislature by October 1, 1995, and final recommendations to the legislature by February 1, 1996, on whether a further expansion of the definition of "eligible persons" to include all individuals and households with no children who have gross family incomes that are equal to or less than 150 percent of federal poverty guidelines and are not eligible for medical assistance without a spenddown under chapter 256B would be allowed under the financial management constraints outlined in section 256.9352, subdivision 3.~~

~~(d)~~ All eligible persons under paragraphs (a) and (b) are eligible for coverage through the

MinnesotaCare program but must pay a premium as determined under sections 256.9357 and 256.9358. Individuals and families whose income is greater than the limits established under section 256.9358 may not enroll in the MinnesotaCare program.

Sec. 15. Minnesota Statutes 1995 Supplement, section 256.9358, subdivision 4, is amended to read:

Subd. 4. [INELIGIBILITY.] Families with children whose gross monthly income is above the amount specified in subdivision 3 are not eligible for the plan. Beginning October 1, 1994, an individual or households with no children whose gross income is greater than 125 percent of the federal poverty guidelines are ineligible for the plan, unless the definition of "eligible persons" has been expanded by the commissioner of human services in accordance with section 256.9354, subdivision 5.

Sec. 16. [INSTRUCTION TO REVISOR.]

The revisor of statutes is instructed to change the heading before Minnesota Statutes 1995 Supplement, section 62J.2930, to "Data Collection and Research Initiatives."

Sec. 17. [APPROPRIATION.]

The appropriation in Laws 1995, chapter 234, article 11, section 2, for the department of human services for fiscal year 1996 is reduced by $265,000, and the appropriation for fiscal year 1997 is increased by $174,000.

Sec. 18. [REPEALER.]

(a) Minnesota Statutes 1994, section 62N.33, is repealed effective retroactively to July 1, 1995.

(b) Laws 1993, chapter 247, article 4, section 8; Laws 1995, chapter 96, section 2; chapter 234, article 3, section 3; chapter 248, article 10, section 15; and First Special Session chapter 3, article 13, section 2, are repealed.

(c) Laws 1994, chapter 625, article 5, section 5, as amended by Laws 1995, chapter 234, article 3, section 8, is repealed.

Sec. 19. [EFFECTIVE DATE.]

Section 18 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to health insurance; making technical changes; allowing re-entry into the small employer market under certain circumstances; establishing compensation for the reinsurance association; clarifying permitted investments and guarantees for integrated service networks; expanding eligibility for the MinnesotaCare Program; providing for the cancellation of recodification efforts; reducing appropriation; appropriating money; amending Minnesota Statutes 1994, sections 62A.65, subdivision 3; 62J.25; 62L.09, subdivision 3; 62L.14, subdivision 7; and 62N.25, subdivision 5; Minnesota Statutes 1995 Supplement, sections 62A.65, subdivision 5; 62J.042, subdivision 4; 62L.045, subdivision 1; 62L.12, subdivision 2; 62M.09, subdivision 5; 62N.076, subdivision 3; 62N.077, subdivision 2; 62Q.01, subdivision 3; 256.9354, subdivision 5; and 256.9358, subdivision 4; repealing Minnesota Statutes 1994, section 62N.33; Laws 1993, chapter 247, article 4, section 8; Laws 1994, chapter 625, article 5, section 5, as amended; Laws 1995, chapters 96, section 2; 234, article 3, section 3; 248, article 10, section 15; and First Special Session chapter 3, article 13, section 2."

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

House Conferees: (Signed) Roger Cooper, Tom Osthoff

Senate Conferees: (Signed) Linda Berglin, Pat Piper, Sheila M. Kiscaden

Ms. Berglin moved that the foregoing recommendations and Conference Committee Report on

H.F. No. 2190 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. 2190 was read the third time, as amended by the Conference Committee, and placed on its repassage.

CALL OF THE SENATE

Ms. Berglin imposed a call of the Senate for the balance of the proceedings on H.F. No. 2190. The Sergeant at Arms was instructed to bring in the absent members.

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

The roll was called, and there were yeas 36 and nays 25, as follows:

Those who voted in the affirmative were:

Anderson	Janezich	Lessard	Pappas	Sams
Berg	Johnson, D.J.	Marty	Piper	Spear
Berglin	Kelly	Metzen	Pogemiller	Vickerman
Betzold	Kiscaden	Moe, R.D.	Price	Wiener
Chandler	Krentz	Mondale	Ranum	
Cohen	Kroening	Morse	Reichgott Junge	
Flynn	Laidig	Murphy	Riveness	
Hottinger	Langseth	Novak	Robertson	

Those who voted in the negative were:

Belanger	Hanson	Kramer	Neuville	Runbeck
Day	Johnson, D.E.	Larson	Oliver	Samuelson
Dille	Johnston	Lesewski	Olson	Scheevel
Fischbach	Kleis	Limmer	Ourada	Stevens
Frederickson	Knutson	Merriam	Pariseau	Terwilliger

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 2402, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2402 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 29, 1996

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2402

A bill for an act relating to motor vehicles; abolishing vehicle registration tax exemption for representatives of foreign powers; allowing special license plates for certain persons to be issued to owner of certain trucks; removing restriction on time to apply for disability plates; changing fee and certain administrative procedures relating to the registration program for fleet vehicles; abolishing requirements to keep records of motor vehicles not using the highways and to prepare certain unnecessary reports; making various technical changes; amending Minnesota Statutes 1994, sections 168.021, subdivision 1; 168.12, subdivisions 2a and 2b; 168.127; 168.325, subdivision 1; 168.33, subdivision 6; and 168.34; Minnesota Statutes 1995 Supplement, sections 168.012, subdivision 1; and 168.10, subdivision 1i; repealing Minnesota Statutes 1994, section 168.33, subdivisions 4 and 5.

March 27, 1996

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. 2402, 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. 2402 be further amended as follows:

Page 1, after line 20, insert:

"Section 1. Minnesota Statutes 1994, section 65B.001, subdivision 5, is amended to read:

Subd. 5. [MOTORCYCLE.] "Motorcycle" means a self-propelled vehicle designed to travel on fewer than four wheels that has an engine rated at greater than five horsepower, and includes a trailer with one or more wheels, when the trailer is connected to or being towed by a motorcycle. For purposes of this chapter, motorcycle includes a motorized bicycle as defined in section 169.01, subdivision 4a, but does not include an electric-assisted bicycle as defined in section 169.01, subdivision 4b.

Sec. 2. Minnesota Statutes 1994, section 65B.43, subdivision 13, is amended to read:

Subd. 13. "Motorcycle" means a self-propelled vehicle designed to travel on fewer than four wheels which has an engine rated at greater than five horsepower, and includes (1) a trailer with one or more wheels, when the trailer is connected to or being towed by a motorcycle; and (2) a motorized bicycle as defined in section 169.01, subdivision 4a, but does not include an electric-assisted bicycle as defined in section 169.01, subdivision 4b.

Sec. 3. Minnesota Statutes 1994, section 168.011, subdivision 27, is amended to read:

Subd. 27. [MOTORIZED BICYCLE.] "Motorized bicycle" means a bicycle that is propelled by a motor of a piston displacement capacity of 50 cubic centimeters or less, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged. "Motorized bicycle" includes an electric-assisted bicycle as defined in section 169.01, subdivision 4b."

Page 10, after line 3, insert:

"Sec. 13. Minnesota Statutes 1994, section 169.01, subdivision 4a, is amended to read:

Subd. 4a. [MOTORIZED BICYCLE.] "Motorized bicycle" means a bicycle that is propelled by a motor of a piston displacement capacity of 50 cubic centimeters or less, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged. "Motorized bicycle" includes an electric-assisted bicycle as defined in subdivision 4b.

Sec. 14. Minnesota Statutes 1994, section 169.01, is amended by adding a subdivision to read:

Subd. 4b. [ELECTRIC-ASSISTED BICYCLE.] "Electric-assisted bicycle" means a motor vehicle with two or three wheels that:

(1) has a saddle and fully operable pedals for human propulsion;

(2) meets the requirements of federal motor vehicle safety standards in Code of Federal Regulations, title 49, sections 571.01 et seq.; and

(3) has an electric motor that (i) has a power output of not more than 1,000 watts, (ii) is

incapable of propelling the vehicle at a speed of more than 20 miles per hour, (iii) is incapable of further increasing the speed of the device when human power alone is used to propel the vehicle at a speed of more than 20 miles per hour, and (iv) disengages or ceases to function when the vehicle's brakes are applied.

Sec. 15. Minnesota Statutes 1994, section 169.223, subdivision 1, is amended to read:

Subdivision 1. [SAFETY EQUIPMENT; PARKING.] Except as otherwise provided in this section, section 169.974 relating to motorcycles is applicable to motorized bicycles, except that:

(1) protective headgear includes headgear that meets the American National Standard for Protective Headgear for Bicyclists, ANSI Z90.4-1984, approved by the American National Standards Institute, Inc.;

(2) a motorized bicycle equipped with a headlight and taillight meeting the requirements of lighting for motorcycles may be operated during nighttime hours;

(3) except as provided in clause (5), protective headgear is not required for operators 18 years of age or older; ~~and~~

(4) the provisions of section 169.222 governing the parking of bicycles apply to motorized bicycles;

(5) the operator of an electric-assisted bicycle must wear properly fitted and fastened headgear that meets the American National Standard for Protective Headgear for Bicyclists, ANSI Z90.4-1984, approved by the American National Standards Institute, Inc., when operating the electric-assisted bicycle on a street or highway; and

(6) eye protection devices are not required for operators of electric-assisted bicycles.

Sec. 16. Minnesota Statutes 1994, section 169.223, subdivision 5, is amended to read:

Subd. 5. [OTHER OPERATION REQUIREMENTS AND PROHIBITIONS.] (a) A person operating a motorized bicycle on a roadway shall ride as close as practicable to the right-hand curb or edge of the roadway except in one of the following situations:

(1) when overtaking and passing another vehicle proceeding in the same direction;

(2) when preparing for a left turn at an intersection or into a private road or driveway; or

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

(b) Persons operating motorized bicycles on a roadway may not ride more than two abreast and may not impede the normal and reasonable movement of traffic. On a laned roadway, a person operating a motorized bicycle shall ride within a single lane.

(c) This section does not permit the operation of a motorized bicycle on a bicycle path or bicycle lane that is reserved for the exclusive use of nonmotorized traffic.

(d) Subject to the provisions of section 160.263, subdivision 3, a person may operate an electric-assisted bicycle on a bicycle lane. A person may operate an electric-assisted bicycle on the shoulder of a roadway if the electric-assisted bicycle is traveling in the same direction as the adjacent vehicular traffic.

Sec. 17. Minnesota Statutes 1994, section 171.01, subdivision 20, is amended to read:

Subd. 20. [MOTORIZED BICYCLE.] "Motorized bicycle" means a bicycle that is propelled by a motor of a piston displacement capacity of 50 cubic centimeters or less, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged. "Motorized bicycle" includes an electric-assisted bicycle as defined in section 169.01, subdivision 4b."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 11, after the semicolon, insert "defining motorized bicycles to include electric-assisted bicycles; providing for operation of electric-assisted bicycles;"

Page 1, line 13, after "sections" insert "65B.001, subdivision 5; 65B.43, subdivision 13; 168.011, subdivision 27;"

Page 1, line 15, delete "and" and after "168.34;" insert "169.01, subdivision 4a, and by adding a subdivision; 169.223, subdivisions 1 and 5; and 171.01, subdivision 20;"

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

House Conferees: (Signed) Tom Osthoff, Phyllis Kahn, Ron Abrams

Senate Conferees: (Signed) Paula E. Hanson, Steve L. Murphy, William V. Belanger, Jr.

Ms. Hanson moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2402 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. 2402 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 59 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1980 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1980

A bill for an act relating to insurance; regulating coverages; modifying agent cancellations or terminations; providing certain filing requirements for domestic insurers; regulating disclosures and policy and contract provisions; providing for the operation and administration of the medical malpractice joint underwriting association and the Minnesota joint underwriting association; regulating policy cancellations or terminations and claims practices; modifying standards for participation in the assigned claims plan; regulating information handling practices; establishing solvency requirements; making technical changes; amending Minnesota Statutes 1994, sections 60A.07, subdivision 8; 60A.08, subdivision 14; 60A.09, subdivision 4a; 60A.11, subdivision 21;

60A.171, subdivision 7, and by adding a subdivision; 60A.36, subdivision 1; 60C.09, subdivision 2; 60C.11, by adding a subdivision; 61A.02, subdivision 2, and by adding a subdivision; 61A.072, subdivision 4; 61A.32; 61B.20, subdivision 15; 61B.28, subdivision 7; 62A.011, subdivision 3; 62A.02, by adding a subdivision; 62A.31, subdivisions 1p, 1r, 1s, and 3; 62A.315; 62A.318; 62A.36, subdivision 1; 62A.39; 62A.44, subdivision 2; 62A.60; 62F.03, subdivision 6; 62F.04, subdivision 1a; 62I.02, subdivisions 2, 5, and by adding a subdivision; 62I.07; 62L.02, subdivision 15; 62L.09, subdivision 3; 65A.01, subdivision 3; 65A.10, subdivision 1; 65A.295; 65B.14, by adding a subdivision; 65B.15, subdivision 1; 65B.51, subdivision 3; 65B.64, subdivision 3; 70A.07; and 72A.20, subdivisions 17, 23, 26, 30, and by adding a subdivision; Minnesota Statutes 1995 Supplement, sections 60A.07, subdivision 10; 60A.67, subdivision 2; 60K.03, subdivision 7; 61A.09, subdivision 1; 62A.042; 62A.135, subdivision 1; 62A.31, subdivision 1h; 62C.14, subdivision 14; 62E.05, subdivision 1; 62F.02, subdivision 2; and 62L.12, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 62A; and 72A; repealing Minnesota Statutes 1994, sections 60A.13, subdivision 8; 60A.40; 60B.27; 62I.20; 65A.25; 72A.205; and Laws 1995, chapter 140, section 1.

March 29, 1996

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. 1980, 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. 1980 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. Minnesota Statutes 1994, section 60A.08, subdivision 14, is amended to read:

Subd. 14. [AGREEMENT TO RESCIND POLICY OR RELEASE BAD FAITH CLAIM.] (a) If the insurer has knowledge of any claims against the insured that would remain unsatisfied due to the financial condition of the insured, the insurer and the insured may not agree to:

(1) rescind the policy; or

(2) directly or indirectly transfer to, or release to, the insurer the insured's claim or potential claim against the insurer based upon the insurer's refusal to settle a claim against the insured.

(b) Before entering into an agreement ~~to rescind a policy~~ described in paragraph (a), an insurer must make a good faith effort to ascertain: (1) the existence and identity of all claims against the policy; and (2) the financial condition of the insured.

(c) The insured must provide reasonable financial information upon request of the insurer.

(d) An agreement made in violation of this section is void and unenforceable.

Sec. 2. Minnesota Statutes 1994, section 60A.09, subdivision 4a, is amended to read:

Subd. 4a. [ASSUMPTION TRANSACTIONS REGULATED.] No ~~life~~ company, whether domestic, foreign, or alien, shall perform an assumption transaction, including an assumption reinsurance agreement, with respect to a policy issued to a Minnesota resident, unless:

(1) the assumption agreement has been filed with the commissioner;

(2) the assumption agreement specifically provides that the original insurer remains liable to the insured in the event the assuming insurer is unable to fulfill its obligations or the original insurer acknowledges in writing to the commissioner that it remains liable to the insured in the event the assuming insurer is unable to fulfill its obligations;

(3) the proposed certificate of assumption to be provided to the policyholder has been filed with the commissioner for review and approval as provided in section 61A.02; and

(4) the proposed certificate of assumption contains, in bold face type, the following language:

"Policyholder: Please be advised that you retain all rights with respect to your policy against your original insurer in the event the assuming insurer is unable to fulfill its obligations. In such event, your original insurer remains liable to you notwithstanding the terms of its assumption agreement."

With respect to residents of Minnesota, the notice to policyholders shall also include a statement as to the effect on guaranty fund coverage, if any, that will result from the transfer.

Clauses (2) and (4) above do not apply if the policyholder consents in a signed writing to a release of the original insurer from liability and to a waiver of the protections provided in clauses (2) and (4) after being informed in writing by the insurer of the circumstances relating to and the effect of the assumption, provided that the consent form signed by the policyholder has been filed with and approved by the commissioner.

If a company is deemed by the commissioner to be in a hazardous condition or is under a court ordered supervision, rehabilitation, liquidation, conservation or receivership, and the transfer of policies is in the best interest of the policyholders, as determined by the commissioner, a transfer may be effected notwithstanding the provisions in this subdivision by using a different form of consent by policyholders. This may include a form of implied consent and adequate notification to the policyholder of the circumstances requiring the transfer as approved by the commissioner. This paragraph does not apply when a policy is transferred to the Minnesota life and health guaranty association or to the Minnesota insurance guaranty association.

Sec. 3. Minnesota Statutes 1995 Supplement, section 60A.15, subdivision 1, is amended to read:

Subdivision 1. [DOMESTIC AND FOREIGN COMPANIES.] (a) On or before April 1, June 1, and December 1 of each year, every domestic and foreign company, including town and farmers' mutual insurance companies, domestic mutual insurance companies, marine insurance companies, health maintenance organizations, integrated service networks, community integrated service networks, and nonprofit health service plan corporations, shall pay to the commissioner of revenue installments equal to one-third of the insurer's total estimated tax for the current year. Except as provided in paragraphs (d) and (e), installments must be based on a sum equal to two percent of the premiums described in paragraph (b).

(b) Installments under paragraph (a), (d), or (e) are percentages of gross premiums less return premiums on all direct business received by the insurer in this state, or by its agents for it, in cash or otherwise, during such year.

(c) Failure of a company to make payments of at least one-third of either (1) the total tax paid during the previous calendar year or (2) 80 percent of the actual tax for the current calendar year shall subject the company to the penalty and interest provided in this section, unless the total tax for the current tax year is $500 or less.

(d) For health maintenance organizations, nonprofit health services plan corporations, integrated service networks, and community integrated service networks, the installments must be based on an amount equal to one percent of premiums described in paragraph (b) that are paid after December 31, 1995.

(e) For purposes of computing installments for town and farmers' mutual insurance companies and for mutual property casualty companies with total assets on December 31, 1989, of $1,600,000,000 or less, the following rates apply:

(1) for all life insurance, two percent;

(2) for town and farmers' mutual insurance companies and for mutual property and casualty companies with total assets of $5,000,000 or less, on all other coverages, one percent; and

(3) for mutual property and casualty companies with total assets on December 31, 1989, of $1,600,000,000 or less, on all other coverages, 1.26 percent.

(f) Premiums under medical assistance, general assistance medical care, the MinnesotaCare program, and the Minnesota comprehensive health insurance plan are not subject to tax under this section.

Sec. 4. Minnesota Statutes 1994, section 60A.171, subdivision 7, is amended to read:

Subd. 7. The provisions of this section do not apply to the termination of an agent's contract for insolvency, abandonment, gross and willful misconduct, or failure to pay over to the company money due to the company after receipt by the agent of a written demand therefor, or after revocation of the agent's license by the commissioner of commerce~~; nor to the termination of agents who write insurance business exclusively for one company or agents in the direct employ of the company~~. This section does not apply to the termination of an agent's contract if the agent is directly employed by the company or if the agent writes 80 percent or more of the agent's gross annual insurance business for one company or any or all of its subsidiaries.

Sec. 5. Minnesota Statutes 1994, section 60A.171, is amended by adding a subdivision to read:

Subd. 12. For purposes of this section, a cancellation or termination of an agent's contract is considered to have occurred if the company cancels a line of insurance business or a volume of insurance business that equals or exceeds 75 percent of the insurance business placed by that agent with the company.

Sec. 6. [60A.179] [LIFE OR HEALTH INSURANCE POLICY QUOTAS FOR EXCLUSIVE AGENTS.]

Subdivision 1. [APPLICATION.] This section applies to licensed insurance agents as defined by section 60A.176.

Subd. 2. [PROHIBITED PRACTICE.] No insurer shall require an agent who has been licensed as an agent three years or more to sell a specified number of life or health insurance policies or a specified dollar amount of life and health insurance in relation to the sale of other insurance products. No insurer may terminate an agent's contract or reduce or restrict an agent's underwriting authority on property and casualty insurance policies based upon the sale of life or health insurance.

Sec. 7. Minnesota Statutes 1994, section 60A.36, subdivision 1, is amended to read:

Subdivision 1. [REASON FOR CANCELLATION.] No insurer may cancel a policy of commercial liability and/or property insurance during the term of the policy, except for one or more of the following reasons:

(1) nonpayment of premium;

(2) misrepresentation or fraud made by or with the knowledge of the insured in obtaining the policy or in pursuing a claim under the policy;

(3) actions by the insured that have substantially increased or substantially changed the risk insured;

(4) refusal of the insured to eliminate known conditions that increase the potential for loss after notification by the insurer that the condition must be removed;

(5) substantial change in the risk assumed, except to the extent that the insurer should reasonably have foreseen the change or contemplated the risk in writing the contract;

(6) loss of reinsurance by the insurer which provided coverage to the insurer for a significant amount of the underlying risk insured. A notice of cancellation under this clause shall advise the policyholder that the policyholder has ten days from the date of receipt of the notice to appeal the cancellation to the commissioner of commerce and that the commissioner will render a decision as

to whether the cancellation is justified because of the loss of reinsurance within ~~five~~ 30 business days after receipt of the appeal;

(7) a determination by the commissioner that the continuation of the policy could place the insurer in violation of the insurance laws of this state; or

(8) nonpayment of dues to an association or organization, other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing the insurance. This provision for cancellation for failure to pay dues does not apply to persons who are retired at 62 years of age or older or who are disabled according to social security standards.

Sec. 8. Minnesota Statutes 1995 Supplement, section 60K.03, subdivision 7, is amended to read:

Subd. 7. [EXCEPTIONS.] The following are exempt from the general licensing requirements prescribed by this section:

(1) agents of township mutuals who are exempted pursuant to section 60K.04;

(2) fraternal benefit society representatives exempted pursuant to section 60K.05;

(3) any regular salaried officer or employee of a licensed insurer, without license or other qualification, may act on behalf of that licensed insurer in the negotiation of insurance for that insurer, provided that a licensed agent must participate in the sale of the insurance;

(4) employers and their officers or employees, and the trustees or employees of any trust plan, to the extent that the employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits for the employees of the employers or employees of their subsidiaries or affiliates involving the use of insurance issued by a licensed insurance company; provided that the activities of the officers, employees and trustees are incidental to clerical or administrative duties and their compensation does not vary with the volume of insurance or applications for insurance;

(5) employees of a creditor who enroll debtors for credit life, credit accident and health, or credit involuntary unemployment insurance; provided the employees receive no commission or fee for it;

(6) clerical or administrative employees of an insurance agent who take insurance applications or receive premiums in the office of their employer, if the activities are incidental to clerical or administrative duties and the employee's compensation does not vary with the volume of the applications or premiums;

(7) rental vehicle companies and their employees in connection with the offer of rental vehicle personal accident insurance under section 72A.125; ~~and~~

(8) employees of a retailer who enroll purchasers for credit insurance associated with a retail purchase; provided the employees receive no commission, fee, bonus, or other form of compensation for it; and

(9) representatives of prepaid legal service plans in connection with the sale and marketing of these plans.

Sec. 9. Minnesota Statutes 1994, section 61A.02, subdivision 2, is amended to read:

Subd. 2. [APPROVAL REQUIRED.] No policy or certificate of life insurance or annuity contract, issued to an individual, group, or multiple employer trust, nor any rider of any kind or description which is made a part thereof shall be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, until the form of the same has been approved by the commissioner. In making a determination under this section, the commissioner may require the insurer to provide rates and advertising materials related to policies or contracts, certificates, or similar evidence of coverage issued or delivered in this state.

~~This section applies~~ Subdivisions 1 to 5 apply to a policy, certificate of insurance, or similar evidence of coverage issued to a Minnesota resident or issued to provide coverage to a Minnesota resident. ~~This section does~~ Subdivisions 1 to 5 do not apply to a certificate of insurance or similar evidence of coverage that meets the conditions of section 61A.093, subdivision 2.

Sec. 10. Minnesota Statutes 1994, section 61A.02, is amended by adding a subdivision to read:

Subd. 6. [FILING BY DOMESTIC INSURERS FOR PURPOSES OF COMPLYING WITH ANOTHER STATE'S FILING REQUIREMENTS.] A domestic insurer may file with the commissioner for informational purposes only a policy, certificate of insurance, or annuity contract that is not intended to be offered or sold within this state. This subdivision only applies to the filing in Minnesota of a policy, certificate of insurance, or annuity contract issued to an insured, certificate holder, or annuitant located outside of this state when the filing is for the express purpose of complying with the law of the state in which the insured, certificate holder, or annuitant resides. In no event may a policy, certificate of insurance, or annuity contract filed under this subdivision for out-of-state use be issued or delivered in Minnesota unless and until the policy, certificate of insurance, or annuity contract is approved under subdivision 2.

Sec. 11. Minnesota Statutes 1994, section 61A.072, subdivision 4, is amended to read:

Subd. 4. [LONG-TERM CARE EXPENSES.] If the right to receive accelerated benefits is contingent upon the insured receiving long-term care services, the contract or supplemental contract shall include the following provisions:

(1) the minimum accelerated benefit shall be $1,200 per month if the insured is receiving nursing facility services and $750 per month if the insured is receiving home services with a minimum lifetime benefit limit of $50,000;

(2) coverage is effective immediately and benefits shall commence with the receipt of services as defined in section 62A.46, subdivision 3, 4, or 5, but may include a waiting period of not more than 90 days, provided that no more than one waiting period may be required per benefit period as defined in section 62A.46, subdivision 11;

(3) premium shall be waived during any period in which benefits are being paid to the insured during confinement to a nursing home facility;

(4) coverage may not be canceled or renewal refused except on the grounds of nonpayment of premium;

(5) coverage must include preexisting conditions during the first six months of coverage if the insured was not diagnosed or treated for the particular condition during the 90 days immediately preceding the effective date of coverage;

(6) ~~the contract or supplemental contract shall contain the following disclosure:~~

~~"THE ACCELERATED LIFE INSURANCE BENEFITS PROVIDED UNDER THIS CONTRACT MAY NOT COVER ALL NURSING HOME, HOME CARE, OR ADULT DAY CARE EXPENSES. BENEFITS ARE NOT PAYABLE UPON RECEIPT OF RESIDENTIAL CARE. READ YOUR POLICY CAREFULLY TO DETERMINE YOUR BENEFIT AMOUNT.";~~

~~(7)~~ coverage must include mental or nervous disorders which have a demonstrable organic cause such as Alzheimer's and related dementias;

~~(8)~~ (7) no prior hospitalization requirement shall be allowed unless a similar requirement is allowed by section 62A.48, subdivision 1; and

~~(9)~~ (8) the contract shall include a cancellation provision that meets the requirements of section 62A.50, subdivision 2.

Sec. 12. Minnesota Statutes 1995 Supplement, section 61A.09, subdivision 1, is amended to read:

Subdivision 1. No group life insurance policy or group annuity shall be issued for delivery in this state until the form thereof and the form of any certificates issued thereunder have been filed in accordance with and subject to the provisions of section 61A.02. Each person insured under such a group life insurance policy (excepting policies which insure the lives of debtors of a creditor or vendor to secure payment of indebtedness) shall be furnished a certificate of insurance issued by the insurer and containing the following:

(a) Name and location of the insurance company;

(b) A statement as to the insurance protection to which the certificate holder is entitled, including any changes in such protection depending on the age of the person whose life is insured;

(c) Any and all provisions regarding the termination or reduction of the certificate holder's insurance protection;

(d) A statement that the master group policy may be examined at a reasonably accessible place;

(e) The maximum rate of contribution to be paid by the certificate holder;

(f) Beneficiary and method required to change such beneficiary;

(g) A statement that alternative methods for the payment of group life policy proceeds of $15,000 or more must be offered to beneficiaries in lieu of a lump sum distribution, at their request. Alternative payment methods which must be offered at the request of the beneficiaries must include, but are not limited to, a life income option, an income option for fixed amounts or fixed time periods, and the option to select an interest-bearing account with the company with the right to select another option at a later date;

(h) In the case of a group term insurance policy if the policy provides that insurance of the certificate holder will terminate, in case of a policy issued to an employer, by reason of termination of the certificate holder's employment, or in case of a policy issued to an organization of which the certificate holder is a member, by reason of termination of membership, a provision to the effect that in case of termination of employment or membership, or in case of termination of the group policy, the certificate holder shall be entitled to have issued by the insurer, without evidence of insurability, upon application made to the insurer within 31 days after the termination, and upon payment of the premium applicable to the class of risk to which that person belongs and to the form and amount of the policy at that person's then attained age, a policy of life insurance only, in any one of the forms customarily issued by the insurer except term insurance, in an amount equal to the amount of the life insurance protection under such group insurance policy at the time of such termination; and shall contain a further provision to the effect that upon the death of the certificate holder during such 31-day period and before any such individual policy has become effective, the amount of insurance for which the certificate holder was entitled to make application shall be payable as a death benefit by the insurer.

This section applies to a policy, certificate of insurance, or similar evidence of coverage issued to a Minnesota resident or issued to provide coverage to a Minnesota resident. This section does not apply to a certificate of insurance or similar evidence of coverage that meets the conditions of section 61A.093, subdivision 2.

Sec. 13. [61A.53] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] For purposes of sections 61A.53 to 61A.60, the terms defined in this section have the meanings given.

Subd. 2. [REPLACEMENT.] "Replacement" means any transaction in which new life insurance or a new annuity is to be purchased, and it is known or should be known to the proposing agent or broker or to the proposing insurer if there is no agent, that by reason of the transaction, existing life insurance or annuity has been or is to be:

(1) lapsed, forfeited, surrendered, or otherwise terminated;

(2) converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(3) amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(4) reissued with any reduction in cash value; or

(5) pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding 25 percent of the loan value set forth in the policy.

Subd. 3. [CONSERVATION.] "Conservation" means any attempt by the existing insurer or its agent or broker to dissuade a policy owner or contract holder from the replacement of existing life insurance or annuity. Conservation does not include routine administrative procedures such as late payment reminders, late payment offers, or reinstatement offers.

Subd. 4. [DIRECT-RESPONSE SALE.] "Direct-response sale" means any sale of life insurance or annuity where the insurer does not use an agent in the sale or delivery of the policy or contract.

Subd. 5. [EXISTING INSURER.] "Existing insurer" means the insurance company whose policy or contract is or will be changed or terminated in such a manner as described within the definition of "replacement."

Subd. 6. [EXISTING LIFE INSURANCE OR ANNUITY.] "Existing life insurance or annuity" means any life insurance or annuity in force, including life insurance under a binding or conditional receipt or a life insurance policy or annuity contract that is within an unconditional refund period.

Subd. 7. [REPLACING INSURER.] "Replacing insurer" means the insurance company that issues or proposes to issue a new policy or contract which is a replacement of existing life insurance or annuity.

Sec. 14. [61A.54] [EXEMPTIONS.]

Unless otherwise specifically included, sections 61A.53 to 61A.60 do not apply to transactions involving:

(1) credit life insurance;

(2) group life insurance or group annuities;

(3) an application to the existing insurer that issued the existing life insurance or annuity, where a contractual change or a conversion privilege is being exercised;

(4) proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company; or

(5) transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control; provided, however, that agents or brokers proposing replacement shall comply with section 61A.55, subdivision 1.

Sec. 15. [61A.55] [DUTIES OF AGENTS AND BROKERS.]

Subdivision 1. [SUBMISSION TO INSURER.] Each agent or broker who initiates the application shall submit to the insurer to which an application for life insurance or annuity is presented, with or as part of each application:

(1) a statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction; and

(2) a signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction.

Subd. 2. [REPLACEMENT INFORMATION.] Where a replacement is involved, the agent or broker shall:

(1) present to the applicant, not later than at the time of taking the application, a "notice regarding replacement" in the form as described in section 61A.60, subdivision 1, or other substantially similar form approved by the commissioner. The notice shall be fully completed and signed by both the applicant and the agent or broker and left with the applicant. The completed notice must list all existing life insurance and annuity to be replaced, properly identified by name of insurer, the insured, and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed;

(2) leave with the applicant the original or a copy of any written or printed communications used for presentation to the applicant; and

(3) submit to the replacing insurer with the application a copy of the fully completed and signed replacement notice provided under this subdivision.

Subd. 3. [MATERIALS USED TO DISSUADE REPLACEMENT.] Each agent or broker who uses written or printed communications in a conservation shall leave with the applicant the original or a copy of the communications.

Sec. 16. [61A.56] [DUTIES OF ALL INSURERS.]

Each insurer shall:

(1) inform its field representatives or other personnel responsible for compliance with sections 61A.53 to 61A.60 of the requirements of those sections; and

(2) require with or as a part of each completed application for life insurance or annuity a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity.

Sec. 17. [61A.57] [DUTIES OF INSURERS THAT USE AGENTS OR BROKERS.]

Each insurer that uses an agent or broker in a life insurance or annuity sale shall:

(a) require with or as part of each completed application for life insurance or annuity, a statement signed by the agent or broker as to whether the agent or broker knows replacement is or may be involved in the transaction;

(b) where a replacement is involved:

(1) require from the agent or broker with the application for life insurance or annuity, a copy of the fully completed and signed replacement notice provided the applicant under section 61A.55. The existing life insurance or annuity must be identified by name of insurer, insured, and contract number. If a number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, must be listed; and

(2) send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under this section. This written communication must be made within five working days of the date that the application is received in the replacing insurer’s home or regional office, or the date the proposed policy or contract is issued, whichever is sooner.

(c) The replacing insurer shall maintain evidence of the "notice regarding replacement" and a replacement register, cross-indexed, by replacing agent and existing insurer to be replaced. Evidence that all requirements were met shall be maintained for at least six years.

(d) The replacing insurer shall provide in its policy or contract, or in a separate written notice that is delivered with the policy or contract, that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised within a period of 20 days beginning from the date of delivery of the policy.

Sec. 18. [61A.58] [DUTIES OF INSURERS WITH RESPECT TO DIRECT RESPONSE SALES.]

(a) If in the solicitation of a direct response sale, the insurer did not propose the replacement, and a replacement is involved, the insurer shall send to the applicant with the policy or contract a replacement notice as described in section 61A.60, subdivision 2, or other substantially similar form approved by the commissioner.

(b) If the insurer proposed the replacement, it shall:

(1) provide to applicants or prospective applicants with or as a part of the application a replacement notice as described in section 61A.60, subdivision 2, or other substantially similar form approved by the commissioner;

(2) request from the applicant with or as part of the application, a list of all existing life insurance policies or annuity contracts to be replaced and properly identified by name of insurer and insured; and

(3) comply with the requirements of section 61A.57, paragraph (b), clause (2), if the applicant furnishes the names of the existing insurers, and the requirements of section 61A.57, paragraphs (c) and (d), except that it need not index the replacement register by replacing agent.

Sec. 19. [61A.59] [ENFORCEMENT; EFFECT OF COMPLIANCE.]

(a) An agent, broker or insurer shall not recommend the replacement or conservation of an existing policy or contract by use of a substantially inaccurate presentation or comparison of an existing policy's or contract's premiums and benefits or dividends and values, if any. An insurer, agent, representative, officer, or employee of the insurer failing to comply with the requirements of sections 61A.53 to 61A.60 is subject to such penalties as may be appropriate under this chapter.

(b) Patterns of action by policyholders or contract holders who purchase replacing policies or contracts from the same agent or broker, after indicating on applications that replacement is not involved, are prima facie evidence of the agent's or broker's knowledge that replacement was intended in connection with the sale of those policies, and the patterns of action are prima facie evidence of the agent's or broker's intent to violate sections 61A.53 to 61A.60.

(c) Sections 61A.53 to 61A.60 do not prohibit the use of additional material other than that which is required that does not violate those sections or any other statute or rule.

(d) Compliance by an insurer, agent, or broker with sections 61A.53 to 61A.60 does not limit any cause of action or other remedies that the insured may otherwise have against an insurer, agent, or broker. In a proceeding in which the insured's knowledge or understanding is an issue, compliance with those sections may be admitted as evidence on that issue, but shall not be conclusive.

Sec. 20. [61A.60] [REQUIRED REPLACEMENT NOTICE AND FORM.]

Subdivision 1. [NOTICE FORM; AGENT SALES.] The notice required where sections 61A.53 to 61A.60 refer to this subdivision is as follows:

IMPORTANT NOTICE

DEFINITION: REPLACEMENT IS any transaction where, in connection with the purchase of New Insurance or a New Annuity, you LAPSE, SURRENDER, CONVERT to Paid-up Insurance, Place on Extended Term, or BORROW all or part of the policy loan values on an existing insurance policy or an annuity. (See reverse side for DEFINITIONS.)

IF YOU INTEND TO — In connection with the purchase of this insurance or annuity, if you have REPLACED or intend to

REPLACE COVERAGE

REPLACE your present life insurance coverage or annuity(ies), you should be certain that you understand all the relevant factors involved.

You should BE AWARE that you may be required to provide [EVIDENCE OF INSURABILITY] and

1) If your HEALTH condition has CHANGED since the application was taken on your present policies, you may be required to pay ADDITIONAL PREMIUMS under the NEW POLICY, or be DENIED coverage.

2) Your present occupation or activities [may not be covered or could require additional premiums.]

3) The INCONTESTABLE and SUICIDE CLAUSE will begin anew in a new policy. This could RESULT in a [CLAIM under the new policy BEING DENIED] that would otherwise have been paid.

4) Current law DOES NOT REQUIRE your present insurer(s) to REFUND any premiums.

5) It is to your advantage to OBTAIN INFORMATION regarding your existing policies or annuity contracts [from the insurer or agent from whom you purchased the policy or annuity contract.]

(If you are purchasing an annuity, clauses (1), (2), and (3) above would not apply to the new annuity contract.)

THE INSURANCE OR ANNUITY I INTEND TO PURCHASE FROM _____INSURANCE CO. MAY REPLACE OR ALTER EXISTING LIFE INSURANCE POLICY(IES) OR ANNUITY CONTRACT(S).

The following policy(ies) or annuity contract(s) may be replaced as a result of this transaction:

[Insurer as it appears on the policy or contract]	[Insured as it appears on the policy or contract]
_____	_____
_____	_____
_____	_____
_____	_____
[Policy or Contract Number]	[Insured Birthdate]
_____	_____
_____	_____
_____	_____
_____	_____

The proposed policy or contract is:

_____ $_____

type of policy- or contract-generic name face amount

_____

signature of applicant date

_____

address of applicant city state

I certify that this form was given to and completed by

_____

(applicant-please print or type)
prior to taking an application and that I am leaving a signed copy for the applicant.

agent's signature date

address

city state

[NOTE IMPORTANT STATEMENT ON REVERSE SIDE]

Subd. 2. [NOTICE FORM; DIRECT RESPONSE SALES.] The notice required where sections 61A.53 to 61A.60 refer to this subdivision is as follows:

IMPORTANT NOTICE
REQUIRED BY
MINNESOTA INSURANCE LAW

DEFINITION: REPLACEMENT is any transaction where, in connection with the purchase of New Insurance or a New Annuity, you LAPSE, SURRENDER, CONVERT to Paid-up Insurance, Place on Extended Term, or BORROW all or part of the policy loan values on an existing insurance policy or an annuity. (See reverse side for DEFINITIONS.)

IF YOU INTEND TO REPLACE COVERAGE

In connection with the purchase of this insurance or annuity, if you have REPLACED or intend to REPLACE your present life insurance coverage or annuity(ies), you should be certain that you understand all the relevant factors involved.

You should BE AWARE that you may be required to provide [Evidence of insurability] and

(1) If your HEALTH condition has CHANGED since the application was taken on your present policies, you may be required to pay ADDITIONAL PREMIUMS under the NEW POLICY, or be DENIED coverage.

(2) Your present occupation or activities [may not be covered or could require additional premiums.]

(3) The INCONTESTABLE and SUICIDE CLAUSE will begin anew in a new policy. This could RESULT in a [CLAIM under the new policy BEING DENIED] that would otherwise have been paid.

(4) Current law DOES NOT REQUIRE your present insurer(s) to REFUND any premiums.

(5) It may be to your advantage to OBTAIN INFORMATION regarding your existing policies or annuity contracts [from the insurer or agent from whom you purchased the policy or annuity contract.]

(If an annuity is being purchased, Items 1, 2 and 3 above would not apply to the new contract.)

CAUTION

If after studying the information made

available to you, you decide to replace your existing life insurance or annuity with our policy or annuity contract, you are urged not to take action to terminate or alter your existing coverage or annuity(ies) until after you have been issued the new policy or annuity contract, examined it and found it to be acceptable to you. If you should terminate or otherwise materially alter your existing coverage or annuity(ies) and fail to qualify for the life insurance for which you have applied, you may find yourself unable to purchase other life insurance or be able to purchase it only at substantially higher rates.

INSURER'S MAILING DATE:.....

Subd. 3. [DEFINITIONS.] The following definitions must appear on the back of the notice forms provided in subdivisions 1 and 2:

DEFINITIONS

PREMIUMS: Premiums are the payments you make in exchange for an insurance policy or annuity contract. They are unlike deposits in a savings or investment program, because if you drop the policy or contract, you might get back less than you paid in.

CASH SURRENDER VALUE: This is the amount of money you can get in cash if you surrender your life insurance policy or annuity. If there is a policy loan, the cash surrender value is the difference between the cash value printed in the policy and the loan value. Not all policies have cash surrender values.

LAPSE: A life insurance policy may lapse when you do not pay the premiums within the grace period. If you had a cash surrender value, the insurer might change your policy to as much extended term insurance or paid-up insurance as the cash surrender value will buy. Sometimes the policy lets the insurer borrow from the cash surrender value to pay the premiums.

SURRENDER: You surrender a life insurance policy when you either let it lapse or tell the company you want to drop it. Whenever a policy has a cash surrender value, you can get it in cash if you return the policy to the company with a written request. Most insurers will also let you exchange the cash value of the policy for paid-up or extended term insurance.

CONVERT TO PAID-UP INSURANCE: This means you use your cash surrender value to change your insurance to a paid-up policy with the same insurer. The death benefit generally will be lower than under the old policy, but you will not have to pay any more premiums.

PLACE ON EXTENDED TERM: This means you use your cash surrender value to change your insurance to term insurance with the same insurer. In this case, the net death benefit will be the same as before. However, you will only be covered for a specified period of time stated in the policy.

BORROW POLICY LOAN VALUES: If your life insurance policy has a cash surrender value, you can almost always borrow all or part of it from the insurer. Interest will be charged according to the terms of the policy, and if the loan with unpaid interest ever exceeds the cash surrender value, your policy will be surrendered. If you die, the amount of the loan and any unpaid interest due will be subtracted from the death benefits.

EVIDENCE OF INSURABILITY: This means proof that you are an acceptable risk. You have to meet the insurer's standards regarding age, health, occupation, etc., to be eligible for coverage.

INCONTESTABLE CLAUSE: This says that after two years, depending on the policy or insurer, the life insurer will not resist a claim because you made a false or incomplete statement when you applied for the policy. For the early years, though, if there are wrong answers on the

application and the insurer finds out about them, the insurer can deny a claim as if the policy had never existed.

SUICIDE CLAUSE: This says that if you commit suicide after being insured for less than two years, depending on the policy and insurer, your beneficiaries will receive only a refund of the premiums that were paid.

Subd. 4. [PRINTING OF NOTICES.] The notices in subdivisions 1 and 2 must be reproduced in their entirety on one side of an 8-1/2 by 11 inch sheet of plain paper. The definitions contained in subdivision 3 must be printed on the reverse side. The insurer may print its legal name in the space provided.

Sec. 21. Minnesota Statutes 1994, section 61B.28, subdivision 7, is amended to read:

Subd. 7. [NOTICE CONCERNING LIMITATIONS AND EXCLUSIONS.] (a) No person, including an insurer, agent, or affiliate of an insurer or agent, shall offer for sale in this state a covered life insurance, annuity, or health insurance policy or contract without delivering at the time of application for that policy or contract a notice in the form specified in subdivision 8, or in a form approved by the commissioner under paragraph (b), relating to coverage provided by the Minnesota life and health insurance guaranty association. The notice may be part of the application. A copy of the notice must be given to the applicant. The notice must be delivered to the applicant at the time of application for the policy or contract, except that if the application is not taken from the applicant in person, the notice must be sent to the applicant within 72 hours after the application is taken. The person offering the policy or contract shall document the fact that the notice was given at the time of application or was sent within the specified time. This does not require that the receipt of the notice be acknowledged by the applicant.

(b) The association may prepare, and file with the commissioner for approval, a form of notice as an alternative to the form of notice specified in subdivision 8 describing the general purposes and limitations of this chapter. The form of notice shall:

(1) state the name, address, and telephone number of the Minnesota life and health insurance guaranty association;

(2) prominently warn the policy or contract holder that the Minnesota life and health insurance guaranty association may not cover the policy or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in the state;

(3) state that the insurer and its agents are prohibited by law from using the existence of the Minnesota life and health insurance guaranty association for the purpose of sales, solicitation, or inducement to purchase any form of insurance;

(4) emphasize that the policy or contract holder should not rely on coverage under the Minnesota life and health insurance guaranty association when selecting an insurer;

(5) provide other information as directed by the commissioner. The commissioner may approve any form of notice proposed by the association and, as to the approved form of notice, the association may notify all member insurers by mail that the form of notice is available as an alternative to the notice specified in subdivision 8.

(c) A policy or contract not covered by the Minnesota Life and Health Insurance Guaranty Association or the Minnesota Insurance Guaranty Association must contain the following notice in ten-point type, stamped in red ink or contrasting type on the policy or contract and the application:

"THIS POLICY OR CONTRACT IS NOT PROTECTED BY THE MINNESOTA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION OR THE MINNESOTA INSURANCE GUARANTY ASSOCIATION. IN THE CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED. ONLY THE ASSETS OF THIS INSURER WILL BE AVAILABLE TO PAY YOUR CLAIM."

This section does not apply to fraternal benefit societies regulated under chapter 64B.

Sec. 22. Minnesota Statutes 1994, section 62A.02, is amended by adding a subdivision to read:

Subd. 7. [FILING BY DOMESTIC INSURERS FOR PURPOSES OF COMPLYING WITH ANOTHER STATE'S FILING REQUIREMENTS.] A domestic insurer may file with the commissioner for informational purposes only a policy or certificate of insurance that is not intended to be offered or sold within this state. This subdivision only applies to the filing in Minnesota of a policy or certificate of insurance issued to an insured or certificate holder located outside of this state when the filing is for the express purpose of complying with the law of the state in which the insured or certificate holder resides. In no event may a policy or certificate of insurance filed under this subdivision for out-of-state use be issued or delivered in Minnesota unless and until the policy or certificate of insurance is approved under subdivision 2.

Sec. 23. Minnesota Statutes 1995 Supplement, section 62A.042, is amended to read:

62A.042 [FAMILY COVERAGE; COVERAGE OF NEWBORN INFANTS.]

Subdivision 1. [INDIVIDUAL FAMILY POLICIES~~; RENEWALS~~.] (a) No policy of individual accident and sickness insurance which provides for insurance for more than one person under section 62A.03, subdivision 1, clause (3), and no individual health maintenance contract which provides for coverage for more than one person under chapter 62D, shall be renewed to insure or cover any person in this state or be delivered or issued for delivery to any person in this state unless the policy or contract includes as insured or covered members of the family any newborn infants~~, including dependent grandchildren who reside with a covered grandparent,~~ immediately from the moment of birth and thereafter which insurance or contract shall provide coverage for illness, injury, congenital malformation, or premature birth. For purposes of this paragraph, "newborn infants" includes grandchildren who are financially dependent upon a covered grandparent and who reside with that covered grandparent continuously from birth. No policy or contract covered by this section may require notification to a health carrier as a condition for this dependent coverage. However, if the policy or contract mandates an additional premium for each dependent, the health carrier shall be entitled to all premiums that would have been collected had the health carrier been aware of the additional dependent. The health carrier may withhold payment of any health benefits for the new dependent until it has been compensated with the applicable premium which would have been owed if the health carrier had been informed of the additional dependent immediately.

(b) The coverage under paragraph (a) includes benefits for inpatient or outpatient expenses arising from medical and dental treatment up to age 18, including orthodontic and oral surgery treatment, involved in the management of birth defects known as cleft lip and cleft palate. If orthodontic services are eligible for coverage under a dental insurance plan and another policy or contract, the dental plan shall be primary and the other policy or contract shall be secondary in regard to the coverage required under paragraph (a). Payment for dental or orthodontic treatment not related to the management of the congenital condition of cleft lip and cleft palate shall not be covered under this provision.

Subd. 2. [GROUP POLICIES~~; RENEWALS~~.] (a) No group accident and sickness insurance policy and no group health maintenance contract which provide for coverage of family members or other dependents of an employee or other member of the covered group shall be renewed to cover members of a group located in this state or delivered or issued for delivery to any person in this state unless the policy or contract includes as insured or covered family members or dependents any newborn infants~~, including dependent grandchildren who reside with a covered grandparent,~~ immediately from the moment of birth and thereafter which insurance or contract shall provide coverage for illness, injury, congenital malformation, or premature birth. For purposes of this paragraph, "newborn infants" includes grandchildren who are financially dependent upon a covered grandparent and who reside with that covered grandparent continuously from birth. No policy or contract covered by this section may require notification to a health carrier as a condition for this dependent coverage. However, if the policy or contract mandates an additional premium for each dependent, the health carrier shall be entitled to all premiums that would have been collected had the health carrier been aware of the additional dependent. The health carrier may reduce the health benefits owed to the insured, certificate holder, member, or subscriber by the amount of past due premiums applicable to the additional dependent.

(b) The coverage under paragraph (a) includes benefits for inpatient or outpatient expenses arising from medical and dental treatment up to age 18, including orthodontic and oral surgery treatment, involved in the management of birth defects known as cleft lip and cleft palate. If orthodontic services are eligible for coverage under a dental insurance plan and another policy or contract, the dental plan shall be primary and the other policy or contract shall be secondary in regard to the coverage required under paragraph (a). Payment for dental or orthodontic treatment not related to the management of the congenital condition of cleft lip and cleft palate shall not be covered under this provision.

Sec. 24. [62A.3091] [NONDISCRIMINATE COVERAGE OF TESTS.]

Subdivision 1. [SCOPE OF REQUIREMENT.] This section applies to any of the following if issued or renewed to a Minnesota resident or to cover a Minnesota resident:

(1) a health plan, as defined in section 62A.011;

(2) coverage described in section 62A.011, subdivision 3, clauses (2), (3), or (6) to (12); and

(3) a policy, contract, or certificate issued by a community integrated service network or an integrated service network licensed under chapter 62N.

Subd. 2. [REQUIREMENT.] Coverage described in subdivision 1 that covers laboratory tests, diagnostic tests, and X-rays must provide the same coverage, without requiring additional signatures, for all such tests ordered by an advanced practice nurse operating pursuant to chapter 148. Nothing in this section shall be construed to interfere with any written agreement between a physician and an advanced practice nurse.

Sec. 25. [62A.3092] [EQUAL TREATMENT OF SURGICAL FIRST ASSISTING SERVICES.]

Subdivision 1. [SCOPE OF REQUIREMENT.] This section applies to any of the following if issued or renewed to a Minnesota resident or to cover a Minnesota resident:

(1) a health plan, as defined in section 62A.011;

(2) coverage described in section 62A.011, subdivision 3, clauses (2), (3), or (6) to (12); and

(3) a policy, contract, or certificate issued by a community integrated service network or an integrated service network licensed under chapter 62N.

Subd. 2. [REQUIREMENT.] Coverage described in subdivision 1 that provides for payment for surgical first assisting benefits or services shall be construed as providing for payment for a registered nurse who performs first assistant functions and services that are within the scope of practice of a registered nurse.

Sec. 26. Minnesota Statutes 1995 Supplement, section 62A.135, subdivision 1, is amended to read:

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

(a) "fixed indemnity policy" is a policy form, other than an accidental death and dismemberment policy, a disability income policy, or a long-term care policy as defined in section 62A.46, subdivision 2, that pays a predetermined, specified, fixed benefit for services provided. Claim costs under these forms are generally not subject to inflation, although they may be subject to changes in the utilization of health care services. For policy forms providing both expense-incurred and fixed benefits, the policy form is a fixed indemnity policy if 50 percent or more of the total claims are for predetermined, specified, fixed benefits;

(b) "guaranteed renewable" means that, during the renewal period (to a specified age) renewal cannot be declined nor coverage changed by the insurer for any reason other than nonpayment of premiums, fraud, or misrepresentation, but the insurer can revise rates on a class basis upon approval by the commissioner;

(c) "noncancelable" means that, during the renewal period (to a specified age) renewal cannot be declined nor coverage changed by the insurer for any reason other than nonpayment of premiums, fraud, or misrepresentation and that rates cannot be revised by the insurer. This includes policies that are guaranteed renewable to a specified age, such as 60 or 65, at guaranteed rates; and

(d) "average annualized premium" means the average of the estimated annualized premium per covered person based on the anticipated distribution of business using all significant criteria having a price difference, such as age, sex, amount, dependent status, mode of payment, and rider frequency. For filing of rate revisions, the amount is the anticipated average assuming the revised rates have fully taken effect.

Sec. 27. Minnesota Statutes 1995 Supplement, section 62A.31, subdivision 1h, is amended to read:

Subd. 1h. [LIMITATIONS ON DENIALS, CONDITIONS, AND PRICING OF COVERAGE.] No ~~issuer of Medicare supplement policies, including policies that supplement Medicare issued by health maintenance organizations or those policies governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq.,~~ health carrier issuing Medicare-related coverage in this state may impose preexisting condition limitations or otherwise deny or condition the issuance or effectiveness of any ~~Medicare supplement insurance policy form~~ such coverage available for sale in this state, nor may it discriminate in the pricing of such ~~a policy~~ coverage, because of the health status, claims experience, receipt of health care, medical condition, or age of an applicant where an application for such ~~insurance~~ coverage is submitted prior to or during the six-month period beginning with the first day of the month in which an individual first enrolled for benefits under Medicare Part B. This ~~paragraph~~ subdivision applies to each Medicare-related coverage offered by a health carrier regardless of whether the individual has attained the age of 65 years. If an individual who is enrolled in Medicare Part B due to disability status is involuntarily disenrolled due to loss of disability status, the individual is eligible for ~~the~~ another six-month enrollment period provided under this subdivision ~~if~~ beginning the first day of the month in which the individual later becomes eligible for and enrolls again in Medicare Part B. An individual who is or was previously enrolled in Medicare Part B due to disability status is eligible for another six-month enrollment period under this subdivision beginning the first day of the month in which the individual has attained the age of 65 years and either maintains enrollment in, or enrolls again in, Medicare Part B.

Sec. 28. Minnesota Statutes 1994, section 62A.31, subdivision 1p, is amended to read:

Subd. 1p. [RENEWAL OR CONTINUATION PROVISIONS.] Medicare supplement policies and certificates shall include a renewal or continuation provision. The language or specifications of the provision shall be consistent with the type of contract issued. The provision shall be appropriately captioned and shall appear on the first page of the policy or certificate, and shall include any reservation by the issuer of the right to change premiums. Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy or certificate, or is required to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy or certificate after the date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy or certificate shall require a signed acceptance by the insured. After the date of policy or certificate issue, a rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy or certificate term shall be agreed to in writing and signed by the insured, unless the benefits are required by the minimum standards for Medicare supplement policies or if the increased benefits or coverage is required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy, declaration page, or certificate. If a Medicare supplement policy or certificate contains limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy or certificate and be labeled as "preexisting condition limitations."

Issuers of accident and sickness policies or certificates that provide hospital or medical expense coverage on an expense incurred or indemnity basis~~, other than incidentally,~~ to ~~a person~~ persons

eligible for Medicare ~~by reason of age~~ shall provide to ~~such~~ those applicants a ~~Medicare Supplement Buyer's~~ " Guide to Health Insurance for People with Medicare" in the form developed by the Health Care Financing Administration and in a type size no smaller than 12-point type. Delivery of the ~~Buyer's~~ guide must be made whether or not such policies or certificates are advertised, solicited, or issued as Medicare supplement policies or certificates as defined in this section. Except in the case of direct response issuers, delivery of the ~~Buyer's~~ guide must be made to the applicant at the time of application, and acknowledgment of receipt of the ~~Buyer's~~ guide must be obtained by the issuer. Direct response issuers shall deliver the ~~Buyer's~~ guide to the applicant upon request, but no later than the time at which the policy is delivered.

Sec. 29. Minnesota Statutes 1994, section 62A.31, subdivision 1r, is amended to read:

Subd. 1r. [COMMUNITY RATE.] Each health maintenance organization, health service plan corporation, insurer, or fraternal benefit society that sells ~~coverage that supplements~~ Medicare-related coverage shall establish a separate community rate for that coverage. Beginning January 1, 1993, no Medicare-related coverage ~~that supplements Medicare or that is governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395, et seq.,~~ may be offered, issued, sold, or renewed to a Minnesota resident, except at the community rate required by this subdivision. The same community rate must apply to newly issued coverage and to renewal coverage.

For coverage that supplements Medicare and for the Part A rate calculation for plans governed by section 1833 of the federal Social Security Act, United States Code, title 42, section 1395, et seq., the community rate may take into account only the following factors:

(1) actuarially valid differences in benefit designs or provider networks;

(2) geographic variations in rates if preapproved by the commissioner of commerce; and

(3) premium reductions in recognition of healthy lifestyle behaviors, including but not limited to, refraining from the use of tobacco. Premium reductions must be actuarially valid and must relate only to those healthy lifestyle behaviors that have a proven positive impact on health. Factors used by the health carrier making this premium reduction must be filed with and approved by the commissioner of commerce.

For insureds not residing in Anoka, Carver, Chisago, Dakota, Hennepin, Ramsey, Scott, or Washington county, a health plan may, at the option of the health carrier, phase in compliance under the following timetable:

(i) a premium adjustment as of March 1, 1993, that consists of one-half of the difference between the community rate that would be applicable to the person as of March 1, 1993, and the premium rate that would be applicable to the person as of March 1, 1993, under the rate schedule permitted on December 31, 1992. A health plan may, at the option of the health carrier, implement the entire premium difference described in this clause for any person as of March 1, 1993, if the premium difference would be 15 percent or less of the premium rate that would be applicable to the person as of March 1, 1993, under the rate schedule permitted on December 31, 1992, if the health plan does so uniformly regardless of whether the premium difference causes premiums to rise or to fall. The premium difference described in this clause is in addition to any premium adjustment attributable to medical cost inflation or any other lawful factor and is intended to describe only the premium difference attributable to the transition to the community rate; and

(ii) with respect to any person whose premium adjustment was constrained under clause (i), a premium adjustment as of January 1, 1994, that consists of the remaining one-half of the premium difference attributable to the transition to the community rate, as described in clause (i).

A health plan that initially follows the phase-in timetable may at any subsequent time comply on a more rapid timetable. A health plan that is in full compliance as of January 1, 1993, may not use the phase-in timetable and must remain in full compliance. Health plans that follow the phase-in timetable must charge the same premium rate for newly issued coverage that they charge for renewal coverage. A health plan whose premiums are constrained by clause (i) may take the constraint into account in establishing its community rate.

From January 1, 1993 to February 28, 1993, a health plan may, at the health carrier's option, charge the community rate under this paragraph or may instead charge premiums permitted as of December 31, 1992.

Sec. 30. Minnesota Statutes 1994, section 62A.31, subdivision 1s, is amended to read:

Subd. 1s. [PRESCRIPTION DRUG COVERAGE.] Beginning January 1, 1993, a health maintenance organization that issues Medicare-related coverage ~~that supplements Medicare or that issues coverage governed by section 1833 or 1876 of the federal Social Security Act, United States Code, title 42, section 1395 et seq.,~~ must offer, to each person to whom it offers any contract described in this subdivision, at least one contract that either:

(1) covers 80 percent of the reasonable and customary charge for prescription drugs or the copayment equivalency; or

(2) offers the coverage described in clause (1) as an optional rider that may be purchased separately from other optional coverages.

Sec. 31. Minnesota Statutes 1994, section 62A.31, subdivision 3, is amended to read:

Subd. 3. [DEFINITIONS.] (a) "Accident," "accidental injury," or "accidental means" means to employ "result" language and does not include words that establish an accidental means test or use words such as "external," "violent," "visible wounds," or similar words of description or characterization.

(1) The definition shall not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

(2) The definition may provide that injuries shall not include injuries for which benefits are provided or available under a workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

(b) "Applicant" means:

(1) in the case of an individual Medicare supplement policy or certificate, the person who seeks to contract for insurance benefits; and

(2) in the case of a group Medicare supplement policy or certificate, the proposed certificate holder.

(c) "Benefit period" or "Medicare benefit period" shall not be defined more restrictively than as defined in the Medicare program.

(d) "Certificate" means a certificate delivered or issued for delivery in this state or offered to a resident of this state under a group Medicare supplement policy or certificate.

(e) "Certificate form" means the form on which the certificate is delivered or issued for delivery by the issuer.

(f) "Convalescent nursing home," "extended care facility," or "skilled nursing facility" shall not be defined more restrictively than as defined in the Medicare program.

(g) "Health care expenses" means expenses of health maintenance organizations associated with the delivery of health care services which are analogous to incurred losses of insurers. The expenses shall not include:

(1) home office and overhead costs;

(2) advertising costs;

(3) commissions and other acquisition costs;

(4) taxes;

(5) capital costs;

(6) administrative costs; and

(7) claims processing costs.

(h) "Hospital" may be defined in relation to its status, facilities, and available services or to reflect its accreditation by the joint commission on accreditation of hospitals, but not more restrictively than as defined in the Medicare program.

(i) "Issuer" includes insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity delivering or issuing for delivery Medicare supplement policies or certificates in this state or offering these policies or certificates to residents of this state.

(j) "Medicare" shall be defined in the policy and certificate. Medicare may be defined as the Health Insurance for the Aged Act, title XVIII of the Social Security Amendments of 1965, as amended, or title I, part I, of Public Law Number 89-97, as enacted by the 89th Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as amended.

(k) "Medicare eligible expenses" means health care expenses covered by Medicare, to the extent recognized as reasonable and medically necessary by Medicare.

(l) "Medicare-related coverage" means a policy, contract, or certificate issued as a supplement to Medicare, regulated under sections 62A.31 to 62A.44, including Medicare select coverage; policies, contracts, or certificates that supplement Medicare issued by health maintenance organizations; or policies, contracts, or certificates governed by section 1833 (known as "cost" or "HCPP" contracts) or 1876 (known as "TEFRA" or "risk" contracts) of the federal Social Security Act, United States Code, title 42, section 1395, et seq., as amended.

(m) "Medicare supplement policy or certificate" means a group or individual policy of accident and sickness insurance or a subscriber contract of hospital and medical service associations or health maintenance organizations, ~~other than a policy or certificate issued under a contract under~~ or those policies or certificates covered by section 1833 ~~or 1876~~ of the federal Social Security Act, United States Code, title 42, section 1395, et seq., or an issued policy under a demonstration project ~~authorized~~ specified under amendments to the federal Social Security Act, which is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare.

~~(m)~~ (n) "Physician" shall not be defined more restrictively than as defined in the Medicare program or section 62A.04, subdivision 1, or 62A.15, subdivision 3a.

~~(n)~~ (o) "Policy form" means the form on which the policy is delivered or issued for delivery by the issuer.

~~(o)~~ (p) "Sickness" shall not be defined more restrictively than the following:

"Sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force."

The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under a workers' compensation, occupational disease, employer's liability, or similar law.

Sec. 32. Minnesota Statutes 1994, section 62A.315, is amended to read:

62A.315 [EXTENDED BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.]

The extended basic Medicare supplement plan must have a level of coverage so that it will be certified as a qualified plan pursuant to section 62E.07, and will provide:

(1) coverage for all of the Medicare part A inpatient hospital deductible and coinsurance amounts, and 100 percent of all Medicare part A eligible expenses for hospitalization not covered by Medicare;

(2) coverage for the daily copayment amount of Medicare part A eligible expenses for the calendar year incurred for skilled nursing facility care;

(3) coverage for the copayment amount of Medicare eligible expenses under Medicare part B regardless of hospital confinement, and the Medicare part B deductible amount;

(4) 80 percent of the usual and customary hospital and medical expenses and supplies described in section 62E.06, subdivision 1, not to exceed any charge limitation established by the Medicare program or state law, the usual and customary hospital and medical expenses and supplies, described in section 62E.06, subdivision 1, while in a foreign country, and prescription drug expenses, not covered by ~~Medicare's eligible expenses~~ Medicare;

(5) coverage for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells as defined under federal regulations under Medicare parts A and B, unless replaced in accordance with federal regulations;

(6) 100 percent of the cost of immunizations and routine screening procedures for cancer, including mammograms and pap smears;

(7) preventive medical care benefit: coverage for the following preventive health services:

(i) an annual clinical preventive medical history and physical examination that may include tests and services from clause (ii) and patient education to address preventive health care measures;

(ii) any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(A) fecal occult blood test and/or digital rectal examination;

(B) dipstick urinalysis for hematuria, bacteriuria, and proteinuria;

(C) pure tone (air only) hearing screening test administered or ordered by a physician;

(D) serum cholesterol screening every five years;

(E) thyroid function test;

(F) diabetes screening;

(iii) any other tests or preventive measures determined appropriate by the attending physician.

Reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service as if Medicare were to cover the service as identified in American Medical Association current procedural terminology (AMA CPT) codes to a maximum of $120 annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare;

(8) at-home recovery benefit: coverage for services to provide short-term at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery:

(i) for purposes of this benefit, the following definitions shall apply:

(A) "activities of daily living" include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings;

(B) "care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide, or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry;

(C) "home" means a place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence;

(D) "at-home recovery visit" means the period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four hours in a 24-hour period of services provided by a care provider is one visit;

(ii) coverage requirements and limitations:

(A) at-home recovery services provided must be primarily services that assist in activities of daily living;

(B) the insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare;

(C) coverage is limited to:

(I) no more than the number and type of at-home recovery visits certified as medically necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare-approved home health care visits under a Medicare-approved home care plan of treatment;

(II) the actual charges for each visit up to a maximum reimbursement of $40 per visit;

(III) $1,600 per calendar year;

(IV) seven visits in any one week;

(V) care furnished on a visiting basis in the insured's home;

(VI) services provided by a care provider as defined in this section;

(VII) at-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;

(VIII) at-home recovery visits received during the period the insured is receiving Medicare-approved home care services or no more than eight weeks after the service date of the last Medicare-approved home health care visit;

(iii) coverage is excluded for:

(A) home care visits paid for by Medicare or other government programs; and

(B) care provided by family members, unpaid volunteers, or providers who are not care providers.

Sec. 33. Minnesota Statutes 1994, section 62A.318, is amended to read:

62A.318 [MEDICARE SELECT POLICIES AND CERTIFICATES.]

(a) This section applies to Medicare select policies and certificates, as defined in this section, including those issued by health maintenance organizations. No policy or certificate may be advertised as a Medicare select policy or certificate unless it meets the requirements of this section.

(b) For the purposes of this section:

(1) "complaint" means any dissatisfaction expressed by an individual concerning a Medicare select issuer or its network providers;

(2) "grievance" means dissatisfaction expressed in writing by an individual insured under a Medicare select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare select issuer or its network providers;

(3) "Medicare select issuer" means an issuer offering, or seeking to offer, a Medicare select policy or certificate;

(4) "Medicare select policy" or "Medicare select certificate" means a Medicare supplement policy or certificate that contains restricted network provisions;

(5) "network provider" means a provider of health care, or a group of providers of health care, that has entered into a written agreement with the issuer to provide benefits insured under a Medicare select policy or certificate;

(6) "restricted network provision" means a provision that conditions the payment of benefits, in whole or in part, on the use of network providers; and

(7) "service area" means the geographic area approved by the commissioner within which an issuer is authorized to offer a Medicare select policy or certificate.

(c) The commissioner may authorize an issuer to offer a Medicare select policy or certificate pursuant to this section and section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990, Public Law Number 101-508, if the commissioner finds that the issuer has satisfied all of the requirements of Minnesota Statutes.

(d) A Medicare select issuer shall not issue a Medicare select policy or certificate in this state until its plan of operation has been approved by the commissioner.

(e) A Medicare select issuer shall file a proposed plan of operation with the commissioner, in a format prescribed by the commissioner. The plan of operation shall contain at least the following information:

(1) evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that:

(i) the services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation, and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community;

(ii) the number of network providers in the service area is sufficient, with respect to current and expected policyholders, either:

(A) to deliver adequately all services that are subject to a restricted network provision; or

(B) to make appropriate referrals;

(iii) there are written agreements with network providers describing specific responsibilities;

(iv) emergency care is available 24 hours per day and seven days per week; and

(v) in the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against an individual insured under a Medicare select policy or certificate. This section does not apply to supplemental charges or coinsurance amounts as stated in the Medicare select policy or certificate;

(2) a statement or map providing a clear description of the service area;

(3) a description of the grievance procedure to be used;

(4) a description of the quality assurance program, including:

(i) the formal organizational structure;

(ii) the written criteria for selection, retention, and removal of network providers; and

(iii) the procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted;

(5) a list and description, by specialty, of the network providers;

(6) copies of the written information proposed to be used by the issuer to comply with paragraph (i); and

(7) any other information requested by the commissioner.

(f) A Medicare select issuer shall file proposed changes to the plan of operation, except for changes to the list of network providers, with the commissioner before implementing the changes. The changes shall be considered approved by the commissioner after 30 days unless specifically disapproved.

An updated list of network providers shall be filed with the commissioner at least quarterly.

(g) A Medicare select policy or certificate shall not restrict payment for covered services provided by nonnetwork providers if:

(1) the services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury, or condition; and

(2) it is not reasonable to obtain the services through a network provider.

(h) A Medicare select policy or certificate shall provide payment for full coverage under the policy or certificate for covered services that are not available through network providers.

(i) A Medicare select issuer shall make full and fair disclosure in writing of the provisions, restrictions, and limitations of the Medicare select policy or certificate to each applicant. This disclosure must include at least the following:

(1) an outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare select policy or certificate with:

(i) other Medicare supplement policies or certificates offered by the issuer; and

(ii) other Medicare select policies or certificates;

(2) a description, including address, phone number, and hours of operation, of the network providers, including primary care physicians, specialty physicians, hospitals, and other providers;

(3) a description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are used;

(4) a description of coverage for emergency and urgently needed care and other out-of-service area coverage;

(5) a description of limitations on referrals to restricted network providers and to other providers;

(6) a description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer; and

(7) a description of the Medicare select issuer's quality assurance program and grievance procedure.

(j) Before the sale of a Medicare select policy or certificate, a Medicare select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to paragraph (i) and that the applicant understands the restrictions of the Medicare select policy or certificate.

(k) A Medicare select issuer shall have and use procedures for hearing complaints and

resolving written grievances from the subscribers. The procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures.

(1) The grievance procedure must be described in the policy and certificates and in the outline of coverage.

(2) At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer.

(3) Grievances must be considered in a timely manner and must be transmitted to appropriate decision makers who have authority to fully investigate the issue and take corrective action.

(4) If a grievance is found to be valid, corrective action must be taken promptly.

(5) All concerned parties must be notified about the results of a grievance.

(6) The issuer shall report no later than March 31 of each year to the commissioner regarding the grievance procedure. The report shall be in a format prescribed by the commissioner and shall contain the number of grievances filed in the past year and a summary of the subject, nature, and resolution of the grievances.

(l) At the time of initial purchase, a Medicare select issuer shall make available to each applicant for a Medicare select policy or certificate the opportunity to purchase a Medicare supplement policy or certificate otherwise offered by the issuer.

(m)(1) At the request of an individual insured under a Medicare select policy or certificate, a Medicare select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer that has comparable or lesser benefits and that does not contain a restricted network provision. The issuer shall make the policies or certificates available without requiring evidence of insurability after the Medicare supplement policy or certificate has been in force for six months. If the issuer does not have available for sale a policy or certificate without restrictive network provisions, the issuer shall provide enrollment information for the Minnesota comprehensive health association Medicare supplement plans.

(2) For the purposes of this paragraph, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare part A deductible, coverage for prescription drugs, coverage for at-home recovery services, or coverage for part B excess charges.

(n) Medicare select policies and certificates shall provide for continuation of coverage if the secretary of health and human services determines that Medicare select policies and certificates issued pursuant to this section should be discontinued due to either the failure of the Medicare select program to be reauthorized under law or its substantial amendment.

(1) Each Medicare select issuer shall make available to each individual insured under a Medicare select policy or certificate the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer that has comparable or lesser benefits and that does not contain a restricted network provision. The issuer shall make the policies and certificates available without requiring evidence of insurability.

(2) For the purposes of this paragraph, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare part A deductible, coverage for prescription drugs, coverage for at-home recovery services, or coverage for part B excess charges.

(o) A Medicare select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare select program.

(p) Medicare select policies and certificates under this section shall be regulated and approved by the department of commerce.

(q) Medicare select policies and certificates must be either a basic plan or an extended basic plan. Before a Medicare select policy or certificate is sold or issued in this state, the applicant must be provided with an explanation of coverage for both a Medicare select basic and a Medicare select extended basic policy or certificate and must be provided with the opportunity of purchasing either a Medicare select basic or a Medicare select extended basic policy. The basic plan may also include any of the optional benefit riders authorized by section 62A.316. Preventive care provided by Medicare select policies or certificates must be provided as set forth in section 62A.315 or 62A.316, except that the benefits are as defined in chapter 62D.

(r) Medicare select policies and certificates are exempt from the requirements of section 62A.31, subdivision 1, paragraph (d). This paragraph expires January 1, 1994.

Sec. 34. Minnesota Statutes 1994, section 62A.39, is amended to read:

62A.39 [DISCLOSURE.]

No individual Medicare supplement plan shall be delivered or issued in this state and no certificate shall be delivered under a group Medicare supplement plan delivered or issued in this state unless the plan is shown on the cover page and an outline containing at least the following information in no less than 12-point type is delivered to the applicant at the time the application is made:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the exceptions, reductions, and limitations contained in the policy including the following language, as applicable, in bold print: "THIS POLICY DOES NOT COVER ALL MEDICAL EXPENSES BEYOND THOSE COVERED BY MEDICARE. THIS POLICY DOES NOT COVER ALL SKILLED NURSING HOME CARE EXPENSES AND DOES NOT COVER CUSTODIAL OR RESIDENTIAL NURSING CARE. READ YOUR POLICY CAREFULLY TO DETERMINE WHICH NURSING HOME FACILITIES AND EXPENSES ARE COVERED BY YOUR POLICY.";

(c) A statement of the renewal provisions including any reservations by the insurer of a right to change premiums. The premium and manner of payment shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated;

(d) [READ YOUR POLICY OR CERTIFICATE VERY CAREFULLY.] A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions. Additionally, it does not give all the details of Medicare coverage. Contact your local Social Security office or consult the Medicare handbook for more details;

(e) A statement of the policy's loss ratio as follows: "This policy provides an anticipated loss ratio of (..%). This means that, on the average, policyholders may expect that ($....) of every $100.00 in premium will be returned as benefits to policyholders over the life of the contract.";

(f) When the outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis that would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and contain the following statement, in no less than 12-point type, immediately above the company name:

"NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application, and the coverage originally applied for has not been issued.";

(g) [RIGHT TO RETURN POLICY OR CERTIFICATE.] "If you find that you are not satisfied with your policy or certificate for any reason, you may return it to (insert issuer's address). If you send the policy or certificate back to us within 30 days after you receive it, we will

treat the policy or certificate as if it had never been issued and return all of your payments within ten days.";

(h) [POLICY OR CERTIFICATE REPLACEMENT.] "If you are replacing another health insurance policy or certificate, do NOT cancel it until you have actually received your new policy or certificate and are sure you want to keep it.";

(i) [NOTICE.] "This policy or certificate may not fully cover all of your medical costs."

A. (for agents:)

"Neither (insert company's name) nor its agents are connected with Medicare."

B. (for direct response:)

"(insert company's name) is not connected with Medicare."

(j) Notice regarding policies or certificates which are not Medicare supplement policies.

Any accident and sickness insurance policy or certificate, other than a Medicare supplement policy, or a policy or certificate issued pursuant to a contract under the federal Social Security Act, section 1833 or 1876 (United States Code, title 42, section 1395, et seq.), disability income policy; ~~basic, catastrophic, or major medical expense policy; single premium nonrenewable policy;~~ or other policy, issued for delivery in this state to persons eligible for Medicare shall notify insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice shall either be printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy or certificate delivered to insureds. The notice shall be in no less than 12-point type and shall contain the following language:

"THIS (POLICY OR CERTIFICATE) IS NOT A MEDICARE SUPPLEMENT (POLICY OR CONTRACT). If you are eligible for Medicare, review the ~~Medicare supplement buyer's~~ "Guide to Health Insurance for People with Medicare" available from the company."

(k) [COMPLETE ANSWERS ARE VERY IMPORTANT.] "When you fill out the application for the new policy or certificate, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy or certificate and refuse to pay any claims if you leave out or falsify important medical information." If the policy or certificate is guaranteed issue, this paragraph need not appear.

"Review the application carefully before you sign it. Be certain that all information has been properly recorded."

Include for each plan, prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments, and insured payments for each plan, using the same language, in the same order, using uniform layout and format.

The outline of coverage provided to applicants pursuant to this section consists of four parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the insurer.

Sec. 35. Minnesota Statutes 1994, section 62A.44, subdivision 2, is amended to read:

Subd. 2. [QUESTIONS.] (a) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing the questions and statements may be used.

"(1) You do not need more than one Medicare supplement policy or certificate.

(2) If you ~~are 65 or older,~~ purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(3) You may be eligible for benefits under Medicaid and may not need a Medicare supplement policy or certificate.

~~(3)~~ (4) The benefits and premiums under your Medicare supplement policy or certificate ~~will~~ can be suspended, if requested, during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy or certificate will be reinstated if requested within 90 days of losing Medicaid eligibility.

(5) Counseling services may be available in Minnesota to provide advice concerning medical assistance through state Medicaid, Qualified Medicare Beneficiaries (QMBs), and Specified Low-Income Medicare Beneficiaries (SLMBs).

To the best of your knowledge:

(1) Do you have another Medicare supplement policy or certificate in force~~, including health care service contract or health maintenance organization contract~~?

(a) If so, with which company?

(b) If so, do you intend to replace your current Medicare supplement policy with this policy or certificate?

(2) Do you have any other health insurance policies that provide benefits ~~that~~ which this Medicare supplement policy or certificate would duplicate?

(a) If ~~you do~~ so, please name the company ~~and the~~.

(b) What kind of policy~~.~~?

(3) ~~If the answer to question 1 or 2 is yes, do you intend to replace these medical or health policies with this policy or certificate?~~

~~(4)~~ Are you covered ~~by~~ for medical assistance through the state Medicaid program? If so, which of the following programs provides coverage for you?

a. Specified Low-Income Medicare Beneficiary (SLMB),

b. Qualified Medicare Beneficiary (QMB), or

c. full Medicaid Beneficiary?"

(b) Agents shall list any other health insurance policies they have sold to the applicant.

(1) List policies sold that are still in force.

(2) List policies sold in the past five years that are no longer in force.

(c) In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer on delivery of the policy or certificate.

(d) Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, before issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy or certificate the notice regarding replacement of Medicare supplement coverage.

(e) The notice required by paragraph (d) for an issuer shall be provided in substantially the following form in no less than 12-point type:

"NOTICE TO APPLICANT REGARDING REPLACEMENT

OF MEDICARE SUPPLEMENT INSURANCE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to (your application) (information you have furnished), you intend to terminate existing Medicare supplement insurance and replace it with a policy or certificate to be issued by (Company Name) Insurance Company. Your new policy or certificate will provide 30 days within which you may decide without cost whether you desire to keep the policy or certificate.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. ~~Terminate your present policy only~~ If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision you should terminate your present Medicare supplement policy. You should evaluate the need for other accident and sickness coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY ISSUER, AGENT, (BROKER OR OTHER REPRESENTATIVE): I have reviewed your current medical or health insurance coverage. ~~The replacement of insurance involved in this transaction does not duplicate coverage,~~ To the best of my knowledge this Medicare supplement policy will not duplicate your existing Medicare supplement policy because you intend to terminate the existing Medicare supplement policy. The replacement policy or certificate is being purchased for the following reason(s) (check one):

_____ Additional benefits

_____ No change in benefits, but lower premiums

_____ Fewer benefits and lower premiums

_____ Other (please specify)

_____

_____

_____

(1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy or certificate. This could result in denial or delay of a claim for benefits under the new policy or certificate, whereas a similar claim might have been payable under your present policy or certificate.

(2) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent the time was spent (depleted) under the original policy or certificate.

(3) If you still wish to terminate your present policy or certificate and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy or certificate had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. (If the policy or certificate is guaranteed issue, this paragraph need not appear.)

Do not cancel your present policy or certificate until you have received your new policy or certificate and you are sure that you want to keep it.

_____

(Signature of Agent, Broker, or Other Representative)*

_____

(Typed Name and Address of Issuer, Agent, or Broker)

_____

(Date)

_____

(Applicant's Signature)

_____

(Date)

*Signature not required for direct response sales."

(f) Paragraph (e), clauses (1) and (2), of the replacement notice (applicable to preexisting conditions) may be deleted by an issuer if the replacement does not involve application of a new preexisting condition limitation.

Sec. 36. Minnesota Statutes 1995 Supplement, section 62A.46, subdivision 2, is amended to read:

Subd. 2. [LONG-TERM CARE POLICY.] "Long-term care policy" means an individual or group policy, certificate, subscriber contract, or other evidence of coverage that provides benefits for prescribed long-term care, including nursing facility services ~~and~~ or home care services, or both nursing facility services and home care services, pursuant to the requirements of sections 62A.46 to 62A.56.

Sections 62A.46, 62A.48, and 62A.52 to 62A.56 do not apply to a long-term care policy issued to (a) an employer or employers or to the trustee of a fund established by an employer where only employees or retirees, and dependents of employees or retirees, are eligible for coverage or (b) to a labor union or similar employee organization. The associations exempted from the requirements of sections 62A.31 to 62A.44 under 62A.31, subdivision 1, clause (c) shall not be subject to the provisions of sections 62A.46 to 62A.56 until July 1, 1988.

Sec. 37. Minnesota Statutes 1995 Supplement, section 62A.48, subdivision 1, is amended to read:

Subdivision 1. [POLICY REQUIREMENTS.] No individual or group policy, certificate, subscriber contract, or other evidence of coverage of nursing home care or other long-term care services shall be offered, issued, delivered, or renewed in this state, whether or not the policy is issued in this state, unless the policy is offered, issued, delivered, or renewed by a qualified insurer and the policy satisfies the requirements of sections 62A.46 to 62A.56. A long-term care policy must cover prescribed long-term care in nursing facilities ~~and at least~~ or the prescribed long-term home care services in section 62A.46, subdivision 4, clauses (1) to (5), provided by a home health agency. A long-term care policy may cover both prescribed long-term care in nursing facilities and the prescribed long-term home care services in section 62A.46, subdivision 4, clauses (1) to (5), provided by a home health agency. Coverage under a long-term care policy, other than one that covers only nursing facility services, must include: a minimum lifetime benefit limit of at least $25,000 for services~~, and~~. A long-term care policy that covers only nursing facility services must include a minimum lifetime benefit limit of not less than one year of nursing facility services.

Nursing facility and home care coverages under a long-term care policy must not be subject to separate lifetime maximums for policies that cover both nursing facility and home health care. Prior hospitalization may not be required under a long-term care policy.

The policy must cover preexisting conditions during the first six months of coverage if the insured was not diagnosed or treated for the particular condition during the 90 days immediately preceding the effective date of coverage. Coverage under the policy may include a waiting period of up to 90 days before benefits are paid, but there must be no more than one waiting period per benefit period; for purposes of this sentence, "days" can mean calendar or benefit days. If benefit days are used, an appropriate premium reduction and disclosure must be made. No policy may exclude coverage for mental or nervous disorders which have a demonstrable organic cause, such as Alzheimer's and related dementias. No policy may require the insured to be homebound or house confined to receive home care services. The policy must include a provision that the plan will not be canceled or renewal refused except on the grounds of nonpayment of the premium, provided that the insurer may change the premium rate on a class basis on any policy anniversary date. A provision that the policyholder may elect to have the premium paid in full at age 65 by payment of a higher premium up to age 65 may be offered. A provision that the premium would be waived during any period in which benefits are being paid to the insured during confinement in a nursing facility must be included. A nongroup policyholder may return a policy within 30 days of its delivery and have the premium refunded in full, less any benefits paid under the policy, if the policyholder is not satisfied for any reason.

No individual long-term care policy shall be offered or delivered in this state until the insurer has received from the insured a written designation of at least one person, in addition to the insured, who is to receive notice of cancellation of the policy for nonpayment of premium. The insured has the right to designate up to a total of three persons who are to receive the notice of cancellation, in addition to the insured. The form used for the written designation must inform the insured that designation of one person is required and that designation of up to two additional persons is optional and must provide space clearly designated for listing between one and three persons. The designation shall include each person's full name, home address, and telephone number. Each time an individual policy is renewed or continued, the insurer shall notify the insured of the right to change this written designation.

The insurer may file a policy form that utilizes a plan of care prepared as provided under section 62A.46, subdivision 5, clause (1) or (2).

Sec. 38. Minnesota Statutes 1994, section 62A.49, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] Section 62A.48 does not prohibit the sale of policies, certificates, subscriber contracts, or other evidences of coverage that provide home care services only. ~~This does not, however, remove the requirement that home care service benefits must be provided as part of a long-term care policy pursuant to that section.~~ Home care services only policies may be sold, provided that they meet the requirements set forth in sections 62A.46 to 62A.56, except that they do not have to meet those conditions that relate to long-term care in nursing facilities. Disclosures and representations regarding these policies must be adjusted accordingly to remove references to coverage for nursing home care.

Sec. 39. Minnesota Statutes 1994, section 62A.60, is amended to read:

62A.60 [RETROACTIVE DENIAL OF EXPENSES.]

In cases where the subscriber or insured is liable for costs beyond applicable copayments or deductibles, no insurer may retroactively deny payment to a person who is covered when the services are provided for health care services that are otherwise covered, if the insurer or its representative failed to provide prior or concurrent review or authorization for the expenses when required to do so under the policy, plan, or certificate. If prior or concurrent review or authorization was provided by the insurer or its representative, and the preexisting condition limitation provision, the general exclusion provision and any other coinsurance, or other policy requirements have been met, the insurer may not deny payment for the authorized service or time period except in cases where fraud or substantive misrepresentation occurred.

Sec. 40. Minnesota Statutes 1995 Supplement, section 62C.14, subdivision 14, is amended to read:

Subd. 14. No subscriber's individual contract or any group contract which provides for coverage of family members or other dependents of a subscriber or of an employee or other group member of a group subscriber, shall be renewed, delivered, or issued for delivery in this state unless such contract includes as covered family members or dependents any newborn infants~~, including dependent grandchildren,~~ immediately from the moment of birth and thereafter which insurance shall provide coverage for illness, injury, congenital malformation or premature birth. For purposes of this paragraph, "newborn infants" includes grandchildren who are financially dependent upon a covered grandparent and who reside with that covered grandparent continuously from birth. No policy, contract, or agreement covered by this section may require notification to a health carrier as a condition for this dependent coverage. However, if the policy, contract, or agreement mandates an additional premium for each dependent, the health carrier shall be entitled to all premiums that would have been collected had the health carrier been aware of the additional dependent. The health carrier may withhold payment of any health benefits for the new dependent until it has been compensated with the applicable premium which would have been owed if the health carrier had been informed of the additional dependent immediately.

Sec. 41. Minnesota Statutes 1995 Supplement, section 62E.05, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATION.] Upon application by an insurer, fraternal, or employer for certification of a plan of health coverage as a qualified plan or a qualified medicare supplement plan for the purposes of sections 62E.01 to 62E.16, the commissioner shall make a determination within 90 days as to whether the plan is qualified. All plans of health coverage, except Medicare supplement policies, shall be labeled as "qualified" or "nonqualified" on the front of the policy or ~~evidence of insurance~~ contract, or on the schedule page. All qualified plans shall indicate whether they are number one, two, or three coverage plans.

Sec. 42. Minnesota Statutes 1995 Supplement, section 62F.02, subdivision 2, is amended to read:

Subd. 2. [DIRECTORS.] The association shall have a board of directors composed of 11 persons chosen for a term of four years as follows: five persons elected by members of the association at a meeting called by the commissioner; three members who are health care providers appointed by the commissioner prior to the election by the association; and three public members, as defined in section 214.02, appointed by the governor prior to the election by the association. If the commissioner determines that it is no longer cost-effective or efficient to operate a separate board of directors to administer the medical malpractice joint underwriting association, the commissioner shall deactivate the board and assign all of the board's authority and responsibilities under this chapter to the Minnesota joint underwriting association board of directors established under section 62I.02.

Sec. 43. Minnesota Statutes 1994, section 62F.03, subdivision 6, is amended to read:

Subd. 6. "Net direct premiums" means gross direct premiums written on personal injury liability insurance, including the liability component of multiple peril package policies as computed by the commissioner, less return premiums for the unused or unabsorbed portions of premium deposits. Net direct premiums do not include policyholder dividends.

Sec. 44. Minnesota Statutes 1994, section 62F.04, subdivision 1a, is amended to read:

Subd. 1a. [REAUTHORIZATION.] The authorization to issue insurance is valid for a period of two years from the date it was made. The commissioner may reauthorize the issuance of insurance for additional two-year periods ~~under the terms of subdivision 1~~ according to the procedures set forth in sections 62I.21 and 62I.22. This subdivision is not a limitation on the number of times the commissioner may reauthorize the issuance of insurance.

Sec. 45. Minnesota Statutes 1994, section 62I.02, subdivision 2, is amended to read:

Subd. 2. [~~DIRECTOR~~ BOARD OF DIRECTORS.] The association shall have a board of directors composed of 11 persons chosen as follows: five persons elected by members of the association at a meeting called by the commissioner; three public members, as defined in section 214.02, appointed by the commissioner; and three members, appointed by the commissioner representing groups to whom coverage has been extended by the association. The terms of the members shall be four years. Terms may be staggered so that no more than six members are appointed or elected every two years. Members may serve until their successors are appointed or elected. If at any time no coverage is currently extended by the association, then either additional public members may be appointed to fill these three positions or, at the option of the commissioner, representatives from groups who had previously been covered by the association may serve as directors. In the event that the commissioner assigns the responsibility for administering chapter 62F to the Minnesota joint underwriting association, the board of directors must be increased by four additional members. The commissioner shall appoint two of the additional members, one of whom must be a licensed health care provider, and one of whom must be a public member. Association members shall elect the other two members, one of whom must be a representative of medical malpractice insurers, and one of whom must be a representative of personal injury liability insurers.

Sec. 46. Minnesota Statutes 1994, section 62I.02, subdivision 5, is amended to read:

Subd. 5. [ACCOUNTS.] (a) For the purposes of administration and assessment, and except as otherwise authorized under paragraph (b), the association shall be divided into two separate accounts:

(1) the property and casualty insurance account; and

(2) the personal injury liability insurance ~~account~~ account-liquor.

(b) If the association is authorized by the commissioner to issue medical malpractice insurance, the association shall establish a third account for purposes of administration and assessment. This account must be identified as the personal injury liability insurance account-medical malpractice.

Sec. 47. Minnesota Statutes 1994, section 62I.02, is amended by adding a subdivision to read:

Subd. 6. [MEDICAL MALPRACTICE.] If the association is authorized by the commissioner to issue medical malpractice insurance, it shall administer the medical malpractice insurance program according to chapter 62F.

Sec. 48. Minnesota Statutes 1994, section 62I.07, is amended to read:

62I.07 [MEMBERSHIP ASSESSMENTS.]

Subdivision 1. [GENERAL ASSESSMENT.] Each member of the association that is authorized to write property and casualty insurance in the state shall participate in its losses and expenses in the proportion that the direct written premiums of the member on the kinds of insurance in that account bears to the total aggregate direct written premiums written in this state by all members on the kinds of insurance in that account. The members' participation in the association shall be determined annually on the direct written premiums written during the preceding calendar year as reported on the annual statements and other reports filed by the member with the commissioner. Direct written premiums mean that amount at page 14, column (2), lines 5, 8, 9, 17, 21.2, 22, 23, 24, 25, 26, and 27 of the annual statement filed annually with the department of commerce under section 60A.13.

Subd. 2. [PERSONAL INJURY LIABILITY INSURANCE ASSESSMENT; LIQUOR LIABILITY.] A member of the association shall participate in its writings, expenses, servicing allowance, management fees, and losses in the proportion that the net direct premiums of the member, excluding that portion of premiums attributable to the operation of the association, written during the preceding calendar year on the kinds of insurance in that account bears to the aggregate net direct premiums written in this state by all members on the kinds of insurance in that account. The member's participation in the association shall be determined annually on the basis of net direct premiums written during the preceding calendar year, as reported in the annual

statements and other reports filed by the member with the commissioner. Net direct premiums mean gross direct premiums written on personal injury liability insurance, including the liability component of multiple peril package policies as computed by the commissioner, less return premiums for the unused or unabsorbed portions of premium deposits. The net direct premiums are calculated using lines 5.2 CMP, and 17-other liability from page 14, column (2) of the annual statement filed annually with the department of commerce pursuant to section 60A.13.

Subd. 3. [PERSONAL INJURY LIABILITY INSURANCE ASSESSMENT; MEDICAL MALPRACTICE.] If an assessment is needed for medical malpractice, the assessment is made using the following lines from page 14, column (2) of the annual statement filed annually with the department of commerce pursuant to section 60A.13 using the following lines: 5.2 commercial multiperil liability, 11 medical malpractice, 17-other liability, 19.1 PIP-private passenger, 19.3 PIP-commercial.

Sec. 49. Minnesota Statutes 1994, section 62L.09, subdivision 3, is amended to read:

Subd. 3. [REENTRY PROHIBITION.] (a) Except as otherwise provided in paragraph (b), a health carrier that ceases to do business in the small employer market after July 1, 1993, is prohibited from writing new business in the small employer market in this state for a period of five years from the date of notice to the commissioner. This subdivision applies to any health maintenance organization that ceases to do business in the small employer market in one service area with respect to that service area only. Nothing in this subdivision prohibits an affiliated health maintenance organization from continuing to do business in the small employer market in that same service area.

(b) The commissioner of commerce or the commissioner of health may permit a health carrier that ceases to do business in the small employer market in this state after July 1, 1993, to begin writing new business in the small employer market if:

(1) since the carrier ceased doing business in the small employer market, legislative action has occurred that has significantly changed the effect on the carrier of its decision to cease doing business in the small employer market; and

(2) the commissioner deems it appropriate.

Sec. 50. [62Q.49] [ENROLLEE COST SHARING; NEGOTIATED PROVIDER PAYMENTS.]

Subdivision 1. [APPLICABILITY.] This section applies to all health plans, as defined in section 62Q.01, subdivision 3, that provide coverage for health care to be provided entirely or partially:

(1) through contracts in which health care providers agree to accept discounted charges, negotiated charges, or other limits on health care provider charges;

(2) by employees of, or facilities or entities owned by, the issuer of the health plan; or

(3) through contracts with health care providers that provide for payment to the providers on a fully or partially capitated basis or on any other non-fee-for-service basis.

Subd. 2. [DISCLOSURE REQUIRED.] (a) All health plans included in subdivision 1 must clearly specify how the cost of health care used to calculate any copayments, coinsurance, or lifetime benefits will be affected by the arrangements described in subdivision 1.

(b) Any summary or other marketing material used in connection with marketing of a health plan that is subject to this section must prominently disclose and clearly explain the provisions required under paragraph (a), if the summary or other marketing material refers to copayments, coinsurance, or maximum lifetime benefits.

(c) A health plan that is subject to paragraph (a) must not be used in this state if the commissioner of commerce or health, as appropriate, has determined that it does not comply with this section.

Sec. 51. [62Q.50] [PROSTATE CANCER SCREENING.]

A health plan must cover prostate cancer screening for men 40 years of age or over who are symptomatic or in a high-risk category and for all men 50 years of age or older.

The screening must consist at a minimum of a prostate-specific antigen blood test and a digital rectal examination.

This coverage is subject to any deductible, coinsurance, copayment, or other limitation on coverage applicable to other coverages under the plan.

For purposes of this section, "health plan" includes coverage that is excluded under section 62A.011, subdivision 3, clauses (7) and (10).

Sec. 52. [62Q.51] [POINT-OF-SERVICE OPTION.]

Subdivision 1. [DEFINITION.] For purposes for this section, "point-of-service option" means a health plan under which the health plan company will reimburse an appropriately licensed or registered provider for providing covered services to an enrollee, without regard to whether the provider belongs to a particular network and without regard to whether the enrollee was referred to the provider by another provider.

Subd. 2. [REQUIRED POINT-OF-SERVICE OPTION.] Each health plan company operating in the small group or large group market shall offer at least one point-of-service option in each such market in which it operates.

Subd. 3. [RATE APPROVAL.] The premium rates and cost sharing requirements for each option must be submitted to the commissioner of health or the commissioner of commerce as required by law. A health plan that includes lower enrollee cost sharing for services provided by network providers than for services provided by out-of-network providers, or lower enrollee cost sharing for services provided with prior authorization or second opinion than for services provided without prior authorization or second opinion, qualifies as a point-of-service option.

Subd. 4. [EXEMPTION.] This section does not apply to a health plan company with fewer than 50,000 enrollees.

Sec. 53. Minnesota Statutes 1994, section 65A.01, subdivision 3, is amended to read:

Subd. 3. [POLICY PROVISIONS.] On said policy following such matter as provided in subdivisions 1 and 2, printed in the English language in type of such size or sizes and arranged in such manner, as is approved by the commissioner of commerce, the following provisions and subject matter shall be stated in the following words and in the following sequence, but with the convenient placing, if desired, of such matter as will act as a cover or back for such policy when folded, with the blanks below indicated being left to be filled in at the time of the issuing of the policy, to wit:

(Space for listing the amounts of insurance, rates and premiums for the basic coverages provided under the standard form of policy and for additional coverages or perils provided under endorsements attached. The description and location of the property covered and the insurable value(s) of any building(s) or structure(s) covered by the policy or its attached endorsements; also in the above space may be stated whether other insurance is limited and if limited the total amount permitted.)

In consideration of the provisions and stipulations herein or added hereto and of the premium above specified this company, for a term of ..... from ..... (At 12:01 a.m. Standard Time) to ..... (At 12:01 a.m. Standard Time) at location of property involved, to an amount not exceeding the amount(s) above specified does insure ..... and legal representatives .....

(In above space may be stated whether other insurance is limited.) (And if limited the total amount permitted.)

Subject to form No.(s) ..... attached hereto.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such provisions, stipulations and agreements as may be added hereto as provided in this policy.

The insurance effected above is granted against all loss or damage by fire originating from any cause, except as hereinafter provided, also any damage by lightning and by removal from premises endangered by the perils insured against in this policy, to the property described hereinafter while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere. The amount of said loss or damage, except in case of total loss on buildings, to be estimated according to the actual value of the insured property at the time when such loss or damage happens.

If the insured property shall be exposed to loss or damage from the perils insured against, the insured shall make all reasonable exertions to save and protect same.

This entire policy shall be void if, whether before a loss, the insured has willfully, or after a loss, the insured has willfully and with intent to defraud, concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interests of the insured therein.

This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion, or manuscripts.

This company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly by: (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, providing that such fire did not originate from any of the perils excluded by this policy.

Other insurance may be prohibited or the amount of insurance may be limited by so providing in the policy or an endorsement, rider or form attached thereto.

Unless otherwise provided in writing added hereto this company shall not be liable for loss occurring:

(a) while the hazard is increased by any means within the control or knowledge of the insured; or

(b) while the described premises, whether intended for occupancy by owner or tenant, are vacant or unoccupied beyond a period of 60 consecutive days; or

(c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

The extent of the application of insurance under this policy and the contributions to be made by this company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirements or proceeding on the part of this company relating to appraisal or to any examination provided for herein.

This policy shall be canceled at any time at the request of the insured, in which case this company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time by

this company by giving to the insured ~~a ten~~ 30 days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

If loss hereunder is made payable, in whole or in part, to a designated mortgagee or contract for deed vendor not named herein as insured, such interest in this policy may be canceled by giving to such mortgagee or vendor a ten days' written notice of cancellation.

Notwithstanding any other provisions of this policy, if this policy shall be made payable to a mortgagee or contract for deed vendor of the covered real estate, no act or default of any person other than such mortgagee or vendor or the mortgagee's or vendor's agent or those claiming under the mortgagee or vendor, whether the same occurs before or during the term of this policy, shall render this policy void as to such mortgagee or vendor nor affect such mortgagee's or vendor's right to recover in case of loss on such real estate; provided, that the mortgagee or vendor shall on demand pay according to the established scale of rates for any increase of risks not paid for by the insured; and whenever this company shall be liable to a mortgagee or vendor for any sum for loss under this policy for which no liability exists as to the mortgagor, vendee, or owner, and this company shall elect by itself, or with others, to pay the mortgagee or vendor the full amount secured by such mortgage or contract for deed, then the mortgagee or vendor shall assign and transfer to the company the mortgagee's or vendor's interest, upon such payment, in the said mortgage or contract for deed together with the note and debts thereby secured.

This company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved.

In case of any loss under this policy the insured shall give immediate written notice to this company of any loss, protect the property from further damage, and a statement in writing, signed and sworn to by the insured, shall within 60 days be rendered to the company, setting forth the value of the property insured, except in case of total loss on buildings the value of said buildings need not be stated, the interest of the insured therein, all other insurance thereon, in detail, the purposes for which and the persons by whom the building insured, or containing the property insured, was used, and the time at which and manner in which the fire originated, so far as known to the insured.

The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and, after being informed of the right to counsel and that any answers may be used against the insured in later civil or criminal proceedings, the insured shall, within a reasonable period after demand by this company, submit to examinations under oath by any person named by this company, and subscribe the oath. The insured, as often as may be reasonably required, shall produce for examination all records and documents reasonably related to the loss, or certified copies thereof if originals are lost, at a reasonable time and place designated by this company or its representatives, and shall permit extracts and copies thereof to be made.

In case the insured and this company, except in case of total loss on buildings, shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. In case either fails to select an appraiser within the time provided, then a presiding judge of the district court of the county wherein the loss occurs may appoint such appraiser for such party upon application of the other party in writing by giving five days' notice thereof in writing to the party failing to appoint. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then a presiding judge of the above mentioned court may appoint such an umpire upon application of party in writing by giving five days' notice thereof in writing to the other party. The appraisers shall then appraise the loss, stating separately actual value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this company shall determine the amount of actual value and loss. Each appraiser shall be paid by the selecting party, or the party for whom selected, and the expense of the appraisal and umpire shall be paid by the parties equally.

It shall be optional with this company to take all of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

There can be no abandonment to this company of any property.

The amount of loss for which this company may be liable shall be payable 60 days after proof of loss, as herein provided, is received by this company and ascertainment of the loss is made either by agreement between the insured and this company expressed in writing or by the filing with this company of an award as herein provided. It is moreover understood that there can be no abandonment of the property insured to the company, and that the company will not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable, as above provided.

No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy have been complied with, and unless commenced within two years after inception of the loss.

This company is subrogated to, and may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this company; and the insurer may prosecute therefor in the name of the insured retaining such amount as the insurer has paid.

Assignment of this policy shall not be valid except with the written consent of this company.

IN WITNESS WHEREOF, this company has executed and attested these presents.

.....	.....
(Signature)	(Signature)
.....	.....
(Name of office)	(Name of office)

Sec. 54. Minnesota Statutes 1994, section 65A.10, subdivision 1, is amended to read:

Subdivision 1. [BUILDINGS.] Nothing contained in sections 65A.08 and 65A.09 shall be construed to preclude insurance against the cost, in excess of actual cash value at the time any loss or damage occurs, of actually repairing, rebuilding or replacing the insured property. Subject to any applicable policy limits, where an insurer offers replacement cost insurance~~,~~: (i) the insurance must cover the cost of replacing, rebuilding, or repairing any loss or damaged property in accordance with the minimum code as required by state or local authorities; and (ii) the insurance coverage may not be conditioned on replacing or rebuilding the damaged property at its original location on the owner's property if the structure must be relocated because of zoning or land use regulations of state or local government. In the case of a partial loss, unless more extensive coverage is otherwise specified in the policy, this coverage applies only to the damaged portion of the property.

Sec. 55. Minnesota Statutes 1994, section 65A.295, is amended to read:

65A.295 [HOMEOWNER'S INSURANCE COVERAGE.]

(a) Every insurer writing homeowner's insurance in this state shall make available at least one form of homeowner's policy for each level of peril coverage offered by the insurer in which the insured has the option to specify the dollar amount of coverage provided for structures other than the dwelling and for personal property. The premium must be reduced to reflect the reduced risk of lesser coverage.

(b) ~~A written notice must be provided to all applicants for homeowner's insurance at the time of application informing them of the options provided in paragraph (a).~~

~~(c)~~ Coverage for structures other than the dwelling is the coverage provided under "Coverage

B, Other Structures" in the standard homeowner's policy. Coverage for personal property is the coverage provided under "Coverage C, Personal Property" in the standard homeowner's package policy.

~~(d)~~ (c) "Level of peril" refers to basic, broad, and all risk levels of coverage.

Sec. 56. Minnesota Statutes 1994, section 65B.14, is amended by adding a subdivision to read:

Subd. 5. [VIOLATIONS.] "Violations" means all moving traffic violations that are recorded by the department of public safety on a household member's motor vehicle record, and violations reported by a similar authority in another state or moving traffic violations reported by the insured.

Sec. 57. Minnesota Statutes 1994, section 65B.15, subdivision 1, is amended to read:

Subdivision 1. No cancellation or reduction in the limits of liability of coverage during the policy period of any policy shall be effective unless notice thereof is given and unless based on one or more reasons stated in the policy which shall be limited to the following:

1. Nonpayment of premium; or

2. The policy was obtained through a material misrepresentation; or

3. Any insured made a false or fraudulent claim or knowingly aided or abetted another in the presentation of such a claim; or

4. The named insured failed to disclose fully motor vehicle accidents and moving traffic violations of the named insured for the preceding 36 months if called for in the written application; or

5. The named insured failed to disclose in the written application any requested information necessary for the acceptance or proper rating of the risk; or

6. The named insured knowingly failed to give any required written notice of loss or notice of lawsuit commenced against the named insured, or, when requested, refused to cooperate in the investigation of a claim or defense of a lawsuit; or

7. The named insured or any other operator who either resides in the same household, or customarily operates an automobile insured under such policy, unless the other operator is identified as a named insured in another policy as an insured:

(a) has, within the 36 months prior to the notice of cancellation, had that person's driver's license under suspension or revocation because the person committed a moving traffic violation or because the person refused to be tested under section 169.121, subdivision 1, paragraph (a); or

(b) is or becomes subject to epilepsy or heart attacks, and such individual does not produce a written opinion from a physician testifying to that person's medical ability to operate a motor vehicle safely, such opinion to be based upon a reasonable medical probability; or

(c) has an accident record, conviction record (criminal or traffic), physical condition or mental condition, any one or all of which are such that the person's operation of an automobile might endanger the public safety; or

(d) has been convicted, or forfeited bail, during the 24 months immediately preceding the notice of cancellation for criminal negligence in the use or operation of an automobile, or assault arising out of the operation of a motor vehicle, or operating a motor vehicle while in an intoxicated condition or while under the influence of drugs; or leaving the scene of an accident without stopping to report; or making false statements in an application for a driver's license, or theft or unlawful taking of a motor vehicle; or

(e) has been convicted of, or forfeited bail for, one or more violations within the 18 months immediately preceding the notice of cancellation, of any law, ordinance, or rule which justify a revocation of a driver's license.

8. The insured automobile is:

(1) so mechanically defective that its operation might endanger public safety; or

(2) used in carrying passengers for hire or compensation, provided however that the use of an automobile for a car pool shall not be considered use of an automobile for hire or compensation; or

(3) used in the business of transportation of flammables or explosives; or

(4) an authorized emergency vehicle; or

(5) subject to an inspection law and has not been inspected or, if inspected, has failed to qualify within the period specified under such inspection law; or

(6) substantially changed in type or condition during the policy period, increasing the risk substantially, such as conversion to a commercial type vehicle, a dragster, sports car or so as to give clear evidence of a use other than the original use.

Sec. 58. Minnesota Statutes 1995 Supplement, section 65B.47, subdivision 1a, is amended to read:

Subd. 1a. [EXEMPTIONS.] Subdivision 1 does not apply to:

(1) a commuter van;

(2) a vehicle being used to transport children as part of a family or group family day care program;

(3) a vehicle being used to transport children to school or to a school-sponsored activity;

(4) a bus while it is in operation within the state of Minnesota as to any Minnesota resident who is an insured as defined in section 65B.43, subdivision 5;

(5) a passenger in a taxi; or

(6) a taxi driver, provided that this clause applies only to policies issued or renewed on or after September 1, 1996, and prior to September 1, 1997.

Sec. 59. Minnesota Statutes 1994, section 65B.64, subdivision 3, is amended to read:

Subd. 3. A person shall not be entitled to basic economic loss benefits through the assigned claims plan with respect to injury which was sustained if at the time of such injury the injured person was the owner of a private passenger motor vehicle for which security is required under sections 65B.41 to 65B.71 and that person failed to have such security in effect.

For purposes of determining whether security is required under section 65B.48, an owner of any vehicle is deemed to have contemplated the operation or use of the vehicle at all times unless the owner demonstrates to the contrary by clear and convincing objective evidence.

Persons, whether or not related by blood or marriage, who and function together with the owner as a family, other than adults who have been adjudicated as incompetent and minor children, shall also be disqualified from benefits through the assigned claims plan.

Sec. 60. Minnesota Statutes 1994, section 70A.07, is amended to read:

70A.07 [RATES OPEN TO INSPECTION.]

All rates and supplementary rate information, furnished to the commissioner under this chapter shall, as soon as the rates are ~~effective~~ reviewed by the commissioner, be open to public inspection at any reasonable time.

Sec. 61. Minnesota Statutes 1994, section 72A.20, subdivision 17, is amended to read:

Subd. 17. [RETURN OF PREMIUMS.] (a) Refusing, upon surrender of an individual policy of life insurance in the case of the insured's death, or in the case of a surrender prior to death, of an individual insurance policy not covered by the standard nonforfeiture laws under section 61A.24, to refund to the owner all unearned premiums paid on the policy covering the insured as of the time of the insured's death or surrender if the unearned premium is for a period of more than one month.

(b) Refusing, upon termination or cancellation of a policy of automobile insurance under section 65B.14, subdivision 2, or a policy of homeowner's insurance under section 65A.27, subdivision 4, or a policy of accident and sickness insurance under section 62A.01, or a policy of comprehensive health insurance under chapter 62E, to refund to the insured all unearned premiums paid on the policy covering the insured as of the time of the termination or cancellation if the unearned premium is for a period of more than one month. The return of unearned premium must be delivered to the insured within 30 days following receipt by the insurer of the insured's request for cancellation.

(c) This subdivision does not apply to policies of insurance providing coverage only for motorcycles or other seasonally rated or limited use vehicles where the rate is reduced to reflect seasonal or limited use.

(d) For purposes of this section, a premium is unearned during the period of time the insurer has not been exposed to any risk of loss. Except for premiums for motorcycle coverage or other seasonally rated or limited use vehicles where the rate is reduced to reflect seasonal or limited use, the unearned premium is determined by multiplying the premium by the fraction that results from dividing the period of time from the date of termination to the date the next scheduled premium is due by the period of time for which the premium was paid.

(e) The owner may cancel a policy referred to in this section at any time during the policy period. This provision supersedes any inconsistent provision of law or any inconsistent policy provision.

Sec. 62. Minnesota Statutes 1994, section 72A.20, subdivision 23, is amended to read:

Subd. 23. [DISCRIMINATION IN AUTOMOBILE INSURANCE POLICIES.] (a) No insurer that offers an automobile insurance policy in this state shall:

(1) use the employment status of the applicant as an underwriting standard or guideline; or

(2) deny coverage to a policyholder for the same reason.

(b) No insurer that offers an automobile insurance policy in this state shall:

(1) use the applicant's status as a tenant, as the term is defined in section 566.18, subdivision 2, as an underwriting standard or guideline; or

(2) deny coverage to a policyholder for the same reason; or

(3) make any discrimination in offering or establishing rates, premiums, dividends, or benefits of any kind, or by way of rebate, for the same reason.

(c) No insurer that offers an automobile insurance policy in this state shall:

(1) use the failure of the applicant to have an automobile policy in force during any period of time before the application is made as an underwriting standard or guideline; or

(2) deny coverage to a policyholder for the same reason.

This provision does not apply if the applicant was required by law to maintain automobile insurance coverage and failed to do so.

An insurer may require reasonable proof that the applicant did not fail to maintain this coverage. The insurer is not required to accept the mere lack of a conviction or citation for failure to maintain this coverage as proof of failure to maintain coverage. The insurer must provide the

applicant with information identifying the documentation that is required to establish reasonable proof that the applicant did not fail to maintain the coverage.

(d) No insurer that offers an automobile insurance policy in this state shall use an applicant's prior claims for benefits paid under section 65B.44 as an underwriting standard or guideline if the applicant was 50 percent or less negligent in the accident or accidents causing the claims.

Sec. 63. Minnesota Statutes 1994, section 72A.20, subdivision 26, is amended to read:

Subd. 26. [LOSS EXPERIENCE.] An insurer shall without cost to the insured provide an insured with the loss or claims experience of that insured for the current policy period and for the two policy periods preceding the current one for which the insurer has provided coverage, within 30 days of a request for the information by the policyholder. Claims experience data must be provided to the insured in accordance with state and federal requirements regarding the confidentiality of medical data. The insurer shall not be responsible for providing information without cost more often than once in a 12-month period. The insurer is not required to provide the information if the policy covers the employee of more than one employer and the information is not maintained separately for each employer and not all employers request the data.

An insurer, health maintenance organization, or a third-party administrator may not request more than three years of loss or claims experience as a condition of submitting an application or providing coverage.

This subdivision ~~does not apply to individual life and health insurance policies or personal automobile or homeowner's insurance~~ only applies to group life policies and group health policies.

Sec. 64. Minnesota Statutes 1994, section 72A.20, subdivision 30, is amended to read:

Subd. 30. [RECORDS RETENTION.] An insurer shall retain copies of all underwriting documents, policy forms, and applications for three years from the effective date of the policy. An insurer shall retain all claim files and documentation related to a claim for three years from the date the claim was paid or denied. This subdivision does not relieve the insurer of its obligation to produce these documents to the department after the retention period has expired in connection with an enforcement action or administrative proceeding against the insurer from whom the documents are requested, if the insurer has retained the documents. Records required to be retained by this section may be retained in paper, photograph, microprocess, magnetic, mechanical, or electronic media, or by any process which accurately reproduces or forms a durable medium for the reproduction of a record.

Sec. 65. Minnesota Statutes 1994, section 72A.20, is amended by adding a subdivision to read:

Subd. 35. [DETERMINATION OF HEALTH PLAN POLICY LIMITS.] Any health plan that includes a specific policy limit within its insurance policy, certificate, or subscriber agreement shall calculate the policy limit by using the amount actually paid on behalf of the insured, subscriber, or dependents for services covered under the policy, subscriber agreement, or certificate unless the amount paid is greater than the billed charge.

Sec. 66. [72A.207] [GRADED DEATH BENEFITS.]

For the purpose of this section, a graded death benefit is a provision within a life insurance policy in which the death benefit, in the early years of the policy, is less than the face amount of the policy, but which increases with the passage of time.

No policy of life insurance paying a graded death benefit may be issued in this state unless the graded death benefit is equal to at least four times the first year premium. This section does not prohibit the return of premiums or premiums plus interest in connection with the voluntary or judicially ordered rescission of the policy, or according to the terms of the exclusions from coverage for suicide, aviation, or war risk.

Sec. 67. Minnesota Statutes 1994, section 148.235, subdivision 2, is amended to read:

Subd. 2. [NURSE PRACTITIONERS.] A registered nurse who (1) has graduated from a

program of study designed to prepare registered nurses for advanced practice as nurse practitioners, (2) is certified through a national professional nursing organization which certifies nurse practitioners and is included in the list of professional nursing organizations adopted by the board under section 62A.15, subdivision 3a, and (3) has a written agreement with a physician based on standards established by the Minnesota nurses association and the Minnesota medical association that defines the delegated responsibilities related to the prescription of drugs and therapeutic devices, may prescribe and administer drugs and therapeutic devices within the scope of the written agreement and within practice as a nurse practitioner. The written agreement required under this subdivision shall be based on standards established by the Minnesota nurses association and the Minnesota medical association as of January 1, 1996, unless both associations agree to revisions. The written agreement shall be maintained at the certified nurse practitioner's place of employment and does not need to be filed with the board of nursing.

Sec. 68. Minnesota Statutes 1994, section 148.235, subdivision 4, is amended to read:

Subd. 4. [CLINICAL NURSE SPECIALISTS IN PSYCHIATRIC AND MENTAL HEALTH NURSING.] A registered nurse who (1) has a masters degree, (2) is certified through a national professional nursing organization which certifies clinical specialists in psychiatric and mental health nursing and is included in the list of professional nursing organizations adopted by the board under section 62A.15, subdivision 3a, (3) has successfully completed no less than 30 hours of formal study in the prescribing of psychotropic medications and medications to treat their side effects which included instruction in health assessment, psychotropic classifications, psychopharmacology, indications, dosages, contraindications, side effects, and evidence of application, and (4) has a verbal agreement or a written agreement with a psychiatrist based on standards established by the Minnesota nurses association and the Minnesota psychiatric association that specifies and defines the delegated responsibilities related to the prescription of drugs in relationship to the diagnosis, may prescribe and administer drugs used to treat psychiatric and behavioral disorders and the side effects of those drugs within the scope of the written agreement and within practice as a clinical specialist in psychiatric and mental health nursing. The written agreement required under this subdivision shall be based on standards established by the Minnesota nurses association and the Minnesota medical association as of January 1, 1996, unless both associations agree to revisions. The written agreement shall be maintained at the certified clinical nurse specialist's place of employment and does not need to be filed with the board of nursing.

Nothing in this subdivision removes or limits the legal professional liability of the treating psychiatrist, clinical nurse specialist, mental health clinic or hospital for the prescription and administration of drugs by a clinical specialist in accordance with this subdivision.

Sec. 69. [MEDICAL MALPRACTICE INSURANCE COVERAGE; REAUTHORIZATION.]

Any authorization to issue insurance according to Minnesota Statutes, section 62F.04, valid on the effective date of this section remains valid for an additional two-year period at the end of the initial two-year authorization. The additional authorization period granted by this section applies only to the types of coverages authorized as of the effective date of this section.

Sec. 70. [COMMITTEE STUDY; DISCLOSURE OF FINANCIAL INCENTIVES.]

The house committee on financial institutions and insurance shall study how best to disclose to consumers any financial arrangements between health plan companies and health care providers that may provide financial incentives for providers to restrict care provided to consumers.

Sec. 71. [TAXI INSURANCE REVIEW; REPORT]

The commissioner of commerce shall review the impact that Laws of Minnesota 1995, chapter 227, has on the following:

(1) any increase in the cost of individual policies of personal automobile insurance that is attributable to coverage of taxi drivers as reported by insurers providing the majority of coverage in the state;

(2) the number and dollar amount of claims for injuries attributable to taxi drivers who carry individual policies of insurance as reported by insurers providing the majority of coverage in the state;

(3) the number and dollar amount of claims filed by drivers of taxis insured under policies issued to owners of taxis leased to drivers, to the extent that the data is available;

(4) the entry of insurers providing coverage for owners of vehicles used as taxis;

(5) changes in the cost of coverage carried by owners of vehicles used as taxis.

The commissioner shall provide a written report to the chair of the committee on financial institutions and insurance of the house of representatives and the chair of the committee on commerce of the senate by March 1, 1997.

Sec. 72. [REPEALER.]

(a) Minnesota Statutes 1994, sections 60A.40; 60B.27; 62I.20; 65A.25; and 72A.205, are repealed.

(b) Laws 1995, chapter 140, section 1, is repealed.

(c) Section 51 is repealed effective August 1, 1998.

Sec. 73. [EFFECTIVE DATES.]

Sections 2, 5, 9, 10, 12, 21, 22, 26 to 31, 36 to 38, 41 to 48, 61, 64, 66, and 69 are effective the day following final enactment.

Section 3 is effective retroactive to January 1, 1996.

Sections 51 and 52 are effective August 1, 1996, and applies to all health plans issued or renewed to provide coverage to Minnesota residents on or after that date.

Section 49 is effective retroactive to July 1, 1995.

Sections 1 and 13 to 20 are effective January 1, 1997.

Section 50 is effective June 30, 1997, and applies to health plans issued or renewed on or after that date.

ARTICLE 2

Section 1. Minnesota Statutes 1994, section 60A.07, subdivision 8, is amended to read:

Subd. 8. [SPECIAL PROVISIONS AS TO MUTUAL COMPANIES.] (1) [AMENDMENT OF ARTICLES OR CERTIFICATE OF INCORPORATION.] The certificate of incorporation or articles of association of any domestic insurance company without capital stock, now or hereafter organized and existing under the laws of this state, may be amended in respect to any matter which an original certificate of incorporation or articles of association of a corporation of the same kind might lawfully have contained by the adoption of a resolution specifying the proposed amendment, at a regular meeting of the members thereof or at a special meeting called for that expressly stated purpose, by the affirmative vote of a majority of the members present, in person or by proxy, at the meeting, and by causing the resolution to be embraced in a certificate duly executed by its president and secretary or other presiding and recording officers, under its corporate seal, and approved, filed, recorded, and published in the manner prescribed by law for the execution, approval, filing, recording, and publishing of a like original certificate of incorporation or articles of association.

(2) [RENEWAL OF CORPORATE EXISTENCE.] Any domestic insurance company or corporation having no capital stock, heretofore or hereafter organized and existing under the laws of this state, whose period of duration has expired or is about to expire, may, on or before the date of the expiration, or within six months after the date of expiration, renew its corporate existence

from the date of such expiration for any period permitted by the laws of this state, by the adoption of a resolution to that effect by the affirmative vote of three-fourths of the members present, in person or by proxy, at a regular meeting of the members, or at any special meeting called for that expressly stated purpose, and by causing the resolution to be embraced in a certificate duly executed by its president and secretary or other presiding and recording officers, under its corporate seal, and approved, filed, recorded, and published in the manner prescribed by law for the execution, approval, filing, recording, and publishing of an original certificate of incorporation or articles of association.

(3) [BYLAWS.] The bylaws of any domestic insurance corporation without capital stock, in cases where the bylaws must be adopted or approved by the members thereof, may be adopted, altered, or amended at a regular meeting of the members thereof, or at a special meeting called for that expressly stated purpose, by the affirmative vote of a majority of the members present, in person or by proxy, at the meeting.

~~(4) [CONVERSION OF A DOMESTIC MUTUAL INTO A STOCK INSURANCE CORPORATION.] A domestic mutual corporation may be converted into a stock insurance corporation as follows:~~

~~(a) [ACTION BY BOARD OF DIRECTORS.] The board of directors shall adopt a plan of conversion.~~

~~(b) [PLAN OF CONVERSION.] (i) The plan of conversion shall provide that, upon consummation of the conversion, each policyholder at the date of the passage of the resolution by the board of directors shall be entitled to such shares of stock of the new company as the policyholder's equitable share of the surplus of the company will purchase. This equitable share shall be determined by independent certified auditors or consulting actuaries and shall be subject to approval by the commissioner. If a policyholder's equitable share of the surplus of the company produces a fractional share, the policyholder shall be given the option of either receiving the value of the fractional share in cash or of purchasing the fractional part of a share that will entitle the policyholder to a full share.~~

~~(ii) No shares of the corporation being organized shall be issued or subscribed for, formally or informally, directly or indirectly during the conversion except as authorized under subparagraph (i).~~

~~(iii) The corporation shall not pay compensation or remuneration of any kind to any person in connection with the proposed conversion, except at reasonable rates for printing costs, and for legal and other professional fees for services actually rendered.~~

~~(iv) The plan of conversion shall include a copy of the proposed articles of incorporation which shall comply with the requirements of chapter 300. Except as otherwise specifically provided, the corporation resulting from conversion under this section shall be deemed to have been organized as of the date of issuance of the initial certificate of authority to the mutual corporation being converted.~~

~~(c) [APPROVAL BY POLICYHOLDERS.] Within 30 days after its adoption by the board of directors, the plan of conversion shall be submitted to the policyholders for approval by the affirmative vote of a majority of the policyholders entitled to vote, in the manner prescribed by subparagraph (1). Every policyholder as of the date of the adoption under subparagraph (a) shall be entitled to one vote for each policy held. Only such policyholders shall be entitled to vote.~~

~~(d) [APPROVAL BY THE COMMISSIONER.] (i) Within 30 days after its adoption by the policyholders, the plan of conversion shall be submitted to the commissioner with an application for approval.~~

~~(ii) The commissioner shall not approve if the value of single shares is set at a figure that substantially burdens policyholders who wish to purchase a fractional share under subparagraph (b)(i).~~

~~(iii) If the commissioner finds that the plan of conversion has been duly approved by the~~

~~policyholders, that the conversion would not violate any law and would not be contrary to the interests of the policyholders, the commissioner shall approve the plan of conversion and shall issue a new certificate of authority to the corporation.~~

~~(e) [CONVERSION.] After filing an amendment of the articles of incorporation as provided by chapter 300, the corporation shall become a stock corporation and shall no longer be a mutual corporation, and the board of directors shall execute the plan of conversion.~~

~~(f) [SECURITIES REGULATION.] The filing with the commissioner of commerce of a certified copy of the plan of conversion as adopted by the policyholders and approved by the commissioner shall constitute registration under chapter 80A, of the securities authorized to be issued to policyholders thereunder.~~

Sec. 2. Minnesota Statutes 1995 Supplement, section 60A.07, subdivision 10, is amended to read:

Subd. 10. [SPECIAL PROVISIONS AS TO LIFE COMPANIES.] (1) [PREREQUISITES OF LIFE COMPANIES.] No mutual life company shall be qualified to issue any policy until applications for at least $200,000 of insurance, upon lives of at least 200 separate residents, have been actually and in good faith made, accepted, and entered upon its books and at least one full annual premium thereunder, based upon the authorized table of mortality, received in cash or in absolutely payable and collectible notes. A duplicate receipt for each premium, conditioned for the return thereof unless the policy be issued within one year thereafter, shall be issued, and one copy delivered to the applicant and the other filed with the commissioner, together with the certificate of a solvent authorized bank in the state, of the deposit therein of such cash and notes, aggregating the amount aforesaid, specifying the maker, payee, date, maturity, and amount of each. Such cash and notes shall be held by it not longer than one year, and at or before the expiration thereof to be by it paid or delivered, upon the written order of the commissioner, to such company or applicants, respectively.

(2) ~~[FOREIGN COMPANIES MAY BECOME DOMESTIC.] Any company organized under the laws of any other state or country, which might have been originally incorporated under the laws of this state, and which has been admitted to do business therein for either or both the purpose of life or accident insurance, upon complying with all the requirements of law relative to the execution, filing, recording and publishing of original certificates and payment of incorporation fees by like domestic corporations, therein designating its principal place of business at a place in this state, may become a domestic corporation, and be entitled to like certificates of its corporate existence and license to transact business in this state, and be subject in all respects to the authority and jurisdiction thereof.~~

~~(3)~~ [TEMPORARY CAPITAL STOCK OF MUTUAL LIFE COMPANIES.] A new mutual life insurance company which has complied with the provisions of clause (1) or an existing mutual life insurance company may establish, a temporary capital of, such amount not less than $100,000, as may be approved by the commissioner. Such temporary capital shall be invested by the company in the same manner as is provided for the investment of its other funds. Out of the net surplus of the company the holders of the temporary capital stock may receive a dividend which may be cumulative. This capital stock shall not be a liability of the company but shall be retired within a reasonable time and according to terms approved by the commissioner. At the time for the retirement of this capital stock, the holders shall be entitled to receive from the company the par value thereof and any dividends thereon due and unpaid, and thereupon the stock shall be surrendered and canceled. In the event of the liquidation of the company, the holders of temporary capital stock shall have the same preference in the assets of the company as shareholders have in a stock insurance company. Dividends on this stock are subject to section 60D.20, subdivision 2.

Temporary capital stock may be issued with or without voting rights. If issued with voting rights, the holders shall, at all meetings, be entitled to one vote for each $10 of temporary capital stock held.

Sec. 3. [60A.075] [MUTUAL COMPANY CONVERSION TO STOCK COMPANY.]

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

(a) "Eligible member" means a policyholder whose policy is in force as of the record date, which is the date that the mutual company's board of directors adopts a plan of conversion or some other date specified as the record date in the plan of conversion and approved by the commissioner. Unless otherwise provided in the plan, a person insured under a group policy is not an eligible member, unless on the record date:

(1) the person is insured or covered under a group life policy or group annuity contract under which funds are accumulated and allocated to the respective covered persons;

(2) the person has the right to direct the application of the funds so allocated;

(3) the group policyholder makes no contribution to the premiums or deposits for the policy or contract; and

(4) the converting mutual company has the names and addresses of the persons covered under the group life policy or group annuity contract.

(b) "Reorganized company" means a Minnesota domestic stock insurance company that has converted from a Minnesota domestic mutual insurance company according to this section.

(c) "Plan of conversion" or "plan" means a plan adopted by a Minnesota domestic mutual insurance company's board of directors under this section to convert the mutual company into a Minnesota domestic stock insurance company.

(d) "Policy" means a policy or contract of insurance issued by a converting mutual company, including an annuity contract.

(e) "Commissioner" means the commissioner of commerce.

(f) "Converting mutual company" means a Minnesota domestic mutual insurance company seeking to convert to a Minnesota domestic stock insurance company according to this section.

(g) "Effective date of a conversion" means the date determined according to subdivision 6.

(h) "Membership interests" means all policyholders' rights as members of the converting mutual company, including but not limited to, rights to vote and to participate in any distributions of surplus, whether or not incident to the company's liquidation.

(i) "Equitable surplus" means the converting mutual company's surplus as regards policyholders as of the effective date of the conversion determined in a manner that is not unfair or inequitable to policyholders.

(j) "Permitted issuer" means: (1) a corporation organized and owned by the converting mutual company or by any other insurance company or insurance holding company for the purpose of purchasing and holding all of the stock of the reorganized company; (2) a stock insurance company owned by the converting mutual company or by any other insurance company or insurance holding company into which the converting mutual company will be merged; or (3) any other corporation approved by the commissioner.

Subd. 2. [AUTHORIZATION.] A mutual insurance company may become a stock insurance company according to a plan of conversion established and approved in the manner provided by this section.

Subd. 3. [ADOPTION OF A PLAN OF CONVERSION BY THE BOARD OF DIRECTORS.] (a) A converting mutual company shall, by the affirmative vote of a majority of its board of directors, adopt a plan of conversion consistent with the requirements of this section.

(b) At any time before approval of a plan by the commissioner, the converting mutual company, by the affirmative vote of a majority of its board of directors, may amend or withdraw the plan.

Subd. 4. [APPROVAL OF THE PLAN OF CONVERSION BY THE COMMISSIONER.] (a) [DOCUMENTS TO BE FILED.] After adoption of the plan by the converting mutual company's

board of directors, but before the members' approval of the plan, the converting mutual company shall file the following documents with the commissioner for review and approval:

(1) the plan of conversion, including an independent evaluation of the pro forma market value and of the equitable surplus of the company and of the estimated value of any shares to be issued and an independent actuarial opinion, if required;

(2) the form of notice of meeting for eligible members to vote on the plan;

(3) the form of any proxies to be solicited from eligible members;

(4) the proposed articles of incorporation and bylaws of the converted stock company;

(5) information required under chapter 60D if the plan results in a change of control of the converting mutual company; and

(6) other information or documentation requested by the commissioner or required by rule.

(b) [REQUIRED FINDINGS.] The commissioner shall approve or conditionally approve the plan upon finding that:

(1) the provisions of this section have been fully met; and

(2) the plan will not be unfair or inequitable to policyholders.

(c) [TIME.] The plan of conversion shall, by order, be approved, conditionally approved, or disapproved by the commissioner within the later of 30 days from the commissioner's receipt of all required information from the converting mutual company or 30 days after the conclusion of a public hearing held according to paragraph (e). An approval or conditional approval of a plan expires if the reorganization is not completed within 180 days after the approval or conditional approval unless this time period is extended by the commissioner for good cause shown.

(d) [CONSULTANTS.] The commissioner may retain, at the converting mutual company's expense, qualified experts not otherwise a part of the commissioner's staff to assist in reviewing the plan and supplemental materials and valuations.

(e) [HEARING.] The commissioner may, but need not, conduct a public hearing regarding the proposed plan of conversion. The hearing must begin no later than 30 days after submission to the commissioner of a plan of conversion and all required information. The commissioner shall give the converting mutual company at least 20 days' notice of the hearing. At the hearing, the converting mutual company, its policyholders, and any other person whose interest may be affected by the proposed conversion may present evidence, examine and cross-examine witnesses, and offer oral and written arguments or comments according to the procedure for contested cases under chapter 14. The persons participating may conduct discovery proceedings in the same manner as prescribed for the district courts of this state. All discovery proceedings must be concluded no later than three days before the scheduled commencement date of the public hearing.

Subd. 5. [APPROVAL OF THE PLAN BY THE ELIGIBLE MEMBERS.] (a) [NOTICE.] Following approval or conditional approval of the plan by the commissioner, all eligible members shall be given notice of a regular or special meeting of the policyholders called for the purpose of considering the plan and any corporate actions that are a part of, or are reasonably attendant to, the accomplishment of the plan.

(b) [NOTICE REQUIRED.] A copy of the plan or a summary of the plan must accompany the notice. The notice must be mailed to each eligible member's last known address, as shown on the converting mutual company's records, within 45 days of the commissioner's approval of the plan, unless the commissioner directs an earlier date for mailing. The meeting to vote upon the plan must be set for a date no less than 45 days after the date when the notice of the meeting is mailed by the converting mutual company unless the commissioner directs an earlier date for the meeting. If the meeting to vote upon the plan is held coincident with the converting mutual company's annual meeting of policyholders, only one combined notice of meeting is required.

(c) [FAILURE TO GIVE NOTICE.] If the converting mutual company complies substantially and in good faith with the notice requirements of this section, the converting mutual company's failure to give any member or members any required notice does not impair the validity of any action taken under this section.

(d) [VOTING.] (1) The plan must be adopted upon receiving the affirmative vote of a majority of the votes cast by eligible members.

(2) Eligible members may vote in person or by proxy. The form of any proxy must be filed with and approved by the commissioner.

(3) The number of votes each eligible member may cast shall be determined by the converting mutual company's bylaws. If the bylaws are silent, or if the commissioner determines that the voting requirements under the bylaws would be unfair or would prejudice the rights of the eligible members, each eligible member may cast one vote.

Subd. 6. [CONVERSION.] (a) [FILING.] Following approval by the members, the converting mutual company shall file a copy of the company's amended or restated articles of incorporation with the commissioner, together with a certified copy of the minutes of the meeting at which the plan was adopted and a certified copy of the plan. The commissioner shall review and, if appropriate, approve the amended or restated articles. After approval by the commissioner, the converting mutual company shall file the articles with the secretary of state as provided by chapter 300.

(b) [EFFECTIVE DATE.] Effective on the date of filing an amendment or restatement of the articles of incorporation with the secretary of state as provided by chapter 300, or on a later date if the plan so specifies, the converting mutual corporation shall become a stock corporation and shall no longer be a mutual corporation.

Subd. 7. [PLAN NOT UNFAIR OR INEQUITABLE.] A plan of conversion shall not be unfair or inequitable to policyholders. A plan of conversion is not unfair or inequitable if it satisfies the conditions of subdivision 8, 9, or 10. The commissioner may determine that any other plan proposed by a converting mutual company is not unfair or inequitable to policyholders.

Subd. 8. [SHARE CONVERSION.] A plan of conversion under this subdivision shall provide for exchange of policyholders' membership interests in return for shares in the reorganized company, according to paragraphs (a) to (c).

(a) The policyholders' membership interests shall be exchanged, in a manner that takes into account the estimated proportionate contribution of equitable surplus of each class of participating policies and contracts, for all of the common shares of the reorganized company or its parent company or a permitted issuer, or for a combination of the common shares of the reorganized company or its parent company or a permitted issuer.

(b) Unless the anticipated issuance within a shorter period is disclosed in the plan of conversion, the issuer of common shares shall not, within two years after the effective date of reorganization, issue either of the following:

(1) any of its common shares or any securities convertible with or without consideration into the common shares or carrying any warrant to subscribe to or purchase common shares; and

(2) any warrant, right, or option to subscribe to or purchase the common shares or other securities described in paragraph (a), except for the issue of common shares to or for the benefit of policyholders according to the plan of conversion and the issue of options for the purchase of common shares being granted to officers, directors, or employees of the reorganized company or its parent company, if any, according to this section.

(c) Unless the common shares have a public market when issued, the issuer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares within two years of the effective date of the conversion or a longer period as disclosed in the plan of conversion. Within one year after any offering of stock other than the initial distribution, but no

later than six years after the effective date of the conversion, the reorganized company shall offer to make available to policyholders who received and retained shares of common stock or securities described in paragraph (b), clause (1), a procedure to dispose of those shares of stock at market value without brokerage commissions or similar fees.

Subd. 9. [SURPLUS DISTRIBUTION.] A plan of conversion under this subdivision shall provide for the exchange of the policyholders' membership interests in return for the operation of the converting mutual company's participating policies as a closed block of business and for the distribution of the company's equitable surplus to policyholders, and shall provide for the issuance of new shares of the reorganized company or its parent corporation, each according to paragraphs (a) to (i).

(a) The converting mutual company's participating business, comprised of its participating policies and contracts in force on the effective date of the conversion or other reasonable date as provided in the plan, shall be operated by the reorganized company as a closed block of participating business. However, at the option of the converting mutual company, group policies and group contracts may be omitted from the closed block.

(b) Assets of the converting mutual company must be allocated to the closed block of participating business in an amount equal to the reserves and liabilities for the converting mutual life insurer's participating policies and contracts in force on the effective date of the conversion. The plan must be accompanied by an opinion of an independent qualified actuary who meets the standards set forth in the insurance laws or regulations for the submission of actuarial opinions as to the adequacy of reserves or assets. The opinion must relate to the adequacy of the assets allocated to support the closed block of business. The actuarial opinion must be based on methods of analysis considered appropriate for those purposes by the Actuarial Standards Board.

(c) The reorganized company shall keep a separate accounting for the closed block and shall make and include in the annual statement to be filed with the commissioner each year a separate statement showing the gains, losses, and expenses properly attributable to the closed block.

(d) Notwithstanding the establishment of a closed block, the entire assets of the reorganized company shall be available for the payment of benefits to policyholders. Payment must first be made from the assets supporting the closed block until exhausted, and then from the general assets of the reorganized company.

(e) The converting mutual company's equitable surplus shall be distributed to eligible participating policyholders in a form or forms selected by the converting mutual company. The form of distribution may consist of cash, securities of the reorganized company, securities of another institution, a certificate of contribution, additional life insurance, annuity benefits, increased dividends, reduced premiums, or other equitable consideration or any combination of forms of consideration. The consideration, if any, given to a class or category of policyholders may differ from the consideration given to another class or category of policyholders. A certificate of contribution must be repayable in ten years, be equal to 100 percent of the value of the policyholders' membership interest, and bear interest at the highest rate charged by the reorganized company for policy loans on the effective date of the conversion.

(f) The consideration must be allocated among the policyholders in a manner that is fair and equitable to the policyholders.

(g) The reorganized company or its parent corporation shall issue and sell shares of one or more classes having a total price equal to the estimated value in the market of the shares on the initial offering date. The estimated value must take into account all of the following:

(1) the pro forma market value of the reorganized company;

(2) the consideration to be given to policyholders according to paragraph (e);

(3) the proceeds of the sale of the shares; and

(4) any additional value attributable to the shares as a result of a purchaser or a group of

purchasers who acted in concert to obtain shares in the initial offering, attaining, through such purchase, control of the reorganized company or its parent corporation.

(h) If a purchaser or a group of purchasers acting in concert is to attain control in the initial offering, the mutual company shall not, directly or indirectly, pay for any of the costs or expenses of conversion of the mutual company, whether or not the conversion is effected.

(i) Periodically, with the commissioner's approval, the reorganized company may share in the profits of the closed block of participating business for the benefit of stockholders if the assets allocated to the closed block are in excess of those necessary to support the closed block.

Subd. 10. [SUBSCRIPTION RIGHTS.] A plan of conversion under this subdivision shall provide for exchange of the policyholders' membership interests in return for the operation of the converting mutual company's participating policies as a closed block of business, for the creation of a liquidation account to protect the interests of policyholders, and for the issuance of subscription rights to eligible policyholders, and shall provide for the issuance of shares by the reorganized company, each according to paragraphs (a) to (j).

(a) The converting mutual company's participating business, comprised of its participating policies and contracts in force on the effective date of the conversion, or such other reasonable date specified in the plan, and excluding at the converting mutual company's option any group policies or group contracts, shall be operated by the reorganized company as a closed block of participating business according to subdivision 9, paragraphs (a) to (d).

(b) The reorganized company or its parent corporation or a permitted issuer shall issue and sell shares of one or more classes having a total price equal to the estimated value of the shares in the market on the initial offering date taking into account the proceeds of the sale of shares and the consideration given to policyholders.

(c) The policyholders shall receive nontransferable preemptive subscription rights to purchase all of the common shares of the issuer according to paragraph (b).

(d) The preemptive subscription rights to purchase the common shares must be allocated among the participating policyholders in whole shares in a manner provided in the plan that takes into account the estimated contribution of each class of participating policies and contracts to the total amount of the policyholders' consideration. The plan must provide a fair and equitable means for the allocation of shares in the event of an oversubscription. The plan must further provide that any shares of capital stock not subscribed by eligible members must be sold in a public offering through an underwriter, unless the number of shares unsubscribed is so small in number so as not to warrant the expense of a public offering, in which case the plan may provide for the purchase of the unsubscribed shares by private placement or through any fair and equitable alternative means approved by the commissioner.

(e) The number of the common shares that a person, together with any affiliates or group of persons acting in concert, may subscribe or purchase in the reorganization, must be limited to not more than five percent of the common shares. For this purpose, neither the members of the board of directors of the reorganized company nor its parent corporation, if any, is considered to be affiliates or a group of persons acting in concert solely by reason of their board membership.

(f) Unless the common shares have a public market when issued, officers and directors of the issuer and their affiliates shall not, for at least three years after the date of conversion, purchase common shares of the issuer, except with the approval of the commissioner.

(g) Unless the common shares have a public market when issued, the issuer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares.

(h) The issuer shall not, for at least three years following the conversion, repurchase any of its common shares except according to a pro rata tender offer to all shareholders, or with the approval of the commissioner.

(i) A liquidation account must be established for the benefit of policyholders in the event of a

complete liquidation of the reorganized company. The liquidation account must be equal to the equitable surplus of the converting mutual company as of the effective date of the conversion. The function of the liquidation account is solely to establish a priority on liquidation and its existence does not restrict the use or application of the surplus of the reorganized company except as specified in paragraph (j). The liquidation account must be allocated equitably as of the effective date of conversion among the then participating policyholders. The amount allocated to a policy or contract must not increase and must be reduced to zero when the policy or contract terminates. In the event of a complete liquidation of the reorganized company, the policyholders among which the liquidation account is allocated are entitled to receive a liquidation distribution in the amount of the liquidation account before any liquidation distribution is made with respect to shares.

(j) Until the liquidation account has been reduced to zero, the issuer shall not declare or pay a cash dividend on, or repurchase any of, its common shares in an amount in excess of its cumulative earned surplus generated after the conversion determined according to statutory accounting principles, if the effect would be to cause the amount of the statutory surplus of the reorganized company to be reduced below the then amount of the liquidation account.

Subd. 11. [OPTIONAL PROVISIONS.] A plan under subdivision 8, 9, or 10 may include, with the approval of the commissioner, any of the provisions in paragraphs (a) and (b).

(a) A plan may provide that any shares of the stock of the reorganized company or its parent corporation or a permitted issuer included in the policyholders' consideration must be placed on the effective date of the conversion in a trust or other entity existing for the exclusive benefit of the participating policyholders and established solely for the purposes of effecting the reorganization. Under this option, the shares placed in trust must be sold over a period of not more than ten years and the proceeds of the shares must be distributed using the distribution priorities prescribed in the plan.

(b) A plan may provide that the directors and officers of the converting mutual company shall receive, without payment, nontransferable subscription rights to purchase capital stock of the reorganized company, its parent, or a permitted issuer. Those subscription rights must be allocated among the directors and officers by a fair and equitable formula.

(1) The total number of shares that may be purchased under this clause, may not exceed 35 percent of the total number of shares to be issued in the case of a converting mutual company with total assets of less than $50,000,000 or 25 percent of the total shares to be issued in the case of a converting mutual company with total assets of more than $500,000,000. For converting mutual companies with total assets between $50,000,000 and $500,000,000, the total number of shares that may be purchased may not exceed an interpolated percentage between 25 and 35 percent.

(2) Stock purchased by a director or officer under clause (1) may not be sold within one year following the effective date of the conversion.

(3) The plan may also provide that a director or officer, or person acting in concert with a director or officer of the converting mutual company, may not acquire any capital stock of the reorganized company for three years after the effective date of the conversion, except through a licensed securities broker or dealer, without the permission of the commissioner. That provision may not apply to prohibit the directors and officers from purchasing stock through subscription rights received in the plan under clause (1).

(c) A plan may allocate to a tax-qualified employee benefit plan nontransferable subscription rights to purchase up to ten percent of the capital stock of the reorganized company, its parent, or a permitted issuer. The employee benefit plan must be entitled to exercise its subscription rights regardless of the amount of shares purchased by other persons.

Subd. 12. [ALTERNATIVE PLAN OF CONVERSION.] In lieu of selecting a plan of conversion provided for in this section, the converting mutual company may convert according to a plan approved by the commissioner if the commissioner finds that the plan does not prejudice the interests of the members, is fair and equitable, and is based upon an independent appraisal of the market value of the mutual company by a qualified person, and is a fair and equitable allocation of any consideration to be given eligible members. The commissioner may retain, at the

converting mutual company's expense, any qualified expert not otherwise a part of the commissioner's staff to assist in reviewing whether the alternative plan may be approved and the valuation of the company.

Subd. 13. [EFFECT OF CONVERSION.] (a) Upon the conversion of a converting mutual company to a reorganized company according to this section, the corporate existence of the converting mutual company must be continued in the reorganized company. All the rights, franchises, and interests of the converting mutual company in and to all property and things in action belonging to this property, is considered transferred to and vested in the reorganized company without any deed or transfer. Simultaneously, the reorganized company is considered to have assumed all the obligations and liabilities of the converting mutual company.

(b) The directors and officers of the converting mutual company, unless otherwise specified in the plan of conversion, shall serve as directors and officers of the reorganized company until new directors and officers of the reorganized company are duly elected according to the articles of incorporation and bylaws of the reorganized company.

(c) All policies in force on the effective date of the conversion continue to remain in force under the terms of those policies, except that any voting rights of the policyholders provided for under the policies are extinguished on the effective date of the conversion.

Subd. 14. [CONFLICT OF INTEREST.] No director, officer, agent, employee of the converting mutual company, or any other person shall receive a fee, commission, or other valuable consideration, other than the person's usual regular salary and compensation, for in any manner aiding, promoting, or assisting in the conversion except as set forth in the plan approved by the commissioner. This provision does not prohibit the payment of reasonable fees and compensation to attorneys, accountants, investment bankers, and actuaries for services performed in the independent practice of their professions.

Subd. 15. [COSTS AND EXPENSES.] All the costs and expenses connected with a plan of conversion must be paid for or reimbursed by the converting mutual company or the reorganized company except where the plan provides otherwise.

Subd. 16. [LIMITATION OF ACTIONS.] (a) An action challenging the validity of or arising out of acts taken or proposed to be taken according to this section must be commenced within 180 days after the effective date of the conversion.

(b) The converting mutual company, the reorganized company, or any defendant in an action described in paragraph (a), may petition the court in the action to order a party to give security for the reasonable attorney fees that may be incurred by a party to the action. The amount of security may be increased or decreased in the discretion of the court having jurisdiction if a showing is made that the security provided is or may become inadequate or excessive.

Subd. 17. [SUPERVISORY CONVERSIONS.] The commissioner may waive or alter any of the requirements of this section to protect the interests of policyholders if the converting mutual company is subject to the commissioner's administrative supervision under chapter 60G or rehabilitation under chapter 60B.

Sec. 4. [60A.076] [MUTUAL INSURANCE HOLDING COMPANIES.]

Subdivision 1. [FORMATION.] (a) A domestic mutual insurance company, upon approval of the commissioner, may reorganize by forming an insurance holding company based upon a mutual plan and continuing the corporate existence of the reorganizing insurance company as a stock insurance company. The commissioner, if satisfied that the interests of the policyholders are properly protected and that the plan of reorganization is fair and equitable to the policyholders, may approve the proposed plan of reorganization and may require as a condition of approval the modifications of the proposed plan of reorganization as the commissioner finds necessary for the protection of the policyholders' interests. The commissioner shall retain jurisdiction over the mutual insurance holding company according to this section and chapter 60D to assure that policyholder interests are protected.

(b) All of the initial shares of the capital stock of the reorganized insurance company must be issued to the mutual insurance holding company or to an intermediate stock holding company that is wholly owned by the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company become membership interests in the mutual insurance holding company. "Membership interests" means those interests described in section 60A.075, subdivision 1, paragraph (h). Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall, at all times, directly or through an intermediate stock holding company, control a majority of the voting shares of the capital stock of the reorganized insurance company.

Subd. 2. [MERGER.] (a) A domestic mutual insurance company, upon the approval of the commissioner, may reorganize by merging its policyholders' membership interests into a mutual insurance holding company formed according to subdivision 1 and continuing the corporate existence of the reorganizing insurance company as a stock insurance company subsidiary of the mutual insurance holding company. "Membership interests" means those interests described in section 60A.075, subdivision 1, paragraph (h). The commissioner, if satisfied that the interests of the policyholder are properly protected and that the merger is fair and equitable to the policyholders, may approve the proposed merger and may require as a condition of approval the modifications of the proposed merger as the commissioner finds necessary for the protection of the policyholders' interests. The commissioner shall retain jurisdiction over the mutual insurance holding company organized according to this section to assure that policyholder interests are protected.

(b) All of the initial shares of the capital stock of the reorganized insurance company must be issued to the mutual insurance holding company, or to an intermediate stock holding company that is wholly owned by the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company according to the articles of incorporation and bylaws of the mutual insurance holding company.

Subd. 3. [PLAN OF REORGANIZATION; APPROVAL BY COMMISSIONER.] (a) The reorganizing or merging insurer shall file a plan of reorganization, approved by the affirmative vote of a majority of its board of directors, for review and approval by the commissioner. The plan must provide for the following:

(1) establishing a mutual insurance holding company with at least one stock insurance company subsidiary, the majority of shares of which must be owned, either directly or through an intermediate stock holding company, by the mutual insurance holding company;

(2) analyzing the benefits and risks attendant to the proposed reorganization, including the rationale for the reorganization and analysis of the comparative benefits and risks of a demutualization under section 60A.075;

(3) protecting the immediate and long-term interests of existing policyholders;

(4) ensuring immediate membership in the mutual insurance holding company of all existing policyholders of the reorganizing domestic insurance company;

(5) describing a plan providing for membership interests of future policyholders;

(6) describing the number of members of the board of directors of the mutual insurance holding company required to be policyholders;

(7) ensuring that, in the event of proceedings under chapter 60B involving a stock insurance company subsidiary of the mutual insurance holding company that resulted from the reorganization of a domestic mutual insurance company, the assets of the mutual insurance holding company will be available to satisfy the policyholder obligations of the stock insurance company;

(8) for periodic distribution of accumulated holding company earnings to members;

(9) describing the nature and content of the annual report and financial statement to be sent to each member;

(10) a copy of the proposed mutual insurance holding company's articles of incorporation and bylaws specifying all membership rights;

(11) the names, addresses, and occupational information of all corporate officers and members of the proposed mutual insurance holding company board of directors;

(12) information sufficient to demonstrate that the financial condition of the reorganizing or merging company will not be diminished upon reorganization;

(13) a copy of the articles of incorporation and bylaws for any proposed insurance company subsidiary or intermediate holding company subsidiary;

(14) describing any plans for the initial sale of stock for the reorganized insurance company; and

(15) any other information requested by the commissioner or required by rule.

(b) The commissioner may approve the plan upon finding that the requirements of this section have been fully met and the plan will protect the immediate and long-term interests of policyholders.

(c) The commissioner may retain, at the reorganizing or merging mutual company's expense, any qualified experts not otherwise a part of the commissioner's staff to assist in reviewing the plan.

(d) The commissioner may, but need not, conduct a public hearing regarding the proposed plan. The hearing must be held within 30 days after submission of a completed plan of reorganization to the commissioner. The commissioner shall give the reorganizing mutual company at least 20 days' notice of the hearing. At the hearing, the reorganizing mutual company, its policyholders, and any other person whose interest may be affected by the proposed reorganization, may present evidence, examine and cross-examine witnesses, and offer oral and written arguments or comments according to the procedure for contested cases under chapter 14. The persons participating may conduct discovery proceedings in the same manner as prescribed for the district courts of this state. All discovery proceedings must be concluded no later than three days before the scheduled commencement of the public hearing.

Subd. 4. [APPROVAL BY COMMISSIONER.] The plan by order shall be approved, conditionally approved, or disapproved within the later of 30 days from the date of the commissioner's receipt of all required information or 30 days after the conclusion of the public hearing. An approval or conditional approval of a plan of reorganization expires if the reorganization is not completed within 180 days after the approval or conditional approval unless the time period is extended by the commissioner upon a showing of good cause.

Subd. 5. [APPROVAL BY MEMBERS.] The plan shall be approved by the members as provided in section 60A.075, subdivision 5.

Subd. 6. [INCORPORATION.] A mutual insurance holding company resulting from the reorganization of a domestic mutual insurance company organized under chapter 300 shall be incorporated pursuant to chapter 300. The articles of incorporation and any amendments to the articles of the mutual insurance holding company are subject to approval of the commissioner in the same manner as those of an insurance company.

Subd. 7. [APPLICABILITY OF CERTAIN PROVISIONS.] (a) A mutual insurance holding company is considered to be an insurer subject to chapter 60B and shall automatically be a party to any proceeding under chapter 60B involving an insurance company that, as a result of a reorganization according to subdivision 1 or 2, is a subsidiary of the mutual insurance holding company. In any proceeding under chapter 60B involving the reorganized insurance company, the

assets of the mutual insurance holding company are considered to be assets of the estate of the reorganized insurance company for purposes of satisfying the claims of the reorganized insurance company's policyholders. A mutual insurance holding company shall not dissolve or liquidate without the approval of the commissioner or as ordered by the district court according to chapter 60B.

(b) A mutual insurance holding company is subject to chapter 60D to the extent consistent with this section.

(c) As a condition to approval of the plan, the commissioner may require the mutual insurance holding company to comply with any provision of the insurance laws necessary to protect the interests of the policyholders as if the mutual insurance holding company were a domestic mutual insurance company.

Subd. 8. [APPLICABILITY OF DEMUTUALIZATION PROVISIONS.] (a) Except as otherwise provided, section 60A.075 is not applicable to a reorganization or merger according to this section, and except for section 60A.075, subdivisions 14 to 16.

(b) Section 60A.075 is applicable to demutualization of a mutual insurance holding company that resulted from the reorganization of a domestic mutual insurance company organized under chapter 300 as if it were a mutual insurance company.

Subd. 9. [MEMBERSHIP INTERESTS.] A membership interest in a domestic mutual insurance holding company does not constitute a security as defined in section 80A.14, subdivision 18.

Subd. 10. [FINANCIAL STATEMENT REQUIREMENTS.] (a) In addition to any items required under chapter 60D, each mutual insurance holding company shall file with the commissioner, by April 1 of each year, an annual statement consisting of the following:

(1) an income statement, balance sheet, and cashflow statement prepared in accordance with generally accepted accounting principles;

(2) complete information on the status of any closed block formed as part of a plan of reorganization;

(3) an investment plan covering all assets; and

(4) a statement disclosing any intention to pledge, borrow against, alienate, hypothecate, or in any way encumber the assets of the mutual insurance holding company. Action taken according to the statement is subject to the commissioner's prior written approval.

(b) The aggregate pledges and encumbrances of a mutual holding company's assets shall not affect more than 49 percent of the company's stock in any subsidiary insurance holding company or subsidiary insurance company that resulted from a reorganization or merger.

(c) At least 50 percent of the generally accepted accounting principles (GAAP) net worth of a mutual insurance holding company must be invested in insurance company subsidiaries.

Subd. 11. [SALE OF STOCK AND PAYMENT OF DIVIDENDS.] No solicitation for the sale of the stock of the reorganized insurance company, or of an intermediate stock holding company of the mutual insurance holding company, may be made without the commissioner's prior written approval. Dividends and other distributions to the shareholders of the reorganized stock insurance company or of an intermediate stock holding company shall not be made except in compliance with section 60D.20.

Sec. 5. Minnesota Statutes 1994, section 60A.11, subdivision 21, is amended to read:

Subd. 21. [FOREIGN INVESTMENTS.] Obligations of and investments in foreign countries, on the following conditions:

(a) a company may acquire and hold any foreign investments which are required as a condition

of doing business in the foreign country or necessary for the convenient accommodation of its foreign business. An investment is considered necessary for the convenient accommodation of the insurance company's foreign business only if it is demonstrably and directly related in size and purpose to the company's foreign insurance operations; and

(b) a company may ~~not~~ also invest not more than five percent of its total admitted assets in any combination of:

(1) the obligations of foreign governments, corporations, or business trusts;

(2) obligations of federal, provincial, or other political subdivisions backed by the full faith and credit of the foreign governmental unit;

(3) or in the stocks or stock equivalents or obligations of foreign corporations or business trusts not qualifying for investment under subdivision 12, if the obligations, stocks or stock equivalents are listed or regularly traded on the London, Paris, Zurich, or Tokyo stock exchange or any similar regular securities exchange not disapproved by the commissioner within 30 days following notice from the company of its intention to invest in these securities.

Sec. 6. Minnesota Statutes 1995 Supplement, section 60A.67, subdivision 2, is amended to read:

Subd. 2. [PROHIBITION ON ANNOUNCEMENTS.] The comparison of an insurer's total adjusted capital to any of its risk-based capital levels is a regulatory tool that may indicate the need for possible corrective action with respect to the insurer and is not intended as a means to rank insurers generally. Except as otherwise required under sections 60A.60 to 60A.696, the making, publishing, dissemination, circulating, or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the risk-based capital levels of an insurer, or of any component derived in the calculation, by an insurer, agent, broker, or other person engaged in any manner in the insurance business would be misleading and is prohibited. However, if a materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its risk-based capital levels, or any of them, or an inappropriate comparison of any other amount to the insurer's risk-based capital levels is published in a written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity of the statement, or the inappropriateness, as the case may be, then the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement. This subdivision does not prohibit an insurance company or its holding company from disclosing information about its risk-based capital levels in the notes to its financial statements if required by pronouncements of the American Institute of Certified Public Accountants or the Financial Accounting Standards Board, or making this disclosure as required by other governmental regulatory agencies.

Sec. 7. Minnesota Statutes 1994, section 60C.09, subdivision 2, is amended to read:

Subd. 2. [FURTHER DEFINITION.] In addition to subdivision 1, a covered claim does not include:

(1) claims by an affiliate of the insurer; ~~and~~

(2) claims due a reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise. This clause does not prevent a person from presenting the excluded claim to the insolvent insurer or its liquidator, but the claims shall not be asserted against another person, including the person to whom the benefits were paid or the insured of the insolvent insurer, except to the extent that the claim is outside the coverage of the policy issued by the insolvent insurer; and

(3) any first-party claims, resulting from insolvencies which occur after July 31, 1996, by an insured whose net worth exceeds $25,000,000 on December 31 of the year prior to the year in

which the insurer becomes an insolvent insurer; provided that an insured's net worth on that date shall be deemed to include the aggregate net worth of the insured and all of its subsidiaries as calculated on a consolidated basis.

Sec. 8. Minnesota Statutes 1994, section 60C.11, is amended by adding a subdivision to read:

Subd. 7. The association may recover the amount of any covered claim paid, resulting from insolvencies which occur after July 31, 1996, on behalf of an insured who has a net worth of $25,000,000 as provided in section 60C.09, subdivision 2, clause (3), on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under this chapter.

Sec. 9. Minnesota Statutes 1994, section 61A.32, is amended to read:

61A.32 [DOMESTIC MUTUAL AND STOCK AND MUTUAL COMPANIES; VOTING RIGHTS OF MEMBERS.]

Every person insured by a domestic mutual life insurance company, and every participating policyholder of a domestic stock and mutual life insurance company as defined in sections 61A.33 to 61A.36, shall be a member, entitled to one vote and one vote additional for each $1,000 of insurance in excess of the first $1,000; provided, that no member shall be entitled to more than 100 votes; and, provided, further, that in the case of group insurance on employees such group shall be deemed to be a single member and the employer shall be deemed to be such member for the purpose of voting, having not to exceed 100 votes, provided, that in cases where the employees pay all or any part of the premium, either directly or by payroll deductions, the employees shall be allowed to choose their representative, who shall exercise a voting power in proportion to the percentage of premium paid by such employees. Every member shall be notified of its annual meetings by a written notice mailed to the member's address, or by an imprint on the back of the policy, premium notice, receipt or certificate of renewal, as follows:

"The insured is hereby notified that by virtue of this policy the insured is a member of the ..... Insurance Company, and that the annual meetings of said company are held at its home office on the ..... day of ..... in each year, at ..... o'clock."

The blanks shall be duly filled in print. Any such member may vote by proxy by filing written proxy appointment with the secretary of the company at its home office at least five days before the first meeting at which it is to be used. Such proxy appointment may be for a specified period of time ~~or may provide that it will be in effect until revoked~~ not to exceed one year. A proxy may be revoked by a member at any time by written notice to the secretary of the company or by executing a new proxy appointment and filing it as required herein: provided, however, that any member may always appear personally and exercise rights as a member at any meeting of the company.

A domestic mutual life insurance company may by its articles of incorporation or bylaws provide for a representative system of voting in any meeting of members. The articles or bylaws may provide for the selection of representatives from districts as therein specified, such representatives to represent approximately equal numbers of members with power to exercise all the voting powers, rights and privileges of the members they represent with the same force and effect as might be exercised by the members themselves. In such a representative system the votes cast by the representative shall be one vote for each member, notwithstanding the amount of insurance carried, and proxy voting shall not be permitted; provided, however, that any member may always appear personally and exercise rights as a member of the company at any meeting of the membership.

Sec. 10. Minnesota Statutes 1994, section 61B.20, subdivision 15, is amended to read:

Subd. 15. [PREMIUMS.] "Premiums" means amounts received on covered policies or contracts less premiums, considerations, and deposits returned, and less dividends and experience credits on those covered policies or contracts to the extent not guaranteed in advance. The term does not include amounts received for policies or contracts or for the portions of policies or contracts for which coverage is not provided under section 61B.19, subdivision 3, except that assessable

premium shall not be reduced on account of section 61B.19, subdivision 4, relating to limitations with respect to any one life, any one individual, and any one contract holder~~,~~. Premiums subject to assessment under section 61B.24, include all amounts received on any unallocated annuity contract issued to a contract holder resident in this state if the contract is not otherwise excluded from coverage under section 61B.19, subdivision 3; provided that "premiums" shall not include any premiums in excess of the liability limit on any unallocated annuity contract specified in section 61B.19, subdivision 4.

Sec. 11. [REPEALER.]

Minnesota Statutes 1994, section 60A.13, subdivision 8, is repealed.

ARTICLE 3

Section 1. Minnesota Statutes 1995 Supplement, section 62L.045, is amended to read:

62L.045 [ASSOCIATIONS.]

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

(a) "Association" means:

(1) an association as defined in section 60A.02;

(2) a group or organization of political subdivisions;

(3) ~~an educational cooperative service unit~~ a service cooperative created under section ~~123.58~~ 123.582; or

(4) a joint self-insurance pool authorized under section 471.617, subdivision 2.

(b) "Qualified association" means an association, as defined in this subdivision, that:

(1) is registered with the commissioner of commerce;

(2) provides health plan coverage through a health carrier that participates in the small employer market in this state, other than through associations, to the extent that the association purchases health plan coverage rather than self-insures;

(3) has and adheres to membership and participation criteria and health ~~plan~~ coverage eligibility criteria that are not designed to disproportionately include or attract small employers that are likely to have low costs of health coverage or to disproportionately exclude or repel small employers that are likely to have high costs of health coverage; and

(4) permits any small employer that meets its membership, participation, and eligibility criteria to become a member and to obtain health ~~plan~~ coverage through the association.

(c) "Health coverage" means a health benefit plan as defined in section 62L.02, subdivision 15; or similar self-insured coverage offered, sold, issued, or renewed by an association as defined in paragraph (a) to a small employer.

Subd. 2. [QUALIFIED ASSOCIATIONS.] (a) A qualified association, as defined in this section, and health ~~benefit plans~~ coverage offered by it, to it, or through it, to a small employer in this state must comply with the requirements of this chapter regarding guaranteed issue, guaranteed renewal, preexisting condition limitations, credit against preexisting condition limitations for continuous coverage, treatment of MCHA enrollees, and the definition of dependent, and with section 62A.65, subdivision 5, paragraph (b). They must also comply with all other requirements of this chapter not specifically exempted in paragraph (b) or (c).

(b) A qualified association and a health carrier offering, selling, issuing, or renewing ~~a~~ health ~~benefit plan~~ coverage to, or to cover, a small employer in this state through the qualified association, may, but are not, in connection with that health ~~benefit plan~~ coverage, required to:

(1) offer the two small employer plans described in section 62L.05; and

(2) offer to small employers that are not members of the association, health ~~benefit plans~~ coverage offered to, by, or through the qualified association.

(c) A qualified association, and a health carrier offering, selling, issuing, and renewing ~~a~~ health ~~benefit plan~~ coverage to, or to cover, a small employer in this state must comply with section 62L.08, except that:

(1) a separate index rate may be applied by a health carrier to each qualified association, provided that:

~~(1)~~ (i) the premium rate applied to participating small employer members of the qualified association is no more than 25 percent above and no more than 25 percent below the index rate applied to the qualified association, irrespective of when members applied for health coverage; and

~~(2)~~ (ii) the index rate applied by a health carrier to a qualified association is no more than 20 percent above and no more than 20 percent below the index rate applied by the health carrier to any other qualified association or to any small employer. In comparing index rates for purposes of this clause, the 20 percent shall be calculated as a percent of the larger index rate; and

(2) a qualified association described in subdivision 1, paragraph (a), clauses (2) to (4), providing health coverage through a health carrier, or on a self-insured basis in compliance with section 471.617 and the rules adopted under that section, may cover small employers and other employers within the same pool and may charge premiums to small employer members on the same basis as it charges premiums to members that are not small employers, if the premium rates charged to small employers do not have greater variation than permitted under section 62L.08. A qualified association operating under this clause shall annually prove to the commissioner of commerce that it complies with this clause through a sampling procedure acceptable to the commissioner. If the qualified association fails to prove compliance to the satisfaction of the commissioner, the association shall agree to a written plan of correction acceptable to the commissioner. The qualified association is considered to be in compliance under this clause if there is a premium rate that would, if used as an index rate, result in all premium rates in the sample being in compliance with section 62L.08. This clause does not exempt a qualified association or a health carrier providing coverage through the qualified association from the loss ratio requirement of section 62L.08, subdivision 11.

Subd. 3. [OTHER ASSOCIATIONS.] Associations as defined in this section that are not qualified associations; health ~~benefit plans~~ coverage offered, sold, issued, or renewed by or through them; and the health carriers doing so, must fully comply with this chapter with respect to small employers that are members of the association.

Subd. 4. [PRINCIPLES; ASSOCIATION COVERAGE.] (a) This subdivision applies to associations as defined in this section, whether qualified associations or not, and is intended to clarify subdivisions 1 to 3.

(b) This section applies only to associations that provide health coverage to small employers.

(c) ~~The requirements of guaranteed issue and guaranteed renewal apply to coverage issued to cover small employers and persons covered through them, within the context of an arrangement between an association and a health carrier.~~ A health carrier is not required under this chapter to comply with guaranteed issue and guaranteed renewal with respect to its relationship with the association itself. An arrangement between the health carrier and the association, once entered into, must comply with guaranteed issue and guaranteed renewal with respect to members of the association that are small employers and persons covered through them.

(d) When an arrangement between a health carrier and an association has validly terminated, the health carrier has no continuing obligation to small employers and persons covered through them, except as otherwise provided in:

(1) section 62A.65, subdivision 5, paragraph (b);

(2) any other continuation or conversion rights applicable under state or federal law; and

(3) section 60A.082, relating to group replacement coverage, and rules adopted under that section.

(e) When an association's arrangement with a health carrier has terminated and the association has entered into a new arrangement with that health carrier or a different health carrier, the new arrangement is subject to section 60A.082 and rules adopted under it, with respect to members of the association that are small employers and persons covered through them.

(f) An association that offers its members more than one ~~health~~ plan of health coverage may have uniform rules restricting movement between the ~~health~~ plans of health coverage, if the rules do not discriminate against small employers.

(g) This chapter does not require or prohibit separation of an association's members into one group consisting only of small employers and another group or other groups consisting of all other members. The association must comply with this section with respect to the small employer group.

(h) For purposes of this section, "member" of an association includes an employer participant in the association.

(i) For purposes of this section, health coverage issued to, or to cover, a small employer includes a certificate of coverage issued directly to the employer's employees and dependents, rather than to the small employer.

Subd. 5. [REGISTRATION.] The commissioner may require all associations that are subject to this section to register with the commissioner prior to an initial purchase of health coverage under this section.

Sec. 2. Minnesota Statutes 1994, section 471.617, subdivision 2, as amended by Laws 1995, chapter 233, is amended to read:

Subd. 2. Any two or more statutory or home rule charter cities, counties, school districts, or instrumentalities thereof which together have more than 100 employees may jointly self-insure for any employee health benefits including long-term disability, but not for employee life benefits, subject to the same requirements as an individual self-insurer under subdivision 1. Self-insurance pools under this section are subject to section 62L.045. A self-insurance pool established and operated by one or more service cooperatives governed by section 123.582 to provide coverage described in this subdivision qualifies under this subdivision. The commissioner of commerce may adopt rules pursuant to chapter 14, providing standards or guidelines for the operation and administration of self-insurance pools.

Sec. 3. Minnesota Statutes 1994, section 471.98, subdivision 3, as amended by Laws 1995, chapter 256, is amended to read:

Subd. 3. [POOL.] "Pool" means any self-insurance fund or agreement for the reciprocal assumption of risk established by or among two or more political subdivisions for coverage of their respective risks including, but not limited to, the pools described in section 471.982, subdivision 3. Except in connection with provisions in sections 471.981 and 471.982 that relate to bonding, "pool" does not include a self-insurance pool for employee health benefits under section 471.617.

Sec. 4. [SMALL SELF-INSURED POLITICAL SUBDIVISION POOLS.]

Self-insurance pools under Minnesota Statutes, section 471.617, subdivision 2, having fewer than 1,500 enrollees as of March 1, 1996, shall become subject to Minnesota Statutes, chapter 62L, effective January 1, 1998.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 3 are effective January 1, 1997, and apply to coverage issued; renewed; or continued as defined in Minnesota Statutes, section 60A.02, subdivision 2a; on or after that date."

Delete the title and insert:

"A bill for an act relating to insurance; regulating coverages; regulating premium taxes; modifying agent cancellations or terminations; providing certain filing requirements for domestic insurers; regulating disclosures and policy and contract provisions; providing for the operation and administration of the medical malpractice joint underwriting association and the Minnesota joint underwriting association; regulating policy cancellations or terminations and claims practices; regulating information handling practices; establishing solvency requirements; making technical changes; regulating the provision of certain insured services; requiring a study and a report; amending Minnesota Statutes 1994, sections 60A.07, subdivision 8; 60A.08, subdivision 14; 60A.09, subdivision 4a; 60A.11, subdivision 21; 60A.171, subdivision 7, and by adding a subdivision; 60A.36, subdivision 1; 60C.09, subdivision 2; 60C.11, by adding a subdivision; 61A.02, subdivision 2, and by adding a subdivision; 61A.072, subdivision 4; 61A.32; 61B.20, subdivision 15; 61B.28, subdivision 7; 62A.02, by adding a subdivision; 62A.31, subdivisions 1p, 1r, 1s, and 3; 62A.315; 62A.318; 62A.39; 62A.44, subdivision 2; 62A.49, subdivision 1; 62A.60; 62F.03, subdivision 6; 62F.04, subdivision 1a; 62I.02, subdivisions 2, 5, and by adding a subdivision; 62I.07; 62L.09, subdivision 3; 65A.01, subdivision 3; 65A.10, subdivision 1; 65A.295; 65B.14, by adding a subdivision; 65B.15, subdivision 1; 65B.64, subdivision 3; 70A.07; 72A.20, subdivisions 17, 23, 26, 30, and by adding a subdivision; 148.235, subdivisions 2 and 4; 471.617, subdivision 2, as amended; and 471.98, subdivision 3, as amended; Minnesota Statutes 1995 Supplement, sections 60A.07, subdivision 10; 60A.15, subdivision 1; 60A.67, subdivision 2; 60K.03, subdivision 7; 61A.09, subdivision 1; 62A.042; 62A.135, subdivision 1; 62A.31, subdivision 1h; 62A.46, subdivision 2; 62A.48, subdivision 1; 62C.14, subdivision 14; 62E.05, subdivision 1; 62F.02, subdivision 2; 62L.045; and 65B.47, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 62A; 62Q; and 72A; repealing Minnesota Statutes 1994, sections 60A.13, subdivision 8; 60A.40; 60B.27; 62I.20; 65A.25; and 72A.205; Laws 1995, chapter 140, section 1."

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

Senate Conferees: (Signed) John C. Hottinger, Leonard R. Price

House Conferees: (Signed) Tom Osthoff, David Tomassoni, Gary D. Worke

Mr. Hottinger moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1980 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. 1980 was read the third time, as amended by the Conference Committee, and placed on its repassage.

Pursuant to Rule 22, Ms. Olson moved that she be excused from voting on all questions relating to S.F. No. 1980. The motion prevailed.

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

The roll was called, and there were yeas 58 and nays 5, as follows:

Those who voted in the affirmative were:

Anderson	Dille	Johnson, J.B.	Lesewski	Murphy
Beckman	Fischbach	Kelly	Lessard	Neuville
Belanger	Flynn	Kleis	Limmer	Novak
Berg	Frederickson	Kramer	Marty	Ourada
Berglin	Hanson	Krentz	Merriam	Pappas
Betzold	Hottinger	Kroening	Metzen	Pariseau
Chandler	Janezich	Laidig	Moe, R.D.	Piper
Cohen	Johnson, D.E.	Langseth	Mondale	Pogemiller
Day	Johnson, D.J.	Larson	Morse	Price

Ranum	Sams	Solon	Stumpf	Wiener
Reichgott Junge	Samuelson	Spear	Terwilliger	
Runbeck	Scheevel	Stevens	Vickerman	

Those who voted in the negative were:

Johnston	Kiscaden	Knutson	Oliver	Robertson

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1997 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1997

A bill for an act relating to economic development; requiring some businesses with state or local financial assistance to pay at least a poverty level wage; requiring the commissioner of revenue to set goals for jobs and wages for new tax expenditures; amending Minnesota Statutes 1994, section 270.067, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 177; repealing Minnesota Statutes 1995 Supplement, section 116J.542.

March 29, 1996

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. 1997, 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. 1997 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [177.255] [STATE ASSISTANCE; EMPLOYMENT; POVERTY LEVEL WAGE.]

Subdivision 1. [APPLICATION.] (a) This section only applies to the following types of employers:

(1) a for profit corporation;

(2) a nonprofit corporation provided that the ratio of total compensation of the corporation's chief executive officer to the full-time equivalent of its lowest paid employee exceeds 25 to 1;

(3) a partnership;

(4) a limited liability company; or

(5) a sole proprietorship.

This section excludes those employers that satisfy the definition of a small business in section 645.445. Notwithstanding the requirement that a small business must be a for profit business, any nonprofit corporation that otherwise satisfies the definition in section 645.445, is excluded from satisfying the provisions of this section.

(b) Of the employers listed in paragraph (a), this section only applies to employers that receive state or local assistance in the form of a grant or loan, if:

(1) the sum of all types of assistance exceeds $25,000 in a fiscal year; and

(2) the purpose of the assistance is economic development or job growth.

(c) Employers that meet the criteria stated in paragraphs (a) and (b) must pay every employee hired as a result of the assistance at least a poverty level wage. For purposes of this section, "poverty level wage" means the hourly wage, including the employer's share of any health or dental coverage, necessary for an employee working 40 hours a week, 52 weeks a year, to earn an annual wage equal to 100 percent of the federal poverty level for a family of four.

If the employer fails to pay a poverty level wage the employer shall pay the county board in which the project is located for community social services an amount equal to two times the difference between the poverty level wage and the wage actually paid.

Subd. 2. [ON-THE-JOB TRAINING EXEMPTION.] (a) The requirement to pay at least a poverty level wage under subdivision 1 does not apply to an employee engaged in on-the-job training. For purposes of this section, "on-the-job training" means:

(1) an apprenticeship program for an apprentice defined by section 178.06;

(2) a preapprenticeship program that assists learners to explore occupational areas and assess their skills and interests in those areas, and acquire knowledge and skills necessary to succeed in youth apprenticeship programs; or

(3) a training program, not to exceed six months, that is offered to an individual while employed in productive work that provides training, technical and other related skills, and personal skills that are essential to the full and adequate performance of the employment.

(b) An employer must pay at least a poverty level wage to an employee who would otherwise be exempt under paragraph (a), if:

(1) any other individual has been laid off by the employer from the position to be filled by the eligible employee or from any substantially equivalent position; or

(2) the employer has terminated the employment of any regular employee or otherwise reduced the number of employees with the intention of replacing the employee by hiring an employee who is not required to receive at least a poverty level wage.

Subd. 3. [APPLICATION FOR ON-THE-JOB TRAINING EXEMPTION.] An employer seeking exemption under subdivision 2 must:

(1) notify the commissioner of labor and industry. The commissioner must certify that the on-the-job training program meets the criteria stated in subdivision 2; and

(2) describe the program in writing, retain a copy of the program, and provide a copy of the program to the commissioner of labor and industry and to the employee.

Subd. 4. [BONA FIDE FOREIGN STATE OFFER; EXEMPTION.] This section does not apply if the chief executive officer of the assistance recipient certifies to the entity providing the assistance that but for the assistance the recipient would have relocated in another state due to an offer of assistance of the other state. The chief executive officer must provide details of the offer with the certification.

Subd. 5. [ASSISTANCE EXEMPTION.] This section does not apply to the following types of assistance:

(1) grant and loan assistance for the removal or remediation of a hazardous substance, hazardous waste, pollutant, or contaminant, including human waste, as defined by section 115B.02;

(2) loan or loan guarantee assistance from the tourism loan program under section 116J.617;

(3) grant assistance from contamination cleanup grants under section 116J.552;

(4) disparity reduction credits under section 273.1398, subdivision 4; and

(5) grant and loan assistance from the Minnesota investment fund provided that:

(i) the sum of all grant and loan assistance from the Minnesota investment fund in a fiscal year exempted under this subdivision does not exceed $650,000;

(ii) the project is outside the metropolitan area, as defined in section 473.121, subdivision 2; and

(iii) the project expands the economic diversity of the area.

Subd. 6. [EMPLOYEE EXEMPTION.] This section does not apply to an employee who is a blind or disabled eligible individual as that term is defined in United States Code, title 42, section 1382, paragraph (a).

Subd. 7. [LOCAL GOVERNMENT EXEMPTION.] This section does not apply to 15 percent of the total assistance, otherwise subject to this section, annually given to all employers by a local government unit. For the purpose of this subdivision, "total assistance" does not include assistance funded by the issuance of bonds for economic development. The local government unit may select the 15 percent of total assistance that is not subject to this subdivision. This subdivision only exempts assistance that responds to a distinct emergency or crisis and is for a business that:

(1) would expand the economic diversity of the area; and

(2) does not compete with an existing business in the area.

Subd. 8. [MINNESOTA EXPORT FINANCE AUTHORITY.] This section does not apply to assistance provided by the Minnesota export finance authority created under section 116J.9673.

Sec. 2. Minnesota Statutes 1994, section 177.27, subdivision 1, is amended to read:

Subdivision 1. [EXAMINATION OF RECORDS.] The commissioner may enter during reasonable office hours or upon request and inspect the place of business or employment of any employer of employees working in the state, to examine and inspect books, registers, payrolls, and other records of any employer that in any way relate to wages, hours, and other conditions of employment of any employees. The commissioner may transcribe any or all of the books, registers, payrolls, and other records as the commissioner deems necessary or appropriate and may question the employees to ascertain compliance with sections 177.21 to 177.35. The commissioner may investigate wage claims or complaints by an employee or other person against an employer if the failure to pay a wage may violate Minnesota law or an order or rule of the department.

Sec. 3. Minnesota Statutes 1994, section 270.067, is amended by adding a subdivision to read:

Subd. 5a. [GOALS FOR NEW TAX EXPENDITURES.] Each newly enacted business related state tax expenditure, including tax waivers and tax incentives, must include measurable goals for jobs and wages and require a biennial review conducted by the commissioner of revenue to analyze the effect of each business related tax expenditure and for continuation based upon meeting those goals. The commissioner of revenue shall report as part of the tax expenditure budget report the results of the review to the legislature.

Sec. 4. [LEGISLATIVE AUDITOR; POVERTY AND CHOICES FOR ECONOMIC DEVELOPMENT.]

The legislative audit commission is requested to direct the legislative auditor to examine the cost of low paying jobs in Minnesota. The study shall consist of two parts. The first part is to compare the cost of government transfer payments for families with income below the federal poverty threshold with the benefits resulting from those jobs. To the extent possible, the study shall separate transfer payments by program, family type, and region. The second part shall examine the role of state government in increasing wages to a livable level.

Sec. 5. [REPEALER.]

Minnesota Statutes 1995 Supplement, section 116J.542, is repealed.

Sec. 6. [EFFECTIVE DATE; APPLICABILITY.]

Section 1 applies to grants and loans authorized on or after August 1, 1996."

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

Senate Conferees: (Signed) John C. Hottinger, Kevin M. Chandler, Michelle Fischbach

House Conferees: (Signed) Karen Clark, Robert Leighton, Dennis Ozment

Mr. Hottinger moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1997 be now adopted, and that the bill be repassed as amended by the Conference Committee.

CALL OF THE SENATE

Mr. Hottinger imposed a call of the Senate for the balance of the proceedings on S.F. No. 1997. The Sergeant at Arms was instructed to bring in the absent members.

The question recurred on the motion of Mr. Hottinger to adopt the recommendations and Conference Committee Report. The motion prevailed.

S.F. No. 1997 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 41 and nays 23, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Kroening	Murphy	Solon
Beckman	Hottinger	Langseth	Novak	Spear
Berglin	Janezich	Lessard	Pappas	Stumpf
Betzold	Johnson, D.J.	Marty	Piper	Vickerman
Chandler	Johnson, J.B.	Merriam	Pogemiller	Wiener
Cohen	Kelly	Metzen	Price	
Dille	Kleis	Moe, R.D.	Ranum	
Fischbach	Kramer	Mondale	Reichgott Junge	
Flynn	Krentz	Morse	Samuelson	

Those who voted in the negative were:

Belanger	Johnston	Lesewski	Ourada	Scheevel
Berg	Kiscaden	Limmer	Pariseau	Stevens
Day	Knutson	Neuville	Robertson	Terwilliger
Frederickson	Laidig	Oliver	Runbeck	
Johnson, D.E.	Larson	Olson	Sams	

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2410 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2410

A bill for an act relating to data practices; providing for the classification of and access to government data; clarifying data provisions; prohibiting agreements limiting the disclosure and discussion of personnel data; requiring notice and approval of employment settlements by the

commissioner of employee relations; modifying the requirements for health care provider identification numbers; establishing procedures for disclosing certain nonpublic data to related group purchasers; requiring the office of mental health practice to establish procedures for the exchange of information; authorizing the release of certain birth information on unwed mothers to family service collaboratives; regulating the disclosure of personal information contained in motor vehicle records; regulating certain criminal justice information; amending Minnesota Statutes 1994, sections 13.02, by adding a subdivision; 13.03, subdivision 4; 13.32, subdivision 5; 13.37, by adding a subdivision; 13.43, by adding subdivisions; 13.82, subdivision 13, and by adding a subdivision; 43A.04, by adding a subdivision; 62J.51, by adding subdivisions; 62J.56, subdivision 2; 62J.60, subdivisions 2 and 3; 144.225, subdivision 2, and by adding a subdivision; 145.64, by adding a subdivision; 148B.66, by adding a subdivision; 150A.081; 168.346; 171.12, subdivision 7, and by adding a subdivision; 260.161, subdivisions 1 and 1a; and 299C.095; Minnesota Statutes 1995 Supplement, sections 13.43, subdivision 2; 13.46, subdivision 2; 62J.451, subdivisions 7, 9, and 12; 62J.54, subdivisions 1, 2, and 3; 62J.58; 62Q.03, subdivision 9; 144.335, subdivision 3a; and 268.12, subdivision 12; proposing coding for new law in Minnesota Statutes, chapter 13.

March 28, 1996

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. 2410, 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. 2410 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. Minnesota Statutes 1994, section 13.02, is amended by adding a subdivision to read:

Subd. 3a. [CRIMINAL JUSTICE AGENCIES.] "Criminal justice agencies" means all state and local prosecution authorities, all state and local law enforcement agencies, the sentencing guidelines commission, the bureau of criminal apprehension, the department of corrections, and all probation officers who are not part of the judiciary.

Sec. 2. Minnesota Statutes 1994, section 13.03, subdivision 4, is amended to read:

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

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

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

(d) If a state agency, statewide system, or political subdivision disseminates data to another state agency, statewide system, or political subdivision, a classification provided for by law in the hands of the entity receiving the data does not affect the classification of the data in the hands of the entity that disseminates the data.

Sec. 3. Minnesota Statutes 1994, section 13.32, subdivision 3, is amended to read:

Subd. 3. [PRIVATE DATA; WHEN DISCLOSURE IS PERMITTED.] Except as provided in subdivision 5, educational data is private data on individuals and shall not be disclosed except as follows:

(a) Pursuant to section 13.05;

(b) Pursuant to a valid court order;

(c) Pursuant to a statute specifically authorizing access to the private data;

(d) To disclose information in health and safety emergencies pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code of Federal Regulations, title 34, section 99.36 which are in effect on July 1, 1993;

(e) Pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3) and Code of Federal Regulations, title 34, sections 99.31, 99.32, 99.33, 99.34, and 99.35 which are in effect on July 1, 1993;

(f) To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted;

(g) When disclosure is required for institutions that participate in a program under title IV of the Higher Education Act, United States Code, title 20, chapter 1092, in effect on July 1, 1993; ~~or~~

(h) To the appropriate school district officials to the extent necessary under subdivision 6, annually to indicate the extent and content of remedial instruction, including the results of assessment testing and academic performance at a post-secondary institution during the previous academic year by a student who graduated from a Minnesota school district within two years before receiving the remedial instruction; or

(i) To volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students.

Sec. 4. Minnesota Statutes 1994, section 13.32, subdivision 5, is amended to read:

Subd. 5. [DIRECTORY INFORMATION.] Information designated as directory information pursuant to the provisions of United States Code, title 20, section 1232g and Code of Federal Regulations, title 34, section 99.37 which are in effect on July 1, 1993, is public data on individuals. When conducting the directory information designation and notice process required by federal law, an educational agency or institution shall give parents and students notice of the right to refuse to let the agency or institution designate any or all data about the student as directory information. This notice may be given by any means reasonably likely to inform the parents and students of the right.

Sec. 5. Minnesota Statutes 1994, section 13.37, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section, the following terms have the meanings given them.

(a) "Security information" means government data the disclosure of which would be likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury. "Security information" includes crime prevention block maps and lists of volunteers who participate in community crime prevention programs and their home addresses and telephone numbers.

(b) "Trade secret information" means government data, including a formula, pattern, compilation, program, device, method, technique or process (1) that was supplied by the affected individual or organization, (2) that is the subject of efforts by the individual or organization that

are reasonable under the circumstances to maintain its secrecy, and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

(c) "Labor relations information" means management positions on economic and noneconomic items that have not been presented during the collective bargaining process or interest arbitration, including information specifically collected or created to prepare the management position.

(d) "Parking space leasing data" means the following government data on an applicant for, or lessee of, a parking space: residence address, home telephone number, beginning and ending work hours, place of employment, and work telephone number.

Sec. 6. Minnesota Statutes 1994, section 13.37, subdivision 2, is amended to read:

Subd. 2. [CLASSIFICATION.] The following government data is classified as nonpublic data with regard to data not on individuals, pursuant to section 13.02, subdivision 9, and as private data with regard to data on individuals, pursuant to section 13.02, subdivision 12: Security information; trade secret information; sealed absentee ballots prior to opening by an election judge; sealed bids, including the number of bids received, prior to the opening of the bids; parking space leasing data; and labor relations information, provided that specific labor relations information which relates to a specific labor organization is classified as protected nonpublic data pursuant to section 13.02, subdivision 13.

Sec. 7. Minnesota Statutes 1994, section 13.40, subdivision 2, is amended to read:

Subd. 2. [PRIVATE DATA; LIBRARY BORROWERS.] (a) Except as provided in paragraph (b), the following data maintained by a library are private data on individuals and may not be disclosed for other than library purposes except pursuant to a court order:

(1) data that link a library patron's name with materials requested or borrowed by the patron or that link a patron's name with a specific subject about which the patron has requested information or materials; or

(2) data in applications for borrower cards, other than the name of the borrower.

(b) A library may release reserved materials to a family member or other person who resides with a library patron and who is picking up the material on behalf of the patron. A patron may request that reserved materials be released only to the patron.

Sec. 8. Minnesota Statutes 1994, section 13.42, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] As used in this section: (a) "Directory information" means name of the patient, date admitted, and general condition~~, and date released~~.

(b) "Medical data" means data collected because an individual was or is a patient or client of a hospital, nursing home, medical center, clinic, health or nursing agency operated by a state agency or political subdivision including business and financial records, data provided by private health care facilities, and data provided by or about relatives of the individual.

Sec. 9. Minnesota Statutes 1994, section 13.42, subdivision 2, is amended to read:

Subd. 2. [PUBLIC HOSPITALS; DIRECTORY INFORMATION.] ~~If~~ (a) During the time that a person is a patient in a hospital operated by a state agency or political subdivision pursuant to legal commitment, directory information is public data. After the person is released, the directory information is private data on individuals.

(b) If a person is a patient other than pursuant to commitment in a hospital controlled by a state agency or political subdivision, directory information is public data unless the patient requests otherwise, in which case it is private data on individuals.

(c) Directory information about an emergency patient who is unable to communicate which is

public under this subdivision shall not be released until a reasonable effort is made to notify the next of kin. Although an individual has requested that directory information be private, the hospital may release directory information to a law enforcement agency pursuant to a lawful investigation pertaining to that individual.

Sec. 10. Minnesota Statutes 1995 Supplement, section 13.43, subdivision 2, is amended to read:

Subd. 2. [PUBLIC DATA.] (a) Except for employees described in subdivision 5, the following personnel data on current and former employees, volunteers, and independent contractors of a state agency, statewide system, or political subdivision and members of advisory boards or commissions is public:

(1) name; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; and the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;

(2) job title; job description; education and training background; and previous work experience;

(3) date of first and last employment;

(4) the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;

(5) the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body;

(6) the terms of any agreement settling any dispute arising out of an employment relationship ~~or~~ ~~of~~, including a buyout agreement~~,~~ as defined in section 123.34, subdivision 9a, paragraph (a); except that the agreement must include specific reasons for the agreement if it involves the payment of more than $10,000 of public money;

(7) work location; a work telephone number; badge number; and honors and awards received; and

(8) payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data; and city and county of residence.

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

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

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

(e) Notwithstanding paragraph (a), clause (5), upon completion of an investigation of a complaint or charge against a public official, or if a public official resigns or is terminated from employment while the complaint or charge is pending, all data relating to the complaint or charge are public, unless access to the data would jeopardize an active investigation or reveal confidential sources. For purposes of this paragraph, "public official" means:

(1) the head of a state agency and deputy and assistant state agency heads;

(2) members of boards or commissions required by law to be appointed by the governor or other elective officers; and

(3) executive or administrative heads of departments, bureaus, divisions, or institutions.

Sec. 11. Minnesota Statutes 1994, section 13.43, is amended by adding a subdivision to read:

Subd. 10. [PROHIBITION ON AGREEMENTS LIMITING DISCLOSURE OR DISCUSSION OF PERSONNEL DATA.] (a) A state agency, statewide system, or political subdivision may not enter into an agreement settling a dispute arising out of the employment relationship with the purpose or effect of limiting access to or disclosure of personnel data or limiting the discussion of information or opinions related to personnel data. An agreement or portion of an agreement that violates this paragraph is void and unenforceable.

(b) Paragraph (a) applies to the following, but only to the extent that the data or information could otherwise be made accessible to the public:

(1) an agreement not to discuss, publicize, or comment on personnel data or information;

(2) an agreement that limits the ability of the subject of personnel data to release or consent to the release of data; or

(3) any other provision of an agreement that has the effect of limiting the disclosure or discussion of information that could otherwise be made accessible to the public, except a provision that limits the ability of an employee to release or discuss private data that identifies other employees.

(c) Paragraph (a) also applies to a court order that contains terms or conditions prohibited by paragraph (a).

Sec. 12. Minnesota Statutes 1994, section 13.43, is amended by adding a subdivision to read:

Subd. 11. [PROTECTION OF EMPLOYEE OR OTHERS.] (a) If the responsible authority or designee of a state agency, statewide system, or political subdivision reasonably determines that the release of personnel data is necessary to protect an employee from harm to self or to protect another person who may be harmed by the employee, data that are relevant to the concerns for safety may be released as provided in this subdivision.

(b) The data may be released:

(1) to the person who may be harmed and to an attorney representing the person when the data are relevant to obtaining a restraining order;

(2) to a prepetition screening team conducting an investigation of the employee under section 253B.07, subdivision 1; or

(3) to a court, law enforcement agency, or prosecuting authority.

(c) Section 13.03, subdivision 4, paragraph (c), applies to data released under this subdivision, except to the extent that the data have a more restrictive classification in the possession of the agency or authority that receives the data. If the person who may be harmed or the person's attorney receives data under this subdivision, the data may be used or released further only to the extent necessary to protect the person from harm.

Sec. 13. Minnesota Statutes 1995 Supplement, section 13.46, subdivision 2, is amended to read:

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

(1) pursuant to section 13.05;

(2) pursuant to court order;

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

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

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

(6) to administer federal funds or programs;

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

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names, social security numbers, income, addresses, and other data as required, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, early refund of refundable tax credits, and the income tax. "Refundable tax credits" means the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund under section 290A.04, and, if the required federal waiver or waivers are granted, the federal earned income tax credit under section 32 of the Internal Revenue Code;

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

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

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

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

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

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

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

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

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

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

(19) data on child support payments made by a child support obligor may be disclosed to the obligee; ~~or~~

(20) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(21) to the department of children, families, and learning for the purpose of matching department of children, families, and learning student data with public assistance data to determine students eligible for free and reduced price meals, meal supplements, and free milk pursuant to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to produce accurate numbers of students receiving aid to families with dependent children as required by section 124.175; and to allocate federal and state funds that are distributed based on income of the student's family; or

(22) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person.

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

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

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

Sec. 14. [13.621] [TWO HARBORS DEVELOPMENT COMMISSION DATA.]

Subdivision 1. [NONPUBLIC DATA.] The following data that are submitted to the Two Harbors development commission by businesses that are requesting financial assistance are nonpublic data: financial statements, business plans, income and expense projections, customer lists, balance sheets, net worth calculations, and market data, including feasibility studies not paid for with public funds.

Subd. 2. [PUBLIC DATA.] Data submitted to the commission under subdivision 1 become public data if the commission provides financial assistance to the business except that the following data remain nonpublic: business plans, income and expense projections, customer lists, and market data, including feasibility studies not paid for with public funds.

Sec. 15. [13.622] [MOORHEAD ECONOMIC DEVELOPMENT AUTHORITY DATA.]

Subdivision 1. [NONPUBLIC DATA.] The following data submitted to the city of Moorhead and to the Moorhead economic development authority by businesses that are requesting financial assistance are nonpublic data: financial statements, business plans, income and expense projections, customer lists, balance sheets, and market and feasibility studies not paid for with public funds.

Subd. 2. [PUBLIC DATA.] Data submitted to the city and the city's economic development authority under subdivision 1 become public data if the city provides financial assistance to the

business except that the following data remain nonpublic: business plans, income and expense projections, customer lists, and market and feasibility studies not paid for with public funds.

Sec. 16. Minnesota Statutes 1994, section 13.82, subdivision 13, is amended to read:

Subd. 13. [PROPERTY DATA.] Data that uniquely describe stolen, lost, confiscated, or recovered property ~~or property described in pawn shop transaction records~~ are classified as either private data on individuals or nonpublic data depending on the content of the not public data.

Sec. 17. Minnesota Statutes 1994, section 13.82, is amended by adding a subdivision to read:

Subd. 18. [PAWNSHOP DATA.] Data that would reveal the identity of persons who are customers of a licensed pawnbroker or secondhand goods dealer are private data on individuals. Data describing the property in a regulated transaction with a licensed pawnbroker or secondhand goods dealer are public.

Sec. 18. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 89a. [CRIMINAL ALERT NETWORK.] Data on private sector members of the criminal alert network are classified under section 299A.61, subdivision 2.

Sec. 19. Minnesota Statutes 1995 Supplement, section 62J.451, subdivision 7, is amended to read:

Subd. 7. [DISSEMINATION OF REPORTS; OTHER INFORMATION.] (a) The health data institute shall establish a mechanism for the dissemination of reports and other information to consumers, group purchasers, health plan companies, providers, and the state. When applicable, the health data institute shall coordinate its dissemination of information responsibilities with those of the commissioner, to the extent administratively efficient and effective.

(b) The health data institute may require those requesting data from its databases to contribute toward the cost of data collection through the payments of fees.

(c) The health data institute shall not allow a group purchaser or health care provider ~~to use or have access to the electronic data interchange system or~~ to access data under section 62J.452, subdivision 6 or 7, unless the group purchaser or health care provider cooperates with the data collection efforts of the health data institute by submitting or making available through the EDI system or other means all data requested by the health data institute. The health data institute shall prohibit group purchasers and health care providers from transferring, providing, or sharing data obtained from the health data institute under section 62J.452, subdivision 6 or 7, with a group purchaser or health care provider that does not cooperate with the data collection efforts of the health data institute.

Sec. 20. Minnesota Statutes 1995 Supplement, section 62J.451, subdivision 9, is amended to read:

Subd. 9. [BOARD OF DIRECTORS.] The health data institute is governed by a 20-member board of directors consisting of the following members:

(1) two representatives of hospitals~~, one~~ appointed by the Minnesota Hospital ~~Association and one appointed by the Metropolitan HealthCare Council~~ and Health Care Partnership, to reflect a mix of urban and rural institutions;

(2) four representatives of health carriers, two appointed by the Minnesota council of health maintenance organizations, one appointed by Blue Cross and Blue Shield of Minnesota, and one appointed by the Insurance Federation of Minnesota;

(3) two consumer members, one appointed by the commissioner, and one appointed by the AFL-CIO as a labor union representative;

(4) five group purchaser representatives appointed by the Minnesota consortium of health care purchasers to reflect a mix of urban and rural, large and small, and self-insured purchasers;

(5) two physicians appointed by the Minnesota Medical Association, to reflect a mix of urban and rural practitioners;

(6) one representative of teaching and research institutions, appointed jointly by the Mayo Foundation and the Minnesota Association of Public Teaching Hospitals;

(7) one nursing representative appointed by the Minnesota Nurses Association; and

(8) three representatives of state agencies, one member representing the department of employee relations, one member representing the department of human services, and one member representing the department of health.

Sec. 21. Minnesota Statutes 1995 Supplement, section 62J.451, subdivision 12, is amended to read:

Subd. 12. [STAFF.] The board may hire an executive director. The executive director and other health data institute staff are not state employees but are covered by section 3.736. ~~The executive director and other health data institute staff may participate in the following plans for employees in the unclassified service until January 1, 1996: the state retirement plan, the state deferred compensation plan, and the health, dental, and life insurance plans.~~ The attorney general shall provide legal services to the board.

Sec. 22. Minnesota Statutes 1994, section 62J.51, is amended by adding a subdivision to read:

Subd. 3a. [CARD ISSUER.] "Card issuer" means the group purchaser who is responsible for printing and distributing identification cards to members or insureds.

Sec. 23. Minnesota Statutes 1994, section 62J.51, is amended by adding a subdivision to read:

Subd. 6a. [CLAIM STATUS TRANSACTION SET (ANSI ASC X12 276/277).] "Claim status transaction set (ANSI ASC X12 276/277)" means the transaction format developed and approved for implementation in December 1993 and used by providers to request and receive information on the status of a health care claim or encounter that has been submitted to a group purchaser.

Sec. 24. Minnesota Statutes 1994, section 62J.51, is amended by adding a subdivision to read:

Subd. 6b. [CLAIM SUBMISSION ADDRESS.] "Claim submission address" means the address to which the group purchaser requires health care providers, members, or insureds to send health care claims for processing.

Sec. 25. Minnesota Statutes 1994, section 62J.51, is amended by adding a subdivision to read:

Subd. 6c. [CLAIM SUBMISSION NUMBER.] "Claim submission number" means the unique identification number to identify group purchasers as described in section 62J.54, with its suffix identifying the claim submission address.

Sec. 26. Minnesota Statutes 1995 Supplement, section 62J.54, subdivision 1, is amended to read:

Subdivision 1. [UNIQUE IDENTIFICATION NUMBER FOR HEALTH CARE PROVIDER ORGANIZATIONS.] (a) On and after January 1, 1998, all group purchasers and health care providers in Minnesota shall use a unique identification number to identify health care provider organizations, except as provided in paragraph ~~(d)~~ (e).

(b) ~~Following the recommendation of the workgroup for electronic data interchange, the federal tax identification number assigned to each health care provider organization by the Internal Revenue Service of the Department of the Treasury~~ The first eight digits of the national provider identifier maintained by the federal Health Care Financing Administration shall be used as the unique identification number for health care provider organizations.

(c) Provider organizations required to have a national provider identifier are:

(1) hospitals licensed under chapter 144;

(2) nursing homes and hospices licensed under chapter 144A;

(3) subacute care facilities;

(4) individual providers organized as a clinic or group practice;

(5) independent laboratory, pharmacy, surgery, radiology, or outpatient facilities;

(6) ambulance services licensed under chapter 144; and

(7) special transportation services certified under chapter 174.

Provider organizations shall obtain a national provider identifier from the federal Health Care Financing Administration using the federal Health Care Financing Administration's prescribed process.

(d) Only the unique health care provider organization identifier shall be used for purposes of submitting and receiving claims, and in conjunction with other data collection and reporting functions.

~~(d)~~ (e) The state and federal health care programs administered by the department of human services shall use the unique identification number assigned to health care providers for implementation of the Medicaid Management Information System or ~~the uniform provider identification number (UPIN) assigned by the Health Care Financing Administration~~ the national provider identifier maintained by the federal Health Care Financing Administration.

(f) The commissioner of health may become a subscriber to the federal Health Care Financing Administration's national provider system to implement this subdivision.

Sec. 27. Minnesota Statutes 1995 Supplement, section 62J.54, subdivision 2, is amended to read:

Subd. 2. [UNIQUE IDENTIFICATION NUMBER FOR INDIVIDUAL HEALTH CARE PROVIDERS.] (a) On and after January 1, 1998, all group purchasers and health care providers in Minnesota shall use a unique identification number to identify an individual health care provider, except as provided in paragraph ~~(d)~~ (e).

(b) ~~The uniform provider identification number (UPIN) assigned by the Health Care Financing Administration~~ The first eight digits of the national provider identifier maintained by the federal Health Care Financing Administration's national provider system shall be used as the unique identification number for individual health care providers. ~~Providers who do not currently have a UPIN number shall request one from the health care financing administration.~~

(c) Individual providers required to have a national provider identifier are:

(1) physicians licensed under chapter 147;

(2) dentists licensed under chapter 150A;

(3) chiropractors licensed under chapter 148;

(4) podiatrists licensed under chapter 153;

(5) physician assistants as defined under section 147A.01;

(6) advanced practice nurses as defined under section 62A.15;

(7) doctors of optometry licensed under section 148.57;

(8) individual providers who may bill Medicare for medical and other health services as defined in United States Code, title 42, section 1395x(s); and

(9) individual providers who are providers for state and federal health care programs administered by the commissioner of human services.

Providers shall obtain a national provider identifier from the federal Health Care Financing Administration using the Health Care Financing Administration's prescribed process.

(d) Only the unique individual health care provider identifier shall be used for purposes of submitting and receiving claims, and in conjunction with other data collection and reporting functions.

~~(d)~~ (e) The state and federal health care programs administered by the department of human services shall use the unique identification number assigned to health care providers for implementation of the Medicaid Management Information System or the ~~uniform provider identification number (UPIN) assigned by the health care financing administration~~ national provider identifier maintained by the federal Health Care Financing Administration.

(f) The commissioner of health may become a subscriber to the federal Health Care Financing Administration's national provider system to implement this subdivision.

Sec. 28. Minnesota Statutes 1995 Supplement, section 62J.54, subdivision 3, is amended to read:

Subd. 3. [UNIQUE IDENTIFICATION NUMBER FOR GROUP PURCHASERS.] (a) On and after January 1, 1998, all group purchasers and health care providers in Minnesota shall use a unique identification number to identify group purchasers.

(b) The ~~federal tax identification number assigned to each group purchaser by the Internal Revenue Service of the Department of the Treasury~~ payer identification number assigned for the federal Health Care Financing Administration's PAYERID system shall be used as the unique identification number for group purchasers. ~~This paragraph applies until the codes described in paragraph (c) are available and feasible to use, as determined by the commissioner.~~

(c) ~~A two-part code, consisting of 11 characters and modeled after the National Association of Insurance Commissioners company code shall be assigned to each group purchaser and used as the unique identification number for group purchasers. The first six characters, or prefix, shall contain the numeric code, or company code, assigned by the National Association of Insurance Commissioners. The last five characters, or suffix, which is optional, shall contain further codes that will enable group purchasers to further route electronic transaction in their internal systems.~~ Group purchasers shall obtain a payer identifier number from the federal Health Care Financing Administration using the Health Care Financing Administration's prescribed process.

(d) The unique group purchaser identifier, as described in this section, shall be used for purposes of submitting and receiving claims, and in conjunction with other data collection and reporting functions.

(e) The commissioner of health may become a registry user to the federal Health Care Financing Administration's PAYERID system to implement this subdivision.

Sec. 29. Minnesota Statutes 1994, section 62J.56, subdivision 2, is amended to read:

Subd. 2. [IDENTIFICATION OF CORE TRANSACTION SETS.] (a) All category I and II industry participants in Minnesota shall comply with the standards developed by the ANSI ASC X12 for the following core transaction sets, according to the implementation plan outlined for each transaction set.

(1) ANSI ASC X12 835 health care claim payment/advice transaction set.

(2) ANSI ASC X12 837 health care claim transaction set.

(3) ANSI ASC X12 834 health care enrollment transaction set.

(4) ANSI ASC X12 270/271 health care eligibility transaction set.

(5) ANSI ASC X12 276/277 health care claims status request/notification transaction set.

(b) The commissioner, with the advice of the Minnesota health data institute and the Minnesota

administrative uniformity committee, and in coordination with federal efforts, may approve the use of new ASC X12 standards, or new versions of existing standards, as they become available, or other nationally recognized standards, where appropriate ASC X12 standards are not available for use. These alternative standards may be used during a transition period while ASC X12 standards are developed.

Sec. 30. Minnesota Statutes 1995 Supplement, section 62J.58, is amended to read:

62J.58 [IMPLEMENTATION OF STANDARD TRANSACTION SETS.]

Subdivision 1. [CLAIMS PAYMENT.] Six months from the date the commissioner formally recommends the use of guides to implement core transaction sets pursuant to section 62J.56, subdivision 3, all category I industry participants and all category II industry participants, except pharmacists, shall be able to submit or accept, as appropriate, the ANSI ASC X12 835 health care claim payment/advice transaction set (draft standard for trial use version ~~3030~~/release 3051) for electronic submission of payment information to health care providers.

Subd. 2. [CLAIMS SUBMISSION.] Six months from the date the commissioner formally recommends the use of guides to implement core transaction sets pursuant to section 62J.56, subdivision 3, all category I and category II industry participants, except pharmacists, shall be able to accept or submit, as appropriate, the ANSI ASC X12 837 health care claim transaction set (draft standard for trial use version ~~3030~~/release 3051) for the electronic transfer of health care claim information.

Subd. 2a. [CLAIM STATUS INFORMATION.] Six months from the date the commissioner formally recommends the use of guides to implement core transaction sets under section 62J.56, subdivision 3, all category I and II industry participants, excluding pharmacists, may accept or submit the ANSI ASC X12 276/277 health care claim status transaction set (draft standard for trial use version/release 3051) for the electronic transfer of health care claim status information.

Subd. 3. [ENROLLMENT INFORMATION.] Six months from the date the commissioner formally recommends the use of guides to implement core transaction sets pursuant to section 62J.56, subdivision 3, all category I and category II industry participants, excluding pharmacists, shall be able to accept or submit, as appropriate, the ANSI ASC X12 834 health care enrollment transaction set (draft standard for trial use version ~~3030~~/release 3051) for the electronic transfer of enrollment and health benefit information.

Subd. 4. [ELIGIBILITY INFORMATION.] Six months from the date the commissioner formally recommends the use of guides to implement core transaction sets pursuant to section 62J.56, subdivision 3, all category I and category II industry participants, except pharmacists, shall be able to accept or submit, as appropriate, the ANSI ASC X12 270/271 health care eligibility transaction set (draft standard for trial use version ~~3030~~/release 3051) for the electronic transfer of health benefit eligibility information.

Subd. 5. [APPLICABILITY.] This section does not require a group purchaser, health care provider, or employer to use electronic data interchange or to have the capability to do so. This section applies only to the extent that a group purchaser, health care provider, or employer chooses to use electronic data interchange.

Sec. 31. Minnesota Statutes 1994, section 62J.60, subdivision 2, is amended to read:

Subd. 2. [GENERAL CHARACTERISTICS.] (a) The Minnesota health care identification card must be a preprinted card constructed of plastic, paper, or any other medium that conforms with ANSI and ISO 7810 physical characteristics standards. The card dimensions must also conform to ANSI and ISO 7810 physical characteristics standard. The use of a signature panel is optional.

(b) The Minnesota health care identification card must have an essential information window in the front side with the following data elements left justified in the following top to bottom sequence: card issuer name, ~~issuer~~ claim submission number, identification number, identification name. No optional data may be interspersed between these data elements. The window must be left justified.

(c) Standardized labels are required next to human readable data elements. The card issuer may decide the location of the standardized label relative to the data element.

Sec. 32. Minnesota Statutes 1994, section 62J.60, subdivision 3, is amended to read:

Subd. 3. [HUMAN READABLE DATA ELEMENTS.] (a) The following are the minimum human readable data elements that must be present on the front side of the Minnesota health care identification card:

(1) card issuer name or logo, which is the name or logo that identifies the card issuer. The card issuer name or logo may be the card's front background. No standard label is required for this data element;

(2) ~~issuer~~ claim submission number~~, which is the unique card issuer number consisting of a base number assigned by a registry process followed by a suffix number assigned by the card issuer. The use of this element is mandatory within one year of the establishment of a process for this identifier~~. The standardized label for this element is "~~Issuer~~ Clm Subm #";

(3) identification number, which is the unique identification number of the individual card holder established and defined under this section. The standardized label for the data element is "ID";

(4) identification name, which is the name of the individual card holder. The identification name must be formatted as follows: first name, space, optional middle initial, space, last name, optional space and name suffix. The standardized label for this data element is "Name";

(5) account number(s), which is any other number, such as a group number, if required for part of the identification or claims process. The standardized label for this data element is "Account";

(6) care type, which is the description of the group purchaser's plan product under which the beneficiary is covered. The description shall include the health plan company name and the plan or product name. The standardized label for this data element is "Care Type";

(7) service type, which is the description of coverage provided such as hospital, dental, vision, prescription, or mental health. The standard label for this data element is "Svc Type"; and

(8) provider/clinic name, which is the name of the primary care clinic the cardholder is assigned to by the health plan company. The standard label for this field is "PCP." This information is mandatory only if the health plan company assigns a specific primary care provider to the cardholder.

(b) The following human readable data elements shall be present on the back side of the Minnesota health identification card. These elements must be left justified, and no optional data elements may be interspersed between them:

(1) claims submission name(s) and address(es), which are the name(s) and address(es) of the entity or entities to which claims should be submitted. If different destinations are required for different types of claims, this must be labeled;

(2) telephone number(s) and name(s); which are the telephone number(s) and name(s) of the following contact(s) with a standardized label describing the service function as applicable:

(i) eligibility and benefit information;

(ii) utilization review;

(iii) precertification; or

(iv) customer services.

(c) The following human readable data elements are mandatory on the back side of the card for health maintenance organizations and integrated service networks:

(1) emergency care authorization telephone number or instruction on how to receive authorization for emergency care. There is no standard label required for this information; and

(2) telephone number to call to appeal to the commissioner of health. There is no standard label required for this information.

(d) All human readable data elements not required under paragraphs (a) to (c) are optional and may be used at the issuer's discretion.

Sec. 33. Minnesota Statutes 1995 Supplement, section 62Q.03, subdivision 9, is amended to read:

Subd. 9. [DATA COLLECTION AND DATA PRIVACY.] The association members shall not have access to unaggregated data on individuals or health plan companies. The association shall develop, as a part of the plan of operation, procedures for ensuring that data is collected by an appropriate entity. The commissioners of health and commerce shall have the authority to audit and examine data collected by the association for the purposes of the development and implementation of the risk adjustment system. Data on individuals obtained for the purposes of risk adjustment development, testing, and operation are designated as private data. Data not on individuals which is obtained for the purposes of development, testing, and operation of risk adjustment are designated as nonpublic data~~.~~, except ~~for~~ that the proposed and approved plan of operation, the risk adjustment methodologies examined, the plan for testing, the plan of the risk adjustment system, minutes of meetings, and other general operating information are classified as public data. Nothing in this section is intended to prohibit the preparation of summary data under section 13.05, subdivision 7. The association, state agencies, and any contractors having access to this data shall maintain it in accordance with this classification. The commissioners of health and human services have the authority to collect data from health plan companies as needed for the purpose of developing a risk adjustment mechanism for public programs.

Sec. 34. Minnesota Statutes 1994, section 144.225, subdivision 2, is amended to read:

Subd. 2. [DATA ABOUT BIRTHS.] (a) Except as otherwise provided in this subdivision, data pertaining to the birth of a child, to a woman who was not married to the child's father when the child was conceived nor when the child was born, including the original certificate of birth and the certified copy, are confidential data. At the time of the birth of a child to a woman who was not married to the child's father when the child was conceived nor when the child was born, the mother may designate on the birth registration form whether data pertaining to the birth will be public data. Notwithstanding the designation of the data as confidential, it may be disclosed to a parent or guardian of the child, to the child when the child is 18 years of age or older, pursuant to a court order, or under paragraph (b).

(b) Unless the child is adopted, data pertaining to the birth of a child that are not accessible to the public become public data if 100 years have elapsed since the birth of the child who is the subject of the data, or as provided under section 13.10, whichever occurs first.

(c) If a child is adopted, data pertaining to the child's birth are governed by the provisions relating to adoption records, including sections 13.10, subdivision 5; 144.1761; 144.218, subdivision 1; and 259.89. The birth and death records of the commissioner of health shall be open to inspection by the commissioner of human services and it shall not be necessary for the commissioner of human services to obtain an order of the court in order to inspect records or to secure certified copies of them.

(d) The name and address of a mother under paragraph (a) and the child's date of birth may be disclosed to the county social services or public health member of a family services collaborative for purposes of providing services under section 121.8355.

Sec. 35. Minnesota Statutes 1994, section 144.225, is amended by adding a subdivision to read:

Subd. 6. [GROUP PURCHASER IDENTITY; NONPUBLIC DATA; DISCLOSURE.] (a) Except as otherwise provided in this subdivision, the named identity of a group purchaser as defined in section 62J.03, subdivision 6, collected in association with birth registration is nonpublic data as defined in section 13.02.

(b) The commissioner may publish, or by other means release to the public, the named identity of a group purchaser as part of an analysis of information collected from the birth registration process. Analysis means the identification of trends in prenatal care and birth outcomes associated with group purchasers. The commissioner may not reveal the named identity of the group purchaser until the group purchaser has had 21 days after receipt of the analysis to review the analysis and comment on it. In releasing data under this subdivision, the commissioner shall include comments received from the group purchaser related to the scientific soundness and statistical validity of the methods used in the analysis. This subdivision does not authorize the commissioner to make public any individual identifying data except as permitted by law.

(c) A group purchaser may contest whether an analysis made public under paragraph (b) is based on scientifically sound and statistically valid methods in a contested case proceeding under sections 14.57 to 14.62, subject to appeal under sections 14.63 to 14.68. To obtain a contested case hearing, the group purchaser must present a written request to the commissioner before the end of the time period for review and comment. Within ten days of the assignment of an administrative law judge, the group purchaser must demonstrate by clear and convincing evidence the group purchaser's likelihood of succeeding on the merits. If the judge determines that the group purchaser has made this demonstration, the data may not be released during the contested case proceeding and through appeal. If the judge finds that the group purchaser has not made this demonstration, the commissioner may immediately publish, or otherwise make public, the nonpublic group purchaser data, with comments received as set forth in paragraph (b).

(d) The contested case proceeding and subsequent appeal is not an exclusive remedy and any person may seek a remedy pursuant to section 13.08, subdivisions 1 to 4, or as otherwise authorized by law.

Sec. 36. Minnesota Statutes 1995 Supplement, section 144.335, subdivision 3a, is amended to read:

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

(b) This subdivision does not prohibit the release of health records:

(1) for a medical emergency when the provider is unable to obtain the patient's consent due to the patient's condition or the nature of the medical emergency; or

(2) to other providers within related health care entities when necessary for the current treatment of the patient.

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

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

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

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

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

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

(d) ~~Until June 1, 1996 , paragraph (a) does not prohibit the release of health records to qualified personnel solely for purposes of medical or scientific research, if the patient has not objected to~~ Notwithstanding paragraph (a), health records may be released to a researcher solely for purposes of medical or scientific research only as follows:

(1) health records generated before January 1, 1997, may be released if the patient has not objected or does not elect to object after that date;

(2) for health records generated on or after January 1, 1997, the provider must:

(i) disclose in writing to patients currently being treated by the provider that health records, regardless of when generated, may be released and that the patient may object, in which case the records will not be released; and

(ii) obtain the patient's written general authorization that describes the release of records in item (i), which does not expire but may be revoked or limited in writing at any time by the patient or the patient's authorized representative; and

(3) the provider must, at the request of the patient, provide information on how the patient may contact an external researcher to whom the health record was released and the date it was released.

In making a release for research purposes ~~and~~ the provider ~~who releases the records makes~~ shall make a reasonable effort to determine that:

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

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

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

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

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

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

(g) In cases where a provider releases health records without patient consent as authorized by law, the release must be documented in the patient's health record.

Sec. 37. Minnesota Statutes 1994, section 145.64, is amended by adding a subdivision to read:

Subd. 3. [HENNEPIN COUNTY EMERGENCY MEDICAL SERVICES DATA.] Data collected, created, or maintained by the quality committee of the Hennepin county emergency medical services advisory council when conducting a health care review activity of the emergency medical services function or services are private data on individuals or nonpublic data not on individuals, as defined in section 13.02.

Sec. 38. Minnesota Statutes 1994, section 148B.66, is amended by adding a subdivision to read:

Subd. 3. [EXCHANGING INFORMATION.] (a) The office of mental health practice shall establish internal operating procedures for:

(1) exchanging information with state boards; agencies, including the office of ombudsman for mental health and mental retardation; health related and law enforcement facilities; departments responsible for licensing health related occupations, facilities, and programs; and law enforcement personnel in this and other states; and

(2) coordinating investigations involving matters within the jurisdiction of more than one regulatory agency.

Establishment of the operating procedures is not subject to rulemaking under chapter 14.

(b) The procedures for exchanging information must provide for the forwarding to the entities described in paragraph (a), clause (1), of information and evidence, including the results of investigations, that are relevant to matters within the regulatory jurisdiction of the organizations in paragraph (a). The data have the same classification in the hands of the agency receiving the data as they have in the hands of the agency providing the data.

(c) The office of mental health practice shall establish procedures for exchanging information with other states regarding disciplinary action against licensed and unlicensed mental health practitioners.

(d) The office of mental health practice shall forward to another governmental agency any complaints received by the office that do not relate to the office's jurisdiction but that relate to matters within the jurisdiction of the other governmental agency. The agency to which a complaint is forwarded shall advise the office of mental health practice of the disposition of the complaint. A complaint or other information received by another governmental agency relating to a statute or rule that the office of mental health practice is empowered to enforce must be forwarded to the office to be processed in accordance with this section.

(e) The office of mental health practice shall furnish to a person who made a complaint a description of the actions of the office relating to the complaint.

Sec. 39. Minnesota Statutes 1994, section 150A.081, is amended to read:

150A.081 [ACCESS TO MEDICAL DATA.]

Subdivision 1. [ACCESS TO DATA ON LICENSEE OR REGISTRANT.] When the board has probable cause to believe that a licensee's or registrant's condition meets a ground listed in section 150A.08, subdivision 1, clause (4) or (8), it may, notwithstanding sections 13.42, 144.651, or any other law limiting access to medical data, obtain medical or health records ~~relating to~~ on the licensee or registrant without the ~~person's~~ licensee's or registrant's consent. The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency. A provider, insurance company, or government agency shall comply with a written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released under the written request, unless the information is false and the entity providing the information knew, or had reason to believe, the information was false.

Subd. 2. [ACCESS TO DATA ON PATIENTS.] The board has access to medical records of a patient treated by a licensee or registrant under review if the patient signs a written consent permitting access. If the patient has not given consent, the licensee or registrant must delete data from which a patient may be identified before releasing medical records to the board.

Subd. 3. [DATA CLASSIFICATION; RELEASE OF CERTAIN HEALTH DATA NOT REQUIRED.] Information obtained under this ~~subdivision~~ section is classified as private data on individuals under chapter 13. Under this ~~subdivision~~ section, the commissioner of health is not required to release health data collected and maintained under section 13.38.

Sec. 40. Minnesota Statutes 1994, section 168.345, subdivision 3, is amended to read:

Subd. 3. [REQUESTS FOR INFORMATION; SURCHARGE ON FEE.] Except as otherwise provided in subdivision 4, the commissioner shall impose a surcharge of 50 cents on each fee charged by the commissioner under section 13.03, subdivision 3, for copies or electronic

transmittal of public information concerning motor vehicle registrations. This surcharge only applies to a fee imposed in responding to a request made in person or by mail, or to a request for transmittal through a computer modem. The surcharge does not apply to the request of an individual for information concerning vehicles registered in that individual's name. The commissioner shall forward the surcharges collected under this subdivision to the commissioner of finance on a monthly basis. Upon receipt, the commissioner of finance shall credit the surcharges to the general fund.

Sec. 41. Minnesota Statutes 1994, section 168.345, is amended by adding a subdivision to read:

Subd. 4. [EXCEPTION TO FEE AND SURCHARGE.] Notwithstanding subdivision 3 or section 13.03, no fee or surcharge shall be imposed in responding to a request for public information concerning motor vehicle registrations if the requester gives the commissioner a signed statement that:

(1) the requester seeks the information on behalf of a community-based, nonprofit organization which has been designated by the local law enforcement agency to be a requester; and

(2) the information is needed in order to identify suspected prostitution law violators, controlled substance law violators, or health code violators.

The commissioner may not require a requester to make a certain minimum number of data requests nor limit a requester to a certain maximum number of data requests.

Sec. 42. Minnesota Statutes 1994, section 168.346, is amended to read:

168.346 [PRIVACY OF NAME OR RESIDENCE ADDRESS.]

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

(b) An individual registered owner of a motor vehicle must be informed in a clear and conspicuous manner on the forms for issuance or renewal of titles and registrations, that the owner's personal information may be disclosed to any person who makes a request for the personal information, and that, except for uses permitted by United States Code, title 18, section 2721, clause (b), the registered owner may prohibit disclosure of the personal information by so indicating on the form.

(c) At the time of registration or renewal, the individual registered owner of a motor vehicle must also be informed in a clear and conspicuous manner on forms that the owner's personal information may be used, rented, or sold solely for bulk distribution by organizations for business purposes including surveys, marketing, and solicitation. The commissioner shall implement methods and procedures that enable the registered owner to request that bulk surveys, marketing, or solicitation not be directed to the owner. If the registered owner so requests, the commissioner shall implement the request in a timely manner and the personal information may not be so used.

(d) To the extent permitted by United States Code, title 18, section 2721, data on individuals provided to register a motor vehicle is public data on individuals and shall be disclosed as permitted by United States Code, title 18, section 2721, clause (b).

Sec. 43. Minnesota Statutes 1994, section 171.12, subdivision 7, is amended to read:

Subd. 7. [PRIVACY OF RESIDENCE ADDRESS.] (a) An applicant for a driver's license or a

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

(b) An applicant for a driver's license or a Minnesota identification card must be informed in a clear and conspicuous manner on the forms for the issuance or renewal that the applicant's personal information may be disclosed to any person who makes a request for the personal information, and that except for uses permitted by United States Code, title 18, section 2721, clause (b), the applicant may prohibit disclosure of the personal information by so indicating on the form.

(c) An applicant for a driver's license or a Minnesota identification card must be also informed in a clear and conspicuous manner on forms that the applicant's personal information may be used, rented, or sold solely for bulk distribution by organizations for business purposes, including surveys, marketing, or solicitation. The commissioner shall implement methods and procedures that enable the applicant to request that bulk surveys, marketing, or solicitation not be directed to the applicant. If the applicant so requests, the commissioner shall implement the request in a timely manner and the personal information may not be so used.

(d) To the extent permitted by United States Code, title 18, section 2721, data on individuals provided to obtain a Minnesota identification card or a driver's license is public data on individuals and shall be disclosed as permitted by United States Code, title 18, section 2721, clause (b).

Sec. 44. Minnesota Statutes 1994, section 171.12, is amended by adding a subdivision to read:

Subd. 7a. [DISCLOSURE OF PERSONAL INFORMATION.] The commissioner shall disclose personal information where the use is related to the operation of a motor vehicle or to public safety, including public dissemination. The use of personal information is related to public safety if it concerns the physical safety or security of drivers, vehicles, pedestrians, or property.

Sec. 45. Minnesota Statutes 1994, section 260.161, subdivision 1, is amended to read:

Subdivision 1. [RECORDS REQUIRED TO BE KEPT.] (a) The juvenile court judge shall keep such minutes and in such manner as the court deems necessary and proper. Except as provided in paragraph (b), the court shall keep and maintain records pertaining to delinquent adjudications until the person reaches the age of 28 years and shall release the records on an individual to another juvenile court that has jurisdiction of the juvenile, to a requesting adult court for purposes of sentencing, or to an adult court or juvenile court as required by the right of confrontation of either the United States Constitution or the Minnesota Constitution. The juvenile court shall provide, upon the request of any other juvenile court, copies of the records concerning adjudications involving the particular child. The court also may provide copies of records concerning delinquency adjudications, on request, to law enforcement agencies, probation officers, and corrections agents if the court finds that providing these records serves public safety or is in the best interests of the child. The records have the same data classification in the hands of the agency receiving them as they had in the hands of the court.

The court shall also keep an index in which files pertaining to juvenile matters shall be indexed under the name of the child. After the name of each file shall be shown the file number and, if ordered by the court, the book and page of the register in which the documents pertaining to such file are listed. The court shall also keep a register properly indexed in which shall be listed under the name of the child all documents filed pertaining to the child and in the order filed. The list shall show the name of the document and the date of filing thereof. The juvenile court legal records shall be deposited in files and shall include the petition, summons, notice, findings, orders,

decrees, judgments, and motions and such other matters as the court deems necessary and proper. Unless otherwise provided by law, all court records shall be open at all reasonable times to the inspection of any child to whom the records relate, and to the child's parent and guardian.

(b) The court shall retain records of the court finding that a juvenile committed an act that would be ~~a violation of, or an attempt to violate, section 609.342, 609.343, 609.344, or 609.345,~~ a felony or gross misdemeanor level offense until the offender reaches the age of 28. If the offender commits ~~another violation of sections 609.342 to 609.345~~ a felony as an adult, or the court convicts a child as an extended jurisdiction juvenile, the court shall retain the juvenile records for as long as the records would have been retained if the offender had been an adult at the time of the juvenile offense. This paragraph does not apply unless the juvenile was provided counsel as required by section 260.155, subdivision 2.

Sec. 46. Minnesota Statutes 1994, section 260.161, subdivision 1a, is amended to read:

Subd. 1a. [RECORD OF ~~ADJUDICATIONS; NOTICE TO BUREAU OF CRIMINAL APPREHENSION~~ FINDINGS.] (a) The juvenile court shall forward to the Bureau of Criminal Apprehension the following data ~~on juveniles adjudicated delinquent for having committed felony-level criminal sexual conduct~~ in juvenile petitions involving felony- or gross misdemeanor-level offenses:

(1) the name and birth date of the juvenile, including any of the juvenile's known aliases or street names;

(2) the ~~type of~~ act for which the juvenile was ~~adjudicated delinquent~~ petitioned and date of the offense; and

(3) the date and county ~~of the adjudication~~ where the petition was filed.

(b) Upon completion of the court proceedings, the court shall forward the court's finding and case disposition to the bureau. Notwithstanding section 138.17, if the petition was dismissed or the juvenile was not found to have committed a gross misdemeanor or felony-level offense, the bureau and a person who received the data from the bureau shall destroy all data relating to the petition collected under paragraph (a). The bureau shall notify a person who received the data that the data must be destroyed.

(c) The bureau shall retain data on a juvenile found to have committed a felony- or gross misdemeanor-level offense until the offender reaches the age of 28. If the offender commits ~~another~~ a felony violation ~~of sections 609.342 to 609.345~~ as an adult, the bureau shall retain the data for as long as the data would have been retained if the offender had been an adult at the time of the juvenile offense.

~~(c)~~ (d) The juvenile court shall forward to the bureau, the sentencing guidelines commission, and the department of corrections the following data on individuals convicted as extended jurisdiction juveniles:

(1) the name and birthdate of the offender, including any of the juvenile's known aliases or street names;

(2) the crime committed by the offender and the date of the crime; ~~and~~

(3) the date and county of the conviction; and

(4) the case disposition.

The court shall notify the bureau, the sentencing guidelines commission, and the department of corrections whenever it executes an extended jurisdiction juvenile's adult sentence under section 260.126, subdivision 5.

~~(d)~~ (e) The bureau, sentencing guidelines commission, and the department of corrections shall retain the extended jurisdiction juvenile data for as long as the data would have been retained if the offender had been an adult at the time of the offense. Data retained on individuals under this

subdivision are private data under section 13.02, except that extended jurisdiction juvenile data becomes public data under section 13.87, subdivision 2, when the juvenile court notifies the bureau that the individual's adult sentence has been executed under section 260.126, subdivision 5.

Sec. 47. Minnesota Statutes 1995 Supplement, section 268.12, subdivision 12, is amended to read:

Subd. 12. [INFORMATION.] Except as hereinafter otherwise provided, data gathered from any employing unit or individual pursuant to the administration of sections 268.03 to 268.231, and from any determination as to the benefit rights of any individual are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except pursuant to ~~this subdivision or~~ a court order or section 13.05. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

(a) state and federal agencies specifically authorized access to the data by state or federal law;

(b) any agency of this or any other state; or any federal agency charged with the administration of an employment security law or the maintenance of a system of public employment offices;

(c) local human rights groups within the state which have enforcement powers;

(d) the department of revenue shall have access to department of economic security private data on individuals and nonpublic data not on individuals only to the extent necessary for enforcement of Minnesota tax laws;

(e) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

(f) the department of labor and industry on an interchangeable basis with the department of economic security subject to the following limitations and notwithstanding any law to the contrary:

(1) the department of economic security shall have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its duties under sections 268.03 to 268.231; and

(2) the department of labor and industry shall have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its duties under state law;

(g) the department of trade and economic development may have access to private data on individual employing units and nonpublic data not on individual employing units for its internal use only; when received by the department of trade and economic development, the data remain private data on individuals or nonpublic data;

(h) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department of economic security;

(i) local, state, and federal law enforcement agencies for the sole purpose of ascertaining the last known address and employment location of the data subject, provided the data subject is the subject of a criminal investigation; and

(j) the department of health may have access to private data on individuals and nonpublic data not on individuals solely for the purposes of epidemiologic investigations.

Data on individuals and employing units which are collected, maintained, or used by the department in an investigation pursuant to section 268.18, subdivision 3, are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02,

subdivisions 3 and 13, and shall not be disclosed except pursuant to statute or court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

Tape recordings and transcripts of recordings of proceedings conducted in accordance with section 268.105 and exhibits received into evidence at those proceedings are private data on individuals and nonpublic data not on individuals and shall be disclosed only pursuant to the administration of section 268.105, or pursuant to a court order.

Aggregate data about employers compiled from individual job orders placed with the department of economic security are private data on individuals and nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, if the commissioner determines that divulging the data would result in disclosure of the identity of the employer. The general aptitude test battery and the nonverbal aptitude test battery as administered by the department are also classified as private data on individuals or nonpublic data.

Data on individuals collected, maintained, or created because an individual applies for benefits or services provided by the energy assistance and weatherization programs administered by the department of economic security is private data on individuals and shall not be disseminated except pursuant to section 13.05, subdivisions 3 and 4.

Data gathered by the department pursuant to the administration of sections 268.03 to 268.231 shall not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

Sec. 48. Minnesota Statutes 1995 Supplement, section 299A.61, is amended to read:

299A.61 [CRIMINAL ALERT NETWORK.]

Subdivision 1. [ESTABLISHMENT.] 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.

Subd. 2. [DATA ON MEMBERS.] Data that identify individuals or businesses as members of the criminal alert network, including names, addresses, telephone and fax numbers, are private data on individuals or nonpublic data, as defined in section 13.02, subdivision 12 or 9.

Sec. 49. Minnesota Statutes 1994, section 299C.095, is amended to read:

299C.095 [SYSTEM FOR IDENTIFICATION OF ~~ADJUDICATED JUVENILES~~ JUVENILE OFFENDERS.]

(a) The bureau shall ~~establish a system for recording the data on adjudicated juveniles received from the juvenile courts under section 260.161, subdivision 1a~~ administer and maintain the computerized juvenile history record system based on section 260.161 and other statutes requiring the reporting of data on juveniles. The data in the system are private data as defined in section 13.02, subdivision 12, but are accessible to criminal justice agencies as defined in section 13.02, subdivision 3a, to all trial courts and appellate courts, to a person who has access to the juvenile court records as provided in section 260.161 or under court rule.

(b) Except for access authorized under paragraph (a), the bureau shall only disseminate a juvenile history record in connection with a background check required by statute or rule and performed on a licensee, license applicant, or employment applicant or performed under section 624.713. A consent for release of information from an individual who is the subject of a juvenile history is not effective and the bureau shall not release a juvenile history record and shall not release information in a manner that reveals the existence of the record.

Sec. 50. Minnesota Statutes 1995 Supplement, 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, and of community corrections agencies operating secure juvenile detention facilities 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. In addition, the reporting requirements shall include any known aliases or street names of the offenders.

Sec. 51. Minnesota Statutes 1994, section 299C.46, subdivision 2, is amended to read:

Subd. 2. [CRIMINAL JUSTICE AGENCY DEFINED.] For the purposes of sections 299C.46 to 299C.49, "criminal justice agency" ~~shall mean~~ means an agency of the state or an agency of a political subdivision charged with detection, enforcement, prosecution, adjudication or incarceration in respect to the criminal or traffic laws of this state. This definition also includes all sites identified and licensed as a detention facility by the commissioner of corrections under section 241.021.

Sec. 52. [EFFECTIVE DATE.]

Sections 8 and 9 and 36 are effective the day following final enactment.

Sections 46 and 50 are effective August 1, 1996, and apply to offenses occurring on or after that date.

Section 39 is effective August 1, 1997.

ARTICLE 2

Section 1. Minnesota Statutes 1994, section 13.99, subdivision 19c, is amended to read:

Subd. 19c. [DATA ANALYSIS DATA.] Data collected by the data analysis unit are classified under section 62J.30, subdivision 7. Data collected for purposes of sections 62J.301 to 62J.42 that identify patients or providers are classified under section 62J.321, subdivision 5.

Sec. 2. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 19i. [HEALTH DATA INSTITUTE.] Health data institute data are classified under section 62J.452, subdivision 2.

Sec. 3. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 19j. [ESSENTIAL COMMUNITY PROVIDER.] Data on applications for designation as an essential community provider are classified under section 62Q.19, subdivision 2.

Sec. 4. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 20c. [SELF-INSURERS ADVISORY COMMITTEE.] Data received by the self-insurers' advisory committee from the commissioner is classified under section 79A.02, subdivision 2.

Sec. 5. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 21e. [EXCLUSION OF WASTE MATERIALS.] Data included in a document submitted by a transfer station under section 115A.84, subdivision 5, is classified under that subdivision.

Sec. 6. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 28b. [NURSING HOME RESIDENTS.] Access to certain data on assessments of care and services to nursing home residents is governed by section 144.0721, subdivision 2.

Sec. 7. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 31a. [VITAL RECORDS.] Physical access to vital records is governed by section 144.225, subdivision 1.

Sec. 8. Minnesota Statutes 1995 Supplement, section 13.99, subdivision 38b, is amended to read:

Subd. 38b. [LEAD EXPOSURE DATA.] Data on individuals exposed to lead in their residences are classified under ~~section~~ sections 144.874, subdivision 1, 144.9502, subdivision 9, and 144.9504, subdivision 2.

Sec. 9. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 42b. [REPORT OF VIOLATIONS.] Certain reports of violations submitted to the board of medical practice are classified under section 147.121.

Sec. 10. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 85a. [CERTIFICATE OF VALUE.] Data in a real estate certificate of value filed with the county auditor is classified under section 272.115, subdivision 1.

Sec. 11. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 86a. [POLITICAL CONTRIBUTION REFUND.] Certain political contribution refund data in the revenue department are classified under section 290.06, subdivision 23.

Sec. 12. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 86b. [GROSS EARNINGS TAXES.] Certain patient data provided to the department of revenue under chapter 295 are classified under section 295.57, subdivision 2.

Sec. 13. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 92g. [LOTTERY PRIZE WINNER.] Certain data on lottery prize winners are classified under section 349A.08, subdivision 9.

Sec. 14. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 100a. [CHILD SUPPORT ATTORNEYS.] Certain data provided by an applicant or recipient of child support enforcement services are classified under section 518.255."

Delete the title and insert:

"A bill for an act relating to privacy; providing for the classification of and access to government data; indexing statutes that restrict data access and are located outside chapter 13; defining criminal justice agency; making parking space leasing data private; making directory information on persons subject to civil commitment private after their release; authorizing disclosure of certain personnel data to government entities for protection purposes; authorizing the release and disclosure of certain data to the department of children, families, and learning and the commissioner of health; classifying pawnshop data; modifying the requirements for health care provider identification numbers; authorizing disclosure of birth registration data on unwed mothers to county social services; establishing procedures for disclosing certain nonpublic data related to group purchasers; requiring the office of mental health practice to establish procedures for the exchange of information; authorizing release of health records for research purposes under

certain conditions; providing that no fee or surcharge may be imposed for requests for public information concerning motor vehicle registration under certain circumstances; expanding juvenile court reporting requirements to include all felony and gross misdemeanor offenses; classifying data that identifies members of the criminal alert network; requiring the bureau of criminal apprehension to maintain the computerized juvenile criminal history record system; amending Minnesota Statutes 1994, sections 13.02, by adding a subdivision; 13.03, subdivision 4; 13.32, subdivisions 3 and 5; 13.37, subdivisions 1 and 2; 13.40, subdivision 2; 13.42, subdivisions 1 and 2; 13.43, by adding subdivisions; 13.82, subdivision 13, and by adding a subdivision; 13.99, subdivision 19c, and by adding subdivisions; 62J.51, by adding subdivisions; 62J.56, subdivision 2; 62J.60, subdivisions 2 and 3; 144.225, subdivision 2, and by adding a subdivision; 145.64, by adding a subdivision; 148B.66, by adding a subdivision; 150A.081; 168.345, subdivision 3, and by adding a subdivision; 168.346; 171.12, subdivision 7, and by adding a subdivision; 260.161, subdivisions 1 and 1a; 299C.095; and 299C.46, subdivision 2; Minnesota Statutes 1995 Supplement, sections 13.43, subdivision 2; 13.46, subdivision 2; 13.99, subdivision 38b; 62J.451, subdivisions 7, 9, and 12; 62J.54, subdivisions 1, 2, and 3; 62J.58; 62Q.03, subdivision 9; 144.335, subdivision 3a; 268.12, subdivision 12; 299A.61; and 299C.10, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 13."

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

Senate Conferees: (Signed) Jane B. Ranum, Gene Merriam, Sheila M. Kiscaden

House Conferees: (Signed) Mary Jo McGuire, Wesley J. "Wes" Skoglund, Bill Macklin

Ms. Ranum moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2410 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. 2410 was read the third time, as amended by the Conference Committee, and placed on its repassage.

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

The roll was called, and there were yeas 57 and nays 2, as follows:

Those who voted in the affirmative were:

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

Ms. Hanson and Mr. Janezich voted in the negative.

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Moe, R.D., with the concurrence of the first author, moved that H.F. No. 3055 be withdrawn from the Committee on Taxes and Tax Laws, given a second reading and placed on General Orders. The motion prevailed.

H.F. No. 3055: A bill for an act relating to the housing finance agency; making technical and policy changes to the low-income housing tax credit program; amending Minnesota Statutes 1994,

sections 462A.222, subdivisions 1, 1a, 3, and 4; 462A.223, subdivision 2; and 462C.05, by adding a subdivision.

H.F. No. 3055 was read the second time.

Mr. Moe, R.D., with the concurrence of the first author, moved that H.F. No. 1844 be withdrawn from the Committee on Taxes and Tax Laws, given a second reading and placed on General Orders. The motion prevailed.

H.F. No. 1844: A bill for an act relating to taxation; proposing an amendment to the Minnesota Constitution, article XIII, section 1; prohibiting financing of certain education costs with property taxes; changing the date for certification and payment of certain costs for purposes of property tax levies; amending Minnesota Statutes 1994, section 270.52.

H.F. No. 1844 was read the second time.

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated H.F. No. 343 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 343: A bill for an act proposing an amendment to the Minnesota Constitution, article VIII, by adding a section; providing for recall of elected state officers; amending Minnesota Statutes 1994, section 200.01; proposing coding for new law as Minnesota Statutes, chapter 211C.

CALL OF THE SENATE

Mr. Laidig imposed a call of the Senate for the balance of the proceedings on H.F. No. 343. The Sergeant at Arms was instructed to bring in the absent members.

Mr. Berg moved that H.F. No. 343, on Special Orders, be stricken and re-referred to the Committee on Ethics and Campaign Reform.

The question was taken on the adoption of the motion.

Mr. Berg moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 30 and nays 33, as follows:

Those who voted in the affirmative were:

Berg	Johnson, D.E.	Laidig	Novak	Robertson
Day	Johnston	Larson	Oliver	Runbeck
Dille	Kiscaden	Lesewski	Olson	Samuelson
Fischbach	Kleis	Lessard	Ourada	Scheevel
Frederickson	Knutson	Limmer	Pariseau	Stevens
Janezich	Kramer	Neuville	Pogemiller	Terwilliger

Those who voted in the negative were:

Anderson	Hanson	Marty	Pappas	Solon
Beckman	Johnson, D.J.	Merriam	Piper	Spear
Berglin	Johnson, J.B.	Metzen	Price	Stumpf
Betzold	Kelly	Moe, R.D.	Ranum	Vickerman
Chandler	Krentz	Mondale	Reichgott Junge	Wiener
Cohen	Kroening	Morse	Riveness	
Flynn	Langseth	Murphy	Sams	

The motion did not prevail.

Mr. Terwilliger moved to amend H.F. No. 343, the unofficial engrossment, as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. [CONSTITUTIONAL AMENDMENT.]

An amendment to the Minnesota Constitution, adding a section to article IV, is proposed to the people. If the amendment is adopted the section will read as follows:

Sec. 27. The enactment of a law, including a law to repeal other law, may be initiated by the petition of the eligible voters.

A proposal for an initiated law shall be placed on the ballot at a general election if petitions for it are signed by registered voters in each congressional district in a number not less than eight percent of the number of persons who voted in that district for governor at the last election of a governor.

A proposal for an initiated law whose purpose is only to repeal other law shall be placed on the ballot at a general election if petitions for it are signed by registered voters in each congressional district in a number not less than four percent of the number of persons who voted in that district for governor at the last election of a governor. If the law whose repeal is proposed has not gone into effect at the time that completed petitions are filed, the law shall remain suspended until the question is voted on.

An initiated law shall be enacted upon the affirmative vote of a majority of those voting on the question. An initiated law may not be amended or repealed or law repealed by an initiated law may not be again enacted before the second general election after the vote on the initiated law. If an initiative does not receive the required affirmative vote, a substantially similar initiative may not be proposed before the second general election after the vote on the defeated initiative. The governor may not veto an initiated law. If a law that is similar to a pending initiated law is enacted under the other provisions of article IV, the sponsors of the initiative may abandon it. The similar law may provide that, if the sponsors of the initiative decline to abandon it, the similar law will also be placed on the ballot to be voted on like the initiated law. If both receive the affirmative vote of a majority, only that which has the greater vote shall take effect.

An amendment to the constitution may be initiated by the petition of the registered voters subject to the same conditions as an initiative to enact a law. The amendment shall become part of this constitution after the affirmative vote of a majority of those voting on the question.

The legislature may, by a law enacted under the other provisions of article IV, refer a law to a vote of the people. No more than three laws may be referred by the legislature to a vote of the people at the same general election. A referred law shall take effect after the affirmative vote of a majority of those voting on the question.

The legislature shall, by law, provide procedures to facilitate the provisions of this section.

Sec. 2. [QUESTION.]

The amendment shall be submitted to the people at the 1996 general election. The question proposed shall be:

"Shall the Minnesota Constitution be amended to provide for initiative and referendum?

Yes.....
No....."

Sec. 3. [3B.31] [CITATION.]

Sections 3B.31 to 3B.60 may be cited as the initiative and referendum implementation act.

Sec. 4. [3B.32] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The words defined by this section shall, when used in sections 3B.31 to 3B.60, have the meanings given them.

Subd. 2. [GENERAL ELECTION.] "General election" is as defined in section 200.02, subdivision 2.

Subd. 3. [MEASURE.] "Measure" means a law proposed by an initiative or a referred law.

Subd. 4. [PETITION DRIVE.] "Petition drive" means the organized process by which the sponsors and their authorized agents solicit eligible voters to sign initiative petitions.

Subd. 5. [SPONSORS.] "Sponsors" means the persons specified by section 3B.33, subdivision 2, clause (1).

Sec. 5. [3B.33] [PREPARATION FOR PETITIONING.]

Subdivision 1. Before circulation of any petitions to have an initiative placed on the ballot, the sponsors shall file a declaration with the secretary of state not later than March 1 of an odd-numbered year.

Subd. 2. The declaration shall:

(1) state the names, mailing addresses, and a business or residential telephone number of not fewer than 50 eligible voters with an indication of who is the chair and who is the treasurer;

(2) state the name and mailing address of all committees, groups, or organizations known to the sponsors who intend to support the petition drive on the measure or otherwise aid the sponsors;

(3) give a description of the intent or purpose of an initiative;

(4) state a short title, which is not misleading, by which the sponsors want the initiative to be identified; and

(5) state the name, address, and telephone number of a person who is generally available to work on the final form and wording of the measure and is authorized to approve its final form and wording.

Subd. 3. Upon notification, the secretary of state shall add other committees, groups, and organizations that support the measure to those listed in the declaration.

Subd. 4. The secretary of state shall provide a sample declaration form.

Subd. 5. The sponsors shall pay to the secretary of state a filing fee of $200.

Sec. 6. [3B.34] [ADVICE BY REVISOR OF STATUTES.]

Subdivision 1. The secretary of state shall immediately forward one copy of each declaration to the revisor of statutes. The secretary of state shall also advise the sponsors to consult with the revisor.

Subd. 2. The revisor of statutes shall, before July 1 of the odd-numbered year, prepare a final draft of an initiative. The intent and purpose may be amplified or refined by the person authorized by the declaration to approve the form and wording of the measure. The revisor shall advise that sponsor as to the measure's constitutionality, and the best form of the measure to accomplish the sponsors' intent and purpose. However, if the revisor and the sponsors disagree as to the best form and content of the measure to accomplish the sponsors' intent and purpose, or disagree as to constitutionality, the directions of the sponsors shall prevail. All discussions by the revisor with the sponsors shall be treated by the revisor as confidential. If, after consulting the revisor, the sponsors do not desire the revisor's assistance, the chair shall sign a written waiver of assistance. The waiver shall then be filed with the secretary of state and the revisor, together with a final draft of the initiative prepared by the sponsors. Together with the final draft prepared by the revisor, or within seven days after receiving the waiver and final draft prepared by the sponsors, the revisor shall furnish the sponsors and the secretary of state with a summary of the measure to be proposed to the people.

Subd. 3. The form of initiatives shall conform to the form of bills considered by the legislature.

The enacting clause shall be "BE IT ENACTED BY THE PEOPLE OF THE STATE OF MINNESOTA." No initiative shall embrace more than one subject. The measure may not provide for the form of the ballot question by which it would be submitted to the electors.

Subd. 4. If the sponsors, within 63 days after filing their declaration, have not filed with the secretary of state either the revisor's final draft or their waiver of assistance from the revisor and a final draft prepared by them, the petition drive shall be deemed abandoned.

Sec. 7. [3B.35] [PETITIONS FOR INITIATIVE.]

Subdivision 1. Each initiative petition shall consist of as many copies as the sponsors print, each of which shall be not more than one sheet of paper and contain the following on the front:

(1) in not less than 24-point bold type on a 30-point body at the top of the front page, the printed words "OFFICIAL INITIATIVE PETITION";

(2) the short title by which the measure is to be identified and the chair of the sponsors;

(3) the summary of the measure prepared by the revisor;

(4) a statement that a verbatim copy of the initiative is available for public examination at the office of the secretary of state or any county auditor; and

(5) space for eligible voters to sign the petition including space for the signature, printed name, telephone number, mailing address, county and congressional district of residence, and an indication of status as eligible voter.

Subd. 2. On the front or back of each petition shall be an affidavit for the person who circulated the petition which shall include the person's name, mailing address, and telephone number; indicate that to the best of the person's knowledge each of the signers is an eligible voter and resident in the county and congressional district indicated; identify the sponsors on whose behalf the petition was circulated; and state the period during which it was circulated. If a solicitor is used to obtain signatures to a petition, the amount and nature of the solicitor's compensation shall be printed in ten-point bold type on each copy of the petition upon which signatures are placed in consequence of the solicitation.

Subd. 3. At the time that the final draft of the initiative measure is filed with the secretary of state, the sponsors shall also file a copy of the petition with the secretary of state. Within seven days the secretary of state shall examine the petition and determine whether it complies with this section. If the petition complies, the secretary of state shall approve it and notify the sponsors. If the secretary of state finds that the petition does not comply, the secretary of state shall disapprove it and order it redrafted. The secretary of state shall notify the sponsors that the petition does not comply with the law and specify what changes are necessary to bring it into compliance. Failure to refile a new petition drafted in accordance with the secretary of state's instructions not later than seven days after the secretary of state's notice constitutes abandonment of the petition drive. Upon refiling, the secretary of state shall again examine the petition for its compliance with this section and approve it or again reject it within seven days after the refiling. The petition may subsequently be refiled until it is found to comply with the law and rules.

Subd. 4. The secretary of state shall, within seven calendar days after approving the initiative, send to the county auditor in each county a verbatim copy of the initiative as on file in the secretary of state's office.

Sec. 8. [3B.36] [TIME OF CIRCULATION OF PETITIONS; VOLUNTARY ABANDONMENT.]

Subdivision 1. Initiative petitions may only be circulated on those days of odd-numbered years which are more than eight calendar days after the date of the secretary of state's approval of the petition. Sponsors may undertake organizational activity or complete the procedures of section 3B.33, 3B.34, or 3B.35 before petitions are circulated.

Subd. 2. The sponsors may abandon the petition drive at any time before the petition is certified

by the secretary of state as provided in section 3B.42. To abandon the drive, a declaration to that effect shall be filed with the secretary of state. The filing of the declaration shall not prevent other sponsors from beginning a similar or identical petition drive. All petitions signed before the declaration are void upon the filing of the declaration and may not subsequently be used by new sponsors.

Subd. 3. Petitions which are signed but never filed, or which are filed but the number of signatures is later determined to be insufficient, are void after the year in which they were signed. The petitions may not be used for similar or identical petition circulation efforts in subsequent years.

Sec. 9. [3B.37] [SIGNATURES.]

An initiative shall be placed on the ballot if petitions for it are signed by eligible voters in each congressional district of the state in a number not less than the percent of the number of persons who voted at the last general election in that congressional district that is required by the constitution.

Sec. 10. [3B.38] [FILING OF PETITIONS.]

The sponsors shall file the signed petitions with the secretary of state not later than October 1 of the year in which the petitions are circulated. Before filing the signed petitions the sponsors shall securely bind them together. Only the sponsors, or those authorized in writing by the sponsors, may file petitions.

Sec. 11. [3B.39] [PETITIONS RECEIVED BY SECRETARY OF STATE AND SIGNATURES COUNTED.]

The secretary of state shall determine the number of signatures on the petitions filed and shall, not later than October 10, give written notification to the sponsors of the number of signatures from each congressional district. If the number of signatures filed is fewer than the minimum number of signatures required from a congressional district, petitions for additional signatures may be circulated for one additional period of 21 days commencing from the date of notification.

Sec. 12. [3B.40] [VERIFICATION OF PETITIONS.]

Subdivision 1. Not later than December 31 of the year in which the petitions were signed, the secretary of state shall determine whether a sufficient number of valid signatures has been obtained. The secretary of state may verify signatures by the random sampling method provided in section 3B.41. County auditors, at the secretary of state's request, shall assist the secretary of state to verify signatures. Any eligible voter may challenge the number or validity of signatures on the petition. The secretary of state shall determine the contest of the number or validity of signatures by an eligible voter.

Subd. 2. A signature is valid when:

(1) it is voluntarily signed by the person named;

(2) the signatory is an eligible voter;

(3) the signatory is a resident of the congressional district indicated on the petition; and

(4) the signature is identifiable.

Subd. 3. An eligible voter contesting the sufficiency or validity of signatures shall file a protest within the time provided in subdivision 1 for the secretary of state to verify the petitions or within seven days of the determination of the secretary of state under subdivision 1, whichever occurs earlier. The protest shall include a brief statement of the evidence of insufficiency or invalidity. If an eligible voter contests the sufficiency or validity of signatures in bad faith, the voter may be assessed costs of the contest up to a maximum of $2,000. The secretary of state shall hear evidence and determine contests within 21 days after the protest is filed.

Subd. 4. If the secretary of state determines that the number of valid signatures is fewer than the number required, the secretary shall so notify the sponsors, and petitions for additional signatures may be circulated for an additional period of 21 days, in the case of a determination of an actual number deficiency, or 35 days, in the case of an estimated number deficiency, commencing from the date of notification. The secretary shall verify a random sample of the additional signatures within ten days of receiving them. If the verification from the random sample of the additional signatures does not show that the total number of valid signatures on the additional petitions is 100 percent or more of the deficiency, the secretary shall notify the sponsors. No further action shall then be taken on the petitions.

Sec. 13. [3B.41] [RANDOM SAMPLING METHOD OF SIGNATURE VERIFICATION.]

Subdivision 1. A sample of signatures to be verified shall be drawn in such a manner that every signature filed with the secretary of state shall be given an equal opportunity to be included in the sample. The sample shall include five percent of the signatures.

Subd. 2. If the verification from the statistical sample shows that the total number of valid signatures on all the petitions is 100 percent or more of the minimum number of signatures needed to declare the number of petition signatures to be sufficient for each congressional district, the secretary of state shall determine the number of valid signatures to be sufficient. The number of valid signatures shall be determined by taking the total number of signatures filed in each congressional district and multiplying it by the percentage of signatures in the statistical sample which were found to be valid. In calculating the number of valid signatures, any fractions shall be rounded up to one.

Subd. 3. If the verification from the statistical sample shows that the number of valid signatures is less than 100 percent of the minimum number of signatures needed to declare the number of petition signatures to be sufficient for each congressional district, the secretary of state shall determine that the number of petition signatures is insufficient. The secretary shall give the sponsors written notice of what percentage of the signatures is valid.

Sec. 14. [3B.42] [CERTIFICATION BY SECRETARY OF STATE.]

If the number of petition signatures from each congressional district meets the minimum number required, the secretary of state shall certify the sufficiency of the petitions to the sponsors and all county auditors. The question of adoption of the law proposed by an initiative petition shall then be placed on the ballot for the general election. The secretary of state's certificate shall state the wording of the question to be placed on the ballot. The executive council shall recommend to the secretary of state a wording for the question. The ballot question shall be a true and impartial statement of the intent and purpose of the initiative. It shall be in similar form as a ballot question for a legislative proposal of a constitutional amendment.

Sec. 15. [3B.43] [ABANDONMENT OF INITIATIVE.]

The sponsors of an initiative may abandon the measure after the sufficiency and validity of the petition is certified by the secretary of state and before June 1 of the even-numbered year after the petition is filed, if the legislature has enacted a law with a similar scope and purpose during that period. The measure is abandoned if four-fifths of the sponsors sign a written declaration abandoning the measure and the declaration is filed with the secretary of state. If an initiative is abandoned as provided in this section, it shall not be placed on the ballot and the petition shall not be effective to initiate any other proposed law or refer any other existing law.

Sec. 16. [3B.44] [PLACEMENT OF LAW ON BALLOT.]

If an initiative petition has been certified so that an initiative will appear on the ballot at the next general election and the legislature enacts a law with a scope and purpose similar to that of the initiative measure during its regular session in that general election year, the legislature may place that law on the ballot. The law shall appear on the ballot as provided by the legislature unless the initiative is abandoned as provided in section 3B.43.

Sec. 17. [3B.45] [NUMBERING OF BALLOT MEASURES.]

The secretary of state shall number in consecutive order each initiative or referendum ballot measure with the wording "INITIATIVE NUMBER...." or "REFERENDUM NUMBER...." Initiatives and referenda shall be numbered starting from the number one for the first of each certified to be placed on the ballot after the effective date of this section. Initiatives and referenda which are certified to appear on the ballot in general elections in subsequent years shall be numbered beginning with the first number after the number of the last initiative or referendum at the last general election. Their order on the ballot shall be assigned by the secretary of state.

Sec. 18. [3B.46] [BALLOTS, VOTING, AND CANVASSING.]

For all initiatives, the ballots shall be prepared, voting conducted, results canvassed, contests conducted, and results certified as provided by chapters 200 to 211B.

Sec. 19. [3B.47] [TIME OF ELECTION.]

Voting upon initiatives and referendums shall be held only at a general election.

Sec. 20. [3B.48] [SIMULTANEOUS PETITIONS FOR INITIATIVE MEASURES.]

Nothing shall prevent multiple simultaneous petition drives involving identical initiatives by the same or different sponsors. However, the first determination by the secretary of state of the sufficiency of the signatures for one measure shall constitute abandonment of the other petition drives as of the date of the secretary's determination.

Sec. 21. [3B.49] [COSTS OF COUNTY AUDITORS TO VERIFY SIGNATURES.]

Subdivision 1. The state shall reimburse all county auditors for all reasonable costs of assisting in the verification of signatures on initiative petitions.

Subd. 2. Each year prior to May 1, each auditor shall submit to the secretary of state a verified statement of expenditures incurred in the previous calendar year. The statement shall specify how all costs were incurred.

Subd. 3. The secretary of state shall, within 30 days after receipt of each auditor's statement, pay to each county auditor the costs which the secretary determines are reasonable.

Subd. 4. The secretary of state shall, by rule, provide for the standards of what costs will be reimbursed by the state.

Sec. 22. [3B.50] [RESOLUTION OF CONFLICTS BETWEEN MEASURES.]

Subdivision 1. Nothing shall prevent petitioning for measures which are apparently in substantial conflict.

Subd. 2. If two initiatives or initiatives and referendums which substantially conflict are adopted by a vote of the people, the one receiving the largest number of affirmative votes shall be effective. If it is finally determined that the measures received an equal number of affirmative votes, neither shall become effective, but they shall again be placed on the ballot at the next general election.

Subd. 3. Two or more measures substantially conflict when any material provision in one measure is irreconcilable with a material provision in another measure. A petition may be filed with the district court by any eligible voter alleging that two or more adopted measures substantially conflict. A copy of the petition shall be served upon the sponsors and upon the attorney general. The district court shall issue its findings and conclusions within 60 days of the filing of the petition. Upon a finding that any provisions of measures substantially conflict, the district court shall find that the entire measures conflict and state which measure prevails under the provisions of subdivision 2.

Sec. 23. [3B.51] [PUBLICATION.]

Initiative or referendum measures which are adopted by the people shall be published by the revisor of statutes in Laws of Minnesota and be codified like other laws.

Sec. 24. [3B.52] [VOTERS GUIDES.]

Subdivision 1. The secretary of state shall prepare a comprehensive guide to explain and assist persons to organize and begin an initiative campaign.

Subd. 2. At least two weeks before any election at which the voters will vote on an initiative or referendum, the secretary of state shall mail to each registered voter a voter guide that explains in comprehensible language the purpose of the measure, and states the arguments for and against the measure. The secretary of state shall obtain the assistance of nonpartisan citizen organizations to assist in the preparation of the guide.

Sec. 25. [3B.53] [LITERATURE MUST INCLUDE NAMES.]

Any person or committee who shall publish, issue, post, circulate, or cause to be published, issued, posted, circulated, other than in a newspaper as provided in section 3B.54, any literature, campaign material, or any publication, including cards, pamphlets, flyers, signs, banners, leaflets, announcements, or other material tending to influence persons to sign or refuse to sign an initiative petition or to influence the voting at an election on an initiative or referendum, which fails to prominently display the name and mailing address of the author, the name of the person or committee in whose behalf the same is published, issued, posted, or circulated, and the name and mailing address of any other person or committee causing the same to be published, issued, posted, circulated, or broadcasted is guilty of a misdemeanor.

Sec. 26. [3B.54] [PAID ADVERTISEMENTS IN NEWS.]

Subdivision 1. No publisher of a newspaper, periodical, or magazine shall insert in that newspaper, magazine, or periodical, and no radio or television station shall broadcast any matter paid or to be paid for which tends or is intended to influence directly or indirectly persons to sign or refuse to sign an initiative petition or voting at an election on a ballot issue unless it is prominently indicated that it is a paid advertisement.

Subd. 2. To the extent that any person sells either advertising space or broadcast time used on behalf of any measure, the charges made shall not exceed the charges made for any other comparable purpose or use according to the seller's rate schedule.

Sec. 27. [3B.55] [DISCLOSURE TO ETHICAL PRACTICES BOARD.]

For the purpose of section 10A.01, subdivision 15, "political committee" includes any association organized to promote or defeat a ballot question, including the sponsors of a petition as defined by section 3B.32, subdivision 5, and any association that gives implicit or explicit consent for any other person to receive contributions or make expenditures to promote or defeat a ballot question.

Sec. 28. [3B.56] [PROHIBITIONS.]

Subdivision 1. No person shall:

(1) be paid compensation for signing an initiative petition;

(2) willfully refuse to file a statement of expenses regarding an initiative when required by law;

(3) publish any literature, campaign material, or any publication including cards, pamphlets, flyers, signs, banners, leaflets, or other material or any radio or television broadcast regarding an initiative which does not bear the identification required by law;

(4) publish in any newspaper, periodical, or magazine any paid advertising matter relating to an initiative which does not contain the identification required by law;

(5) file a petition for an initiative with the secretary of state without the written authorization of the sponsors;

(6) induce a person to sign a petition by fraud, force, or the threat of force;

(7) pay compensation for signing an initiative petition;

(8) publish or broadcast any information regarding an initiative with knowledge that it is false and which tends to substantially affect adoption or rejection of the measure when the publication or broadcast is undertaken primarily for the purpose of influencing adoption or rejection;

(9) sign a petition with a name other than the person's own name; or

(10) intentionally sign the same petition more than once.

Subd. 2. Any person violating any provision of subdivision 1, clauses (1) to (5), is guilty of a misdemeanor. Any person violating any provision of subdivision 1, clauses (6) to (10), is guilty of a gross misdemeanor.

Sec. 29. [3B.57] [ACTION BY AND NOTIFICATIONS TO SPONSORS.]

Subdivision 1. Only sponsors, or those authorized by them in writing, may file any required document or statement regarding initiative petitions, measures, or campaigns including election contests or petition signature count or validity contests.

Subd. 2. The signature of the chair, the sponsors, or a person authorized in writing by the chair, is sufficient to authorize the filing of any statement or document required by law. If the chair authorizes another person to file any statement or document, a copy of the authorization shall be attached to the filed statement or document.

Subd. 3. If notice is required to be given to the sponsors, it shall be given to those persons provided in subdivision 2 who may authorize any filing.

Sec. 30. [3B.58] [PHYSICAL DELIVERY OF DOCUMENTS.]

In sections 3B.31 to 3B.60, whenever a document is required to be filed or received, only physical deposit of the document with the indicated person constitutes filing or receipt. A mailing date within the time period is not sufficient.

Sec. 31. [3B.59] [JUDICIAL REVIEW.]

Subdivision 1. The district court shall have original jurisdiction of any suit involving:

(1) the sufficiency of the number or the validity of signatures on petitions after the administrative determinations by the secretary of state have been exhausted; or

(2) resolution of conflicts between initiative or referendum measures as provided by section 3B.50; or

(3) any suit alleging the unconstitutionality of an adopted initiative or referendum measure.

Subd. 2. Venue for all suits and criminal prosecutions involving initiative or referendum matters shall be in the district court in Ramsey county.

Sec. 32. [3B.60] [COPIES.]

The secretary of state shall provide the election officials in each county with copies of each measure proposed by initiative or referendum which shall be made available to the public.

Sec. 33. Minnesota Statutes 1994, section 10A.20, is amended by adding a subdivision to read:

Subd. 2a. In addition to the reports required by subdivision 2, a political committee organized to promote or defeat an initiative or referendum shall also file reports not later than five days after a petition to place the question on the ballot is certified pursuant to section 3B.42.

Sec. 34. Minnesota Statutes 1994, section 204C.19, subdivision 2, is amended to read:

Subd. 2. [BALLOTS; ORDER OF COUNTING.] Except as otherwise provided in this subdivision, the ballot boxes shall be opened, the votes counted, and the total declared one box at a

time in the following order: the white box, the pink box, the violet box, the canary box, the light green box, the blue box, the buff box, the goldenrod box, the gray box, and then the other kinds of ballots voted at the election. If enough election judges are available to provide counting teams of four or more election judges for each box, more than one box may be opened and counted at the same time. The election judges on each counting team shall be evenly divided between the major political parties. The numbers entered on the summary sheet shall not be considered final until the ballots in all the boxes have been counted and corrections have been made if ballots have been deposited in the wrong boxes.

Sec. 35. Minnesota Statutes 1994, section 204C.27, is amended to read:

204C.27 [DELIVERY OF RETURNS TO COUNTY AUDITORS.]

One or more of the election judges in each precinct shall deliver two sets of summary statements; all spoiled white, pink, violet, canary, and gray ballots; and the envelopes containing the white, pink, canary, and gray ballots either directly to the municipal clerk for transmittal to the county auditor's office or directly to the county auditor's office as soon as possible after the vote counting is completed but no later than 24 hours after the end of the hours for voting. One or more election judges shall deliver the remaining set of summary statements and returns, all unused and spoiled municipal and school district ballots, the envelopes containing municipal and school district ballots, and all other things furnished by the municipal or school district clerk, to the municipal or school district clerk's office within 24 hours after the end of the hours for voting. The municipal or school district clerk shall return all polling place rosters and completed voter registration cards to the county auditor within 48 hours after the end of the hours for voting.

Sec. 36. Minnesota Statutes 1994, section 204C.33, is amended to read:

204C.33 [CANVASS OF STATE GENERAL ELECTIONS.]

Subdivision 1. [COUNTY CANVASS.] The county canvassing board shall meet at the county auditor's office on or before the third day following the state general election. After taking the oath of office, the board shall promptly and publicly canvass the general election returns delivered to the county auditor. Upon completion of the canvass, the board shall promptly prepare and file with the county auditor a report which states:

(a) the number of individuals voting at the election in the county and in each precinct;

(b) the number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;

(c) the names of the candidates for each office and the number of votes received by each candidate in the county and in each precinct;

(d) the number of votes counted for and against a proposed change of county lines or county seat; ~~and~~

(e) the number of votes counted for and against a constitutional amendment or other question in the county and in each precinct; and

(f) the number of votes counted for and against each initiative and referendum.

Upon completion of the canvass, the county canvassing board shall declare the candidate duly elected who received the highest number of votes for each county and state office voted for only within the county. The county auditor shall promptly certify to the secretary of state the vote reported by the county canvassing board for candidates voted for in more than one county.

Subd. 2. [COUNTY CANVASSING BOARD REPORTS; PUBLIC AVAILABILITY.] The county auditor of each county shall provide a certified copy of the county canvassing board report to anyone who requests it upon payment to the auditor of costs of reproduction actually incurred by the auditor's office. The auditor shall not take into account the general office expenses or other expenses.

Subd. 3. [STATE CANVASS.] The state canvassing board shall meet at the secretary of state's office on the second Tuesday following the state general election to canvass the certified copies of the county canvassing board reports received from the county auditors and shall prepare a report that states:

(a) the number of individuals voting in the state and in each county;

(b) the number of votes received by each of the candidates, specifying the counties in which they were cast; ~~and~~

(c) the number of votes counted for and against each constitutional amendment, specifying the counties in which they were cast; and

(d) the number of votes counted for and against each initiative and referendum.

All members of the state canvassing board shall sign the report and certify its correctness. The state canvassing board shall declare the result within three days after completing the canvass.

Sec. 37. Minnesota Statutes 1994, section 204D.11, is amended by adding a subdivision to read:

Subd. 3a. [VIOLET BALLOT.] All initiative or referendum ballot questions shall be on one violet ballot. The order of the questions shall be the order assigned under section 3B.45.

Sec. 38. Minnesota Statutes 1994, section 204D.15, is amended to read:

204D.15 [PINK ~~BALLOT~~ AND VIOLET BALLOTS; FORM; DISTRIBUTION; SAMPLE BALLOT.]

Subdivision 1. [TITLES FOR CONSTITUTIONAL AMENDMENTS.] The secretary of state shall provide an appropriate title for each question printed on the pink ~~ballot~~ and violet ballots. The title shall be approved by the attorney general, and shall consist of not more than one printed line above the question to which it refers. At the top of the pink ballot just below the heading, a conspicuous notice shall be printed stating that a voter's failure to vote on a constitutional amendment has the effect of a negative vote.

Subd. 2. [DISTRIBUTION.] The pink ~~ballot~~ and violet ballots shall be provided in groups of 50. At least 25 days before the state general election the secretary of state shall forward to the county auditor of each county sufficient ballots to enable the county auditor to comply with the absentee voting provisions of section 204B.28, subdivision 2. The county auditor shall give a receipt to the secretary of state stating the number of pink and violet ballots and the date when they were received.

Subd. 3. [SAMPLE PINK ~~BALLOT~~ AND VIOLET BALLOTS.] Four weeks before the state general election the secretary of state shall file sample copies of the pink ~~ballot~~ and violet ballots in the secretary of state's office for public inspection. Three weeks before the state general election the secretary of state shall mail sample copies of the pink ~~ballot~~ and violet ballots to each county auditor. Each auditor shall post the sample ballot in a conspicuous place in the auditor's office.

Sec. 39. Minnesota Statutes 1994, section 204D.16, is amended to read:

204D.16 [SAMPLE GENERAL ELECTION BALLOTS; POSTING; PUBLICATION.]

Two weeks before the state general election the county auditor shall prepare sample copies of the white and canary ballots and shall post copies of these sample ballots and a sample of the pink ~~ballot~~ and violet ballots in the auditor's office for public inspection. No earlier than 15 days and no later than two days before the state general election the county auditor shall cause the sample white and canary ballots to be published in at least one newspaper of general circulation in the county.

Sec. 40. Minnesota Statutes 1994, section 204D.165, is amended to read:

204D.165 [SAMPLE BALLOTS TO SCHOOLS.]

Notwithstanding any contrary provisions in section 204D.09 or 204D.16, the county auditor, two weeks before the applicable primary or general election, shall provide one copy of the sample partisan primary, nonpartisan primary, canary, white, ~~or~~ pink, or violet ballot to a school district upon request. The school district may have the sample ballots reproduced at its expense for classroom educational purposes and for educational activities authorized under section 204B.27, subdivision 7.

Sec. 41. [EFFECTIVE DATE.]

Sections 3 to 40 take effect the day after approval by the people of the constitutional amendment proposed by section 1.

ARTICLE 2

Section 1. [CONSTITUTIONAL AMENDMENT.]

An amendment to the Minnesota Constitution, article VIII, section 5, is proposed to the people. If the amendment is adopted, article VIII, section 5, will read:

Sec. 5. Every elected state officer is subject to recall from office. The recall is commenced by filing a petition with the secretary of state. The sufficiency of any statement of reasons or grounds shall be a political rather than a judicial question. The petition must be signed by a number of eligible voters not less than 20 percent of the number who voted for all candidates for the office at the most recent general election. Upon determining that the signatures are sufficient, the secretary of state shall conduct a recall election in the manner provided by law. A recall election may not be held less than six months before the end of the officer's term.

The legislature of this state may provide for the removal of inferior officers for malfeasance or nonfeasance in the performance of their duties.

Sec. 2. [SCHEDULE AND QUESTION.]

The amendment shall be submitted to the people at the 1996 general election. The question submitted must be:

"Shall the Minnesota Constitution be amended to provide for recall of elected state officers?

Yes.....
No....." "

Amend the title accordingly

Ms. Reichgott Junge questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Mr. Terwilliger appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 38 and nays 23, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Langseth	Ourada	Samuelson
Beckman	Hottinger	Lessard	Pappas	Solon
Berg	Janezich	Marty	Piper	Spear
Berglin	Johnson, D.J.	Merriam	Pogemiller	Stumpf
Betzold	Johnson, J.B.	Metzen	Price	Vickerman
Chandler	Kelly	Moe, R.D.	Ranum	Wiener
Cohen	Krentz	Morse	Reichgott Junge	
Flynn	Kroening	Novak	Sams	

Those who voted in the negative were:

Day	Johnston	Laidig	Oliver	Scheevel
Dille	Kiscaden	Larson	Olson	Stevens
Fischbach	Kleis	Lesewski	Pariseau	Terwilliger
Frederickson	Knutson	Limmer	Robertson	
Johnson, D.E.	Kramer	Neuville	Runbeck	

The decision of the President was sustained.

Mr. Neuville moved to amend H.F. No. 343, the unofficial engrossment, as follows:

Page 6, after line 11, insert:

"ARTICLE 3

Section 1. [CONSTITUTIONAL AMENDMENT.]

An amendment to the Minnesota Constitution, changing article IV, section 4, and article V, sections 2 and 4, and adding a section to article XII, is proposed to the people.

If the amendment is adopted, article IV, section 4, will read:

Sec. 4. Representatives shall be chosen for a term of two years, except to fill a vacancy. Senators shall be chosen for a term of four years, except to fill a vacancy and except there shall be an entire new election of all the senators at the first election of representatives after each new legislative apportionment provided for in this article. No person may file to be a candidate for election to a full term of two or four years that, if served, would cause the person to serve more than ten consecutive years in the legislature. The governor shall call elections to fill vacancies in either house of the legislature.

article V, section 2, will read:

Sec. 2. The term of office for the governor and lieutenant governor is four years and until a successor is chosen and qualified. No person may file to be a candidate for election to a third consecutive full term as governor or to a third consecutive full term as lieutenant governor. Each shall have attained the age of 25 years and, shall have been a bona fide resident of the state for one year next preceding his election, and shall be a citizen of the United States.

article V, section 4, will read:

Sec. 4. The term of office of the secretary of state, treasurer, attorney general and state auditor is four years and until a successor is chosen and qualified. No person may file to be a candidate for election to a third consecutive full term in one of the offices of secretary of state, state treasurer, attorney general, or state auditor. The duties and salaries of the executive officers shall be prescribed by law.

and a new section added to article XII will read:

Sec. 6. A county or other local government unit may provide limits on the service of its elected officials.

Sec. 2. [SCHEDULE AND QUESTION.]

The amendment shall be submitted to the people at the 1996 general election.

Terms served pursuant to elections in 1996 or prior years shall be disregarded in the determination of the limits imposed by the amendment. The question submitted to the people shall be:

"Shall the Minnesota Constitution be amended to provide for limits on the terms of office of state legislators and executive and local government officers?

Yes.....
No....." "

Amend the title accordingly

Ms. Reichgott Junge questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Mr. Neuville appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 37 and nays 24, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Day	Johnston	Laidig	Oliver	Runbeck
Dille	Kiscaden	Larson	Olson	Scheevel
Fischbach	Kleis	Lesewski	Ourada	Stevens
Frederickson	Knutson	Limmer	Pariseau	Terwilliger
Johnson, D.E.	Kramer	Neuville	Robertson	

The decision of the President was sustained.

Mr. Laidig moved to amend H.F. No. 343, the unofficial engrossment, as follows:

Delete everything after the enacting clause and insert:

"Section 1. [CONSTITUTIONAL AMENDMENT.]

An amendment to the Minnesota Constitution, article VIII, section 5, is proposed to the people. If the amendment is adopted, article VIII, section 5, will read:

Sec. 5. Every elected state officer is subject to recall from office. The recall is commenced by filing a petition with the secretary of state. The sufficiency of any statement of reasons or grounds shall be a political rather than a judicial question. The petition must be signed by a number of eligible voters not less than 20 percent of the number who voted for all candidates for the office at the most recent general election. Upon determining that the signatures are sufficient, the secretary of state shall conduct a recall election in the manner provided by law. A recall election may not be held less than six months before the end of the officer's term.

The legislature of this state may provide for the removal of inferior officers for malfeasance or nonfeasance in the performance of their duties.

Sec. 2. [SCHEDULE AND QUESTION.]

The amendment shall be submitted to the people at the 1996 general election. The question submitted must be:

"Shall the Minnesota Constitution be amended to provide for recall of elected state officers?

Yes.....
No....." "

Mr. Neuville moved to amend the Laidig amendment to H.F. No. 343 as follows:

Page 1, line 13, delete "20" and insert "25"

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

The question recurred on the Laidig amendment, as amended.

The roll was called, and there were yeas 30 and nays 33, as follows:

Those who voted in the affirmative were:

Berg	Johnson, D.J.	Kroening	Murphy	Robertson
Day	Johnston	Laidig	Neuville	Runbeck
Dille	Kiscaden	Larson	Oliver	Samuelson
Fischbach	Kleis	Lesewski	Olson	Scheevel
Frederickson	Knutson	Lessard	Ourada	Stevens
Johnson, D.E.	Kramer	Limmer	Pariseau	Terwilliger

Those who voted in the negative were:

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

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

H.F. No. 343 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 34 and nays 29, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Berg	Johnson, D.E.	Laidig	Novak	Robertson
Day	Johnston	Larson	Oliver	Runbeck
Dille	Kiscaden	Lesewski	Olson	Scheevel
Fischbach	Knutson	Lessard	Ourada	Stevens
Frederickson	Kramer	Limmer	Pariseau	Terwilliger
Janezich	Kroening	Neuville	Pogemiller	

So the bill 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 Reports of Committees.

REPORTS OF COMMITTEES

Ms. Flynn from the Committee on Transportation and Public Transit, to which was re-referred

S.F. No. 1829: A bill for an act relating to metropolitan airports; limiting metropolitan council zoning approval authority; prohibiting construction by metropolitan airports commission of new major airport; prohibiting stage 2 aircraft; requiring expedited implementation of long-term airport

plan; limiting scope of final environmental impact statement; requiring diversion of air traffic to reliever airports; prohibiting construction of third parallel runway and west passenger terminal; requiring environmental reports on long-term airport plan; requiring metropolitan airports commission to budget money for mitigation of noise impacts of north-south runway; requiring minimum expenditure of $135 million for noise mitigation; requiring annual report of airport operations and capacity; amending Minnesota Statutes 1994, sections 473.155, by adding a subdivision; 473.608, subdivisions 2, 6, 16, and by adding subdivisions; 473.614, by adding a subdivision; 473.661, subdivision 4; and 473.621, by adding a subdivision; repealing Minnesota Statutes 1994, sections 473.1551, subdivision 2; 473.636; and 473.637.

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

Page 3, line 23, delete "EXPEDITED"

Page 3, line 25, delete "expedite implementation of" and insert "implement"

Page 3, delete lines 27 to 29 and insert "comprehensive plan."

Page 4, line 20, delete everything before the period

Page 5, line 29, delete "north-south"

Page 5, line 33, delete "north-south" and insert "new"

Page 6, line 1, delete "north-south" and insert "new"

And when so amended the bill do pass and be re-referred to the Committee on Rules and Administration.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Mr. Moe, R.D., with the concurrence of the first author, moved that S.F. No. 1829 be withdrawn from the Committee on Rules and Administration, that the amendments of the Committee on Transportation and Public Transit be adopted and that the bill be given a second reading and placed on General Orders. The motion prevailed. Amendments adopted.

S.F. No. 1829 was read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 10, Mr. Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 1829 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 1829: A bill for an act relating to metropolitan airports; limiting metropolitan council zoning approval authority; prohibiting construction by metropolitan airports commission of new major airport; prohibiting stage 2 aircraft; requiring expedited implementation of long-term airport plan; limiting scope of final environmental impact statement; requiring diversion of air traffic to reliever airports; prohibiting construction of third parallel runway and west passenger terminal; requiring environmental reports on long-term airport plan; requiring metropolitan airports commission to budget money for mitigation of noise impacts of north-south runway; requiring minimum expenditure of $135 million for noise mitigation; requiring annual report of airport operations and capacity; amending Minnesota Statutes 1994, sections 473.155, by adding a subdivision; 473.608, subdivisions 2, 6, 16, and by adding subdivisions; 473.614, by adding a subdivision; 473.661, subdivision 4; and 473.621, by adding a subdivision; repealing Minnesota Statutes 1994, sections 473.1551, subdivision 2; 473.636; and 473.637.

Ms. Wiener moved to amend S.F. No. 1829 as follows:

Page 4, delete section 10 and insert:

"Sec. 10. Minnesota Statutes 1994, section 473.608, is amended by adding a subdivision to read:

Subd. 28. [CONSTRUCTION OF THIRD PARALLEL RUNWAY.] The corporation must enter into a contract with affected cities, providing that, for valuable consideration received, the corporation shall not construct a third parallel runway at Minneapolis-St. Paul International airport without the approval of all affected cities. An "affected city" is any city that would experience an increase in the area located within the 60, 65, 70, or 75 Ldn noise contour as a result of operations using the third parallel runway."

Page 5, line 19, delete "2001" and insert "2002"

Page 5, line 20, delete "$135,000,000" and insert "$185,000,000"

Page 6, line 13, strike "legislature" and insert "state advisory council on metropolitan airport planning" and delete "noise"

Page 6, line 14, strike "noise" and after "mitigation" insert "activities"

Page 6, line 16, after the period, insert "The state advisory council on metropolitan airport planning shall review the recommendation and comment to the legislature within 60 days after the recommendation is submitted to the council."

Page 6, after line 31, insert:

"Sec. 14. Laws 1989, chapter 279, section 7, subdivision 6, is amended to read:

Subd. 6. [TERMINATION.] The advisory council ceases to exist when the actions required by ~~section 3, subdivision 3, and section 4~~ Laws 1996, chapter ..., sections 12 and 15, are completed.

Sec. 15. [ANALYSIS OF AVIATION SERVICES AND COMMERCIAL DEVELOPMENT.]

The metropolitan airports commission shall contract with the University of Minnesota to prepare an aviation service and facilities analysis. The commission shall utilize funds from any available source to pay the University of Minnesota an agreed amount not to exceed $50,000 for the performance of the analysis. The analysis shall include:

(1) a description of various types and levels of aviation service and an examination of the relationship between aviation service levels and the level of commercial and industrial activity in the state; and

(2) an examination of the relationship between available levels of aviation service and the relocation of commercial and industrial enterprises to the state.

The commission shall report the results of the analysis to the state advisory council on metropolitan airport planning no later than February 10, 1997. The council shall review the report and analysis and comment to the legislature within 60 days after the results of the analysis are reported to the council."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Ms. Johnston requested division of the amendment as follows:

First portion:

Page 4, delete section 10 and insert:

"Sec. 10. Minnesota Statutes 1994, section 473.608, is amended by adding a subdivision to read:

Subd. 28. [CONSTRUCTION OF THIRD PARALLEL RUNWAY.] The corporation must enter into a contract with affected cities, providing that, for valuable consideration received, the corporation shall not construct a third parallel runway at Minneapolis-St. Paul International airport without the approval of all affected cities. An "affected city" is any city that would experience an increase in the area located within the 60, 65, 70, or 75 Ldn noise contour as a result of operations using the third parallel runway."

Page 5, line 19, delete "2001" and insert "2002"

Page 5, line 20, delete "$135,000,000" and insert "$185,000,000"

Page 6, line 13, strike "legislature" and insert "state advisory council on metropolitan airport planning" and delete "noise"

Page 6, line 14, strike "noise" and after "mitigation" insert "activities"

Page 6, line 16, after the period, insert "The state advisory council on metropolitan airport planning shall review the recommendation and comment to the legislature within 60 days after the recommendation is submitted to the council."

Page 6, after line 31, insert:

"Sec. 14. Laws 1989, chapter 279, section 7, subdivision 6, is amended to read:

Subd. 6. [TERMINATION.] The advisory council ceases to exist when the actions required by ~~section 3, subdivision 3, and section 4~~ Laws 1996, chapter ..., sections 12 and 15, are completed.

Second portion:

Sec. 15. [ANALYSIS OF AVIATION SERVICES AND COMMERCIAL DEVELOPMENT.]

The metropolitan airports commission shall contract with the University of Minnesota to prepare an aviation service and facilities analysis. The commission shall utilize funds from any available source to pay the University of Minnesota an agreed amount not to exceed $50,000 for the performance of the analysis. The analysis shall include:

(1) a description of various types and levels of aviation service and an examination of the relationship between aviation service levels and the level of commercial and industrial activity in the state; and

(2) an examination of the relationship between available levels of aviation service and the relocation of commercial and industrial enterprises to the state.

The commission shall report the results of the analysis to the state advisory council on metropolitan airport planning no later than February 10, 1997. The council shall review the report and analysis and comment to the legislature within 60 days after the results of the analysis are reported to the council."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

CALL OF THE SENATE

Mr. Mondale imposed a call of the Senate for the balance of the proceedings on S.F. No. 1829. The Sergeant at Arms was instructed to bring in the absent members.

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

The roll was called, and there were yeas 42 and nays 20, as follows:

Those who voted in the affirmative were:

Anderson	Hottinger	Lessard	Novak	Sams
Beckman	Janezich	Marty	Ourada	Samuelson
Berg	Johnson, D.J.	Merriam	Pappas	Spear
Berglin	Johnson, J.B.	Metzen	Pariseau	Stumpf
Betzold	Kelly	Moe, R.D.	Piper	Terwilliger
Chandler	Krentz	Mondale	Pogemiller	Wiener
Cohen	Kroening	Morse	Price	
Flynn	Laidig	Murphy	Ranum	
Hanson	Langseth	Neuville	Reichgott Junge	

Those who voted in the negative were:

Day	Johnson, D.E.	Knutson	Limmer	Runbeck
Dille	Johnston	Kramer	Oliver	Scheevel
Fischbach	Kiscaden	Larson	Olson	Stevens
Frederickson	Kleis	Lesewski	Robertson	Vickerman

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

The question recurred on the first portion of the Wiener amendment.

Mr. Merriam requested further division of the first portion of the Wiener amendment as follows:

First part of the first portion:

Page 5, line 20, delete "$135,000,000" and insert "$185,000,000"

Second part of the first portion:

Page 4, delete section 10 and insert:

"Sec. 10. Minnesota Statutes 1994, section 473.608, is amended by adding a subdivision to read:

Subd. 28. [CONSTRUCTION OF THIRD PARALLEL RUNWAY.] The corporation must enter into a contract with affected cities, providing that, for valuable consideration received, the corporation shall not construct a third parallel runway at Minneapolis-St. Paul International airport without the approval of all affected cities. An "affected city" is any city that would experience an increase in the area located within the 60, 65, 70, or 75 Ldn noise contour as a result of operations using the third parallel runway."

Page 5, line 19, delete "2001" and insert "2002"

Page 6, line 13, strike "legislature" and insert "state advisory council on metropolitan airport planning" and delete "noise"

Page 6, line 14, strike "noise" and after "mitigation" insert "activities"

Page 6, line 16, after the period, insert "The state advisory council on metropolitan airport planning shall review the recommendation and comment to the legislature within 60 days after the recommendation is submitted to the council."

Page 6, after line 31, insert:

"Sec. 14. Laws 1989, chapter 279, section 7, subdivision 6, is amended to read:

Subd. 6. [TERMINATION.] The advisory council ceases to exist when the actions required by ~~section 3, subdivision 3, and section 4~~ Laws 1996, chapter ..., sections 12 and 15, are completed.

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

The roll was called, and there were yeas 40 and nays 23, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Berg	Johnston	Laidig	Neuville	Runbeck
Day	Kiscaden	Larson	Oliver	Scheevel
Dille	Kleis	Lesewski	Olson	Stevens
Fischbach	Knutson	Limmer	Ourada	
Johnson, D.E.	Kramer	Merriam	Robertson	

The motion prevailed. So the first part of the first portion of the Wiener amendment was adopted.

The question was taken on the adoption of the second part of the first portion of the Wiener amendment.

The roll was called, and there were yeas 48 and nays 15, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Langseth	Oliver	Sams
Beckman	Hottinger	Lessard	Ourada	Samuelson
Berg	Janezich	Merriam	Pappas	Solon
Berglin	Johnson, D.J.	Metzen	Pariseau	Spear
Betzold	Johnson, J.B.	Moe, R.D.	Piper	Stumpf
Chandler	Kelly	Mondale	Pogemiller	Terwilliger
Cohen	Kiscaden	Morse	Price	Vickerman
Day	Krentz	Murphy	Ranum	Wiener
Dille	Kroening	Neuville	Reichgott Junge	
Flynn	Laidig	Novak	Riveness	

Those who voted in the negative were:

Fischbach	Kleis	Larson	Marty	Runbeck
Johnson, D.E.	Knutson	Lesewski	Olson	Scheevel
Johnston	Kramer	Limmer	Robertson	Stevens

The motion prevailed. So the second part of the first portion of the Wiener amendment was adopted.

Mr. Mondale moved that S.F. No. 1829 be laid on the table. The motion prevailed.

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. 3243, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 3243 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 29, 1996

CONFERENCE COMMITTEE REPORT ON H.F. NO. 3243

A bill for an act relating to the organization and operation of state government; appropriating money for economic development and other purposes; providing for assessments against utilities; amending Minnesota Statutes 1994, sections 116G.151; 138.664, by adding a subdivision; 138.763, subdivision 1; 168.33, subdivision 2; and 469.303; Minnesota Statutes 1995 Supplement, sections 79.561, subdivision 3; 138.01, by adding a subdivision; Laws 1994, chapter 573, sections 1, subdivisions 6 and 7; 4; and 5, subdivisions 1 and 2; Laws 1995, chapters 231, article 1, section 33; and 224, sections 2, subdivision 2; and 5, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 116J; repealing Minnesota Statutes 1994, sections 116J.873, subdivisions 1, 2, and 4; 138.662, subdivision 5; and 268.9783, subdivision 8; Minnesota Statutes 1995 Supplement, section 116J.873, subdivisions 3 and 5.

March 27, 1996

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. 3243, 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. 3243 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [ECONOMIC DEVELOPMENT APPROPRIATIONS.]

The sums in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or another named fund, to the agencies and for the purposes specified in this article, to be available for the fiscal years indicated for each purpose.

SUMMARY BY FUND

	1996	1997
General	$ 1,654,000	$ 23,724,000
Petroleum Tank Cleanup	47,000	93,000
Special Compensation	-0-	2,800,000
TOTAL	$ 1,701,000	$ 26,617,000

	APPROPRIATIONS Available for the Year Ending June 30 1996	1997
Sec. 2. TRADE AND ECONOMIC DEVELOPMENT	-0-	5,105,000
(a) Minnesota investment fund	-0-	4,000,000

This appropriation is for the Minnesota investment fund under Minnesota Statutes, section 116J.8731.

Any funds previously appropriated for the economic recovery grant program under Minnesota Statutes, section 116J.873, may be spent for the Minnesota investment fund program.

(b) Minnesota film board

-0- 100,000

This appropriation is for the Minnesota film board and is added to the appropriation for fiscal year 1997 in Laws 1995, chapter 224, section 2, subdivision 4.

(c) Morrison county rural development finance authority

-0- 750,000

This appropriation is for a grant to the Morrison county rural development finance authority established under Laws 1982, chapter 437. The authority must use the grant only for capital improvements to a paper and wood products manufacturer in the county primarily for the purposes of facility upgrading and expansion of the manufacturer's capability to utilize recycled wastepaper as a fiber source. Minnesota Statutes, section 116J.991, applies to the grant. The commissioner shall make the grant only if the commissioner determines that at least $500,000 of the grant will be matched from other sources. The authority or any city or county within which the improvements and equipment are located may issue general obligation bonds in accordance with Minnesota Statutes, chapter 475, to finance the local match, except that sections 475.53, 475.58, and 475.59, do not apply.

(d) Job Skills Partnership Board

-0- 250,000

This appropriation is for the job skills partnership program and is added to the appropriation for fiscal year 1997 in Laws 1995, chapter 224, section 2, subdivision 2.

(e) Study

-0- 5,000

This appropriation is for a study, in consultation with the pollution control agency and the department of natural resources, to evaluate the compatibility of metal materials shredding projects and other industrial uses with tourism and other nonindustrial uses of the Mississippi River Critical Area, which has been designated

an area of critical concern under Minnesota Statutes, section 116G.15. The commissioner of trade and economic development shall report the findings and recommendations of the evaluation to the legislature by January 1, 1997.

Sec. 3. MINNESOTA TECHNOLOGY, INC. -0- 700,000

Of this appropriation, $575,000 is for a grant to the natural resources research institute.

Of this appropriation, $125,000 is for a study of cold weather research needs and opportunities. The corporation shall contract with the Minnesota cold weather resource center for the study. The study must address at least the following:

(1) opportunities for research funded by nonstate entities, including businesses, to be conducted in Minnesota;

(2) strategies to attract a significant share of funded cold weather research to Minnesota;

(3) types of facilities that are needed to attract cold weather research projects;

(4) recommended ownership structure and lease arrangements with research entities or businesses for such facilities; and

(5) economic benefits that might accrue to the people of Minnesota if a greater amount of cold weather research is conducted in the state.

The study may also include predesign or architectural design of facilities for cold weather research.

The corporation shall submit a report of the study findings to the legislature by January 1, 1998.

Sec. 4. WORLD TRADE CENTER CORPORATION 78,000

This appropriation is for the corporation's December 31, 1996, debt payment.

Sec. 5. HOUSING FINANCE AGENCY 550,000

This appropriation is for transfer to the housing development fund. Of this amount, $250,000 is for the community rehabilitation program for the purpose of acquiring, demolishing, removing, rehabilitating, and reconfiguring multiple-unit residential rental property to reduce concentrations of substandard multiple-unit rental housing. Priority shall be given to projects that result in the creation of a full range of housing opportunities, including housing opportunities for residents of the affected

multiple-unit rental housing, that will increase the tax base and the income mix within a community.

Of this amount, $300,000 is for the family homeless prevention and assistance program under Minnesota Statutes, section 462A.204. This appropriation is available until expended.

Sec. 6. DEPARTMENT OF ECONOMIC SECURITY 810,000 16,340,000

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Minnesota Youth Program

-0- 6,000,000

$6,000,000 is appropriated for fiscal year 1997 for summer youth employment programs. Of this amount, $117,000 is for YOUTHBUILD, under Minnesota Statutes, sections 268.361 to 268.367, and $250,000 is for the learn to earn summer youth employment program established under Laws 1995, chapter 224, sections 5 and 39, if Congress appropriates at least $2,000,000 for the federal title IIB, Job Training Partnership Act (JTPA) 1996 Minnesota summer youth program.

(b) Transitional housing

-0- 450,000

This appropriation is for transitional housing programs under Minnesota Statutes, section 268.38, and is added to the appropriations for fiscal year 1997 in Laws 1995, chapter 224, section 5, subdivision 3.

(c) Minnesota Workforce Center System

-0- 500,000

$500,000 is appropriated for fiscal year 1997 to leverage federal dollars in support of the establishment of a public access computer system to Minnesota Workforce System services.

(d) Employment Support Services

-0- 200,000

$200,000 is appropriated for employment support services authorized by Minnesota Statutes, section 268A.13. Of this amount, up to $20,000 may be used for administration.

(e) Home Energy Assistance

810,000 190,000

(1) $750,000 is available immediately and until June 30, 1997, for low-income home energy assistance under the low-income home energy

assistance block grant, and is to be used and allocated in the same manner as the federal money is used and allocated.

(2) $60,000 is available immediately and until June 30, 1997, for grants for energy-related repairs to a home's primary heat source.

(3) $190,000 is for the low-income home weatherization program.

(f) Home energy assistance contingency

-0- 9,000,000

This appropriation is from the budget reserve account in the general fund for low income home energy assistance and grants for energy related repairs to a home's primary heat source contingent on the governor's determination that federal money allocated to Minnesota under the low income energy assistance block grant for federal fiscal year 1996 has been reduced below the amount received by Minnesota under that grant in federal fiscal year 1995. The amount available from this contingent appropriation shall be equal to the reduction as determined by the governor.

The commissioner shall report to the legislature by January 21, 1997, on any expenditures of this appropriation.

Sec. 7. DEPARTMENT OF COMMERCE 47,000 93,000

This appropriation is from the petroleum tank release cleanup fund and is for legal services. This appropriation is added to the appropriation in Laws 1995, chapter 224, section 7, subdivision 5.

Sec. 8. DEPARTMENT OF LABOR AND INDUSTRY -0- 2,800,000

This appropriation is from the special compensation fund for the Daedalus imaging systems project. This appropriation is added to the appropriation in Laws 1995, chapter 224, section 12, subdivision 2.

Sec. 9. PUBLIC UTILITIES COMMISSION 370,000 -0-

This appropriation is available immediately and until June 30, 1998, for the costs related to the duties of the commission and team of science advisors under Laws 1994, chapter 573.

Sec. 10. MINNESOTA HISTORICAL SOCIETY 174,000 951,000

(a) Compensation

174,000 826,000

This appropriation is for the purposes of Minnesota Statutes, section 138.01, subdivision 5.

(b) Farmamerica

-0- 50,000

This appropriation is for a grant to Farmamerica. Notwithstanding any other law this grant may be used for operations.

(c) St. Anthony heritage board

-0- 75,000

This appropriation is for a grant to the St. Anthony heritage board established in Minnesota Statutes, section 138.763.

Sec. 11. MINNESOTA HUMANITIES COMMISSION 300,000 -0-

This appropriation is for fiscal year 1996 and is for moving expenses and general operation and maintenance of the Minnesota humanities commission's new building. This appropriation is available until June 30, 1997.

Sec. 12. [TRANSFER TO WORLD TRADE CENTER.]

The commissioner of trade and economic development shall transfer, from the appropriations to the commissioner for the federal city-state leveraged finance program, $50,000 in fiscal year 1996 and $50,000 in fiscal year 1997 to the World Trade Center Corporation. The World Trade Center Corporation shall use the amounts so transferred for operating expenses.

Sec. 13. [DEPARTMENT OF PUBLIC SAFETY; DEPUTY REGISTRAR RULES.]

Subdivision 1. [RULE PROHIBITED.] Notwithstanding any other law, the commissioner of public safety may not adopt any rule that amends or replaces, or addresses substantially the same subject matter as, a rule of the department in effect on January 1, 1996, that regulates the solicitation or service area of deputy motor vehicle registrar offices.

Subd. 2. [REMOVAL OF INVENTORY.] Any rule of the commissioner of public safety that prohibits the removal of inventory from a deputy motor vehicle registrar office does not apply to a deputy motor vehicle registrar who (1) for at least five years before the effective date of this section has provided customer service and inventory outside the deputy registrar's office, and (2) before the effective date of the rule requests in writing an exemption from the rule. The commissioner shall grant any request under this subdivision that complies with this subdivision.

Subd. 3. [REPORT.] The commissioner of public safety shall report to the governor and legislature by January 1, 1997, on the issue of restrictions on the solicitation or service area of deputy motor vehicle registrar offices. The report must consider existing and proposed restrictions on deputy motor vehicle registrar solicitation or service area and evaluate each on the basis of administrative efficiency and public service.

Sec. 14. [VOYAGEUR RECREATION AREA.]

Subdivision 1. [ESTABLISHMENT.] A recreation zone called the "Voyageur recreation area" is established and consists of all contiguous land in Koochiching county and that part of St. Louis county lying north of county highway 23 and west of county highway 24 to the Canadian border.

Subd. 2. [PURPOSE.] The purpose of the Voyageur recreation area is to encourage and attract public and private funds in order to diversify and promote economic development and recreational and educational opportunities throughout the area.

Sec. 15. [BOARD CREATED.]

Subdivision 1. [MEMBERSHIP.] A Voyageur recreation area board is created of nine members, with representation from the following groups:

(1) International Falls Visitors and Convention Bureau;

(2) Kabetogama Lake association;

(3) Ash River/Crane Lake resort association;

(4) Koochiching county;

(5) St. Louis county;

(6) city of Orr;

(7) city of Ranier;

(8) city of International Falls; and

(9) city of Cook.

Subd. 2. [TERMS.] The membership terms, removal, and filling of vacancies of board members are as provided in Minnesota Statutes, section 15.0575.

Subd. 3. [CHAIR; OTHER OFFICERS.] The board shall annually elect a chair and other officers as necessary from its members.

Sec. 16. [POWERS.]

Subdivision 1. [CONTRACTS.] The board may enter into contracts and grant agreements necessary to carry out its responsibilities.

Subd. 2. [GIFTS; GRANTS.] The board may apply for, accept, and disburse gifts, grants, or other property from the United States, the state, private foundations, or any other source. It may enter into an agreement required for the gifts or grants and may hold, use, and dispose of its assets in accordance with the terms of the gift, grant, or agreement. Money received by the board under this subdivision must be deposited in a separate account.

Sec. 17. [UTILITY ASSESSMENT; STRAY VOLTAGE.]

Subdivision 1. [AUTHORITY.] To provide funding for the appropriation in section 9 for the costs of the commission and team of science advisors under Laws 1994, chapter 573, the public utilities commission and the department of public service shall assess a total of up to $370,000 under Minnesota Statutes, section 216B.62, against public and municipal utilities providing electrical service and cooperative electric associations. The assessment must be deposited in the general fund. The assessment is not subject to the limits prescribed under Minnesota Statutes, section 216B.62, subdivision 3. The assessment authority under this section is in addition to the assessment authority contained in Laws 1994, chapter 573, section 4.

Subd. 2. [PROPORTIONAL ASSESSMENT; EXPENSES AND ACTIVITIES.] Each utility or association shall be assessed in proportion that its gross operating revenues for the sale of electric service within the state for the last calendar year bears to the total of those revenues for all public and municipal utilities and cooperative associations.

Sec. 18. [COMMUNITY REHABILITATION PROGRAM.]

The requirements in Laws 1995, chapter 224, section 6, relating to use of the appropriation in

that section for the community rehabilitation program in cities of the first class in the metropolitan area apply only to the city of St. Paul. For the city of Minneapolis the requirements as to the use of that appropriation are as follows:

(1) it must be used in areas that are defined as redirection and revitalization neighborhoods by the neighborhood revitalization program under Minnesota Statutes, section 469.1831; and

(2) the area must include eight blocks in any direction from the neighborhood boundary.

Sec. 19. [ADMINISTRATIVE COSTS; CONTAMINATION CLEAN-UP GRANTS.]

Up to 1.5 percent of the appropriation made in Laws 1995, chapter 224, section 2, subdivision 2, for grants under Minnesota Statutes 1994, sections 116J.551 to 116J.558, may be expended for costs of the department of trade and economic development incurred in administering those grants.

Sec. 20. [GROUND VOLTAGE SCIENCE ADVISORS; IMMUNITY FROM SUIT, INDEMNIFICATION.]

(a) A member of the team of science advisors charged with studying, researching, or preparing the report required by Laws 1994, chapter 573, or serving in a liaison capacity on behalf of the team of science advisors, is not liable for the content of the preliminary assessment or final report, for any action taken or project conducted on behalf of researching and preparing the assessment and report, or for any action taken or consequence resulting from or arising out of publication and dissemination of the report. This section does not provide immunity for negligence or intentional misconduct of a member or a liaison.

(b) If a person referred to in paragraph (a) becomes a party to a civil action or other legal or administrative proceeding by reason of any action referred to in paragraph (a), despite the intent of paragraph (a) to hold those persons immune from suit, the state shall defend, save harmless, and indemnify the person for any judgment or settlement and other costs incurred in defense of the action or proceeding, unless the person is found liable for negligent or intentional misconduct.

Sec. 21. Laws 1995, chapter 224, section 5, subdivision 3, is amended to read:

Subd. 3. Community-Based Services

30,082,000	25,881,000

$935,000 the first year and $935,000 the second year are for operating costs of transitional housing programs under Minnesota Statutes, section 268.38.

$7,000,000 the first year and $7,000,000 the second year are for the Minnesota economic opportunity grant program. Of this appropriation the commissioner may use up to 8.7 percent each year for state operations.

For the biennium ending June 30, 1997, the commissioner shall transfer to the low-income home weatherization program at least five percent of the money received under the low-income home energy assistance block grant in each year of the biennium and shall spend all of the transferred money during the year of the transfer or the year following the transfer. Up to 1.63 percent of the transferred money may be used by the commissioner for administrative purposes.

For the biennium ending June 30, 1997, no more

than 1.63 percent of money remaining under the low-income home energy assistance program after transfers to the weatherization program may be used by the commissioner for administrative purposes.

The state appropriation for the temporary emergency food assistance program may be used to meet the federal match requirements.

$100,000 the first year and $100,000 the second year are for youth intervention programs under Minnesota Statutes, section 268.30, subdivisions 1 and 2. Funding may be used to expand existing programs to serve unmet needs and to create new programs in underserved areas. In awarding these new funds, the commissioner may waive or modify the requirement for local match when this requirement deters expansion to underserved communities or populations. This appropriation is available until spent.

Notwithstanding Minnesota Statutes, section 268.022, subdivision 2, the commissioner of finance shall transfer to the general fund from the dedicated fund $3,000,000 in the first year and $3,000,000 in the second year of the money collected through the special assessment established in Minnesota Statutes, section 268.022, subdivision 1.

Of this appropriation, $3,000,000 the first year is for summer youth employment programs.

Of the money appropriated for the summer youth employment programs for the first year, $750,000 is immediately available. Any remaining balance of the immediately available money is available for the year in which it is appropriated. If the appropriation for either year of the biennium is insufficient, money may be transferred from the appropriation for the other year.

$200,000 the first year is for youth employment and for housing for the homeless through the YOUTHBUILD program. A Minnesota YOUTHBUILD program funded under this section as authorized in Minnesota Statutes, sections 268.361 to 268.367 qualifies as an approved training program under Minnesota Rules, part 5200.0930, subpart 1.

Of the appropriation for Head Start, the commissioner may use up to two percent each year for state operations.

Of this appropriation, $250,000 is for the learn to earn summer youth employment demonstration

program established in Laws 1995, chapter 224, section 39. This appropriation is available until spent.

Sec. 22. Laws 1994, chapter 573, section 1, subdivision 6, is amended to read:

Subd. 6. [RESEARCH DEADLINE.] The research conducted under this section and any recommendations by the science advisors to the commission must be completed and reported or made by June 30, ~~1996~~ 1998.

Sec. 23. Laws 1994, chapter 573, section 1, subdivision 7, is amended to read:

Subd. 7. [EXPIRATION.] The team of science advisors expires June 30, ~~1996~~ 1998.

Sec. 24. Laws 1994, chapter 573, section 4, is amended to read:

Sec. 4. [ASSESSMENT.]

(a) To provide funding for activities required under this act, the public utilities commission and the department of public service shall assess a total of up to $548,000 under Minnesota Statutes, section 216B.62, against public and municipal utilities providing electrical service and cooperative electric associations. The assessment must be deposited in the general fund. The assessment is not subject to the limits prescribed under Minnesota Statutes, section 216B.62, subdivision 3.

(b) Each utility or association shall be assessed in proportion that its gross operating revenues for the sale of electric service within the state for the last calendar year bears to the total of those revenues for all public and municipal utilities and cooperative associations.

(c) Paragraphs (a) and (b) expire June 30, 1998.

Sec. 25. Laws 1994, chapter 573, section 5, subdivision 1, is amended to read:

Subdivision 1. [PUBLIC UTILITIES COMMISSION; STUDY COSTS.] $300,000 is appropriated from the general fund to the public utilities commission.

$75,000 of this appropriation is for administrative expenses of the commission under sections 1 and 2.

$225,000 of this appropriation is for expenses of the team of scientific advisors and the commission liaison.

This appropriation remains available until June 30, ~~1996~~ 1998.

Sec. 26. Laws 1994, chapter 573, section 5, subdivision 2, is amended to read:

Subd. 2. [PUBLIC UTILITIES COMMISSION; ~~RESEARCH PROJECTS~~ STUDY COSTS.] $150,000, or so much of this amount as may be needed, is appropriated from the general fund to the public utilities commission to initiate research projects in fiscal year 1995 as recommended by the team of science advisors and approved by the commission. ~~Any amount of~~ This appropriation ~~that remains unencumbered after June 30, 1996, reverts to the general fund~~ does not cancel but is available until June 30, 1998.

Sec. 27. Laws 1995, chapter 231, article 1, section 33, is amended to read:

Sec. 33. [APPROPRIATION.]

The $900,000 ~~is~~ appropriated from the special compensation fund for the biennium ending June 30, 1997, to the department of commerce shall be used for the purposes of ~~rate~~ regulation of commercial self-insurance groups under Minnesota Statutes, sections 79A.19 to 79A.32 and workers' compensation rate regulation under Minnesota Statutes, sections 79.50 to 79.561. The complement of the department of commerce is increased by 13 positions for the purposes of rate regulation.

Sec. 28. Minnesota Statutes 1995 Supplement, section 79.561, subdivision 3, is amended to read:

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~~ commissioner may determine the costs necessary for implementing and conducting a contested case hearing under subdivision 2, including, but not limited to, retaining any consulting actuaries and experts, and those costs shall be reimbursed by the special compensation fund.

Sec. 29. [116J.8731] [MINNESOTA INVESTMENT FUND.]

Subdivision 1. [PURPOSE.] The Minnesota investment fund is created to provide financial assistance, through partnership with communities, for the creation of new employment or to maintain existing employment, and for business start-up, expansions, and retention. It shall accomplish these goals by the following means:

(1) creation or retention of permanent private-sector jobs in order to create above-average economic growth consistent with environmental protection;

(2) stimulation or leverage of private investment to ensure economic renewal and competitiveness;

(3) increasing the local tax base, based on demonstrated measurable outcomes, to guarantee a diversified industry mix;

(4) improvement of employment and economic opportunity for citizens in the region to create a reasonable standard of living, consistent with federal and state guidelines on low- to moderate-income persons; and

(5) stimulation of productivity growth through improved manufacturing or new technologies, including cold weather testing.

Subd. 2. [ADMINISTRATION.] The commissioner shall administer the fund as part of the small cities development block grant program. Funds shall be made available to local communities and recognized Indian tribal governments in accordance with the rules adopted for economic development grants in the small cities community development block grant program, except that all units of general purpose local government are eligible applicants for Minnesota investment funds. A home rule charter or statutory city, county, or town may loan or grant money under this section to a regional development commission to provide the local match required for capitalization of a regional revolving loan fund.

Subd. 3. [ELIGIBLE EXPENDITURES.] The money appropriated for this section may be used to provide grants for infrastructure, loans, loan guarantees, interest buy-downs, and other forms of participation with private sources of financing, provided that a loan to a private enterprise must be for a principal amount not to exceed one-half of the cost of the project for which financing is sought.

Subd. 4. [ELIGIBLE PROJECTS.] Assistance must be evaluated on the existence of the following conditions:

(1) creation of new jobs or retention of existing jobs;

(2) increase in the tax base;

(3) the project can demonstrate that investment of public dollars induces private funds;

(4) the project can demonstrate an excessive public infrastructure or improvement cost beyond the means of the affected community and private participants in the project;

(5) the project provides higher wage levels to the community or will add value to current workforce skills;

(6) whether assistance is necessary to retain existing business; and

(7) whether assistance is necessary to attract out-of-state business.

A grant or loan cannot be made based solely on a finding that the conditions in clause (6) or (7) exist. A finding must be made that a condition in clause (1), (2), (3), (4), or (5) also exists.

Applications recommended for funding shall be submitted to the commissioner.

Subd. 5. [GRANT LIMITS.] A Minnesota investment fund grant may not be approved for an amount in excess of $500,000. This limit covers all money paid to complete the same project, whether paid to one or more grant recipients and whether paid in one or more fiscal years. The portion of a Minnesota investment fund grant that exceeds $100,000 must be repaid to the state when it is repaid to the local community or recognized Indian tribal government by the person or entity to which it was loaned by the local community or Indian tribal government. Money repaid to the state must be credited to the general fund. A grant or loan may not be made to a person or entity for the operation or expansion of a casino or a store which is used solely or principally for retail sales. Persons or entities receiving grants or loans must pay each employee total compensation, including benefits not mandated by law, that on an annualized basis is equal to at least 110 percent of the federal poverty level for a family of four.

Subd. 6. [SPORTS FACILITY.] A Minnesota investment fund grant or loan cannot be used for a project related to a sports facility. For the purpose of this subdivision, "sports facility" means a building that has a professional sports team as a principal tenant.

Subd. 7. [CONTRACTUAL OBLIGATION.] A business receiving Minnesota investment fund grants must demonstrate why the grant is necessary for a project and enter into an agreement with the local grantor. The agreement, among other things, must obligate the recipient to pay the minimum compensation set by this section and meet job creation goals. A recipient that breaches the agreement must repay the grant directly to the commissioner. Repayments under this subdivision must be deposited in the general fund.

Sec. 30. Minnesota Statutes 1995 Supplement, section 138.01, is amended by adding a subdivision to read:

Subd. 5. The Minnesota historical society shall receive specific appropriations each biennium to carry out the purposes of subdivision 2. The appropriation must be sufficient to pay for salary and benefit related increases as determined by the commissioner of employee relations in the commissioner's plan in accordance with section 43A.18, subdivision 2, and the legislature.

Sec. 31. Minnesota Statutes 1994, section 138.35, is amended by adding a subdivision to read:

Subd. 3. [EMPLOYMENT OF PERSONNEL.] The state archaeologist may employ personnel to assist in carrying out the state archaeologist's duties, and may spend state appropriations to compensate such personnel.

Sec. 32. Minnesota Statutes 1994, section 138.664, is amended by adding a subdivision to read:

Subd. 13a. Burbank Livingston Griggs House; Ramsey county.

Sec. 33. Minnesota Statutes 1994, section 138.763, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] There is a St. Anthony Falls heritage board consisting of ~~19~~ 22 members with the director of the Minnesota historical society as chair. The members include the mayor~~,~~; the chair of the Hennepin county board of commissioners or the chair's designee~~,~~; the president of the Minneapolis park and recreation board or the president's designee~~,~~; the

superintendent of the park board~~,~~; two members each from the house of representatives appointed by the speaker, the senate appointed by the rules committee, the city council, the Hennepin county board, and the park board~~, and~~; one member each from the preservation commission, the preservation office, Hennepin county historical society, and the society; one person appointed by the park board; and two persons appointed by the chair of the board.

Sec. 34. Minnesota Statutes 1994, section 298.22, is amended by adding a subdivision to read:

Subd. 6. [EQUITY PARTICIPATION.] The board may acquire an equity interest in any project for which it provides funding.

Sec. 35. Minnesota Statutes 1994, section 469.056, subdivision 2, is amended to read:

Subd. 2. [CONTRACTS.] A port authority may contract to erect, repair, maintain or operate docks, warehouses, terminals, elevators, or other structures on or in connection with property it owns or controls. The authority may contract or arrange with the federal government, or any of its departments, with persons, public corporations, the state, or any of its political subdivisions, commissions, or agencies, for separate or joint action, on any matter related to using the authority's powers or doing its duties. The authority may contract to purchase and sell real and personal property. An obligation or expense must not be incurred unless existing appropriations together with the reasonably expected revenue of the port authority from other sources are sufficient to discharge the obligation or pay the expense when due. The state and its municipal subdivisions are not liable on the obligations. Notwithstanding section 16A.695, for leases or management contracts entered into with respect to property acquired or bettered with the proceeds of state general obligation bonds, (1) a seaway port authority may meet its obligations and expenses of operating and reinvest in capital improvements by retaining revenues received under the leases or management contracts and is not required to pay lease or management contract revenues to the commissioner of finance; and (2) the lease or management contract entered into by a seaway port authority must not be canceled or terminated as a result of changes or termination by the state in the governmental program of the seaway port authority unless compensation is paid as provided by law.

Sec. 36. Minnesota Statutes 1994, section 469.303, is amended to read:

469.303 [ELIGIBILITY REQUIREMENTS.]

An area within the city is eligible for designation as an enterprise zone if the area ~~is~~ (1) ~~designated as~~ includes census tracts eligible for a ~~proposed~~ federal empowerment zone or enterprise community as defined by the ~~city in an application to the~~ United States Department of Housing and Urban Development under Public Law Number 103-66, ~~provided the city can demonstrate that it can meet the~~ notwithstanding the maximum zone population standard under the federal empowerment zone program for cities with a population under 500,000 or (2) an area within a city of the second class that is designated as an economically depressed area by the United States Department of Commerce.

Sec. 37. Minnesota Statutes 1995 Supplement, section 473.252, is amended to read:

473.252 [TAX BASE REVITALIZATION ACCOUNT.]

Subdivision 1. [DEFINITION.] For the purposes of this section, "municipality" means a statutory or home rule charter city or town participating in the local housing incentives program under section 473.254, or a county in the metropolitan area.

Subd. 1a. [DEVELOPMENT AUTHORITY.] For the purpose of this section, "development authority" means a statutory or home rule charter city, housing and redevelopment authority, economic development authority, or a port authority.

Subd. 2. [SOURCES OF FUNDS.] The council shall credit to the tax base revitalization account within the fund the amount, if any, provided for under section 473.167, subdivision 3a, paragraph (b), and the amount, if any, distributed to the council under section 473F.08, subdivision 3b.

Subd. 3. [DISTRIBUTION OF FUNDS.] (a) The council must use the funds in the account to make grants to municipalities or development authorities for the cleanup of polluted land in the metropolitan area. A grant to a metropolitan county or a development authority must be used for a project in a participating municipality. The council shall prescribe and provide the grant application form to municipalities. The council must consider the probability of funding from other sources when making grants under this section.

(b)(1) The legislature expects that applications for grants will exceed the available funds and the council will be able to provide grants to only some of the applicant municipalities. If applications for grants for qualified sites exceed the available funds, the council shall make grants that provide the highest return in public benefits for the public costs incurred, that encourage commercial and industrial development that will lead to the preservation or growth of living-wage jobs and that enhance the tax base of the recipient municipality.

(2) In making grants, the council shall establish regular application deadlines in which grants will be awarded from the available money in the account. If the council provides for application cycles of less than six-month intervals, the council must reserve at least 40 percent of the receipts of the account for a year for application deadlines that occur in the second half of the year. If the applications for grants exceed the available funds for an application cycle, no more than one-half of the funds may be granted to projects in a statutory or home rule charter city and no more than three-quarters of the funds may be granted to projects located in cities of the first class.

(c) A municipality may use the grant to provide a portion of the local match requirement for project costs that qualify for a grant under sections 116J.551 to 116J.557.

Sec. 38. Laws 1980, chapter 595, section 3, as amended by Laws 1985, chapter 194, section 29; Laws 1988, chapter 572, 2; and Laws 1988, chapter 594, sections 1 to 4, is amended by adding a subdivision to read:

Subd. 13. [ECONOMIC DEVELOPMENT.] When the agency exercises its powers for industrial development or to establish industrial development districts for purposes under Minnesota Statutes, sections 469.048 to 469.068, the term "industrial," when used in relation to industrial development purposes, includes "economic" and "economic development."

Sec. 39. [NEW TECHNOLOGY TRAINING.]

The house of representatives may spend funds carried forward from its appropriations for the biennium ending June 30, 1995, for costs associated with training for new technology.

Sec. 40. [REPEALER.]

(a) Minnesota Statutes 1994, sections 116J.873, subdivisions 1, 2, and 4; and 138.662, subdivision 5; and Minnesota Statutes 1995 Supplement, section 116J.873, subdivisions 3 and 5, are repealed.

(b) Minnesota Statutes 1994, section 268.9783, subdivision 8; and Laws 1988, chapter 684, article 1, section 23, are repealed.

Sec. 41. [EFFECTIVE DATE.]

Sections 12 to 28, 30, 31, and 33 to 39; section 40, paragraph (b); and all provisions making appropriations for fiscal year 1996, are effective the day following final enactment. Section 29; and section 40, paragraph (a), are effective July 1, 1996."

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; appropriating money for economic development and other purposes; providing for assessments against utilities; amending Minnesota Statutes 1994, sections 138.35, by adding a subdivision; 138.664, by adding a subdivision; 138.763, subdivision 1; 298.22, by adding a subdivision; 469.056, subdivision 2; and 469.303; Minnesota Statutes 1995 Supplement, sections 79.561, subdivision 3; 138.01, by adding a subdivision; and 473.252; Laws 1980, chapter 595, section 3, as amended; Laws 1994,

chapter 573, sections 1, subdivisions 6 and 7; 4; and 5, subdivisions 1 and 2; Laws 1995, chapters 231, article 1, section 33; and 224, section 5, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 116J; repealing Minnesota Statutes 1994, sections 116J.873, subdivisions 1, 2, and 4; 138.662, subdivision 5; and 268.9783, subdivision 8; Minnesota Statutes 1995 Supplement, section 116J.873, subdivisions 3 and 5; Laws 1988, chapter 684, article 1, section 23."

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

House Conferees: (Signed) James I. Rice, Mark P. Mahon, Robert Leighton, Karen Clark, Dennis Ozment

Senate Conferees: (Signed) Carl W. Kroening, Steven G. Novak, Ellen R. Anderson, Steve Dille

Mr. Kroeing moved that the foregoing recommendations and Conference Committee Report on H.F. No. 3243 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Ms. Lesewski moved that the recommendations and Conference Committee Report on H.F. No. 3243 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration.

CALL OF THE SENATE

Mr. Kroening imposed a call of the Senate for the balance of the proceedings on H.F. No. 3243. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the motion of Ms. Lesewski.

The roll was called, and there were yeas 37 and nays 24, as follows:

Those who voted in the affirmative were:

Beckman	Johnston	Limmer	Ourada	Stevens
Berg	Kiscaden	Marty	Pariseau	Stumpf
Betzold	Kleis	Merriam	Price	Terwilliger
Day	Knutson	Moe, R.D.	Riveness	Vickerman
Dille	Kramer	Morse	Robertson	Wiener
Fischbach	Langseth	Neuville	Runbeck	
Frederickson	Larson	Oliver	Scheevel	
Johnson, D.E.	Lesewski	Olson	Spear	

Those who voted in the negative were:

Anderson	Janezich	Kroening	Novak	Reichgott Junge
Berglin	Johnson, D.J.	Lessard	Pappas	Sams
Chandler	Johnson, J.B.	Metzen	Piper	Samuelson
Flynn	Kelly	Mondale	Pogemiller	Solon
Hottinger	Krentz	Murphy	Ranum	

The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Ms. Lesewski moved that her name be stricken as a co-author to S.F. No. 2052. The motion prevailed.

Messrs. Moe, R.D.; Stumpf; Pogemiller and Kroening introduced--

Senate Resolution No. 132: A Senate resolution congratulating the Fertile-Beltrami High School boys basketball team on taking second place in the 1996 State High School Sweet 16 boys basketball tournament.

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.

Ms. Runbeck introduced--

S.F. No. 2888: A bill for an act relating to utilities; allowing certain electric service connections with utilities not having the assigned service area; amending Minnesota Statutes, section 216B.42, subdivision 1.

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

Mr. Solon introduced--

S.F. No. 2889: A bill for an act relating to Minnesota Point; Duluth; requiring a report on the legal status of lands conveyed to the city of Duluth by the state and federal governments for purposes of public recreation and health.

Referred to the Committee on Environment and Natural Resources.

Messrs. Pogemiller; Johnson, D.E.; Morse and Stumpf introduced--

S.F. No. 2890: A bill for an act relating to retirement; increasing pension benefit accrual rates; adjusting financing for pension plans; adding supplemental financial conditions information for pension funds; authorizing defined contribution early retirement options; reducing appropriations; appropriating money; amending Minnesota Statutes 1994, sections 3A.02, subdivision 4; 3A.07; 11A.18, subdivision 9; 273.1398, by adding a subdivision; 352.04, subdivision 3; 352.115, subdivision 3; 352.72, subdivision 2; 352.92, subdivisions 1 and 2; 352.93, subdivisions 2, 3, and by adding a subdivision; 352.95, subdivisions 1 and 5; 352B.30, by adding a subdivision; 352C.031, subdivision 4; 352C.033; 353.01, subdivisions 2a and 2b; 353.27, subdivisions 2 and 3a; 353.29, subdivision 3; 353.651, subdivision 3; 353.656, subdivision 1; 353.71, subdivision 2; 353A.08, subdivision 1; 353C.06, subdivisions 3, 4, and by adding a subdivision; 353C.08, subdivision 1; 353C.09; 354.42, subdivisions 2, 3, and 5; 354.53, subdivision 1; 354.55, subdivision 11; 354A.12, subdivisions 2a; 3a; and 3c; 356.215, subdivisions 1 and 4, and by adding a subdivision; 356.25; 356.88, by adding a subdivision; and 490.124, subdivision 1; Minnesota Statutes 1995 Supplement, sections 3A.02, subdivision 1; 352B.08, subdivision 2; 352B.10, subdivision 1; 352D.02, subdivision 1; 353A.083, by adding a subdivision; 354.44, subdivision 6; 354A.12, subdivisions 1 and 3b; 354A.27, subdivision 5; 354A.31, subdivisions 4 and 4a; 356.215, subdivision 4d; and 356.30, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 124A; 352; 352C; 352E; and 356; repealing Minnesota Statutes 1994, sections 356.70; and 356.88, subdivision 2.

Referred to the Committee on Governmental Operations and Veterans.

Mr. Pogemiller introduced--

S.F. No. 2891: A bill for an act relating to education; eliminating certain obsolete or unnecessary provisions in the law; repealing Minnesota Statutes 1994, sections 120.71; 120.90; 121.17; 122.52; 123.42; 127.08; 127.09; 127.10; 127.11; 127.12; 127.13; 127.15; 127.16; 127.21; and 127.25; Minnesota Statutes 1995 Supplement, section 127.23.

Referred to the Committee on Education.

MEMBERS EXCUSED

Messrs. Chmielewski and Finn were excused from the Session of today. Mr. Limmer was excused from the Session of today from 10:30 to 11:00 a.m. Messrs. Spear, Kelly and Laidig were excused from the Session of today from 10:00 to 11:40 a.m. Ms. Runbeck, Messrs. Beckman and Stumpf were excused from the Session of today from 1:30 to 2:30 p.m. Ms. Johnson, J.B. was excused from the Session of today from 1:30 to 2:35 and 3:30 to 3:45 p.m. Mr. Belanger was excused from the Session of today at 3:50 p.m. Mr. Sams was excused from the Session of today from 4:40 to 4:55 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 1:00 p.m., Saturday, March 30, 1996. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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